

# MIAMI BEACH

## City Commission Meeting

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

October 16, 2013

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

City Manager Jimmy L. Morales  
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 9:38:15 a.m.

Inspirational Message given by Rafael E. Granado, City Clerk.

Pledge of Allegiance led by Mr. Karp.

Requests for Additions, Withdrawals and Deferrals announced by Rafael E. Granado, City Clerk.

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

**ADDENDUM MATERIAL 1:**

C4H            R5U\*  
 C7JJ          R7H  
 C7KK          R9T  
 C7LL          R9U  
 C7MM          R9V

**ADDENDUM MATERIAL 2:**

C4I  
 C4J  
 R9W

**\*City Clerk's Note:** Item R5U in Addendum Material 1 was subsequently withdrawn by the City Manager.

**ADDENDUM MATERIAL 3:**

C4K

**SUPPLEMENTAL MATERIAL 1:**

C7E    Revised Settlement Agreement & Release  
 C7L    Agreement  
 C7II   Memorandum & Resolution  
 R5T    Memorandum & Ordinance  
 R7C    Memorandum & Resolution  
 R9C    Memorandum

**SUPPLEMENTAL MATERIAL 2:**

C7KK   Additional Information  
 C7NN   Item moved from R9P – Resolution  
 R9T    Pictures

**11:29:29 a.m.**

**ADDENDUM ITEMS:** Motion by Commissioner Weithorn; seconded by Commissioner Exposito to add to the Commission Agenda Items C4H, C4I, C4J, C4K, C7JJ, C7KK, C7LL, C7MM, R7H, R9T, R9U, R9V and R9W; Voice-vote: 6-0; Absent: Commissioner Góngora.

**11:33:23 a.m.**

**ITEMS WITHDRAWN** announced by Rafael E. Granado: *C2H, R5M, R5R and R5U.*

**11:40:23 a.m.**

**New Item****Short-Term Ordinance**

Vice-Mayor Tobin suggested revisiting a short-term ordinance and he is letting staff know that they need to have a quicker turnaround time. This item will be placed on the Commission Agenda in December. Lilia Cardillo to place on the Commission Agenda if received. **City Attorney's Office to handle.** Discussion held.

**ACTION:** Bring item back in December. **Joe Jimenez to handle.**

**ANNOUNCEMENT:**

Mayor Bower announced that Commissioner Góngora's grandmother passed away and he is attending the funeral.

**Presentations and Awards****10:37:09 a.m.**

PA1 Proclamation To Be Presented To Lourdes Lopez For Her Contributions As Artistic Director Of Miami City Ballet.

(Requested By Mayor Matti Herrera Bower)

**ACTION:** Proclamation presented.

Mayor Bower read the proclamation into the record and explained that Lourdes Lopez represents the hopes and dreams of the Hispanic immigrants experience in South Florida. Ms. Lopez, a native of Havana, studied dance in Miami until the age of ten, when she came to New York to study first at the Joffrey School and then at the School of American Ballet. She joined the New York City Ballet at the age of 16 and was ultimately promoted to principal dancer. Lourdes Lopez danced a wide range of the NYCB repertory, including many of Balanchine's core works, and several Robbins ballets, including Brandenburg, in a role she created, and now returns to Miami to run the dance center as the director.

Lourdes Lopez thanked the City Commission; she is honored and humbled, and added that for her it is a vote of confidence from this community. Dance has enhanced her life since the age of five, and the Miami Beach City Ballet will continue to enhance the lives of residents and visitors.

**11:09:41 a.m.**

PA2 Certificates Of Recognition To Be Presented To The Volunteers Of The Cat Network For Their Many Hours And Dedication.

(Requested By Mayor Matti Herrera Bower)

**ACTION:** Certificates presented. Mayor Bower introduced the item and the volunteers who participated in the project: Megan Clouser, Charlene Graul, Mary Thingelstadm, Ann Meng, Suely Caramelo, Krissy Thompson Marina Shap, Tina Tiggs Simone Mueller, Brigette Hein, Ismailla Rashio, Susan Fracasso, Angela Amores, Maria Mora, Estelle Farnsworth, Evette Dumois, Susan Sanson, Matt Ackerman, Quida Jacobs, Alex Camargo, Karen Fix, Luz Jaramillo, and a special recognition to Officer Marianna Jamorron, MBPD Office liaison. She explained the cat problems they have had and explained that Cat Network program. She recognized the efforts of Commissioner Weithorn and Lynn Bernstein in the success of the neutering program.

Mary Thingelstadm explained how the grant funds sterilization of cats, and added that as of today approximately 1400 cats have been sterilized, and has been accomplished through teamwork. Miami Beach has become a model community for the track, neuter, return and for humanely addressing community cats. They thanked Mayor Bower and the City Commission for their support, as well as the City Manager and staff.

Mayor Bower appreciates the work of the volunteers.

Commissioner Weithorn thanked volunteers and the police officers since their neighborhood has been informed how to take part of this project to make it successful.

Mayor Bower also thanked Lynn Bernstein for her efforts especially in the North Beach area.

Evette Dumois thanked the City Commission for having a feeding station for the cats and for designating an Officer for the neutering program for feral cats.

**10:50: 49 a.m.**

PA3 Certificates Of Recognition To The PAL Police Explorers For Their Win Of The Multi-Agency Law Enforcement Competition.

(Requested By Mayor Matti Herrera Bower)

**ACTION:** Certificates presented.

Mayor Bower introduced the item.

Officer Pedro Socarras explained that the Miami Beach Police Explorer Post 120 has been in existence since 1975. This is a nationwide Police Athletic League sponsored program through the Police Department that serves as a mentoring program for boys and girls ages 14-21 who are interested in a career in law enforcement. The Police Explorers have weekly meetings and training sessions that prepare them for future challenges they will face as law enforcement officers. This training culminates into various local, statewide and nationwide competitions.

Mayor Bower read the names of recipients: Explorer Advisors Officer Pedro Socarras, Officer Dhaniel Nieves and Officer Rosa Olivo supervised Police Explorers Valerie Velasquez, Isabella Gonzalez, Andrea Carazas, Kayla Almeida, Giselle Marrero, Daniel Sanchez, Ariackna Briceno, Edwin Canal, Daniel Galban, Jesse Siboret, Bryan Valera, Carlos Gutierrez and Henry Jimenez.

Vice-Mayor Tobin stated that he was in the program as a young man, and he encouraged the group to continue their efforts, and recognized their peers for the impact they will have in their future.

**10:07:47 a.m.**

PA4 Proclamation To Be Presented To Temple Beth Shmuel Montessori School Celebrating Their 10th Year Anniversary.

(Requested by Mayor Matti Herrera Bower)

**ACTION:** Proclamation presented.

Mayor Bower presented the proclamation on behalf of Temple Beth Shmuel on their tenth anniversary. She recognized Becky Kobrowski Cohen, Michael Glinskly, Oscar Sklar, Fabio Nick, Rebeca Kryz and Estrella and Elias Pasternak. She read the proclamation into the record and proclaims today "Temple Beth Shmuel Montessori School Day" in the City of Miami Beach.

**11:05:07 a.m.**

PA5 Proclamation To Be Presented To *Dance Now!* For Their Many Performances Throughout The City Of Miami Beach For The Past 13 Years As Well As Collaborating With Miami Beach Based Visual Artists, Poets, Architects, Fashion Designers And Composers In The Creation Of High Quality Art.

(Requested by Mayor Matti Herrera Bower)

**ACTION:** Proclamation presented.

Mayor Bower read the proclamation into the record and expressed her gratitude for their efforts.

Hannah Baumgarten and Diego Salterini thanked the City Commission for their unyielding support of the arts, which has helped gained its international recognition.

**11:21:45 a.m.**

PA6 Certificates Of Recognition To Be Presented To Boriquen Health Clinic, Little Havana Activity Center, And Miami Beach Health Center For Their Participation As The Top Three Employers In The UNIDAD Senior Employment Program.

(Requested by Mayor Matti Herrera Bower)

**ACTION:** Certificates presented.

Mayor Bower recognized Boriquen Health Care, Miami Beach Medical Group and Little Havana Activity Center.

Margarita Cepeda, Executive Director, UNIDAD, stated that these companies are the top employers at UNIDAD for senior placement and they wanted to recognize them at the end of the year in front of the Commission. They make it possible for UNIDAD to employ hundreds of seniors in the community. In the last 15 years, UNIDAD together with the senior community and the City of Miami Beach, have been able to establish a senior citizen workforce presence in the community, and the employers are welcoming the seniors warmly.

Rosa Carranza, Nutrition Director representing the President of Little Havana Activities Center, stated that it is a pleasure to be here and continues to be a delight to work with UNIDAD and Raymond and their wonderful staff. She has worked closely with some of the senior citizens they have been able to employ through them and they are wonderful. She hopes to continue this great relationship for many years and thank everyone for the opportunity.

Jose Sanchez, Medical Group CEO, thanked UNIDAD and Raymond for their collaboration.

**11:26:18 a.m.**

- PA7 Proclamation To Be Presented In Support Of The United Nations Campaign, "UNiTE To End Violence Against Women, And Declare October 25, 2013 "Orange Day" In The City Of Miami Beach To Focus On Safe Public Spaces For Women And Girls.  
(Requested by Mayor Matti Herrera Bower)

**ACTION:** Proclamation presented. See action with Item C7BB.

Talmage Thornhill from The Office of Real Estate Housing and Community Development accepted the proclamation on behalf of her colleagues and clients.

Alan Fishman, on behalf of the Human Rights Committee, also accepted the proclamation on behalf of the Miami Beach Human Rights Committee.

**9:58:02 a.m.**

- PA8 Certificate Of Appreciation To Be Presented To The Miami Beach Police Department's Officer Of The Month For August 2013.  
(Requested by Commissioner Jorge R. Exposito)

**ACTION:** Certificate presented.

Commissioner Exposito explained that on August 16 a male pedestrian was walking near 22nd Street and Park Avenue when he was approached by three young men. Two stood as lookouts and the third produced a firearm and demanded his property; fearing for his life, he gave his property to the robbers and all three fled in a waiting car. The crime was notified to dispatch and the three thieves were described. Subsequently, Captain Causey stopped a suspicious vehicle on Collins Avenue, and while investigating he realized that the men detained perfectly fit the description of the wanted individuals. The victim was transported to the location of the stop, and was able to identify the robbers and the victim's cellular telephone was found in the suspects' car. An investigation resulted in detailed confessions, which lead to closing of more than 20 robbery cases spanning several jurisdictions in Miami-Dade County. The next night, at approximately 4:46 a.m., Captain Causey was again patrolling when a report was issued of a car with multiple occupants; the suspects fired several shots on the beach and moments later he saw vehicles driving westbound on Normandy Drive leaving the City. He was joined by several units as he initiated a felony stop. Two guns were found in the car, and the subjects were positively identified by the victims. In a little more than 24 hours, Captain Causey's actions not only lead to the arrest of multiple violent felons, but also led to solving crimes committed by them. Captain Causey is commended for his steadfast commitment to proactive patrol and leading from the front. On behalf of the Chief, the Assistant Chief, the Mayor and the Commission they honor Captain Causey today with Officer of the Month 2013.

Chief Martinez added that Captain Causey is a member of his command staff and oversees the Special Operations Units on the streets. These Officers are tackling the street crime problems in the City and he has done an incredible job, and they commend Captain Causey and thank him.

Commissioner Libbin expressed his gratitude and commended Captain Causey on a job well done.

Vice-Mayor Tobin knows that Captain Causey loves his job and they appreciate that he puts his life on the line for this community for decades.

**10:03:27 a.m.**

- PA9 Certificate Of Appreciation To Be Presented To Officer Ernesto Rodriguez For Going Above And Beyond To Help The Elderly Residents Of Miami Beach On September 3, 2013 At Congresswoman Debbie Wasserman Schultz Mobile Food Pantry.  
(Requested by Commissioner Jorge R. Exposito)

**ACTION:** Certificate presented.

Commissioner Exposito explained that on September 3, Congresswoman Debbie Wasserman Schultz hosted a Mobile Food Pantry in the parking lot across the Convention Center behind City Hall. He stated that many seniors are home bound and unable to go out and receive food. Many residents live on a food stamp to food stamp basis, and by the end of the month for many of them, the food stamps have run out and they do not have the necessary foods and vegetables. Unfortunately, that is the plight of many of the senior citizens, and the Commission works very hard to make sure that these food services continue to be delivered. Today he is proud to recognize Officer Ernesto Rodriguez. "Ernie" was instrumental in delivering to the homebound residents that could not attend the food pantry. Officer Rodriguez, along with Commissioner Expositor's Aide Nattaly Cuervo prepared several bags of foods, and went door to door delivering to these individuals. Officer Rodriguez is another example of the fine men and women that make up the City of Miami Beach Police Department. Officer Rodriguez's dedication and commitment to humanity is to be applauded, and Commissioner Exposito wanted to recognize Officer Rodriguez because it came from the heart. It is important for all residents to recognize the many fine men and women that make up the Police Department and the little things they do other than fighting crime, which help our society become a better place. They are thankful and appreciative.

**10:58:57 a.m.**

- PA10 Proclamation To Be Presented To John Kunkle, Entrepreneur Of The Year.  
(Requested by Commissioner Jorge R. Exposito)

**ACTION:** Proclamation presented.

Commissioner Exposito introduced the item and explained that John's vision is fundamental; he has strong work ethics and is knowledgeable in the restaurant business from different parts of the world. He inspires people to dream big with passion and thinking outside the box, by giving opportunities to his employees, no matter how small they seem. His enthusiasm for the restaurant business is contagious. He added that Maria Meyer shared with him his Entrepreneur of the Year Award received from the State of Florida, and they are proud to proclaim today on behalf of the Mayor and the City Commission "John Kunkle Day" in the City of Miami Beach.

Vice-Mayor Tobin stated that John is always there when he has needed assistance, and he is always there for the community. He is a successful businessperson who has made a many contributions; he has a great family and a great attitude and work ethics.

John explained that he opened his first restaurant about 11 years ago, three days after 9-11, and he made it with the support of the local community. That was the beginning of his success; he lived in Coral Gables and then moved here and has been a resident in Miami Beach ever since. He thanked everyone and looks forward to contributing to the City in the future.

**9:40:14 a.m.**

PA11 Certificates Of Recognition To Be Presented To Principal, Vice Principals And Teachers Of Treasure Island Elementary And Ruth K. Broad Bay Harbor K-8 Center.  
(Requested by Commissioner Michael Góngora)

**ACTION:** Certificates presented by Commissioner Exposito on behalf of Commissioner Góngora.

Commissioner Exposito read the certificates and recognized teachers and principals for their continued commitment and dedication to the community. The following individuals were honored:

From Biscayne Elementary: Principal Maria P. Costa, Josefina Borges, Reading Coach, Teresa Alvarez, Spanish Teacher, Shirley Brown, First Grade Teacher and Sally Administrative Director. Biscayne Elementary Community School (BECS) was established in 1941 and is part of the Miami Beach Senior High School Feeder Pattern. Biscayne Elementary Community School students attend Nautilus Middle School and Miami Beach Senior High School. Over the years, it has evolved into a nurturing and dynamic educational environment that services the needs of the entire community. Biscayne Elementary Community School is an International Baccalaureate (IB) World School.

Ms. Costa thanked the City of Miami Beach for their support.

From Treasure Island Elementary School and Ruth K. Broad Bay Harbor K-8 Center: Principal Sherry Krubitch, Susan Stokes, Linda Johnson and Kevin Diaz from Treasure Island; Principal Maria T. Rodriguez, Elisa Profeta, Assistant Principal, Israel Sosa, Assistant Principal, Dana Hall, Mary Montano and Andrea Edwards. The City of Miami Beach has always had a strong partnership with all feeder pattern schools. Approximately 40% of youth who attend Treasure Island live within the City of Miami Beach. Students at both Treasure Island and Ruth K. Broad attend Nautilus Middle School and Miami Beach Senior High School. In addition, both schools have a full time medical assistant and they share a Registered nurse with them. He thanked them for their commitment and dedication to our students.

Principal Krubitch expressed her appreciation for their health and dental clinic, and added that their schools are one of the needy schools on the beach.

Dr. Maria Rodriguez was unable to be present today, but Elisa Mitrani spoke on her behalf. She stated that this recognition has an immense impact in the schools, and she thanked the City for bringing the nurses to the schools.

**9:49:40 a.m.****New Item**

Commissioner Libbin pointed out to a display of weapons in the Chambers gathered from the gun buyback program. He asked the Chief of Police, as school begins, that they continue to show the importance of this program and thanked Miami-Dade County for their cooperation in taking weapons off the street. He announced an upcoming event on Saturday.

Chief Martinez stated that the second buyback was done in the North end substation and they accumulated about 30 weapons, from handguns and rifles to shotguns, and it was a successful event.



**10:28:52 a.m.**

PA12 Certificates Of Appreciation To Be Presented To Last Year's And Current PTA Presidents Of Miami Beach Public Schools For Their Hard Work And Dedication.  
(Requested by Commissioner Michael Góngora)

**ACTION:** Certificates presented.

Commissioner Exposito read the names of individuals into the record on behalf of Commissioner Góngora and thanked them for their participation in the PTA program. The overall purpose of PTA is to make every child's potential a reality by engaging and empowering families and communities to advocate for all children. The core values of PTA consist of collaboration, commitment, accountability, respect, inclusivity and integrity. He recognized the following individuals: Julia Magnani - President of PTA Ruth K. Broad Bay Harbor K-8, Tiva Leser- President of North Beach Elementary, John Aleman Past President of North Beach Elementary, Pamela Manool - South Pointe Elementary and Kayla Rynor -Miami Beach Senior High.

Tiva Lesser expressed her gratitude for the City's efforts in hiring the school nurse.

Vice-Mayor Tobin thanked the Miami Beach Chamber of Commerce for their support in obtaining a school nurse, as well as Commissioner Libbin.

Handouts or Reference Materials:

1. List of recipients

**10:45:35 a.m.**

PA13 Key To The City Presented To Jacqueline Lalonde, For Her Dedication To The City Of Miami Beach.

(Requested by Commissioner Michael Góngora)

**ACTION:** Key to the City presented.

Commissioner Exposito presented the Key to the City Jackie Lalonde on behalf of Commissioner Góngora. Her leadership has resulted in significant pension reforms. She has used her expertise and experience to help the City review the insurance plan and she is involved with the Charter Review Board. The Key to the City represents gratitude for her invaluable dedication.

Jacqueline Lalonde spoke.

Commissioner Weithorn cannot stress enough the foundation built with Ms. Lalonde's assistance and she is a superstar.

Handouts or Reference Materials:

1. List of recipient and brief biography

**10:13:52 a.m.**

PA14 Proclamation Presented To Belkys Nerey, For Hispanic Heritage Recognition.  
(Requested by Commissioner Deede Weithorn)

**ACTION:** Proclamation presented.

Commissioner Weithorn stated that she was recently named President of the League of Cities, and she selected Belkys Nerey as the Master of Ceremonies to introduce her. She explained that Belkys Nerey is an energetic and charismatic woman; born in Havana Cuba, raised in Long Island, New York, she is truly a diverse individual. As many know, she is Channel 7's TV News co-anchor, but she is also a Miami Beach resident. Belkys is a role model for women of all ages. Commissioner Weithorn wanted to specifically present the proclamation during Hispanic Heritage Month, due to her accomplishments and diversity. On behalf of the Mayor and the City Commission, they proclaim today "Belkys Nerey Day" in the City of Miami Beach.

Belkys Nerey stated that it is an honor to receive the award. This is a vibrant and diverse community and she is grateful to keep doing what she loves best.

**10:41:29 a.m.**

PA15 Certificates Of Appreciation To Be Presented To Budget Analysts During The Budget Development Process.  
(Requested by Commissioner Deede Weithorn)

**ACTION:** Certificates presented.

Commissioner Weithorn explained that they did not have a Budget Director for close to a year, and Kathie Brooks, Interim City Manager, filled in at that time. Budget work is a full-time work. There is a new Budget Director, John Woodruff, who did not want to be recognized because he was not here through most of the process; however, she wanted to recognize the rest of the Budget Department. She read the names of staff: Paula Rodriguez, Tameka Otto Stewart and Georgette Daniels, they were instrumental in the budget development process.

Tameka Otto Stewart thanked Kathie G. Brooks for challenging them and for the recognition.

**10:18:02 a.m.**

PA16 Certificates Of Appreciation To Be Presented To The Labor Relations Staff During Their Efforts In The Union Contracts Negotiating.  
(Requested by Commissioner Deede Weithorn)

**ACTION:** Certificates presented.

Commissioner Weithorn explained that during Union Negotiations there are many hours put in by the City's team; she wanted to take the time to recognize Sylvia Crespo-Tabak, Human Resources Director, Jose Del Risco, Kelly Day and Carla Gomez for their hard work and the many hours of dedication during these negotiations. On behalf of the City Commission, she thanks the Labor Relations team.

Sylvia Crespo-Tabak, Human Resources Director, added that if it had not been for Kathie G. Brook's organization and leadership skills, they would not have been able to make it.

Jimmy L. Morales, City Manager, appreciates the internal departments that made this happen.

Mayor Bower recognized also Commissioner Weithorn, the entire Commission and the City Manager, and thanked the team who helped in the process.

Commissioner Libbin stated that this is a partnership and he commended the Unions.

Vice-Mayor Tobin added that Sylvia Crespo-Tabak and Commissioner Weithorn are superstars.

Commissioner Exposito congratulated the entire staff for working the extra hours and going above and beyond to achieve a balanced budget.

**9:52:47 a.m.**

PA17 Proclamation To Be Presented To Dr. Stacey J. Kruger, Health Advisory Board And Sofik-9.  
(Requested by the City Commission)

**ACTION:** Proclamation presented.

Mayor Bower introduced the item and recognized Dr. Stacey J. Kruger for her activism in the community. She met Stacey a few months ago. Stacey is a physician who visits Guatemala every year on her vacation and takes her entire office to help the people and perform eye surgeries for the needy children. Dr. Kruger has been doing this for 12 years and is deserving of this award.

Ms. Kruger stated that during her fellowship in South Carolina, her boss took her with him and it was the first time the program has been established. He had been approached by privately funded foundation, and the founder's mission was to provide charity as his lifework to needy areas. In Guatemala they had excellent program with adult cataract surgery, and her boss was one of the experts in pediatric cataract surgery. She went along with him one time and found her calling, so she has gone back every year to help the needy children, that otherwise, if not operated, could end up blind from untreated cataracts.

**10:32:07 a.m.**

PA18 Presentation Made To American Athletic Conference Regarding The Miami Beach Bowl.  
(Requested by Commissioner Michael Góngora)

**ACTION:** Presentation made.

Jimmy L. Morales, City Manager, introduced the item and explained that the Commissioner from the Athletic Conference has a flight to catch back to Connecticut and he is here to make a presentation.

Senior Associate Commissioner Nicholas V. Carparelli, Jr., thanked the entire City Commission and explained that this is their first year in existence, and they want to make the City aware of an exciting event they are bringing to Miami-Dade County. The name is 'Miami Beach Bowl' and it will be bringing football back to the Miami area for the first time. It is a college football Bowl Game to be played in the Marlins Park, but all other events will be in the Miami Beach area, where the teams and fans will stay in advance of the games and the events. The first game is expected to be held in December 2014. The participating conferences will send teams every year against USA teams, and other institutions across the country if eligible. Their conference consists

of large institutions, Central Florida and South Florida, and other 50 institutions across the country that have a realistic chance of playing in this game on an annual basis. An economic impact was conducted with the Washington Economic Group and they came up with a \$34 million annual economic impact for the County, which consist amongst other things a minimum of 2,000 hotel room nights in Miami Beach, 20,000 tickets distributed to the institutions combined and fans from out of town will be coming; the national exposure will be tremendous; they are in negotiations with ESPN, FOX and NBC to televise the games. The Miami Beach Bowl is a working name and they hope to keep that name for brand purposes. They are looking for community support; they will form a committee consisting of business leaders in the area, they will solicit business partnership to help promote the event, and they will come back next year to see if they can keep the name as is. He announced that a press conference will be held next Thursday at the Marlins Park to announce the name officially and he invited the entire City Commission.

Slide presentation shown. [Click here to access presentation.](#)

Commissioner Libbin stated that anything that brings significant exposure to the community is a good thing for the City. He will support it and is looking forward to it.

Jimmy L. Morales, City Manager, explained that he thought it was important for them to present to the City Commission before they hold the press conference announcing the Miami Beach Bowl. Legally the geographically location does not require the City's approval for the trademark, but he knows the City wants to promote business.

City Clerk's note: This item was moved from R9Q.

Handouts or Reference Materials:

1. Copies of Slide Presentation

**11:18:01 a.m.**

PA19 Certificates Of Recognition To Dominga Gonzalez, UNIDAD's Senior Program.  
(Requested by Commissioner Jonah Wolfson)

**ACTION:** Certificates presented.

Commissioner Weithorn introduced the item.

Dominga Gonzalez, Senior Program graduate, thanked the staff at UNIDAD for the support received during this training and for the new skills acquired, which have had an impact in her life. She thanked Teresa Mazad and Mr. Paul Velez, CEO, Borinquen, for giving her the opportunity to work with them.

Paul Velez, CEO of Borinquen, stated that it is an honor to have Dominga, and recognized Raymond Adrian and the entire staff for their commitment.

Mayor Bower also recognized Borinquen Health Care, Miami Beach Medical Group and Little Havana Activity Center.

Margarita Cepeda spoke.

Rosa Carranza spoke.

Jose Sanchez spoke.

**SEPARATED ITEMS:** Mayor Bower announced the items separated as follows:

Commissioner Exposito: C2D and C2G  
Commissioner Libbin: C2D, C7K, C7M and C7Y  
Vice-Mayor Tobin: C2A, C2D, C7D, C7E, C7F, C7L, C7N, C7T, C7Y, C7EE and C7II  
Commissioner Weithorn: C2D, C7N and C7NN  
Commissioner Wolfson: C2D, C6A, C2C and C4E

## Handout or Reference Materials:

1. List of Separated Items

**CONSENT AGENDA****11:33:23 a.m.**

**ACTION:** Motion made by Commissioner Weithorn to approve the Consent Agenda with the exception of items to be withdrawn: *C2A, C2G, C4E, C6A, C7E, C7F, C7K, C7L, C7M, C7N, and C7EE*; seconded by Vice-Mayor Tobin; Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson.

Jimmy L. Morales, City Manager, stated that the following items are time sensitive: *C2C, C2D, C7Y, C7II and C7NN* (per Commissioner Góngora's request). Mayor Bower agreed that these sensitive items will be heard today.

Rafael Andrade, Esq., spoke regarding C2D.  
Joseph Rebar, Esq., spoke regarding item C7N.

Jose Smith, City Attorney, explained that if item C7N is not discussed at the Commission, since it is not a time sensitive item, the City will retain Security Alliance on a month-to-month basis until the item comes back to the Commission.

Mayor Bower asked the City Manager if any of the separated items can be deferred to the next Commission Meeting in December. Jimmy L. Morales, City Manager, explained that C2C is time sensitive because it refers to holiday decorations. Item C7II, if not heard, would delay the construction of the space; also C7NN, but otherwise, he believes the remainder can be deferred.

Rafael E. Granado, City Clerk, announced for the record that the following items had been withdrawn by Administration: C2H, R5M, R5R and R5U. Discussion held.

**11:35:44 a.m.**

Mayor Bower stated that these items are time sensitive and will be heard today: *C7NN C7II, C7D and C2D*.

**C2 - Competitive Bid Reports****11:33:23 a.m.**

- C2A Request For Approval To Issue A Request For Qualifications (RFQ) For A Construction Manager At Risk Firm (CMR) To Provide Pre-Construction Services And Construction Phase Services Via A Guaranteed Maximum Price (GMP) Amendment For The Collins Park Parking Garage Project.  
(Capital Improvement Projects)

**ACTION:** Item separated by Vice-Mayor Tobin. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **David Martinez to handle.**

- C2B Request For Approval To Issue A Request For Proposals (RFP) For The Acquisition Of Emergency Shelter Beds To Serve Homeless Men, Women And Families.  
(Community Services/Procurement)

**ACTION:** Request authorized. **Maria Ruiz and Alex Denis to handle.**

**11:55:16 a.m.**

- C2C Request For Approval To Award A Contract, Pursuant To Invitation To Bid (ITB) No. 179-2013SW, For The Installation, Removal, Maintenance And Storage Of Holiday Decorations.  
(Parks & Recreation/Procurement)

**ACTION:** Item separated by Commissioner Wolfson. Request authorized. Motion made by Commissioner Weithorn; seconded by Commissioner Exposito; Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. **John Rebar and Alex Denis to handle.**

**7:16:51 p.m.**

Commissioner Wolfson inquired if item C2C had been heard, as he had separated the item for discussion. Rafael E. Granado, City Clerk, verified that the item was heard at 11:55 a.m.

Commissioner Wolfson stated that company representative Diaz had been sitting in the audience all day to speak on this item, which he separated for discussion.

**7:22:29 p.m.**

Commissioner Wolfson asked if any of the interested parties were present when the vote was taken in the morning, and the answer was negative. Therefore, he motioned to reconsider the previous vote to allow individuals to present their position and give them an opportunity to speak.

Jose Smith, City Attorney, explained that since Commissioner Wolfson was absent during the time of the vote, another elected official would have to make the motion.

**MOTION TO RECONSIDER:**

Motion made by Vice-Mayor Tobin to reconsider the vote; seconded by Commissioner Wolfson; Voice-vote: 2-5; Opposed: Mayor Bower and Commissioners Exposito, Góngora, Libbin and Weithorn. Motion to reconsider failed.

Commissioner Wolfson reiterated that he separated the item to allow Mr. Diaz to speak.

Discussion held.

**7:25:18 p.m.**

Commissioner Wolfson explained that Mr. Diaz was not present when the item was called; and therefore, they did not give him an opportunity to address the Commission.

Discussion continued.

Commissioner Wolfson stated that the parties did not have an opportunity to speak on the item, and they have a due process right to be heard under the new law that that allows people to speak in front of their government.

Raul Aguila, Chief Deputy City Attorney, explained that under the new law adopted, it does not have to be at the same meeting, it can be technically at the next meeting.

Commissioner Wolfson stated that the Commission already made a decision on this, and they did not give the individual the right to speak and thereby eliminating their right to due process under the Florida Statutes.

**Handouts or Reference Materials:**

1. Letter from Jose F. Diaz, Akerman, Senterfitt, dated October 11, 2013, hand delivered to Jimmy Morales, Esq., City Manager, RE: Bid Protest – ITB No. 179-2013SW for the Installation, Removal, Maintenance and Storage of Holiday Decorations.
2. Letter to Miami Christmas Lights, Inc., c/o Jose Diaz, Akerman Senterfitt dated September 15, 2013, RE: Protest Filed Pursuant to Award Recommendation on ITB 179-2013-SW/Holiday Decorations.

**11:53:25 a.m.****6:20:46 p.m.**

C2D Request For Approval To Issue A Request For Qualifications (RFQ) For A Third Solid Waste Franchise Contractor To Provide Commercial Waste Collections And Disposal Services.  
(Public Works/Procurement)

**ACTION:** Item separated for discussion by Vice-Mayor Tobin and Commissioners Exposito, Libbin, Weithorn and Wolfson. **Request authorized as amended.** Motion made by Commissioner Góngora; seconded by Commissioner Wolfson; Voice vote 7-0. **Eric Carpenter and Alex Denis to handle.**

**Amendments:**

- ✓ Give direction to Administration to prepare an RFQ for the third hauler as soon as possible.
- ✓ Prepare RFQ process after September 30, 2014.
- ✓ Direct Administration to prepare RFQ (for up to five haulers), and come back to the Commission with recommendations as to how many haulers shall be selected
- ✓ Include local preference
- ✓ Amend RFQ to quantify components in each category by breaking the 75 points into environmental sustainability and green initiatives.

**TO DO:**

LTC to provide language in reference to local provider.

**11:53:25 a.m.**

Grant Smith, Grant Progressive Waste Solutions of Florida, spoke.  
Rafael Andrade spoke.

Mayor Bower announced that the item would be heard in the afternoon.

**6:21:11 p.m.**

Commissioner Wolfson asked for Legal to explain the status regarding how many permits are issued.

Jimmy L. Morales, City Manager, explained that currently there are two providers, and apparently in the current contracts, they had agreed with the three providers (which are now down to two, since one of the providers bought another one), that in exchange for certain financial remunerations and contributions, the City would limit to three providers. This item came before the City Commission regarding amendments to the ordinance, and procedurally there is an RFQ for a third provider. He knows questions have come up as to the expiration day of the current contracts and representatives from other haulers are here that would like to see an expanded RFP. One issue is apparently the expiration date of the current contracts. They were originally under the impression that it was 2015, but he will refer this to Chief Deputy City Attorney Raul Aguila to address the issue. Discussion held regarding number of providers.

**6:24:03 p.m.**

Raul Aguila, Deputy City Attorney, explained that there are two documents, the franchises and the service agreements, which are additional agreements given by the haulers providing the City with public benefit and they run for the same term as the franchises do. In the service agreements, they agreed contractually to limit the number to three instead of going out to an RFQ for a fourth hauler in 2012. Discussion continued.

Commissioner Góngora asked when the three franchises expire.

**6:29:07 p.m.**

Raul Aguila, Deputy City Attorney, stated that the service agreements currently expire in 2015. It was brought to his attention and he looked at the franchise and service agreements going back to 2008 and there was a scrivener's error made. When the Code was amended to extend the term of the franchises from three to five years, they referenced the franchise terms as commencing on October 1, 2009, and it should have been October 1, 2008. The franchise agreements, in his opinion, expire on September 30, 2014, and because the service agreements ran concurrent with the franchises, they would have to expire on the same date of September 30, 2014.

Discussion continued regarding scrivener's error. In answering Mayor Bower's question, Raul Aguila, Deputy City Attorney, stated that according to his research, this happened in 2010 when Amendment No. 1 to the service agreement was executed. At that time they referenced in the amendment that the term of the service agreement commenced on 10/1/2009, and it should have been 10/1/2008. This was carried into the Code in 2010.

Raul Aguila, Deputy City Attorney, gave two alternatives to resolve this error: 1) The franchise agreement expires on September 30, 2014; if the City takes this position, the City will be losing out a year of the revenue of additional public benefits (\$390,000) under the service agreement because they cannot benefit for an additional year, or 2) issue a corrected amendment to the Code and keep them at 2015. In this case, they would be going out for an RFQ on one franchise and theoretically it would come up on September 30, 2015.

Discussion continued.

Mayor Bower asked Administration to explain why this item is being discussed today.



Jimmy Morales, City Manager, explained that this item was on Consent to put out an RFQ for a third company. The item was separated for discussion and staff is recommending putting it out to bid for a third company. Discussion continued.

**6:38:06 p.m.**

Commissioner Weithorn explained that she separated this item to be able to line up a couple of haulers, in order to pick one and then have one or two in reserve, and not to have to go through this again next year. She also felt that if they did open it up, there is nothing in the language pointing to small local haulers, and when they had five, they always had a smaller hauler. She is concerned about the big giant haulers.

Discussion continued regarding selection and number of haulers and expiration of the contract.

Vice-Mayor Tobin explained that it is his understanding that the contracts expired when Choice was bought out by the other hauler about 18 months ago, and for one reason or another, the item did not come up on the agenda for discussion. Discussion held. If they were to put it out to bid today, keeping options open, it would encourage the haulers that they have to negotiate. He added that in 11 months all contracts are expired.

Discussion continued.

Mayor Bower asked when they need to select the third hauler. Jimmy Morales, City Manager, answered "as soon as possible." Mayor Bower has a concern with opening the bid to five haulers, when they only need one.

Rafael Andrade, Esq., suggested issuing an RFQ today and award the contract within six months, and come September 2014 there will be contracts expiring. Discussion continued.

Mayor Bower asked the City Manager for a recommendation.

Jimmy L. Morales, City Manager, explained that it makes sense to at least have three haulers from a policy perspective. If the Commission's intent is to enter into negotiations in September 2014 to go out for a larger number of haulers to pre-qualify, he wants to make sure that the current providers have a chance to compete.

Grant Smith, representing Progressive (formerly Choice), made reference to a Resolution where the contracts expire in September 2015, and that is what they signed on and agreed upon. Based on that set of financial consideration, they agreed to the additional funding of City programs. If the City opens it up to three or more providers, this changes the economics for them. The question before this Commission today is to put an RFQ for a third hauler, but he does not think the backup is clear enough to put out an RFQ, as it does not specify when the potential contract ends or when it potentially starts.

Mayor Bower asked Legal that if the City goes up to 2014, do they have the right to take the City to court, since they think they have until 2015.

**6:52:57 p.m.**

Raul Aguila, Deputy City Attorney, stated that he does not know who Progressive is, because he has three current franchises and none of them are Progressive. He does not know if there has been a merger or an assignment or transfer, since this Commission has not approved any kind of assignment or transfer of the franchise.

Grant Smith stated that WSI (Choice) decided to change their name and it is literally a name change; no assignment or transfer.

Raul Aguila, Deputy City Attorney, stated that the City has never been advised of that, and added that 1) he would advise that this be pursuant to some kind of sale or consolidation; 2) if the City takes the position, the franchise agreement term ends in 2014. This deal was based upon a service agreement where the City gets cash and additional benefits every year; the City has the right to terminate that service agreement for convenience, and if they do terminate the service agreement for convenience, (2014 and not 2015) they cannot benefit for an additional year of revenue. He suggested terminating the agreement for convenience, which is the City's right, and not have the benefit of that additional revenue for that year.

Discussion held.

Commissioner Libbin asked Mr. Smith if he recalled that the Commission made the statement that under no circumstances the City would allow the providers to go to two.

Grant Smith has no issue regarding the City going out to bid for a third hauler and discussion continued.

Commissioner Góngora asked for a time frame before the Commission can approve a contract with a third hauler. If they put it out to a higher amount after September 30, 2014, then direction can be given to the Administration to begin the process and bring back recommendation.

Alex Denis, Procurement Director, explained that 60 days is a reasonable time frame, considering the holidays and bid protests that would probably come in, if any.

Discussion continued.

**7:01:37p.m.**

**Motion No. 1:**

Motion made by Commissioner Góngora to start the RFQ process after September 30, 2014 and for the Administration to bring back recommendations as to the number of haulers (up to five) selected; seconded by Commissioner Wolfson. **Administration to bring back recommendations to the City Commission.**

Commissioner Libbin clarified the motion made by Commissioner Góngora. Is the motion contemplating keeping it the way it is until September 30, 2014, and put it out to bid now effective September 30, 2014? Commissioner Góngora explained that if this takes six to seven months it would be a waste of time to put it out to bid for a third hauler and contracts expire in September 2014 in any event.

Discussion held.

Mayor Bower asked if keeping only two haulers for this year would harm the City. Eric Carpenter, Public Works Director, stated that he prefers having a third hauler as soon as possible.

Discussion continued.

**Amendment:**

Commissioner Góngora offered an amendment to move forward with the RFQ for the third hauler but start preparing to go up to five haulers after September 30, 2014.

**7:05:35 p.m.**

**Amendment to Commissioner Góngora's amendment:**

Vice-Mayor Tobin suggested amending the above motion to issue an RFQ right now stating that the City of Miami Beach is considering going up to five haulers and then ranking them. Commissioner Góngora accepted the amendment.

Discussion continued.

Commissioner Weithorn, stated for the record, that she feels very strongly that if the City goes up to five haulers, to include in the RFP at least a consideration for a local hauler, as she is concerned about having five big haulers.

**7:09:10 p.m.**

**FINAL MOTION**

Commissioner Góngora restated the motion:

- ✓ Give direction to the Administration to prepare an RFQ for the third hauler now
- ✓ Prepare for what will happen after September 30, 2014
- ✓ Give Administration direction to go out with an RFQ for up to five haulers
- ✓ Use discretion to come back to Commission with recommendations as to how many should be selected.

Vice-Major Tobin added, that at the City Commission's discretion, as soon as they have the RFQ, they can select one to start at its earliest convenience.

Motion was seconded by Commissioner Wolfson. Discussion continued.

**7:10:34 p.m.**

**Amendment to the RFQ:**

Commissioner Libbin stated that there is nothing in the language that gives credibility or points to measures sustainability, and he requested that the providers demonstrate a sustainable by breaking down the points so that there is verification into different measurable categories. **Eric Carpenter to handle.**

Discussion continued.

Commissioner Weithorn stated that in her opinion this RFQ is not ready to go out and needs to come back. Discussion continued.

Jimmy L. Morales, City Manager, referred to Page 113 of the Agenda, where the scope of services and methodology clearly identify the environmental, sustainability and green issues.

Commissioner Libbin explained that it does not demonstrate how the points are going to be measured. Discussion continued.

Jimmy Morales, City Manager, stated that he will send the requested language via an LTC in reference to the local haulers, and if there are any questions, an addendum can be done if necessary. **City Manager's Office to handle.**

Eric Carpenter, Public Works Director, explained that at the present time they have an evaluation criteria set forth which is 25 points for proposer qualifications, 75% for scope of service and methodology, including customer service, environmental sustainability, green initiatives and

valued added services; they will have to break the 75 points down into those categories, so that it is more quantifiable exactly which components get the different category. **Eric Carpenter to handle.**

Voice vote taken: 7-0.

Discussion continued.

**New Item:**

**7:17:09 p.m.**

Rafael E. Granado, City Clerk, announced that the next Commission Meeting will be held on Tuesday, November 12, 2013 only to accept election items if there is a Run-Off. This will be after the Elections Department sends the final elections results. Emergency items can be discussed at that meeting.

Jose Smith, City Attorney, explained that the Commission Meeting has to be scheduled after the Elections Department certifies the Election results. Discussion continued.

Commissioner Weithorn asked if they could have the Commission Meeting on November 6, 2013. Jose Smith, City Attorney stated that the Commission can call for a Special Meeting.

Rafael E. Granado, City Clerk, announced that the Elections results can be ratified on November 12, 2013 if there is not a Run-Off Election. However, if there is a Run-Off, the new elected Commission body would be sworn in on November 25<sup>th</sup>.

Mayor Bower stated that Commissioner Libbin would still be a Commissioner until November 25th if there is a Run-Off.

- C2E Request For Approval To Purchase One (1) 2013 International Durastar Truck With A TCM425 HD Industries Pot Hole Patcher, In The Amount Of \$148,870.00, And One (1) 2013 International 7400 Sixteen (16) Cubic Yard Dump Truck, In The Amount Of \$115,183.00, From Rechten International Trucks; And One (1) 2013 John Deere 544K Wheel Loader, In The Amount Of \$132,504.00, From Nortrax Inc., Pursuant To Florida Sheriffs Association Contract No. 12-10-0905; and One (1) Tennant ATLV 4300 Sweeper, In The Amount Of \$35,013.99, From Tennant Sales And Service Company, Pursuant To Florida State Contract No. 365-001-11-1.  
(Public Works/Procurement)

**ACTION:** Request authorized. **Eric Carpenter and Alex Denis to handle.**

- C2F Request For Approval To Award A Contract, Pursuant To Invitation To Bid No. 404-2013LR, For Resurfacing And Scarifying Tennis Courts At North Shore Tennis Center.  
(Parks & Recreation/Procurement)

**ACTION:** Request authorized. **John Rebar and Alex Denis to handle.**

**11:33:23 a.m.**

- C2G Request For Approval To Award A Contract, Pursuant To Invitation To Bid No. 405-2013LR, For The Purchase Of Dogipot Junior Bag Dispensers And Biodegradable Dogipot Litter Pickup Bags.  
(Parks & Recreation/Procurement)

**ACTION:** Item separated by Commissioner Exposito. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **John Rebar and Alex Denis to handle.**

## Handouts or Reference Materials:

1. Letter to Alexandra Munera, Furniture Leisure, Inc., from Jimmy L. Morales, City Manager, dated October 15, 2013, RE: Protest Filed Pursuant to Award Recommendation in ITB 2013-405-LR/Dog Litter Bags and Dispensers.
2. Letter to Anthony Gilas, General Manager, Zero Waste USA, dated October 11, 2013, from Jimmy L. Morales, City Manager, RE: ITB 2013-405-LR.

- C2H Request For Approval To Award A Contract, Pursuant To Invitation To Bid (ITB) No. 269-2013ME, For Citywide Janitorial Services.

(Public Works/Procurement)

**(Memorandum to be Submitted in Supplemental)**

**ACTION:** Item withdrawn.

**C4 - Commission Committee Assignments**

- C4A Referral To The Land Use And Development Committee - Discussion Regarding Decks, Docks & Seawall Over City Land, And The Need To Issue A Revocable Permit.  
(Public Works)

**ACTION:** Referred. Richard Lorber to place on the committee agenda. **Eric Carpenter to handle.**

- C4B Referral To The Planning Board - Proposed Amendment To The Land Development Regulations And Comprehensive Plan To Accommodate The Redevelopment Of The Talmudic University Property Located At 4000 Alton Road.  
(Planning)

**ACTION:** Referred. **Richard Lorber to place on the board agenda and to handle.**

- C4C Referral To The Neighborhood/Community Affairs Committee - Discussion Regarding The Modification Of South Beach Local Circulator Service To Belle Isle And Improvement Of On-Time Performance On The Bi-Directional Route.  
(Public Works)

**ACTION:** Referred. Barbara Hawayek to place on the committee agenda. **Eric Carpenter to handle.**

- C4D Referral To The Land Use And Development Committee - Discussion Regarding Short Term Rentals In The Collins Park Neighborhood.  
(Requested by Commissioner Jerry Libbin)

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

**11:33:23 a.m.**

- C4E Referral To The Planning Board To Amend Section 114-1 Of The City Code To Amend The Definition Of Floor Area To Exempt Only Non-Habitable Floor Area Located Below Grade Where The Ceiling Is Also Below Grade.  
(Requested by Mayor Matti Herrera Bower)

**ACTION:** Item separated by Commissioner Wolfson. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **Richard Lorber to handle.**

- C4F Referral To The Neighborhood/Community Affairs Committee To Review Existing Policy On Public Testimony At Public Meetings.  
(City Attorney's Office/City Manager's Office/City Clerk's Office)

**ACTION:** Referred. Barbara Hawayek to place on the committee agenda. **City Attorney's Office, City Manager's Office and Rafael E. Granado to handle.**

- C4G Referral To The Land Use And Development Committee For Consideration Of Establishing Acceptable Accessory Uses Permitting Restaurants In Contributing Historic Structures Within The RM2 Cultural Arts Neighborhood Overlay District.  
(Requested by Commissioner Jorge R. Exposito)

**ACTION:** Referred. **Richard Lorber to place on the committee agenda and to handle.**

**ADDENDUM MATERIAL 1:**

- C4H Referral To The Neighborhood/Community Affairs Committee To Discuss A Maintenance Plan Along The 41st Street Business Corridor And Possibly Appointing A Dedicated Liaison To The Corridor (Like Lincoln Road).  
(Requested by Vice-Mayor Edward L. Tobin)

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

**ADDENDUM MATERIAL 2:**

C4I Referral To The Neighborhood/Community Affairs Committee - Discussion As How To Deal With Noise Abatement Issues Relative To Overhead Flights That Do Not Follow The Standards Set By FAA.

(Requested by Commissioner Jorge R. Exposito)

**ACTION:** Referred. Barbara Hawayek to place on the committee agenda. **Hernan Cardeno to handle.**

**ADDENDUM MATERIAL 2:**

C4J Referral To Neighborhood/Community Affairs Committee - Trespass Sign Program For Buildings Under Construction.

(Requested by Commissioner Deede Weithorn)

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

C4K Referral To Neighborhood/Community Affairs Committee –Alternative Location For Dog Park In South Pointe Park.

(Requested by Vice-Mayor Ed Tobin)

**ACTION:** Referred. Barbara Hawayek to place on the committee agenda. **John Rebar to handle.**

## Handouts or Reference Materials:

1. Memorandum from Ed Tobin, Commissioner, to Jimmy Morales, City Manager, dated October 15, 2013, RE: Agenda Item for October 16, 2013 Commission Meeting.

**C6 - Commission Committee Reports****11:33:23 a.m.**

C6A Report Of The Land Use And Development Committee Meeting And Special Public Workshop Of September 23, 2013: **Regular Agenda: 1)** Discussion Of The Redevelopment Of The Talmudic University Property Located At 4000 Alton Road. **2)** Discussion Regarding Taxi Service In Miami Beach And Miami-Dade County. **Special Public Workshop: 1)** 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. **2)** Ordinance Amendment Pertaining To Oversized Single Family Homes. **3)** Discussion On Architecturally Significant Homes - The City Of Coral Gables Ordinance Language In Regards To The Review Of Total Demolition Requests For Single Family Homes.

**ACTION:** Item separated by Vice-Mayor Tobin. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **Richard Lorber to handle.**

**Regular Agenda:**

**Item No.1: Discussion Of The Redevelopment Of The Talmudic University Property Located At 4000 Alton Road.**

Refer to Planning Board as proposed. Tobin/Wolfson 3-0

**Item No. 2: Discussion Regarding Taxi Service In Miami Beach And Miami-Dade County.**

Send an Administration representative to the County Commission meeting to monitor the item and report to the LUDC. Góngora/Wolfson (3-0)

**Special Public Workshop:**

**Item No. 1: 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.**

Recommendation NOT to approve the Ordinance (Tobin/Wolfson 2-0)

**Item No. 2: Ordinance Amendment Pertaining To Oversized Single Family Homes.**

No action taken.

**Item No. 3: Discussion On Architecturally Significant Homes - The City Of Coral Gables Ordinance Language In Regards To The Review Of Total Demolition Requests For Single Family Homes.**

No discussion and no action taken.

Item deferred.



C6B Report Of The Neighborhood/Community Affairs Committee Meeting Of September 30, 2013: **1)** Discussion Regarding The Placement Of A Plaque At The Flamingo Park Tennis Facility Commemorating Mr. Jerry Moss And His Tremendous Contribution To Tennis On Miami Beach. **2)** Discuss The Log Cabin Property And The Possibility Of A Collaborative Community Center. **3)** Discussion Regarding Potential Options For Collins Canal Project. **4)** Discussion Regarding The Conditions Of South Pointe Park. **5)** A Discussion Regarding Criminal Background Checks For Employees Of City Contractors And Spot Check Updates For Those Background Checks. **6)** Discussion Regarding Sightseeing And Tour Bus Industry Regulations. **7)** Discussion Regarding A Potential Public Basketball Court To Be Located Between 8th and 9th Streets, West Of The Dunes, Near The Exercise Equipment. **8)** Discussion Regarding The Continuation Of The Adopt-A-Beach Pilot Program. **9)** Discussion Regarding The Permanent Closure Of The 400 Block Of Española Way Between Washington Avenue And Drexel Avenue. **10)** Discussion regarding Recycling Ordinance Amendment Recommended By The Sustainability Committee, Which Changes The Number Of Multifamily Units Required To Recycle From Nine Or More Units To Two Or More Units. **11)** Discussion Regarding A Barrier With Foliage Be Installed By FDOT In The Median On 41st Street From Alton Road To Meridian Avenue Within Two Years From The Completed FDOT Traffic Study. **12)** Discussion Regarding The Normandy Shores North Guardhouse On Bay Road. **13)** Discussion Regarding The Veteran's Day Parade.

**ACTION:**

**Item No. 1: Discussion Regarding The Placement Of A Plaque At The Flamingo Park Tennis Facility Commemorating Mr. Jerry Moss And His Tremendous Contribution To Tennis On Miami Beach.**

Commissioner Libbin made the motion to send to Tennis Advisory Committee for discussion. Second by Commissioner Exposito

**Item No. 2: Discuss The Log Cabin Property And The Possibility Of A Collaborative Community Center.**

1<sup>st</sup>. Motion: Commissioner Exposito made the motion to direct administration to bring a proposal to incorporate both the teen center and skate park to the next committee meeting October 28<sup>th</sup>. All were in favor.

2<sup>nd</sup> Motion: Commissioner Libbin requested for administration to work with MACTOWN and explore opportunities; second by Commissioner Exposito. Bring back to committee meeting October 28<sup>th</sup> and invite MACTOWN to attend.

**Item No. 3: Discussion Regarding Potential Options For Collins Canal Project.**

Direction: Administration to meet with GTAG group; create a short-term plan of action and bring to Commission in October to approve the plan of action then back NCAC in October.

**Item No. 4: Discussion Regarding The Conditions Of South Pointe Park.**

Direction: Administration to review options and come back to NCAC in December.

**Item No.5: A Discussion Regarding Criminal Background Checks For Employees Of City Contractors And Spot Check Updates For Those Background Checks.**

Direction: The language requiring vehicle signage to be included in the procurement documents. Alex Denis to reach out to our City Attorney for language.

Motion: Commissioner Exposito made a motion to move to Commission to discuss implementation of the recommendations. Second by Commissioner Libbin.

**Item No. 6: Discussion Regarding Sightseeing And Tour Bus Industry Regulations.**

Directions:

1. Vice-Mayor Tobin wants the number of citations that we've issued and bring back at the next NCAC meeting in October.
2. City Manager to determine how best to handle Ocean Drive stop while the regulations are formalized.

Motion: Administration to meet with industry and come back to NCAC once the TPC discusses the issue. Bring back to NCAC in December.

**Item No. 7: Discussion Regarding A Potential Public Basketball Court To Be Located Between 8th and 9th Streets, West Of The Dunes, Near The Exercise Equipment.**

Motion: Motion made by Commissioner Libbin to refer to the next Commission meeting October 16, 2013 for discussion only and invite business owners. Second by Commissioner Exposito.

**Item No. 8: Discussion Regarding The Continuation Of The Adopt-A-Beach Pilot Program.**

Motion: Vice-Mayor Tobin gave the motion to have administration to ensure that Miami-Dade County is properly cleaning our beaches. In addition, the current ECOMB model needs work. Work on the model and come back to NCAC in November. Second by Commissioner Libbin.

**Item No. 9: Discussion Regarding The Permanent Closure Of The 400 Block Of Española Way Between Washington Avenue And Drexel Avenue.**

Motion: Motion made by Commissioner Libbin that unless we find prior commission action go back to commission in October and for administration to do some outreach to the business owners to be present during the October commission meeting and make it time certain. Second by Commissioner Exposito.

**City Clerk's Note:** See Item R9I

**Item No. 10: Discussion regarding Recycling Ordinance Amendment Recommended By The Sustainability Committee, Which Changes The Number Of Multifamily Units Required To Recycle From Nine Or More Units To Two Or More Units.**

Motion: Motion made by Commissioner Exposito directing staff to bring to the next Commission meeting in October. Second by Commissioner Libbin.

**City Clerk's Note:** See Item R5O

**Item No. 11: Discussion Regarding A Barrier With Foliage Be Installed By FDOT In The Median On 41st Street From Alton Road To Meridian Avenue Within Two Years From The Completed FDOT Traffic Study.**

Motion: Motion made by Vice-Mayor Tobin to have administration move quickly and come back to Commission in October with a solution.

**Item No. 12" Discussion Regarding The Normandy Shores North Guardhouse On Bay Road.**

Motion: Motion made by Vice-Mayor Tobin to bring to Commission in October.

**Item No. 13: Discussion Regarding The Veteran's Day Parade.**

Motion: Motion made by Vice-Mayor Tobin to move forward with the coordination of the parade. Second by Commissioner Exposito.

C6C Report Of The Finance And Citywide Projects Committee Meeting Of September 19, 2013: **1)** Discussion Of Old Business Items To Determine If They Should Remain On The Pending Items List: **a)** Status Update On Business Tax Process Improvement; **b)** Additional Proposed Amendment To The City's Living Wage Ordinance Mandating Health Benefits Plan; **c)** Discussion Of Responses Received From The Request For Letters Of Interest (RFLI) For A North Beach Parking Garage; **d)** Discussion On Water Conservation Methods And Implementation; **e)** Discussion Regarding Upgrade To Municipal Parking Garage Gated Revenue Control System; **f)** Discussion Regarding The Issuance Of A Request For Qualifications For A Third Franchise Solid Waste Contractor For Residential And Commercial Solid Waste Collections And Disposal; **g)** Discussion Regarding Permit Expiration Courtesy Notices; Amnesty For Expired Permits; And Length Of Time For Building Permits. **2)** Discussion Regarding Existing Tenant's New Proposal To Renew The Retail Lease Agreement With 1560 Collins Avenue, Inc. D/B/A Shan ("Tenant"), For The Use Of Suites B And C In The Anchor Shops, Located At 1560 Collins Avenue, Suite No 2, Miami Beach, Florida ("Space"); Compared To The US Vintage Proposal For This Space, Approved At The July 25, 2013 Citywide Projects Commission Committee. **3)** Discussion Regarding A Proposal From Alpha 22, LLC To Lease 2,216 Square Feet Of City-Owned Vacant Property, Located At 22nd Street And Washington Avenue, Adjacent To Existing Restaurant Space Located At 816 Commerce Street, Miami Beach, Florida 33139 (Space), To Be Used As Outdoor Café, Concurrent With The Lease/Use Of The Adjoining Restaurant. **4)** Discussion Regarding An Amendment To The Lease By And Between The City Of Miami Beach ("Landlord") And Massage Partners, Inc. ("Tenant") Dated September 15, 2010, For The Premises Located At 1701 Meridian Avenue, Unit 2 (A/K/A 767 17th Street), Miami Beach, Florida, Concerning: 1) The Additional Use Of The Demised Premises As A Nail Salon; And 2) The Use Of The Common Area Restrooms Located On The Second Floor Of The 1701 Meridian Avenue Office Building For Tenant's Nail Salon Customers. **5)** Discussion Regarding Red Light Cameras In Miami Beach In Light Of A New State Law That Goes Into Effect On July 1, 2013. **6)** Discussion To Immediately Reinstate The Fee Waiver For Sidewalk Cafes In North Beach.

#### **ACTION:**

##### **Item No. 1: Discussion Of Old Business Items To Determine If They Should Remain On The Pending Items List:**

###### **a: Status Update On Business Tax Process Improvement.**

The Committee recommended leaving this item on the agenda since the new Accela process is still pending.

###### **b: Additional Proposed Amendment To The City's Living Wage Ordinance Mandating Health Benefits Plan.**

The Committee recommended removing this item.

###### **c: Discussion Of Responses Received From The Request For Letters Of Interest (RFLI) For A North Beach Parking Garage.**

The Committee recommended removing this item.

###### **d: Discussion On Water Conservation Methods And Implementation.**

The Committee recommended removing this item.

###### **e: Discussion Regarding Upgrade To Municipal Parking Garage Gated Revenue Control System.**

The Committee recommended leaving this item on the agenda because the current revenue

control system needs to be updated.

**F: Discussion Regarding The Issuance Of A Request For Qualifications For A Third Franchise Solid Waste Contractor For Residential And Commercial Solid Waste Collections And Disposal.**

The Committee recommended removing this item.

**g: Discussion Regarding Permit Expiration Courtesy Notices; Amnesty For Expired Permits; And Length Of Time For Building Permits.**

The Committee recommended removing this item.

**Item No. 2: Discussion Regarding Existing Tenant's New Proposal To Renew The Retail Lease Agreement With 1560 Collins Avenue, Inc. D/B/A Shan ("Tenant"), For The Use Of Suites B And C In The Anchor Shops, Located At 1560 Collins Avenue, Suite No 2, Miami Beach, Florida ("Space"); Compared To The US Vintage Proposal For This Space, Approved At The July 25, 2013 Citywide Projects Commission Committee.**

The Committee recommended continuing the lease with 1560 Collins Ave, Inc. d/b/a Shan for the use of Suites B and C in the Anchor Shops.

**Item No. 3: Discussion Regarding A Proposal From Alpha 22, LLC To Lease 2,216 Square Feet Of City-Owned Vacant Property, Located At 22nd Street And Washington Avenue, Adjacent To Existing Restaurant Space Located At 816 Commerce Street, Miami Beach, Florida 33139 (Space), To Be Used As Outdoor Café, Concurrent With The Lease/Use Of The Adjoining Restaurant.**

The Committee recommended moving forward in pursuing a lease agreement with Alpha as proposed with the necessary revisions as discussed.

**Item No. 4: Discussion Regarding An Amendment To The Lease By And Between The City Of Miami Beach ("Landlord") And Massage Partners, Inc. ("Tenant") Dated September 15, 2010, For The Premises Located At 1701 Meridian Avenue, Unit 2 (A/K/A 767 17th Street), Miami Beach, Florida, Concerning: 1) The Additional Use Of The Demised Premises As A Nail Salon; And 2) The Use Of The Common Area Restrooms Located On The Second Floor Of The 1701 Meridian Avenue Office Building For Tenant's Nail Salon Customers.**

The Committee recommended moving forward with the proffer of allowing the usage of the bathrooms as long as the tenant escorts the customers to and from the bathroom after hours and an increase of \$6.00 per square foot for Common Area Maintenance fees of the restroom.

**Item No. 5: Discussion Regarding Red Light Cameras In Miami Beach In Light Of A New State Law That Goes Into Effect On July 1, 2013.**

The Committee requested that the City Manager bring back additional information before a decision is made on addressing the red light cameras.

**Item No. 6: Discussion To Immediately Reinstate The Fee Waiver For Sidewalk Cafes In North Beach.**

The Committee recommended reinstating the fee waiver for sidewalk cafes in North Beach.

**City Clerk's Note:** See Item R5I

**C7 - Resolutions**

- C7A A Resolution Approving And Authorizing The City Manager Or His Designee To Take The Following Actions: 1) Submit An Application To The State Of Florida, Department Of Environmental Protection, Recreational Trails Program For Funding In The Amount Of \$75,000 For The Middle Beach Recreational Corridor Project (Phase II); 2) Submit An Application To The US Department Of Homeland Security, Federal Emergency Management Agency (FEMA) For Fiscal Year (FY) 2013/14 Urban Area Security Initiative (UASI) Funding In The Approximate Amount Of \$100,000 For Citywide Emergency Preparedness; 3) Submit A Response To The Request For Proposals From The National League Of Cities, Institute For Youth, Education, And Families, For The Cities Expanding Health Access For Children And Families (CEHACF) Planning Grant In The Amount Of \$30,000 For Funding For The Planning Process And Development Of A Business Plan To Expand Health Access For Children And Families; And, Further, Retroactively Approving The Following: 4) Submittal Of An Application To The Rockefeller Foundation For The 100 Resilient Cities Centennial Challenge Program, For Technical And Financial Resources To Create And Execute Resilience Strategies On A Citywide Scale; Appropriating The Above Grants, Matching Funds, And City Expenses, If Approved And Accepted By The City And Authorizing The Execution Of All Necessary Documents Related To The Aforestated Applications, Including, Without Limitation, Audits, And Authorizing The City Manager Or His Designee To Take All Necessary Actions Related To These Grants.  
(Budget & Performance Improvement)

**ACTION: Resolution 2013-28374 adopted.** Patricia Walker to appropriate the funds if approved and accepted. **Judy Hoanshelt to handle.**

- C7B A Resolution Accepting The Recommendation Of The Neighborhood/Community Affairs Committee Adopting Background Check Requirements And Other Security Measures For Employees Of City Contractors.  
(Procurement)

**ACTION: Resolution 2013-28375 adopted. Alex Denis to handle.**

- C7C A Resolution Amending Resolution No. 2009-27254 To Increase The Annually Estimated Contract Amount For Building Inspection, Plans Review Services, And Permit Clerks On An "As Needed" And "On-Going" Basis For The City's Building Department From \$300,000 To \$650,000.  
(Building)

**ACTION: Resolution 2013-28376 adopted. Mariano Fernandez to handle.**

- C7D A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 3 To The Professional Services Agreement With Stantec Consulting Services, Inc. For Additional Architectural Engineering Services, For The Flamingo Park Football Field And Track Renovation Project; In The Negotiated Amount Of \$46,138; With Previously Appropriated Funding In The Amount Of \$46,138 From Fund 301, Quality Of Life Fund.  
(Capital Improvement Projects)

**ACTION: Item separated for discussion by Vice-Mayor Tobin. Item not reached.**

11:33:23 a.m.

**SUPPLEMENTAL MATERIAL 1: Revised Settlement Agreement & Release**

- C7E A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Settlement Agreement Between The City Of Miami Beach And Bermello Ajamil & Partners, Inc., (BAP) For Extended Professional Construction Engineering And Inspection Services (CEI) For The Florida Department Of Transportation (FDOT) Work Included In The Water Mains And Sanitary Sewer Mains, And Milling And Resurfacing Improvements Along Indian Creek Drive Between 26th And 41st Streets; In The Negotiated Amount Of \$73,000 From Previously Appropriated Funding.  
(Capital Improvement Projects)

**ACTION:** Item separated by Vice-Mayor Tobin. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **David Martinez to handle.**

11:33:23 a.m.

- C7F A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 5 To The Professional Architectural And Engineering (A/E) Services Agreement Between The City And Wolfberg Alvarez And Partners, For Additional Professional Services For The Flamingo Park Project, In The Negotiated Not-To-Exceed Amount Of \$381,261, And An Additional Amount Of \$22,000 For Reimbursable Expenses, For A Total Amount Of \$403,261; With Previously Appropriated Funding From Fund 390, Miami-Dade County Building Better Communities General Obligation Bond Program.  
(Capital Improvement Projects)

**ACTION:** Item separated by Vice-Mayor Tobin. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **David Martinez to handle.**

- C7G A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 1 To The Professional Services Agreement With Coastal Systems International, Inc. For Supplemental Construction Administration Services, For The Beachwalk II - Phase I Project; In The Negotiated Amount Of \$48,360 And An Additional Amount Of \$1,000 For Reimbursable Expenses, For A Total Not To Exceed Amount Of \$49,360; With Previously Appropriated Funding In The Amount Of \$49,360 From Fund 389, South Pointe Capital Fund And Ratifying The Additional Professional Services Provided By The Consultant During The Design Phase In The Amount Of \$35,590.  
(Capital Improvement Projects)

**ACTION: Resolution 2013-28377 adopted. David Martinez to handle.**

C7H A Resolution Amending Resolution No. 2003-25171, Which Approved The Basis Of Design Report (BODR) For The Bayshore Right Of Way Improvement Project; Said Amendment Amending The BODR As Follows: 1) Change In Roadway Widths; And, 2) 40th Street Parking Modifications.

(Capital Improvement Projects)

**ACTION: Resolution 2013-28378 adopted. David Martinez to handle.**

C7I A Resolution Amending Resolution No. 2012-28066, Setting The Dates For The 2013 Commission Meetings; Authorizing A Change In The Commission Meetings In November 2013, Which Are Held For The Purpose Of Canvassing Returns Of The General And Special Elections, From The Scheduled Meeting Date Of November 6, 2013 To November 12, 2013; And If A Run-Off Election Is Necessary, Changing The Meeting Date Of November 20, 2013 To November 25, 2013.

(City Clerk's Office)

**ACTION: Resolution 2013-28379 adopted. Rafael E. Granado to handle.**

C7J A Resolution Electing Commissioner Deede Weithorn, Group VI, As Vice-Mayor, For A Term Commencing On November 1, 2013 And Terminating On November 12, 2013, Or If A Runoff Election Is Held, Terminating On November 25, 2013.

(City Clerk's Office)

**ACTION: Resolution 2013-28380 adopted. Rafael E. Granado to handle.**

**11:33:23 a.m.**

C7K A Resolution Approving And Consenting To An Assignment Of The Existing Agreement For Investigative And Adjusting Services For Selected Tort Liability And Workers' Compensation Claims On An "As Needed" Basis Between The City And Horizon Investigations, Inc. ("Horizon") (As Assignor), To Proven Investigation, L.L.C. ("Proven") (As Assignee), With Such Approval And Consent Effective Upon Execution Of Assignment By The Mayor And City Clerk.

(Human Resources/Procurement)

**ACTION:** Item separated by Commissioner Libbin. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **Sylvia Crespo-Tabak and Alex Denis to handle.**

11:33:23 a.m.

**SUPPLEMENTAL MATERIAL 1: Agreement**

C7L A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Parking Lease Agreement With The National Marine Manufacturers Association (NMMA) Boat Show For The Preferred Parking Lot And Other City Property Adjacent To The Boat Show Exhibition Space/Premises; Said Lease For The Boat Show Dates In February 2014, 2015, And 2016, Respectively, And Running Concurrently With The Boat Show Lease Agreement For Use Of The Miami Beach Convention Center.

(Parking Department)

**ACTION:** Item separated by Vice-Mayor Tobin. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **Saul Frances to handle.**

11:33:23 a.m.

C7M A Resolution Authorizing The Creation Of A Commercial Use Permit Process And Fee Schedule For The Purpose Of Legitimizing And Managing Fitness, Training, Tennis And Other Outdoor Professional Services At City Facilities, Parks And Beaches.

(Parks & Recreation)

**ACTION:** Item separated by Commissioner Libbin. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **John Rebar to handle.**

11:33:23 a.m.

C7N A Resolution Accepting The City Manager's Revised Recommendation To Reject All Proposals Received Pursuant To Request For Proposals (RFP) No. 01-2013ME, For Unarmed Security Guard Services; Further Authorizing A Continuing Month-To-Month Extension Of The Current Security Guard Services Contract With Security Alliance LLC, Dated April 2, 2007, With Said Extension Terminable By The City, For Convenience And Without Cause, At Such Time As A New Contract For Security Guard Services Is Approved And Executed.

(Police/Procurement)

(Deferred from July 17, 2013)

**ACTION:** Item separated by Vice-Mayor Tobin and Commissioner Weithorn. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **Chief Martinez and Alex Denis to handle.**

Handouts or Reference Materials:

1. Letter from Kent Security, from Gil Neuman, CEO, dated October 11, 2013, hand delivered to Mr. Jimmy Morales, City Manager, City of Miami Beach, RE: RFP No. 01-2013ME, Unarmed Security Guard Services.
2. Letter to Gil Newman, Kent Security, dated October 15, 2013, from Jose Smith, City Attorney, RE: RFP 01-2013ME for Unarmed Security Guard Services; CMB's response to Kent Security's Bid Protest, dated October 11, 2013.



3. Letter to Allison W. Maffei, G4S Secure Solutions (USA), Inc; dated October 15, 2013, from Jose Smith, City Attorney, RE: RFP 01-2013ME for Unarmed Security Guard Services; CMB's response to G4S Secure Solution's Bid Protest, dated October 11, 2013.
4. Speakers List (Joseph Rebar, Esq.,)

C7O A Resolution Authorizing The City Manager And City Clerk To Execute Mutual Aid Agreements With The Following Governmental Agencies: 1) Bal Harbour Village, Florida; 2) Town Of Bay Harbor Islands, Florida; 3) Village Of Biscayne Park, Florida; 4) City Of Coral Gables, Florida; 5) City Of Doral, Florida; 6) City Of Hialeah Gardens, Florida; 7) Town Of Medley, Florida; 8) City Of Miami Springs, Florida; 9) City Of Opa Locka, Florida; And 10) City Of Sweetwater, Florida; For The Purpose Of Coordinating Law Enforcement Planning, Operations, And Mutual Aid Benefit Between The City Of Miami Beach And Bal Harbour Village, Town Of Bay Harbor Islands, Village Of Biscayne Park, City Of Coral Gables, City Of Doral, City Of Hialeah Gardens, Town Of Medley, City Of Miami Springs, City Of Opa Locka, And The City Of Sweetwater.  
(Police)

**ACTION: Resolution 2013-28381 adopted. Chief Martinez to handle.**

C7P A Resolution Authorizing The City Manager And City Clerk To Execute A Memorandum Of Understanding Between The City Of Miami Beach, On Behalf Of The Miami Beach Police Department, And Miami-Dade County, On Behalf Of The Miami-Dade Police Department, To Participate In Operation Stonegarden, A Waterborne Law Enforcement Initiative.  
(Police)

**ACTION: Resolution 2013-28382 adopted. Chief Martinez to handle.**

C7Q A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Voluntary Cooperation Mutual Aid Agreement Between The Miami Beach Police Department And The Florida Department Of Law Enforcement, Miami Regional Operations Child Abduction Response Team, A Multi-Agency Team, To Investigate And Prosecute Persons Involved In The Abduction Of Children, And Provide A Response To Missing And Endangered Children In South Florida.  
(Police)

**ACTION: Resolution 2013-28383 adopted. Chief Martinez to handle.**

C7R A Resolution Approving And Authorizing The City Manager To Participate In The Southeast Florida Governmental Purchasing Co-Operative For The Purchase Of Competitively Bid Routine Operational Requirements, And Waiving By 5/7th Vote, The City's Formal Competitive Bidding Requirements, Finding Such Waiver To Be In The Best Interest Of The City.  
(Procurement)

**ACTION: Resolution 2013-28384 adopted. Alex Denis handle.**

C7S A Resolution Formally Requesting That The Florida Department Of Transportation (FDOT) Convey Ownership To The City Of Certain Property Owned By The FDOT, Located At 1050 41st Street, And Legally Described As Lot D, Block 1, Plat Book 35, Page 46 Of The Re-Subdivision Of Lots 48, 49, 50, And 51 Of Lot 1 Nautilus Subdivision; Which Property Has Been The Site Of A City Water Pump Station Since 1961.

(Public Works)

**ACTION: Resolution 2013-28385 adopted. Eric Carpenter to handle.**

C7T A Resolution Approving An Amendment To The Flamingo Neighborhood Basis Of Design Report For 10-Foot Travel Lanes On Local Avenues And Streets As Well As Four (4) Feet Of Green Space And A 10-Foot Wide Path/Cycle Track Sidewalk Shared On Each Side In Lieu Of Bike Lane For 16th Street.

(Public Works)

**ACTION:** Item separated by Vice-Mayor Tobin. Moved to Regular Agenda item R7I. See action with R7I.

Handouts and Reference Materials:

1. Email from Denis Russ, [Denis@miamibeachcdc.org](mailto:Denis@miamibeachcdc.org), dated October 14, 2013 RE: Flamingo favors Item C7T. Attachment: Flamingo CIP Streetscape – HPB 08-10-2010.doc.

C7U A Resolution Waiving, By 5/7th Vote, The Formal Competitive Bidding Requirements, Finding Such Waiver To Be In The City's Best Interest, And Authorizing The Annual Purchase Of Fuel Management System Parts And Services From AHA Electronics And Fuel Systems, Inc., The Sole Representative For The City's RNI/Fuelomat System, By The City's Fleet Management Division, For The Fueling Of City Vehicles, In An Amount Estimated At \$124,160.

(Public Works)

**ACTION: Resolution 2013-28386 adopted. Eric Carpenter to handle.**

C7V A Resolution Waiving By 5/7<sup>th</sup> Vote, The Formal Competitive Bidding Requirements, Finding Such Waiver To Be In The Best Interest Of The City, And Authorizing The Purchase Of Fuel From The Miami Beach Marina For Refueling Of Marine Patrol And Ocean Rescue Vessels, In An Amount Estimated At \$100,000 Annually.

(Public Works)

**ACTION: Resolution 2013-28387 adopted. Eric Carpenter to handle.**

C7W A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A New Professional Services Agreement With Arts For Learning/Miami, A Not-For-Profit Corporation, For In-School And After-School Arts Education Programs At Various City Preschools, Public Schools And Parks And Youth Centers, In An Amount Not To Exceed \$105,000, Said Agreement Having An Initial Term Of One (1) Year, Commencing On October 1, 2013, And Ending On September 30, 2014, With The Option, At The City's Sole Discretion, To Extend For An Additional Two (2) Years Contingent Upon Funds Appropriations.  
(Tourism, Culture & Economic Development)

**ACTION: Resolution 2013-28388 adopted. Max Sklar to handle.**

C7X A Resolution Retroactively Approving And Authorizing The Acceptance Of \$3,898.00 Dollars In Donations And Sponsorships Made To The City For The Annual Family & Community Service Day, A Free Event.  
(Tourism, Culture & Economic Development)

**ACTION: Resolution 2013-28389 adopted. Max Sklar to handle.**

**11:45:44 a.m.**

C7Y A Resolution Retroactively Approving A Special Event Fee Waiver In An Amount Not To Exceed \$32,390.00, For Sun And Fun Hospitality Give Back Day, Which Was Held On September 29, 2013 In Lummus Park.  
(Tourism, Culture & Economic Development)

**ACTION:** Item separated for discussion by Vice-Mayor Tobin and Commissioner Libbin. Commissioner Libbin announced that he recused himself from this item and filled out the appropriate paperwork. **Resolution 2013-28390 adopted.** Motion made by Commissioner Weithorn; seconded by Commissioner Exposito; Voice-vote: 3-1; Opposed: Vice-Mayor Tobin. Absent: Commissioners Góngora and Wolfson; Recused: Commissioner Libbin. **Max Sklar to handle.**

Vice-Mayor Tobin separated the item because the event, which already happened, is requesting waiving fees in the amount of \$32,390. He requested more detailed information for the Sun and Hospitality giveback day.

Tim Nardi, Greater Miami & The Beaches Hotel Association, understands the importance of recognizing the hard work of people in the hotel industry, and wanted to give back a free day for the workers of the hotels in Miami Beach; he reached out to the hotel association to provide support and reached out to the Chamber. This was a Hotel Association event, which they plan to do every year. They are asking for a fee waiver primarily for the square footage fee. They raised money and received donations and paid for the Police, Fire and Sanitation as required by the City.

Discussion held.

Max Sklar explained the fee waiver, and added that this is something that the City does not commonly do; the City charges 0.25 cents per square foot, and because it was a closed event for the hotel and hospitality industry, the site was large therefore the fee.

Vice-Mayor Tobin stated that this should have come to the Commission ahead of time, and will be

voting against it for that reason.

Jimmy L. Morales, City Manager, explained the reason the item was in front of the Commission late.

Handouts or Reference Materials:

1. Form 8B signed by Commissioner Libbin. See #102

C7Z A Resolution Approving Special Event Fee Waivers In An Amount Not To Exceed \$12,055.25, Plus A "To Be Determined" Lummus Park User Fee, For The 2013 Dolphins Cycling Challenge (DCC), Which Will Take Place On November 2, 2013 On The Beachfront North Of 10 Street.

(Requested by Commissioner Deede Weithorn)

(Legislative Tracking: Tourism, Culture & Economic Development)

**ACTION: Resolution 2013-28391 adopted. Max Sklar to handle.**

C7AA A Resolution Authorizing The Acceptance Of A Twenty-Two Thousand Dollars (\$22,000) In Cash Donation From The Marilyn And Edward Gadinsky Charitable Foundation In Support Of The Soundscape Cinema Series For Fiscal Year 2013/14; And Authorizing The City Manager Or His Designee To Make Such Expenditures And/Or Reimbursements From The Aforestated Donation In Furtherance Of And Consistent With The Soundscape Cinema Series For Fiscal Year 2013/14.

(Tourism, Culture & Economic Development)

**ACTION: Resolution 2013-28392 adopted. Max Sklar to handle.**

C7BB A Resolution In Support Of The United Nations Secretary-General's Campaign "UNiTE To End Violence Against Women"; Supporting The October 25, 2013 "Orange Day" Around The World Which Will Focus On "Safe Public Spaces For Women And Girls"; Supporting The "Proudly To End Violence Project" Also Aligned With The UNiTE Campaign; And Encouraging Other Cities To Join The City Of Miami Beach In Supporting These Efforts.

(Requested by Mayor Matti Herrera Bower)

(Legislative Tracking: City Attorney's Office)

**ACTION: Resolution 2013-28393 adopted. City Attorney's Office to handle.**

C7CC A Resolution Approving The Waiver Of Consumer Price Index Rate Adjustments For Fiscal Year 2013/2014 For Building, Planning, Public Works And Fire Department Fees Set Forth In Appendix A Of The City Code Retroactive To October 1, 2013.

(Building)

**ACTION: Resolution 2013-28394 adopted. Mariano Fernandez to handle.**

C7DD A Resolution Setting A Public Hearing To Adopt The Third Amendment To The General Fund, Enterprise Fund, Internal Service Fund And Special Revenue Fund Budgets For Fiscal Year (FY) 2012/13.

(Budget & Performance Improvement)

**ACTION: Resolution 2013-28395 adopted.** Rafael E. Granado to notice. Lilia Cardillo to place on the November 25, 2013 Commission Agenda if received. Ralph Granado to notice. **John Woodruff to handle.**

**11:33:23 a.m.**

C7EE A Resolution Urging The Florida Legislature To Consider And Enact Legislation That Would Recognize Legal Rights For Pets Beyond Their Current Common Law Status As Personal Property And To Provide For The Recovery Of Non-Economic Damages For Harm To Pets To Compensate Pet Owners For Their Emotional And Psychological Pain And Suffering Resulting From Such Harm.

(Requested by Commissioner Michael Góngora)  
(Legislative Tracking: City Attorney's Office)

**ACTION:** Item separated by Vice-Mayor Tobin. Motion made by Commissioner Weithorn to withdraw the item; seconded by Vice-Mayor Tobin. Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. Item to come back to Commission in December. Lilia Cardillo to place on the Commission Agenda if received. **City Attorney's Office to handle.**

C7FF A Resolution Amending Resolution No. 2013-28182 Which Authorized A Contract With Industrial/Organizational Solutions, Inc. To Provide Additional Testing Services During The First Contract Year; And Requesting Additional Funding For Ocean Rescue In An Amount Not To Exceed \$38,000.

(Human Resources)

**ACTION: Resolution 2013-28396 adopted. Sylvia Crespo-Tabak to handle.**

C7GG A Resolution Directing The City Administration To Pursue The Options Of Relocation Of The Pedestrian Signal At Garden Avenue And The Extension Of The School Zone On 41st Street With The Florida Department Of Transportation To Improve The Safety Of Nautilus Middle School Students And Pedestrians Crossing 41st Street.

(Public Works)

**ACTION: Resolution 2013-28397 adopted. Eric Carpenter to handle.**

C7HH Resolution Accepting The Recommendation Of The Neighborhood/Community Affairs Committee Directing City Staff To Work With The Greenspace-Tree Advocacy Group To Develop Interim Landscaping Options For The Dade Boulevard Shared-Use Path Project.

(Public Works)

**ACTION: Resolution 2013-28398 adopted. Eric Carpenter to handle.**

**SUPPLEMENTAL MATERIAL 1: Memorandum & Resolution**

C7II A Resolution Approving Funding In An Amount Of Up To \$50,000, And Authorizing The City Manager Or His Designee To Reimburse The Miami Beach Visitor And Convention Authority (VCA) (In An Amount Not To Exceed \$50,000) With Regard To The VCA's Completion Of The Build-Out Of Its New Office Space, Located At 1701 Meridian Avenue, Unit 403; Such Reimbursement For A New Heating, Ventilation, And Air Conditioning (HVAC) System Design, Engineering, Permitting And Installation.

(Tourism, Culture & Economic Development)

**(Memorandum to be Submitted in Supplemental)**

**ACTION:** Item separated for discussion by Vice-Mayor Tobin. Item not reached.

**ADDENDUM MATERIAL 1:**

C7JJ A Resolution Authorizing The City Manager To Award A Contract For Landscaping Of The Lincoln Road Mall Pursuant To Invitation To Bid (ITB) 2014-011LR.

(Parks & Recreation/Procurement)

**ACTION: Resolution 2013-28399 adopted. John Rebar to handle.**

**ADDENDUM MATERIAL 1:****SUPPLEMENTAL MATERIAL 2: Additional Information**

C7KK A Resolution Supporting The Efforts Of The Florida United States Congressional Delegation To Delay The Effective Date Of The 2012 Biggert-Waters Flood Insurance Reform Act To Prevent Significant Increases In Flood Insurance Rates Until The Federal Emergency Management Agency Completes Its Affordability Study And The Study Is Considered By The United States Congress.

(Requested by Commissioner Michael Góngora)

**ACTION: Resolution 2013-28400 adopted. City Attorney's Office to handle.**

**ADDENDUM MATERIAL 1:**

C7LL A Resolution Expressing Support For The November 8, 2013 Miami-Dade County Military Affairs Board "Golden Veterans Parade - 50th Anniversary Commemoration" Commemorating The 50<sup>th</sup> Anniversary Of The Vietnam War And Directing The City Clerk To Transmit A Copy Of This Resolution To All Miami-Dade County Municipal Clerks And To The Miami-Dade County Military Affairs Board.

(Requested by Commissioner Jorge R. Exposito)

**ACTION: Resolution 2013-28401 adopted. Rafael E. Granado to handle.**

C7MM A Resolution Setting A Public Hearing To Adopt The First Amendment To The Capital Budget For Fiscal Year (FY) 2013/14.

(Budget & Performance Improvement)

**ACTION: Resolution 2013-28402 adopted.** Rafael E. Granado to notice. Lilia Cardillo to place on the December 11, 2013 Commission Agenda if received. **John Woodruff to handle.**

1:56:26 p.m.

**SUPPLEMENT MATERIAL 2: Item moved from R9P**

C7NN A Resolution Approving The Extension Of Hours For Certain Alcoholic Beverage Establishments With A 5:00 a.m. Liquor License And Under Certain Specified Conditions Pursuant To Chapter 6 Of The City Code For The 2014 Winter Party (March 5-10, 2014) And The 2014 Pride Weekend (April 11-13, 2014).

(Requested by Commissioner Michael Góngora)

**ACTION:** Item separated for discussion by Commissioner Weithorn. **Item moved to the Consent Agenda from R9P. Resolution No. 2013-28403 adopted as amended.** Motion made by Commissioner Libbin; seconded by Commissioner Wolfson; Voice vote: 5-1; Opposed: Vice-Mayor Tobin; Absent: Commissioner Góngora.

**Amendment**

Extend hours for Friday and Saturday on March 7-8, 2014 only.

Applies only when there are ticketed events in a venue within the City limits.

Comply with City requirements.

Commissioner Weithorn had a conversation with the requestor, but in reading the material she realized that the conversation was not memorialized. She has no problem extending the hours if they have events on Miami Beach; her objection is that if the groups have events outside of Miami Beach, she has a problem extending the hours to encourage people to come to the City and attend bars after they have been to other events outside the City and driving impaired. She is happy to allow the extension with the caveat that the event is within City limits.

Vice-Mayor Tobin is not in support of extending the hours from 5 AM to 7 AM, unless it is New Year's Eve or another traditional holiday. He urged his colleagues not to support this, this is a bad idea and nothing good is going to come out of it; it is a quality of life issue.

Michael Bath, National Gay and Lesbian Taskforce member and event producer, explained that the Winter Party Festival is a fundraiser primarily. The funds generated are given to different charitable organizations. He added that during daylight savings time, the bars close at 4 o'clock; and stated that if the hours are not extended he will have to take the event across the bay. Even if approval is given, he will have to find a venue in the City.

Discussion held.

Max Sklar, Director of Tourism, Culture and Economic Development Department, explained that for the last few years their extensions of hours have been approved; however, there is a list of requirements from Code that they have to comply with.

Commissioner Weithorn explained that last year this event was held off of Miami Beach. Her objection is that she does not want allow clubs to open until 7 AM if the events are not happening in the City.

Discussion continued.

Raul Aguila, Chief Deputy City Attorney, explained that it applies to every bar that qualifies.

Commissioner Wolfson suggested making a motion to either approve or not. The ordinance allows the Commission to decide up or down for extension of time.

Raul Aguila, Chief Deputy City Attorney, explained that all producers are treated equally, and is every bar that qualifies under the requirements from the City. It is not site specific.

Commissioner Libbin asked if the promoter had a preliminary venue. Mr. Bath stated that the new Score Club on Washington Avenue is a possible venue.

Commissioner Wolfson understands the quality of life issues, but Miami Beach is a party town and that is the reputation they have internationally and they need to embrace that at some level. He believes that with proper Police presence he is not opposed to it. Discussion continued.

**2:09:37 p.m.**

Motion made by Commissioner Libbin to approve extension of hours for Fridays and Saturdays on those two weekends (March 7-8, 2014) during the Winter Party Festival, and comply with the City's requirements.

Commissioner Weithorn amended the motion to include "only if the event is housed in Miami Beach." Commissioner Libbin accepted the amendment.

Motion was seconded by Commissioner Wolfson; Voice-vote: 5-1; Opposed; Vice-Mayor Tobin. Absent: Commissioner Góngora. Commissioner Wolfson suggested having the departments of Code Enforcement and Sanitation on guard on those dates.

Commissioner Weithorn requested that this event has to be a ticketed event venue.

**End of Consent Agenda**



**REGULAR AGENDA****R5 - Ordinances****11:57:48 a.m.**

R5A An Ordinance Amending The Code Of The City Of Miami Beach By Amending Chapter 62, Entitled "Human Relations," By Amending Article II, Entitled "Discrimination," By Amending Division 3, Entitled "Regulations," By Adding Sec. 62-92 To Require The Posting Of Notices In Every Place Of Employment, Public Accommodation, Housing Accommodation, And City Facility That Falls Subject To The Human Rights Ordinance Indicating The Applicable Substantive Provisions Of The Human Rights Ordinance, The Place Where Complaints May Be Filed, And Such Other Information As The City Of Miami Beach Deems Pertinent; Providing For Enforcement Procedures And Providing For Severability, Codification And An Effective Date.

**10:30 a.m. Second Reading Public Hearing**

(Sponsored by Mayor Matti Herrera Bower &amp; Commission Michael Góngora)

(Legislative Tracking: City Clerk's Office)

(First Reading on September 11, 2013)

**ACTION.** Title of the ordinance read into the record. Public Hearing held. **Ordinance No. 2013-3818 adopted.** Motion made by Commissioner Weithorn to approve the ordinance; seconded by Commissioner Exposito; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. **City Attorney's Office and Carla Gomez handle.**

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844

R5B Accessory Setback Encroachments

An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article IV, "Supplementary District Regulations," Section 142-1132 To Modify The Setbacks For Allowable Encroachments Including Driveways, Carports And Mechanical Equipment; By Amending Section 142-1133 To Modify The Setback Requirements For Swimming Pools And The Requirements For The Construction Of Swimming Pools On Corner And Thru Lots Within Single Family Districts; Providing For Codification; Providing For Repealer, Severability And An Effective Date. **10:45 a.m. Second Reading Public Hearing**

(Requested by the Land Use &amp; Development Committee)

(Legislative Tracking: Planning Department)

(Continued from July 17, 2013)

**ACTION.** Title of the ordinance read into the record. **Item opened and continued to the December 11, 2013 City Commission Meeting.** Motion made by Commissioner Weithorn to open and continue the item to December 11, 2013; seconded by Commissioner Libbin; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. Lilia Cardillo to place on the Commission Agenda if received. **Richard Lorber to handle.**

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 799

**12:02:09**

R5C Alton Road Historic District Buffer Overlay

An Ordinance Amending The Code Of The City Of Miami Beach, Florida, By Amending Chapter 142, "Zoning Districts And Regulations," Article III, "Overlay Districts," Creating Division 8 "Alton Road - Historic District Buffer Overlay," By Including Section 142-858 "Location And Purpose," And Section 142-859 "Development Regulations," Including Among Other Provisions Regulations On Maximum Floor Area Ratio; Maximum Building Height; Minimum Setbacks; Building Separation; Demolition Or Additions To Contributing Buildings In An Historic District; And Land Use Regulations For Location Of Retail Uses, Restaurants, Bars, Entertainment Establishments, Alcoholic Beverage Establishments And Similar Uses; Requiring Conditional Use Approval Of Such Uses In Excess Of 10,000 Sq. Ft.; And Prohibiting Alcoholic Beverage And Entertainment Establishments In Open Areas With Exceptions As Prescribed In The Ordinance; Providing For Codification; Repealer; Severability; And An Effective Date. **11:00 a.m. First Reading Public Hearing**

(Requested by Land Use & Development Committee)  
(Legislative Tracking: Planning Department)  
(Deferred on June 5, 2013/Referred to NCAC)

**ACTION.** Title of the ordinance read into the record. **Item opened and continued to December 11, 2013.** Motion made by Commissioner Weithorn to open and continue the item to December 11, 2013; seconded by Commissioner Exposito; Voice vote: 5-0; Absent: Commissioners Góngora and Wolfson. Lilia Cardillo to place on the Commission Agenda if received. **Richard Lorber to handle.**

Mayor Bower explained that this item needs a 5/7<sup>th</sup> vote. As there are two Commissioners absent, she inquired of the Commission if they wished to open and continue to the item.

Vice-Mayor Tobin stated that he wanted to hear the item.

Commissioner Weithorn suggested that in an abundance of caution, she would like to open and continue the item, as she believes there will be "no" votes and she does not think it is fair.

Commissioner Libbin inquired if there was a legal issue relating to the item.

Mr. Jose Smith, City Attorney, explained that there was a notice issue that has been identified, and Gary Held, First Assistant City Attorney, can explain it.

Commissioner Weithorn inquired of Mr. Held if the item was opened and continued, would the City have time to cure the notice issue. Mr. Held responded in the affirmative, that the City would have time to cure it.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844
2. Copy of mailing labels

**12:02:59 p.m.**

## R5D Palm View Hotel Uses

An Ordinance Amending The Land Development Regulations Of The City Code, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 3, "Residential Multifamily Districts," Subdivision IV, "RM-2 Residential Multifamily, Medium Intensity," To Limit Hotels As Hereinafter Provided In The Palm View Corridor To Those Existing As Of May 28, 2013; Defining The Palm View Corridor As All Properties Abutting The West Side Of Meridian Avenue Between 17th Street And Collins Canal; Defining The Rights Of Existing Hotels As Legal Conforming Uses; To Exclude Outdoor Entertainment Establishments And Outdoor Entertainment From Permitted Hotel Accessory Uses; To Add Hotels As A Prohibited Use Within The Boundaries Of The Palm View Corridor Of The RM-2 District; Acknowledging State Pre-Emption Of Short Term Rental Regulations; Providing Rules For Cessation And Resumption Of Hotel Uses; And Providing For Codification; Repealer, Severability And An Effective Date. **11:10 a.m. Second Reading Public Hearing**

(Requested by the Land Use and Development Committee)

(Legislative Tracking: Planning Department)

(First Reading on September 11, 2013)

**ACTION.** Title of the ordinance read into the record. Public Hearing held. **Ordinance No. 2013-3819 adopted.** Motion made by Commissioner Weithorn to approve the ordinance; seconded by Commissioner Exposito; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. **Richard Lorber to handle.**

## Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844

**12:05:52 p.m.**

## R5E West Avenue Hotel Uses

An Ordinance Amending The Land Development Regulations Of The City Code, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 3, "Residential Multifamily Districts," Subdivision IV, "RM-2 Residential Multifamily, Medium Intensity"; And By Amending Subdivision V, "RM-3 Residential Multifamily, High Intensity," To Limit Hotels As Hereinafter Provided In The West Avenue Corridor To Those Existing As Of May 28, 2013; Defining The West Avenue Corridor As That Area Bordered By Collins Canal To The North, Alton Road To The East, Biscayne Bay To The West And 6th Street To The South; Defining The Rights Of Existing Hotels As Legal Conforming Uses; To Exclude Outdoor Entertainment Establishments And Outdoor Entertainment From Permitted Hotel Accessory Uses; To Add Hotels As A Prohibited Use Within The Boundaries Of The West Avenue Corridor Of The RM-2 And RM-3 Districts; Acknowledging State Pre-Emption Of Short Term Rental Regulations; Providing Rules For Cessation And Resumption Of Hotel Uses; And Providing For Codification; Repealer, Severability And An Effective Date. **11:20 a.m. Second Reading Public Hearing**

(Requested by the Land Use and Development Committee)

(Legislative Tracking: Planning Department)

(First Reading on September 11, 2013)

**ACTION.** Title of the ordinance read into the record. Public Hearing held. **Ordinance No. 2013-3820 adopted.** Motion made by Commissioner Weithorn to approve the ordinance; seconded by Vice-Mayor Tobin; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. **Richard Lorber to handle.**

## Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844

**12:06:44 p.m.**

## R5F RM-3 Principal And Accessory Use Signage

An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 138, "Signs," By Amending Article V, "Sign Regulations By District," By Amending Section 138-171, "General Provisions," To Modify The Requirements For Hotels And Apartment Buildings Within The RM-3 District, And By Amending Section 138-172, "Schedule Of Sign Regulations For Principal Use Signs," To Modify The Requirements For Hotels And Apartment Buildings Within The RM-3 District; Providing For Codification; Repealer; Severability; And An Effective Date. **11:30 a.m. Second Reading Public Hearing**

(Requested by the Land Use and Development Committee)

(Legislative Tracking: Planning Department)

(First Reading on September 11, 2013/HPB)

**ACTION.** Title of the ordinance read into the record. Public Hearing held. **Ordinance No. 2013-3821 adopted.** Motion made by Commissioner Weithorn to approve the ordinance; seconded by Commissioner Exposito; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. **Richard Lorber to handle.**

Richard Lorber, Acting Planning Director, introduced the item. This ordinance is designed to reduce the number of variances that hotels have to apply for. When hotels open along Collins Avenue, they have to obtain variances to place signs on the rooftop. Mr. Lorber added that between first and second reading, this item was brought before the Historic Preservation Board for their review, and HPB recommended that it be approved.

## Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844

**12:08:29 p.m.**

R5G An Ordinance Amending Chapter 100 Of The Miami Beach City Code, Entitled "Sustainability," By Amending Article II Entitled "Energy Economic Development Zone Pilot Program" To Include Miami-Dade County's Green Business Certification As An Additional Eligibility Criteria To Participate In The Energy Economic Development Zone Pilot Program; Providing For Severability; Codification, Repealer, And An Effective Date. **11:40 a.m. Second Reading Public Hearing**

(Sponsored By Commissioner Jerry Libbin)

(Legislative Tracking: Tourism, Culture & Economic Development)

(First Reading on September 11, 2013)

**ACTION.** Title of the ordinance read into the record. Public Hearing held. **Ordinance No. 2013-3822 adopted.** Motion made by Commissioner Libbin to approve the ordinance; seconded by Commissioner Exposito; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. **Max Sklar to handle.**

## Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844

**12:09:25 p.m.**

R5H An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 54, Entitled "Floods," By Amending Article II, Entitled "Floodplain Management," By Amending Division 1, Entitled "Generally," By Amending Section 54-35, Entitled "Definitions" By Amending And Deleting Certain Definitions Therein; By Amending Division 2, Entitled "General Provisions," By Amending Section 54-38, Entitled "Designation Of Floodplain Administrator" To Designate The Building Official, Instead Of The Building Director, As The Floodplain Administrator; By Amending Division 3, Entitled "Administration," By Amending Section 54-45, Entitled "Permit Procedures" And Section 54-46, Entitled "Duties And Responsibilities Of The Building Director Or Designee" To Change All Building Director References Therein To The Floodplain Administrator; Amending Division 4, Entitled "Provisions For Flood Hazard Reduction"; By Amending Section 54-47, Entitled "General Standards," Section 54-48, Entitled "Specific Standards," And Section 54-49, Entitled "Specific Standards For A-Zones Without Base Flood Elevations And Regulatory Floodways" To Modify Certain Flood Hazard Reduction Provisions; By Deleting The Provisions In Section 54-50, Entitled "Standards For A-O Zones"; By Amending Division 5, Entitled "Variance Procedures," To Change All Building Director References Therein To The Floodplain Administrator; Providing Non-Substantive, Clerical Revisions Throughout Article II Of Chapter 54; And Providing For Repealer, Severability, Codification, And An Effective Date. **11:50 a.m. Second Reading Public Hearing**

(Sponsored by Mayor Matti Herrera Bower)  
 (Legislative Tracking: Building Department)  
 (First Reading on September 11, 2013)

**ACTION.** Title of the ordinance read into the record. Public Hearing held. **Ordinance No. 2013-3823 adopted.** Motion made by Commissioner Exposito to approve the ordinance; seconded by Commissioner Weithorn; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. **Mariano Fernandez to handle.**

Commissioner Exposito commented that this was just cleanup language and Commissioner Weithorn concurred.

## Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844

**12:11:40 p.m.**

R5I An Ordinance Amending Miami Beach City Code Chapter 82, Entitled "Public Property," By Amending Article IV Thereof Entitled "Uses In Public Right-Of-Way," By Amending Section 82-383, Entitled "Permit Fee; Penalties For Late Payments; Review Of Fee," By Amending Subsection (a) Thereof To Abate Sidewalk Café Square Footage Fees For Businesses North Of 63rd Street Through And Including September 30, 2015 And Requiring A Budget Analysis And Review By The City Administration By September 15, 2015; Providing For Repealer, Codification, Severability, And An Effective Date. **12:00 p.m. Second Reading Public Hearing**

(Sponsored by Commissioner Jerry Libbin)  
 (Legislative Tracking: Public Works)  
 (First Reading on September 11, 2013)

**ACTION.** Title of the ordinance read into the record. Public Hearing held. **Ordinance No. 2013-3824 adopted.** Motion made by Commissioner Libbin to approve the ordinance; seconded by Commissioner Weithorn; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. **Eric Carpenter to handle.**

Commissioner Libbin stated that he appreciates that they are now correcting something that no one ever intended to occur. He hopes that in 2015, whoever is on the Commission, will carefully evaluate his fee waiver before it lapses. This is to waive permit fees for sidewalk cafés in North Beach, which have really been struggling.

Vice-Mayor Tobin stated that a little more than one year ago he had talks with the Administration to do economic incentives in North Beach. He would hope that they could all give a vote of sentiment to the City Manager that perhaps there are other types of fees in North Beach that could be waived, perhaps certain types of businesses would want to be in North Beach if they incentivize it; for example doctors that move their offices there could get incentives like not paying an occupational fee. He would hope that the Administration could take on the task of invigorating North Beach, perhaps with economic incentives. He wants to see if there is a consensus on this, and possible get a vote of sentiment.

City Manager Jimmy L. Morales stated that the Administration is not only looking at potential economic incentive programs, but they are actually in conversation with different institutions, academic institutions for example for possible campuses in the North Beach area, as well as incubator operations. The Administration is not only looking at incentives, but they are talking to specific businesses and academic institutions to discuss relocation. They are being very proactive on this. They are also looking at a circulator from a transportation perspective.

Vice-Mayor Tobin mentioned that the City has been talking about an academic institution for 13 years. He appreciates that the Manager is still talking about it, but the Administration has to get it done.

City Manager Morales explained that both Commissioner Weithorn and he have spoken to the Miami-Dade College President; they are working on setting up a tour with them of possible sites. There is a very strong interest for a possible Miami-Dade Campus there. They are also in communications with Florida International University (FIU) to possibly locate an incubator up in the North end. The Administration is working hard on that.

Vice-Mayor Tobin inquired of the City Manager as to when he expected these things to be accomplished. City Manager Morales stated that they are looking at finance issues, location, etc. He thinks that 2014 is a possibility

#### Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844

**12:15:53 p.m.**

R5J Fire And Police Salary Ordinance

An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, As Follows: In Accordance With The Negotiated Collective Bargaining Agreements, Providing For The Classifications In Group II, Represented By The Fraternal Order Of Police (FOP) William Nichols Lodge No. 8., And For The Classifications In Group III, Represented By The International Association Of Fire Fighters, (IAFF), Local 1510; Effective The First Pay Period Ending In October Of 2014, There Shall Be An Across The Board Cost-Of-Living Adjustment (COLA) Of Three Percent (3%), And The Minimum And Maximum Of Each Pay Range Will Also Be Increased By Three Percent (3%); Effective April 1, 2015, Adding An Additional Step (I) To The Classifications Of Police Officer, Sergeant Of Police, Lieutenant Of Police And Firefighter I, Repealing All Ordinances In Conflict; Providing For Severability, An Effective Date And Codification. **12:10 p.m. Second Reading Public Hearing**

(Sponsored by Commissioner Deede Weithorn)

(Legislative Tracking: Human Resources)

(First Reading on September 11, 2013)

**ACTION.** Title of the ordinance read into the record. Public Hearing held. **Ordinance No. 2013-3825 adopted.** Motion made by Commissioner Weithorn to approve the ordinance; seconded by Commissioner Exposito; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. **Sylvia Crespo-Tabak to handle.**

Vice-Mayor Tobin stated that Florida law prohibits Unions from negotiating together. The reason for that is that obviously; Unions become more powerful when they team up with another Union. What they have done in this City is allow this “me too” clause, which says whatever they do for Police they do for Fire, and whatever they do for Fire they do for Police. In fact, what they have done is allowed the Unions to double their strength because of the “me too” clause. When they put matters on the agenda, at least for him, he would like to see rather than voting on one item that includes Police and Fire, he would like to suggest that in the future they split those items so they send the message that they are going to try to follow Florida Law’s sentiments when it comes to collective bargaining.

Kathie G. Brooks, Assistant City Manager, explained that the actual approval of the contracts were two separate items; this item is merely implementing it. However, they could do it like Vice-Mayor Tobin suggested next time. **Sylvia Crespo-Tabak to handle.**

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844

**12:21:10 p.m.**

R5K Unclassified Salary Ordinance

An Ordinance Amending Ordinance No. 1605, The Unclassified Employees Salary Ordinance; Abolishing Pay Grade 1 And Pay Grade 2; Abolishing The Classifications Of: General Services Director, Transportation And Concurrence Manager, Neighborhood Services Director, Community/Economic Development Director, Cultural Affairs & Tourism Development Director, Procurement Division Director, Information Technology Division Director, Code Compliance Division Director, Assistant Director Procurement Division, Service Delivery Manager, And Office Associate I; Establishing The Classifications Of Tourism, Cultural Affairs And Economic Development Director, Deputy Building Director, Procurement Director, Information Technology Director, Assistant Director Human Resources, Housing And Community Development Director, Infrastructure Division Director, Assistant City Engineer, Assistant Director Procurement, Building Operations Manager, Investigator Supervisor, Community Services Division Director, Administrative Services Manager, Public Safety Special Projects Coordinator, Property Maintenance/Operations Superintendent, Director Of The Office Of Communications, Leasing Specialist, Public Safety Management/Budget Analyst, Performance And Scheduling Analyst, Office Manager (City Attorney), Visual Communications Specialist, Constituent/Commission Aide, Financial Analyst, Public Safety Payroll Administrator, Senior GIS Analyst, And Records Supervisor; Ratifying The Pay Grade Change For The Assistant Director Parking, Assistant Director Parks And Assistant Director Recreation Classifications; And Effective The First Full Pay Period Ending In October 2014, Increasing The Minimum And The Maximum Of Each Pay Grade By Three Percent (3%); And Granting An Across The Board Cost Of Living Adjustment Of Up To Three Percent (3%) For Any Unclassified Employee Whose Base Salary Does Not Exceed The Maximum Of The Pay Range For The Comparable Job Title As Recommended By The 2009 Condrey Classification And Compensation Study "Pay Scale B", Subsequently Amended By Seven Percent (7%) In August 2013, By The Consultant; Repealing All Ordinances In Conflict; Providing For Severability, An Effective Date And Codification. **12:20 p.m. Second Reading Public Hearing**

(Sponsored by Commissioner Deede Weithorn)  
(Legislative Tracking: Human Resources)  
(First Reading on September 30, 2013)

**ACTION.** Title of the ordinance read into the record. Public Hearing held. **Ordinance No. 2013-3826 adopted and referred to the Finance and Citywide Projects Committee to discuss the 60 employees that are capped out.** Motion made by Commissioner Exposito to approve the ordinance; seconded by Vice-Mayor Tobin; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. Patricia Walker to place on the Committee agenda. **Sylvia Crespo-Tabak to handle.**

**Referral:**

Refer to Finance & Citywide Projects the issue of the 60 employees capped out.

Oscar Santiesteban, I.T. Department Database Administrator, stated that he is one of 60 people that are not going to be receiving the COLA. The COLA is only being restricted for the Unclassified employees and the "OTHERS" category. All of the other Unions did get the COLA even if they are maxed out. He is maxed out; he has been here for 23 years. He understands that he is maxed out, but every year there are increases to insurance, so his checks for the past five years have gone down.

Commissioner Weithorn stated she is compassionate, but that implementing the Condrey study was done equally for all the other groups, but she urged not to change the ordinance and maybe consider another way of compensating them.



Kathie G. Brooks, Assistant City Manager, stated that they have not been successful in implementing Condrey for the other four Unions, but they are pushing very hard with AFSCME to include the provision that if there employees are at the max; they will not receive a COLA.

Discussion held.

Mayor Bower requested to set a sunset on this and when the Union contracts are revisited again, this is discussed.

Discussion continued.

Jose Smith, City Attorney, suggested sending this issue to the Finance and Citywide Projects Committee.

Vice Mayor Tobin does not believe on a sunset, but would not be opposed at looking at cross training employees to be able to get promotions. He is in favor of cross training or succession planning. He suggested referring the issue of the employees being capped out to the Finance and Citywide Projects Committee.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844

**12:34:12 p.m.**

R5L Others Salary Ordinance

An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, As Follows: Providing For The Classifications In Group VI, Not Represented By A Collective Bargaining Unit And Commonly Referred To As "Others"; Amending All Of The Pay Grades By Abolishing Pay Grade 1; Establishing The Classifications Of Fire Inspector I And Seasonal Recreation Aide; And Effective The First Full Pay Period Ending In October 2014, Increasing The Minimum And The Maximum Of Each Pay Grade, By Three Percent (3%); And Granting An Across The Board Cost Of Living Adjustment Of Up To Three Percent (3%) For Any "Others" Employee Whose Base Salary Does Not Exceed The Maximum Of The Pay Range For The Comparable Job Title As Recommended By The 2009 Condrey Classification And Compensation Study "Pay Scale B" And Subsequently Amended By Seven Percent (7%) In August 2013 By The Consultant; Repealing All Ordinances In Conflict; Providing For Severability, An Effective Date And Codification. **12:29 p.m. Second Reading Public Hearing**

(Sponsored by Commissioner Deede Weithorn)

(Legislative Tracking: Human Resources)

(First Reading on September 30, 2013)

**ACTION.** Title of the ordinance read into the record. Public Hearing held. **Public Hearing held. Ordinance No. 2013-3827 adopted.** Motion made by Commissioner Weithorn to approve the ordinance; seconded by Commissioner Exposito; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. **Sylvia Crespo-Tabak to handle.**

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844

**R5M MBERP For GSAF**

An Ordinance Implementing Provisions Of The 2012-2015 Collective Bargaining Agreement Between The City And The Government Supervisors Association Of Florida, OPEIU, Local 100 (GSAF); Amending The Miami Beach Employees' Retirement Plan Created By Ordinance 2006-3504; Amending Section 2.26 Of The Plan By Extending The Deferred Retirement Option Plan (DROP) Program From Three (3) To Five (5) Years For Eligible Members; Amending Section 5.13 To Reflect Amended Eligibility And Participation Requirements And Amended Drop Plan Features; Amending Section 4.03 By Eliminating The Purchase Of Additional Creditable Service For Certain Members; Amending Section 6.03 Requiring The City To Contribute At Least The Normal Cost To Pension Each Year, Requiring An Experience Study At Least Every Three (3) Years And Requiring Five (5), Ten (10) And Twenty (20) Year Projections Of Required Pension Contributions As Part Of The Annual Actuarial Valuation; Providing For Severability; Repealing All Ordinances In Conflict Therewith; And Providing An Effective Date. **First Reading**

(Sponsored by Commissioner Deede Weithorn)

(Legislative Tracking: Human Resources)

**ACTION:** Item withdrawn by the Administration. Item to come back to the December 11, 2013 Commission Agenda. Lilia Cardillo to place on the Commission Agenda if received. **Sylvia-Crespo Tabak to handle.**

**12:18:51 p.m.****R5N GSAF Classified Salary Ordinance**

An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance Of The City Of Miami Beach, Florida, As Follows: Providing For The Classifications In Group V, Represented By The Government Supervisors Association Of Florida, OPEIU, Local 100 (GSAF), In Accordance With The Negotiated Collective Bargaining Agreement; Effective The First Pay Period Ending In October Of 2014, There Shall Be An Across The Board Cost-Of-Living Adjustment (COLA) Of Three Percent (3%), And The Minimum And Maximum Of Each Pay Range Will Also Be Increased By Three Percent (3%); Repealing All Ordinances In Conflict; Providing For Severability, An Effective Date And Codification. **First Reading**

(Sponsored by Commissioner Deede Weithorn)

(Legislative Tracking: Human Resources)

**ACTION:** Title of the ordinance read into the record. **Ordinance approved on first reading.** Motion made by Commissioner Weithorn to approve the ordinance; seconded by Commissioner Libbin; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. Second reading and Public Hearing scheduled for December 11, 2013. Rafael E. Granado to notice. Lilia Cardillo to place on the Commission Agenda when received. **Sylvia Crespo-Tabak to handle.**

- R5O An Ordinance Amending Chapter 90 Of The Miami Beach City Code, Entitled "Solid Waste," By Amending Article V, Entitled "Citywide Recycling Program For Multifamily Residences And Commercial Establishments" By Amending Section 90-340, Entitled "Recycling Program And Separation Of Recyclable Materials From Solid Waste Stream Required For Multifamily Residences Of Nine (9) Dwelling Units Or More; Owner/Association Liability; Recycling Contractors' Assistance," To Apply To Multifamily Residences Of Two (2) Or More Dwelling Units; Providing For Repealer Severability, Codification, And An Effective Date. **First Reading**  
(Sponsored by Commissioner Jerry Libbin)  
(Legislative Tracking: Public Works)  
(Deferred on September 11, 2013)

**ACTION:** Item not reached. Lilia Cardillo to place on the December 11, 2013 Commission Agenda when received. **Eric Carpenter to handle.**

- R5P Stay Against Issuance Of Demolition Orders Or Permits - Architecturally Significant Homes Outside Of Historic Districts  
An Ordinance To Adopt A Stay On The Issuance Of Orders Or Permits For The Substantial Or Total Demolition Of Architecturally Significant Homes Located Outside Of Historic Districts, To Allow For The Review Of Current And Proposed Ordinances That Would Protect Against Demolition, And For Review Of Incentive Programs To Encourage Retention And Restoration Of Such Homes, Providing For Duration Of Stay Through November 28, 2013, Providing For Extensions, Providing For Exceptions And Review Procedures, And Providing For Repealer, Severability And An Effective Date. **First Reading**  
(Sponsored by the City Commission)  
(Legislative Tracking: Planning)  
(Deferred on September 11, 2013)

**ACTION:** Item not reached. Lilia Cardillo to place on the December 11, 2013 Commission Agenda when received. **Richard Lorber to handle.**

- R5Q An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 2, Entitled "Administration," By Amending Article III, Entitled "Agencies, Boards And Committees," By Amending Section 2-22, Entitled "General Requirements," To Amend The Exceptions For The Term Of Office Of At-Large Commission Appointees When An Appointee Is Appointed To Fill An Unexpired Term; And Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**  
(Requested by Mayor Matti Herrera Bower)  
(Legislative Tracking: City Attorney's Office)

**ACTION:** Item not reached. Lilia Cardillo to place on the December 11, 2013 Commission Agenda when received. **Rafael E. Granado to handle.**

- R5R An Ordinance Accepting The Recommendation Of The Finance & Citywide Projects Committee, Amending The Code Of The City Of Miami Beach, By Amending Chapter 106, Entitled "Traffic And Vehicles," By Amending Article XI, Entitled "Adoption Of The Mark Wandall Traffic Safety Act And Program," By Amending Section 106-480, Entitled "Adoption Of State Act And Program," That Delineates The Statutory Authority For Using Traffic Infraction Detectors In The City Of Miami Beach; By Amending Sections 106-481 Through 106-484, Entitled "Reserved" By Adding Section 106-481, Entitled "Local Hearing Officer," Which Authorizes A Local Hearing Officer To Conduct Hearings For A Violation Of Section 316.0083 Of The Florida Statutes; By Providing The Process For The Selection Of A Local Hearing Officer; By Authorizing The Miami Beach Clerk's Office To Serve As Staff For The Local Hearing Officer; By Limiting The Authority Of The Local Hearing Officer; And Setting Forth Penalties And Costs To Be Imposed By The Local Hearing Officer; Providing For Codification; Severability; Repealer; And An Effective Date. **First Reading**  
(Requested by Finance & Citywide Projects Committee)  
(Legislative Tracking: Police)

**ACTION:** Item withdrawn by the Administration.

**City Clerk's Note:** Item to return to Neighborhood/Community Affairs Committee. **Barbara Hawayek to handle.**

**12:47:06 p.m.**

- R5S An Ordinance Amending The Code Of The City Of Miami Beach By Amending Chapter 62, Entitled "Human Relations," By Amending Article II, Entitled "Discrimination," By Amending Division 1, Entitled "Generally," By Amending Sec. 62.31 Entitled "Definitions" To Define Intersexuality And Add That Term As A Protected Classification Category; To Amend Sections 62-33 Entitled "Purpose; Declaration Of Policy," 62-37(b) Entitled "Duties And Powers," 62-88.1 Entitled "Discrimination In Public Services," 62-90 Entitled "Use Of Municipal Facilities," 62-91 Entitled "Municipal Funds," And 62-112(c) Entitled "Housing" To Include Intersexuality As A Protected Classification Category; And Providing For 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. **Ordinance approved on first reading.** Motion made by Commissioner Weithorn to approve the ordinance; seconded by Commissioner Exposito; Ballot vote: 5-0; Absent: Commissioners Góngora and Wolfson. Second reading and Public Hearing scheduled for December 11, 2013. Rafael E. Granado to notice. Lilia Cardillo to place on the Commission Agenda when received. **City Attorney's Office and Rafael E. Granado to handle.**

Robert F. Rosenwald, Jr., Senior Assistant City Attorney/Legal Advisor to the Miami Beach Human Rights Committee introduced the item. Mr. Rosenwald explained that the Miami Beach Human Rights Committee has identified this group, intersexual, as not being protected under the Miami Beach Human Rights Ordinance, or elsewhere in the country. Mr. Rosenwald introduced the Chair of the Miami Beach Human Rights Committee to explain why this proposed Ordinance is needed.

Mr. Alan Fishman, Chair of the Miami Beach Human Rights Committee, explained the item. Mr. Fishman thanked the City Commission for passing on second reading item R5A. Mr. Fishman noted that the Miami Beach Human Rights Committee, for numerous months, has been looking very carefully at this topic. Back in March 2013, Mr. Fishman was in Australia and he noticed

banners and signs with the customary LGBT initials, but they also include the initials IQ, which is not customarily seen in the United States. (Clerk's Note: Acronym, Definition. **LGBTIQ**, Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning.) As was subsequently discovered by Mr. Rosenwald and the Miami Beach Human Rights Committee, there is no City in the United States that affords protections to intersexuals (the "I" in the above acronym.) By adopting this Ordinance, Miami Beach has, again, an opportunity to be in the forefront of antidiscrimination protection. Additionally, the City of Miami Beach will be hosting in 2017 the World Out Games, and they too recognize intersexuals. The passage of this Ordinance will allow Miami Beach to rise to the level of international recognition of intersex people. Mr. Fishman explained that intersex is the new word for old term "hermaphrodite." Mr. Fishman reiterated that this class of persons are not presently protected under the City's Human Rights Ordinance, therefore the Miami Beach Human Rights Committee voted last month to support amending the Human Rights Ordinance to add this classification to afford them with protection.

### **SUPPLEMENTAL MATERIAL 1: Memorandum & Ordinance**

R5T An Ordinance Amending Chapter 42 Of The Miami Beach City Code, Entitled "Emergency Services," By Amending Article II Thereof, Entitled "Alarm Systems," By Amending Section 42-86, Entitled "False Alarms," To Prohibit Three (3) Or More False Intrusion Alarms; By Amending Section 42-89 Entitled "Notification Of False Alarms," Which Shall Be Entitled "Enforcement," And Sets Forth The Enforcement Authority Of The Miami Beach Police Department And The Issuance Of A Notice Of Violation For Section 42-86; By Amending Section 42-90 Entitled "Initial Review Upon Notification," Which Shall Be Entitled "Rights Of Violators; Payment Of Fine; Right To Appear; Failure To Pay Civil Fine Or To Appeal," And Specifically Delineates The Rights Of Violators, Payment Of Fine, Right To Appear, And Failure To Pay The Civil Fine Or Appeal; By Amending Section 42-91 Entitled "Appeal Of False Alarm Designation," Which Shall Be Entitled "Penalties," By Providing For Penalties Regarding A False Intrusion Alarm; By Deleting Section 42-92 Entitled "Penalty For Violation Of Division"; Providing For Repealer, Codification, Severability, And An Effective Date. **First Reading**

(Requested by Finance & Citywide Projects Committee)

(Legislative Tracking: Police Department)

**(Memorandum to be Submitted in Supplemental)**

**ACTION:** Item not reached. Lilia Cardillo to place on the December 11, 2013 Commission Agenda when received. **Chief Otero to handle.**

**ADDENDUM MATERIAL 1:**

R5U An Ordinance Amending The Code Of The City Of Miami Beach, Subpart B, Entitled "Land Development Regulations," Of Chapter 142, Entitled "Zoning Districts And Regulations," By Amending Article II, Entitled "District Regulations," By Amending Division 2, Entitled "RS-1, RS-2, RS-3, RS-4 Single-Family Residential Districts," By Amending Section 142-109, Entitled "Commercial Use Of Single-Family Homes Prohibited," By Amending The Definitions Therein, And By Adding New Subsection (c)(1)d, Which Prohibits Advertising Of Unlawful Occupancy And Use; By Amending Subsection (c)(2), Which Removes The Limitations On Enforcement; By Amending Article IV, Entitled "Supplementary District Regulations," By Amending Division 2, Entitled "Accessory Uses"; By Amending Section 142-905, Entitled "Permitted Accessory Uses In Single-Family Districts," By Adding New Subsection (b)(5)a Which Prohibits The Advertisement For The Lease Of Single Family Homes For Less Than Six Months And One Day, By Adding New Subsection (b)(5)b, Which Provides The Enforcement For A Violation Of Section (b)(5); By Amending Article IV, Entitled "Supplementary District Regulations," By Amending Division 3, Entitled "Supplementary Use Regulations," By Amending Section 142-1111, Entitled "Short-Term Rental Of Apartment Units Or Townhomes," By Amending Section (A) To Prohibit The Advertisement Of Short Term Rental Of Apartments Units Or Townhomes; And Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading**  
 (Requested by Neighborhood/Community Affairs Committee)  
 (Legislative Tracking: Code Compliance)

**ACTION:** Item withdrawn by the Administration. Lilia Cardillo to place on the December 11, 2013 Commission Agenda when received. **Hernan Cardeno to handle.**

**R7 - Resolutions**

**12:35:45 p.m.**

R7A A Resolution Accepting The Recommendation Of The City's Finance And Citywide Projects Committee ("FCWPC"); Approving And Authorizing The Mayor And City Clerk To Execute A Lease Agreement Between The City And Alpha 22, LLC ("Tenant") Involving The Use Of Approximately 2,216 Square Feet Of City-Owned Vacant Property, Located At 22 Washington Avenue, Miami Beach, Florida ("Property"), Adjacent To Existing Restaurant Space Located At 816 Commerce Street, Miami Beach, Florida ("Restaurant Space"), To Be Used As An Outdoor Café, Concurrent With The Lease/Use Of The Adjoining Restaurant Space; Said Lease Having An Initial Term Of Five Years, With An Option To Renew For Four Years And 364 Days, At The City's Sole Discretion; And Further Waiving, By A 5/7th Vote, The Competitive Bidding Requirement, As Required By Section 82-39 Of The Miami Beach City Code, Finding Such Waiver To Be In The Best Interest Of The Public. **10:10 a.m. Public Hearing**  
 (Tourism, Culture & Economic Development)

**ACTION:** Public Hearing held. **Resolution No. 2013-28404 adopted.** Motion made by Commissioner Exposito; seconded by Commissioner Weithorn; Voice vote; 5-0; Absent: Commissioners Góngora and Wolfson. **Max Sklar to handle.**

Max Sklar; Tourism, Culture Economic Development Director, introduced the item.

Discussion held.

Mayor Bower asked if the South of Fifth neighbors had seen this.

Max Sklar; Tourism, Culture Economic Development Director, stated that he notified them as an F.Y.I. that this item was on the agenda today.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844
2. Exhibit A – Exterior Seating Plan Location Map

R7B A Resolution Accepting The Recommendation Of The Finance And Citywide Projects Committee And Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 1 To The Lease Between The City And Massage Partners, Inc. ("Tenant"), Dated September 15, 2010, For The Premises Located At 1701 Meridian Avenue, Unit 2 (A/K/A 767 17th Street), Miami Beach, Florida; Said Amendment To The Lease Concerning: 1) The Additional Use Of The Leased Premises As A Nail Salon; 2) The Non-Exclusive, Revocable Use Of The Common Area Restrooms Located On The Second Floor Of The 1701 Meridian Avenue Office Building For Tenant's Nail Salon Customers; And 3) The Rental Rate To Be Paid By Tenant For The Use Of Said Common Area Restrooms.

(Tourism, Culture & Economic Development)

**ACTION:** Item not reached. Lilia Cardillo to place on the Commission Agenda if received. **Max Sklar to handle.**

**SUPPLEMENTAL MATERIAL 1: Memorandum & Resolution**

R7C A Resolution Approving And Authorizing The Mayor And The City Clerk To Execute Guaranteed Maximum Price (GMP) Amendment No. 1 To The Pre-Construction Services Agreement With QGS Development, Inc., Dated October 19, 2011, For Construction Management At Risk Services For The Par 3 Golf Course Project, In The Amount Of \$4,227,898; With Previously Appropriated Funding In The Amount Of \$4,127,898 From Fund 388 - MDC CDT Interlocal-CDT/Resort Fund; \$100,000 From Fund 431 – 2011 Stormwater Bonds – Reso 2011-27782; And A 5 Percent Owner's Contingency In The Amount Of \$211,395 From Fund 304 – Capital Reserve, Subject To Future Appropriation Through A Budget Amendment To The Capital Budget For Fiscal Year 2013/14 To Be Presented At The December 11, 2013 Commission Meeting, For A Total Amount Of \$4,439,293.

(Capital Improvement Projects)

**(Memorandum To Be Submitted In Supplemental)**

**ACTION:** Item not reached. Lilia Cardillo to place on the Commission Agenda if received. **David Martinez to handle.**

**12:20:14 p.m.**

R7D GSAF Collective Bargaining Agreement  
A Resolution Ratifying A Three (3) Year Collective Bargaining Agreement Between The City Of Miami Beach And The Government Supervisors Association Of Florida, OPEIU, Local 100 (GSAF), For The Period From October 1, 2012, Through September 30, 2015; And Authorizing The Mayor And City Clerk To Execute The Agreement.

(Sponsored by Commissioner Deede Weithorn)  
(Legislative Tracking: Human Resources)

**ACTION: Resolution No. 2013-28405 adopted.** Motion made by Commissioner Libbin; seconded by Commissioner Weithorn; Voice vote; 5-0; Absent: Commissioners Góngora and Wolfson. **Sylvia Crespo-Tabak to handle.**

**12:39:49 p.m.**

R7E A Resolution Adopting The Second Amendment To The Fiscal Year (FY) 2012/13 Special Revenue Fund Budgets. **10:20 a.m. Public Hearing**

(Budget & Performance Improvement)

**ACTION:** Public hearing held. **Resolution No. 2013-28406 adopted.** Motion made by Commissioner Exposito; seconded by Commissioner Weithorn; Voice vote; 5-0; Absent: Commissioners Góngora and Wolfson. **Max Sklar to handle.**

John Woodruff, Budget Office Director, introduced the item.

Discussion held.

Jimmy L. Morales, explained that under state law a fiscal budget has to be finalized within 60 days of end of the fiscal year, and that will be in November when there is no meeting.

Kathie G. Brooks, Assistant City Manager, explained that the areas that are increasing are the VCA and the one percent funding allocation; the remainder of the \$4 million is going into fund balance.

Discussion held.

Handouts and Reference Materials:

1. Ad in The Miami Herald – Ad # 844

R7F A Resolution Consenting To The Appointment Of David D. Martinez As The Director Of The Office Of Capital Improvement Projects For The City Of Miami Beach.

(Human Resources)

**ACTION:** Item not reached. Lilia Cardillo to place on the Commission Agenda if received. **Sylvia Crespo-Tabak to handle.**



R7G A Resolution Consenting To The Appointment Of Hernan D. Cardeno As The Director Of The Code Compliance Department For The City Of Miami Beach.

**ACTION:** Item not reached. Lilia Cardillo to place on the Commission Agenda if received. **Sylvia Crespo-Tabak to handle.**

**ADDENDUM MATERIAL 1:**

R7H A Resolution Consenting To The Appointment Of Richard G. Lorber As The Director Of The Planning Department For The City Of Miami Beach.  
(Human Resources)

**ACTION:** Item not reached. Lilia Cardillo to place on the Commission Agenda if received. **Sylvia Crespo-Tabak to handle.**

**5:44:18 p.m.**

R7I A Resolution Approving An Amendment To The Flamingo Neighborhood Basis Of Design Report For 10-Foot Travel Lanes On Local Avenues And Streets As Well As Four (4) Feet Of Green Space And A 10-Foot Wide Path/Cycle Track Sidewalk Shared On Each Side In Lieu Of Bike Lane For 16th Street.  
(Public Works)

**ACTION:** Item separated by Vice-Mayor Tobin. **Moved to Regular Agenda from C7T.** Motion made by Commissioner Exposito to refer to the Neighborhood/Community Affairs Committee; seconded by Vice-Mayor Tobin; Voice vote 7-0. **Barbara Hawayek to place on the committee agenda. Eric Carpenter to handle.**

Jimmy L. Morales, City Manager, explained that the item is about the bicycle lanes on 16<sup>th</sup> street. It has been discussed at committee and he recommended referring back to committee for further discussion.

David Carlson thanked Eric Carpenter for the excellent and detailed report provided.

Handouts and Reference Materials:

1. Email from Denis Russ, [Denis@miamibeachcdc.org](mailto:Denis@miamibeachcdc.org), dated October 14, 2013 RE: Flamingo favors Item C7T.

**R9 - New Business and Commission Requests**

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

**ACTION:** The following appointments were made:

**AD HOC COMMITTEE CENTENNIAL CELEBRATION:**

Dawn McCall Term ending 07/31/2014 Appointed by Commissioner Góngora

**AD HOC COMMITTEE FLOODING TASK FORCE:**

Carla Probus Term ending 8/25/2014 Appointed by Commissioner Góngora TL 12/31/20

**ART IN PUBLIC PLACES:**

James Lloyd Resigned

**BICYCLE-PEDESTRIAN FACILITIES ADVISORY COMMITTEE:**

Mihaly Lenart Term ending 12/31/13 Appointed by Commissioner Tobin TL 12/31/20

Marko Lukovic Term ending 12/31/14 Appointed by Commissioner Weithorn TL 12/31/20

**COMMITTEE FOR QUALITY EDUCATION IN MB:**

Ivette Birba Rep. of the PTA for Feinberg Fisher K-8 6/30/14

**COMMITTEE ON THE HOMELESS:**

Elsa Orlandini Term ending 12/31/14 Appointed by Commissioner Góngora TL 12/31/20

Daniel Sherbill Removed due to absences

**DEBARMENT COMMITTEE:**

Nayib Estefan Withdrawn by Commissioner Góngora. (Individual not interested on this committee)

Antonio Hernandez Jr. Reinstated by the City Attorney's Office

Carla Probus Term ending 12/31/14 Appointed by Commissioner Góngora TL 12/31/20

Carla Probus No longer interested on this committee

**City Clerk's Note:** Commissioner Góngora originally appointed Nayib Estefan to the Debarment Committee; however, Mr. Estefan did not submit his board and committee application; therefore, Commissioner Góngora later appointed Carla Probus to fill the vacancy. Ms. Probus was no longer interested on this committee, and thereafter was appointed to the Ad Hoc Committee Flooding Task Force by Commissioner Góngora.

**DESIGN REVIEW BOARD:**

Marilys Nepomechie Architect Removed due to absences November 4, 2013

**DISABILITY ACCESS COMMITTEE:**

Andrea Lisa Travaglia Resigned Sept. 2013

**FINE ARTS BOARD:**

Judy Berson-Levinson Removed due to absences

**GAY, LESBIAN BISEXUAL AND TRANSGENDER (GLBT):**

Billy Kemp Removed due to absences October 2013

Billy Kemp Term ending 12/31/14 Appointed by Mayor Bower effective 12/28/2012

**HISPANIC AFFAIRS COMMITTEE:**

Patti Hernandez Removed due to absences

Patti Hernandez Reinstated by Commissioner Weithorn

**MIAMI BEACH COMMISSION FOR WOMEN:**

Claudia Moncarz Removed due to absences

**MIAMI BEACH HUMAN RIGHTS COMMITTEE:**

Dr. Barry Ragone Removed due to absences

**MIAMI BEACH SISTER CITIES PROGRAM:**

Ileana Bravo-Gordon Resigned  
 Annette Fromm Removed due to absences  
 Jacpbo Epelbaum Removed due to absences  
 Wendy Kallergis Removed due to absences  
 Ivan Rusilko Removed due to absences

**POLICE CITIZENS RELATIONS COMMITTEE:**

Dina Dissen Removed due to absences  
 Jonathan Parker Removed due to absences  
 Adam Rose Term ending 12/31/14 Appointed by Commissioner Góngora TL 12/31/20  
 Adam Rose Declined the appointment November 9, 2013  
 Claire Warren Removed due to absences  
 Claire Warren Re-instated Term ending 12/31/13 Appointed by Mayor Bower TL 12/31/18

**SAFETY COMMITTEE:**

Barbara Gillman Removed due to absences  
 Jeff Gordon Removed due to absences  
 Jeff Gordon Re-instated

**SUSTAINABILITY COMMITTEE:**

Priscilla Schmidt Term Ending 12/31/14 Appointed by Commissioner Exposito TL 12/31/20

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

**ACTION:** No appointments were made.

Handouts or Reference Materials:

1. City Commission At-Large Nominations for October 16, 2013 – Release No.1

**1:13:50 p.m.**

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

**ACTION:** The following individuals spoke:

1. Lateresa A. Jones, Miami Beach Leadership Academy graduate, learned about the Sutnick Hour during one of the classes. She is interested in participating in the Miami Beach Cultural Arts Council and the Miami Beach Human Rights Committee. She is a Miami Beach resident and wants to ensure that they continue to have the diversity needed on these committees that represent the residents.

Mayor Bower encouraged Ms. Jones to fill out a board and committee application with the City Clerk's Office.

2. Many Anon, Esq., representing AFSCME, distributed handouts.

Commissioner Weithorn asked the Legal Department to opine, since they have a Closed Executive Session following the meeting, and she wants to make sure that they do not cross any legal lines, since she knows that they are making progress.

Jose Smith, City Attorney, stated that his legal opinion, under Collective Bargaining laws, is that this is not the proper forum to have negotiations. The law is very clear that all negotiations take place between the Union representatives and the City Manager who represents all employees. His advice is to allow the gentleman speak during Sutnick Hour, but that the members of the City Commission not respond; otherwise, they can subject themselves to an unfair labor practice.

Many Anon, Jr., Esq., representing AFSCME, stated that he is not negotiating, but only stating facts. What he distributed among the Commission is the last set of proposals made on October 2, and AFSCME is offering a \$1.417 million in concessions. In referring to the second document he believes that there is no need to give concessions, as the City sits as far as the S&P standards above the required percentage. When looking at the proposals, they are agreeing at the table to give the City the overtime question, which is Article VII. Regarding wages, the majority of employees do not agree with Condrey, and instead are asking for 0%, 2% and 3% (second page) wage increase. They are also saving the City \$24,000 by agreeing to the shift differential question the City posed, with a caveat, or what they call an automatic snap back language, by stating that after the contract is over, the continuation be suspended through April 30, 2015, and thereafter is automatically reinstated. They will ask, if an impasse is reached, that it be placed in Article VII and Article VIII.2. They also agreed to all pension questions, except for the 2%. Employees are coming forward working with the City because they want the City to prosper and they want the City Commission to do the right thing and give them their contract.

Handouts or Reference Materials:

1. Letter from AFSCME dated May 6, 2013, to Edward Moore, AFSCME Council 79, re: Updated Financial Analysis of the City of Miami Beach for FY 2013.
2. AFSCME Local 1554 and City of Miami Beach Negotiation as of October 2, 2013.

3. Jeff Donnelly thanked Commissioner Libbin for his service to the City.
4. Violet Gonzalez stated that she works for an organization called MacTown that services the developmental and intellectually disabled individuals. They would like MacTown to take over the Log Cabin site. She found out that there are approximately 114 people with developmental and intellectual disabilities in Miami Beach, and out of these 62 are on the waiting list. They would like to serve those people. This is very close to her heart. MacTown has served the disabled for over 51 years, and they would like to take over the Log Cabin to continue serving these individuals with disabilities. They offer their services pro-bono and she urged the Commission to keep the Log Cabin for the most vulnerable population.

Commissioner Wolfson expressed his continued support to operate the Log Cabin for the disabled. He thanked Violet for bringing it to their attention.

Jimmy L. Morales, City Manager, stated that this issue is going to be discussed at the Neighborhood/Community Affairs Committee on October 28 to look at options for which to utilize the former Log Cabin site, for perhaps a Teen Center.

Mayor Bower and Commissioner Wolfson agreed that they should look into Ms. Gonzalez's request.

Discussion held.

Vice-Mayor Tobin asked Ms. Gonzalez to forward her data to Maria Ruiz.

Ms. Gonzalez explained that there are no providers in the City that serve people with developmental disabilities. Discussion continued.

Commissioner Libbin encouraged the Neighborhood/Community Affairs Committee members, when they review this issue, to look at options and opportunities that the City wants, and find ways to work with them; but still accomplishing the goals already promised for a Skate Park for so many years, which has been fully funded for two years. In addition the Recreation Department wants to build that site for the Teen Center. This is not all or nothing. He suggested that there are many ways to work with this organization (MacTown).

**ACTION:** Item to be discussed at Neighborhood/Community Affairs Committee.

5. Alberto Machado complained about the way bus drivers treat the elderly and the disabled.
6. Ana Molina is here to express the inconvenience they are having in their apartment 6301 Collins Avenue due to the unbearable noise. She invited the entire Commission to come to her apartment to witness the unbearable noise; she has to visit her sister's apartment to get away from the noise. She stated that the air conditioning is turned off at night but the noise is horrible in the daytime; this is affecting her health.

Mayor Bower stated that the City Manager had suggested that an ordinance be passed to relocate the AC to the rooftop. Discussion held.

City Clerk's Note: See Item R9V

7. Benjamin Baum has been a resident for 16 years at La Gorce Palace, 6261 Collins Avenue. The building sits between a 34-story building and a 27-story building, so there are two tall buildings and a small building in between, with noisy air conditioners on the roof. The megaphone canyon effect when it echoes up creates unbearable noise. City Manager Morales sent the Commission a letter dated September 17 to find a solution. He invited the entire Commission to come and visit. They all want to be good neighbors, but they have a big problem in their hands. It is an easy solution, but when things are done wrong they need to get fixed. The noise is so bad it has been cited by Code several times. It is a health hazard and the quality of life has been destroyed.

Mayor Bower stated that this is not an easy problem to solve since the buildings were built according to Code, but something needs to be done. She added that they are turning the A/C off at night because the noise at night is a violation.

City Clerk's Note: See Item R9V

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

**ACTION:** Item not reached.

**1:49:49 p.m.**

**SUPPLEMENTAL MATERIAL 1: Memorandum**

R9C Update On The Miami Beach Convention Center Project.

(City Manager's Office)

**(Memorandum to be Submitted in Supplemental)**

**ACTION:** Update given. Item heard in conjunction with item R9C1.

Jimmy L. Morales, City Manager, explained that the staff report is in response to a Mayor's memorandum dated September 25, 2013, inquiring as of the status and consequences. As indicated in the memorandum last week, since the decision was rendered, the only impact of the court decision was to change the date of the Referendum, and instead of having the Referendum on the project on November 5<sup>th</sup>, it will take place once the lease is finalized. The timing of the Referendum has moved passed November 5, 2013, to a point where if there is no final, at least they will have the final terms of the Lease. At that point, a Referendum will be done. In the meantime, discussions have been had with the developer team in an effort to finalize the verbiage in response to the Mayor's request and how to move forward. The developer circulated some time ago a letter to the Mayor and Commissioners restating their commitment to move forward in terms of the project, on terms of the negotiated lease; they have spoken to outside counsel to get ready for that process; they have continued the process and outreach to the County. Mayor Bower and he will be meeting with Mayor Jimenez later this week to give him an update, and they had been working on a Voter Education Guide, but that will pick up again once they have a rescheduled referendum. There was a question in the Mayor's memorandum about examining the timing and staging of the project and there was discussion about redoing the Convention Center first or the hotel. He added in his memo, because of the nature of the proposal (hotel on top of as part of the Convention Center) it is not easy to break these up, and his recommendation was based on the RFP issued originally, and based on experts' advice, it seems to be that if the City is going to make that level of investment in the Convention Center, it would only work if they have a Convention Center Headquarter Hotel, and that would certainly be his recommendation. Obviously, as he indicated, the ultimate decision is up to the City Commission, but until he

receives further direction from the Commission, they will continue to move forward on the path as originally approved by this body in July.

Vice-Mayor Tobin stated that he has learned much about how the Convention Center operates, and pointed out that Miami Beach has the third highest average daily room rate in the United States behind San Francisco and New York, an 80%+ occupancy rate, one of the highest in the State; they are losing the Dermatology Convention due to shortness of hotel rooms, and Cardiac Surgeons Conventions passed on Miami Beach due to the same reason. The Convention Center Hotel they are talking about is only 800 rooms. It seems to him that hotels are reluctant to give the City room blocks, because they are getting higher rates and have higher occupancy and do not want to give room blocks for conventions. At some point he would like to discuss this further and think of the Convention Center being more of a boutique. He knows they need a hotel that would compete with other hotels such as The Fontainebleau. The premise that they are operating under is interesting and it merits further discussion.

**1:49:49 p.m.**

R9C1 Discussion Regarding The Convention Center Master Plan.  
(Requested by Mayor Matti Herrera Bower)

**ACTION:** Discussion held. Item heard in conjunction with item R9C. See action with R9C.

R9D Recommendation To Nominate Henry Stolar For The Noise Working Group.  
(Requested by Commissioners Michael Góngora & Jorge Exposito)  
(Deferred in September 11, 2013)

**ACTION:** Item not reached.

**7:22:45 p.m.**

R9E Discussion Regarding Art Basel And Its Economic Benefit To The City.  
(Requested by Commissioner Deede Weithorn)  
(Deferred in September 11, 2013)

**ACTION:** Discussion held. Direction given for the City Manager's Office to work with the TPC on their request.

Commissioner Weithorn stated that the Transportation and Parking Committee (TPC) members requested that during Art Basel, they get additional buses to reduce traffic. It costs \$50,000 and the TPC is willing to get sponsors. This information was transmitted to the Commission via an LTC. Commissioner Weithorn requested to at least let the TPC the opportunity to explore it, and she requested approving this at this meeting since the Commission does not meet again until December. The additional buses would increase the frequency, and thereby encourage patrons to take buses. The TPC believes they can get sponsors, but they need the Commission's approval to pursue it.

Motion by Commissioner Weithorn to direct the City Manager to work with the Transportation and Parking Committee on the issues of obtaining sponsorships to place additional busses in circulation during Art Basel in order to increase the frequency of buses and incentivize the use of public transportation, which would reduce traffic congestion during the event. Motion approved by acclamation. **Jose Jimenez, Saul Frances and Max Sklar to handle.**

**12:46:11 p.m.**

- R9F Discussion And Referral To The Finance And Citywide Projects Committee Regarding The Liability Of Police Officers As It Pertains To Off Duty Work.  
(Requested by Commissioner Jorge R. Exposito)

**ACTION: Discussion held.** Item referred. Motion made by Commissioner Exposito to refer the item to the Finance and Citywide Projects Committee; seconded by Commissioner Libbin; Voice vote; 6-0; Absent: Commissioner Góngora. Patricia Walker to place on committee agenda. **City Attorney's Office and Chief Martinez to handle.**

- R9G Discussion Regarding The Building Located On 1701 Meridian Avenue, Construction And Permitting Status Of The VCA Offices As Well As Representative David Richardson Office.  
(Requested by Commissioner Jorge R. Exposito)

**ACTION:** Item not reached.

- R9H A Discussion Delineating Potential Concerns On Two Future Roadway Projects To Be Undertaken By The Florida Department Of Transportation (FDOT) Along Alton Road, From Michigan Avenue To 43rd Street And From 43rd Street To East Of Allison Road; And Urging FDOT To Ensure That All Community Concerns, Including, But Not Limited To, Loss Of On-Street Parking, Impacts To Mature Shade Trees, And Appropriate Bicycle Facilities, Are Properly Addressed As Part Of The Respective Future Alton Road Projects.  
(Public Works)

**ACTION:** Item not reached.

**5:16:46 p.m.**

- R9I Discussion Regarding The Permanent Closure Of The 400 Block Of Española Way Between Washington Avenue And Drexel Avenue.  
(Public Works)

**ACTION:** Discussion held. Motion made by Commissioner Góngora; seconded by Commissioner Exposito to go forward with the project, but bring back item to Commission as part of Step V; Voice vote: 7-0. **Eric Carpenter to handle.**

Jimmy L. Morales, City Manager, introduced the item and explained about the mail in ballot that occurred and responses received.

Eric Carpenter, Public Works Director, discussed the hours the street currently closes, which are from 6:00 p.m. to 6:00 a.m. He explained that it requires six steps to close a street, and only steps I and II have been completed. Normally Commission approval is step V.

Commissioner Góngora stated that he received letters from the merchants on the closing of the street and added that by doing so, the City can bring new businesses to that street. He personally would like to go forward with the study and feels that the businesses will benefit from the additional pedestrian activity.



Commissioner Libbin stated that it is a very narrow street with many restaurants, and because the street is so narrow, when it rains, people dining on the street are splashed by passing cars. He fully supports the closing.

Commissioner Weithorn stated that she does not see any reason not to do this.

Vice-Mayor Tobin asked if the City engaged the Corradino Group and asked what happened.

Discussion held.

Vice-Mayor Tobin stated that he walked there and agrees with this.

Eric Carpenter, Public Works Director, stated that it came to his attention that traffic studies, in general, need to be approved by the City Commission, and he committed to bring back future traffic studies to Commission before they move forward.

Discussion continued.

Vice-Mayor Tobin asked how they track the policy statements they make on the floor. Mr. Carpenter explained that this was a directive from the Commission and Vice-Mayor Tobin added that perhaps they could come up with a resolution regarding policies.

Commissioner Libbin explained that during After Actions, the City Manager can give guidance to direct staff to create perhaps a resolution to come back to the Commission for approval in the future.

**TO DO:**

Bring back resolution regarding traffic studies for Commission approval. **Eric Carpenter to handle.**

Jimmy L. Morales, City Manager, stated that they would draft something and bring it back.

Commissioner Exposito thinks it is a good idea to close the street, but as part of the procedure, he is requesting an action plan that includes a set procedure for deliveries, with specific hours and a routing process. **Eric Carpenter to handle.**

Mayor Bower is also concerned with the delivery trucks and the issue is that the street is narrow. They need to work on not allowing the trucks to park on Washington Avenue but find a loading zone. Discussion continued.

Neil, Bohemian storeowner, complained about problems with deliveries and the issue of safety.

**5:34:08 p.m.**

R9J Discussion Regarding Loss Of Parking Spaces In Biscayne Beach Neighborhood.  
(Requested by Mayor Matti Herrera Bower)

**ACTION:** Discussion held.

Jimmy L. Morales, City Manager, introduced the item and explained that there was significant loss of parking in the area of about 131 spaces. He added that in the last few days staff has worked on this very hard and he was told as of this morning that they can restore all of the 131 spaces that had been lost, and may be even be able to add some more. They have looked at bulb out issues and moving fire hydrants, for example, they will restore parking.

Commissioner Weithorn stated that City staff heard loud and clear what the neighbors want. She thinks the best option is to show the neighbors the plans rather than discussing at the Commission.

Paul Markowitz understands the value of time and he rearranged his schedule to be heard today. His concern is that they are being told one thing without having it as a public record. He does not want the problem fixed without some sort of resolution. For the record, the residents of North Beach are impacted by the loss of parking spots and their livelihood is being destroyed. The work being done is not what is on the plans.

Discussion continued.

Mark Taxis, Assistant City Manager, has been working with the plans for the last couple of days and just received the numbers this morning. He is not committed to say that they will be removing every planter installed, as some will be removed; they have been working with the Fire Department to restore parking on both sides of the road without impacting the Fire Department's ability to be able to put out a fire, should that ever occur. They have eliminated some of the bulb outs that were going to be designated spaces that were 22 foot long by having parallel parking available. They are looking at moving fire hydrants, which takes away the "No Parking," and the Fire Department prefers to be in the bulb outs. They feel confident that they will be able to restore 131 legal spaces being removed from the project, and looking at adding some more.

Paul Markowitz asked for a time frame and Mayor Bower asked Administration to speak with this discussion outside. Discussion continued.

Vice-Mayor Tobin, for the record, stated that they were told that Administration will be replacing all of the spots.

Paul Quiros is concerned with the absence of handicap accessibility and the flood hazards.

**TO DO:** City staff to meet with residents and business owners to explain and show the revised plans. **David Martinez to handle.**

**TO DO:** Mayor Bower requested the Administration to look into moving fire hydrants whenever possible that prevent the utilization of parking spaces in future projects. **David Martinez to handle.**

Handout or Reference Materials:

1. Speakers List

2. Email from Paul Markowitz dated October 15, 2013 [PBMarkowitz@aol.com](mailto:PBMarkowitz@aol.com)
3. Email from Kirk Paskal dated October 15, 2013 [kpaskal@gmail.com](mailto:kpaskal@gmail.com)
4. Biscayne Point Right of Way Improvement Project website pages from Mr. Markowitz.
5. LTC 365-2013 RE: Biscayne Beach Parking

R9K The Committee Of The Whole Will Meet On October 16, 2013 In The City Manager's Office Large Conference Room To Discuss The Proposed Revisions To The Personnel Rules For The Classified Service.

(Human Resources)

The Committee of the Whole Meeting commenced at 4:15 p.m.

Kathie G. Brooks, Assistant City Manager, introduced the item. Ms. Brooks stated that the Personnel Board, via a subcommittee headed by Mojdeh Khaghan, comprehensively examined the Personnel Rules. Ms. Brooks added that this is the first time that the Personnel Rules have been comprehensively reviewed and revamped since they were initially adopted. Many of the changes are editorial and cleanup in language. However, there are some significant changes, which she would like to point out.

Ms. Brooks stated that starting on page 2 of the Memorandum that was sent out, the first major change is that they incorporated in the Personnel Rules a Code of Ethics. It mirrors the requirements of State Statutes, but in addition, it goes beyond that by setting out basic expectations in terms of ethics for employees. It includes the duty to report, which Commissioner Libbin had gone before the Personnel Board subcommittee and asked them to consider such an inclusion. The duty to self-report has also been included into the Personnel Rules. Ms. Brooks pointed out that the duty to self-report is currently a City policy, but it has been recommended by the Personnel Board that it be included in the Personnel Rules. The failure to report has also been included in the Personnel Rule's Code of Ethics, which is brand new.

Ms. Brooks added that the other item that is significant and is reflected in a couple of rules, Rules VI and Rule VII, is regarding once you have been dismissed or resigned for cause, the City will not reemploy you. Mayor Bower and Commissioner Libbin commented that this provision was a very good idea. Ms. Brooks explained that currently an employee could petition the Personnel Board to be reinstated. The Personnel Board is recommending eliminating that provision, and that someone that separated for cause should not be reemployed. Hence, the recommendation is to eliminate the current rule.

Ms. Brooks explained that in Rule VIII, method for filing vacancies, the Personnel Board is recommending that once an employee leaves the Classified Service, and takes an Unclassified Position, they retain their right to their former Classified Position for 90 days. During the 90-day period, the employee may self-demote. In the case of a layoff, the Personnel Board is recommending that this right be retained for 365 days. Ms. Brooks reported that the Administration is agreeable to the 90-day self-demotion period, but the Administration believes that in the case of a layoff, the employee should have the right to go back to their Classified Position, irrespective of time.

Mayor Bower stated that Rule VIII must be where the confusion is. Mayor Bower explained that this is the only provision that she received calls on. She said the calls she received reflected a concern that if a new Chief comes and wants to clean house they can clean house and bring their own people. Mayor Bower has a problem with that, it is not fair, those employees have been there for a very long time and we will not get quality people to accept these positions if such a provision

was in place.

Ms. Brooks responded that the Administration agrees with the Mayor's concerns. Ms. Brooks explained that the Personnel Board has submitted the proposed rules for review by both Labor and Management. The Administration, after reviewing this provision, disagrees with the suggested change by the Personnel Board pertaining to this section. This is one of the few things that the Administration disagrees with. The Administration thereby wants to give feedback to the Personnel Board, but wanted first to check with the Mayor and Commissioners. The Administration is of the opinion that in the event of a layoff or removal of the position by the Chief for example, employees should have the right to return to their prior Classified position.

Commissioner Weithorn asked if Ms. Brooks was referring to removal without cause. Ms. Brooks responded that in the event of a removal without cause, the employee would retain the right to their previous Classified position. Ms. Brooks added that this would not include self-demotions. Ms. Brooks stated that if management decides that an employee is going to be removed from their position, for whatever reason – i.e. layoff, just no longer a good fit, personality difficulty, etc., the employee would still have the right to their prior Classified position.

Commissioner Tobin inquired as to how it would apply when an employee self-demotes. Ms. Brooks responded that it would not. Ms. Brooks added that the Administration supports the recommendation that an employee could not self-demote past the initial 90 days.

Mayor Bower asked if the Administration had come up with alternative wording for their recommendation. Ms. Brooks responded that the Administration has not come up with alternative wording to counter with. Commissioner Weithorn explained that the Administration wanted to verify that the Commission agreed in concept with their alternate proposal.

Commissioner Tobin gave an example of all Captains going back to their previous rank – example Lieutenants – does that mean that the employees who are Lieutenants would then go down in rank? Is it a bump that makes everyone goes down, asked Commissioner Tobin?

Mayor Bower asked if in the same scenario presented by Commissioner Tobin, if new Captains are hired, to replace all existing captains, does the department grow or is the City going to terminate the lower ranking individuals? City Manager Jimmy Morales explained that bumping causes the last individuals in to be the first individuals out (last in/first out).

Commissioner Weithorn asked to talk reality. If a Chief came in, and fired every single person in the Command Staff, she would personally be looking at the City Manager and saying where did you get this Chief, and get rid of him. Unless the City Commission was unhappy with the Command Staff, and then it would have been something that the Commission would have previously discussed. No one that took such action in a vacuum would be working for the City for very long.

Mayor Bower stated that she understands the impossibility, but she also understands the reality of a political issue. Reality is that a new Manager comes in and everybody is new. New Commissioner comes in and they bring a new Aide. It happens. She wants to understand whether in the present scenario, the City would be getting rid of the Police Officer. Ms. Brooks explained that one could eventually get to that point, but usually there are vacancies, so by the time those people bump down they will be filling open positions. Commissioner Weithorn also stated that the City could also have a couple of overstaffing until retirements occurred, and other vacancies. However, historically, although possible, no one has been terminated. The Mayor stated that she just does not want to fire people, particularly Police Officers. Mayor Bower asked the

administration to figure that one real well. **TO DO: Sylvia Crespo-Tabak to develop alternate language retaining right to prior classified position in the case of a layoff.**

Commissioner Libbin asked a question regarding Rule VIII, on the bottom of page 43, and the first two lines on page 44. It reads, "Whenever vacancies are to be filled, the Human Resources Director shall provide the names of the eligible persons ranking highest on the applicable list and certify at least two names over and above the number of vacancies to be filled." Commissioner Libbin inquired if there are four vacancies, will they only be submitting six highest-ranking scores on the Civil Service list to the department(s) requesting an employee? Ms. Sylvia Crespo-Tabak, Human Resources Director, explained that she would submit the entire list to the department; what this section means is if they have four vacancies, the Human Resources Director must submit a minimum of six eligible names. If Human Resources does not have at least six names, the position must be re-advertised and additional eligible applicants must be recruited. Commissioner Libbin responded that if you have four individuals on the list who are qualified, are you going to hold the hiring until you have at least six. Ms. Sylvia-Crespo explained that this happens routinely, that you advertise when the list gets short, because the reality is that, for example in Police they go through about ten files before then select one person. Commissioner Weithorn added that when there is a vacancy, and it has not been filled for whatever reason, people work out of classification until the hire is made. It is not that the position is not filled. Commissioner Libbin stated that working out of classification is more expensive and not in the City's best interest.

In response to Mayor Bower's question, Kathie G. Brooks, Assistant City Manager explained that the eligibility list requirements apply to every Classified position (Union positions and those 20 or so individuals who are Classified as "Others.") Ms. Brooks gave examples of "Others," which are positions that by law are not authorized to join a Union, such as those working in Human Resources or Budget, or those position that have not been petitioned for inclusion in a Union.

Commissioner Libbin inquired if for Classified positions applicants take civil service exam, in order to determine qualification and ranking. Ms. Sylvia Crespo-Tabak, Human Resources Director, explained that some positions do have civil service examinations. In those positions that do not have exams, the Human Resources Department advertises the minimum requirements of the job, and they frequently advertise what preferred extra skills the City is looking for. The computer system is programed so that it screens for the minimum requirements.

Ms. Brooks explained that if it were a position with preferred skills, the system would look for the key words in order to ensure that the applicant has the preferred skills. Additionally, the City will send the requesting department the full list of all those qualified candidates. Ms. Crespo-Tabak, as an example, stated that the City advertised for an Administrative Aide position and received 900 applicants, all of whom met the minimum criteria. That classification, however, requires a typing test, so Human Resources would give those 900 applicants a typing test, and whoever scored the highest on the typing test based on speed is ranked in that order.

Commissioner Libbin cautioned that whichever way the City is coming up with the top four, the selection should be as objective as possible. Ms. Brooks added that the preferred criteria were also in the job description.

Ms. Brooks mentioned that although the City sends to the requesting Department the list of all those who met the minimum requirements, they will point out to the Department those individuals who also met the preferred requirements. The City tries to make is less subjective, by making it more standardized.

Mayor Bower would prefer if the advertisements included the preferred requirements as the minimum, because otherwise it gives false hopes to individuals who only meet the minimum requirements. Mayor Bower receives many calls from people who live in the City, who have applied for a City job, and they cannot understand if they fit all those categories, why is it that they never are selected. Mayor Bower stated that she now understand that the reason some of these individuals are not being selected for interviews is because there are preferred criteria in addition to the minimum requirements. Ms. Brooks and Ms. Crespo-Tabak advised the Mayor that the City advertises both the minimum requirements and the preferred requirements when it posts the job announcement.

Mayor Bower stated that she feels the system gives hopes to people that will never be hired, and she deems that wrong. The Mayor believes that the advertisements should only include the criteria the City is looking for.

Commissioner Tobin inquired what occurs when a person who is over qualified applies. He imagines that many of the people who are applying surpass the minimum. Mayor Bower stated that she has been told that if an applicant is overly qualified the City does not take them. Ms. Crespo-Tabak, Human Resources Director, said that it would not be her recommendation to reject over qualified applicants. Ms. Crespo-Tabak also added that the City also receives many applications from individuals that do not meet any of the criteria, but they apply anyway. Mayor Bower reiterated that the City should advertise the higher standard.

Ms. Brooks continued to discuss the proposed changes to the Personnel Rules. She added that in Rule X the Personnel Board added to the reason that may be utilized for grounds in disciplinary action. Commissioner Weithorn asked if there was anything in Rule X that the Commission may find objectionable. Ms. Brooks and City Attorney Jose Smith both responded, "No." Mr. Smith, in response to a request from the Mayor described the new additions as fighting, drinking, etc.

Commissioner Exposito inquired what was happening with the background checks. Commissioner Exposito cited as example the fight that occurred between two employees in the Parks Department, and the City subsequently learned that one of the employees had serious background issue. Ms. Brooks stated that the Personnel Board did not take any action regarding backgrounds. Ms. Crespo-Tabak added that this Administration inherited a number of felons; the City had a Human Resources Director in the past who was a "very much a believer in rehabilitation." Ms. Crespo-Tabak has been told that this Director's policy was that if five years had passed since the applicant committed the crime, and the applicant met the criteria for the job, that crime should not be held against the applicant. Therefore, if the applicant had served 20 years for murder, and the applicant got out of jail, and the day after the applicant applied to the City for a job and the applicant was qualified, then the murder was 20 years ago, so the fact that the applicant got out of jail the previous day was not a considered factor.

City Manager Jimmy L. Morales inquired as to what occurs if the applicant does not self-report criminal convictions at the time of application. Ms. Crespo-Tabak answered that if the applicant did not self-disclose at the time of application, and it is later discovered, the employee may be dismissed for having lied in the application, this applies even if the employee is Classified. Ms. Brooks stated that although the Personnel Board did not make any recommendations on self-reporting of crimes, by Policy the City performs criminal pre-employment background checks that are fingerprint based, which obtains information from the FDLE, the FBI and information on sexual predators. If a person has been arrested, the Human Resources Department needs to do additional research because an arrest in and of itself is not necessarily meaningful, and if the Human Resources Department determines that the behavior that led to the arrest is the type of behavior that we do not believe will reflect well on the City as an organization, Human Resources

would disqualify them; however by law, the Human Resources Department would have to give the applicant an opportunity to provide Human Resources with their side of the story. Mayor Bower inquired if time passage has an impact in the City's consideration. Ms. Crespo-Tabak and Ms. Brooks stated that the City must take into consideration the nature of the event, and the time that has elapsed since the occurrence, however it is not a disqualifying factor.

Mayor Bower wants to ensure that this policy is in writing. Just because this is the way the City conducts itself today, does not mean it will conduct itself that way in the future when the personnel in the Human Resources Department has changed. For example, a previous Human Resources Director, we now know was very liberal, and now we are going to be very strict. The Mayor requested to have some written criteria that must be equally followed. Commissioner Tobin expressed that the City should try to maintain as much flexibility as possible on this issue. Commissioner Weithorn agreed. Mayor Bower stated that without written criteria, the City would be able to exclude many people out of City employment.

Mayor Bower stated that she believes in rehabilitation, but the individuals must prove themselves. Mayor Bower inquired if Human Resources tell the applicant why they were rejected if based on a criminal record. Human Resources Director Sylvia Crespo-Tabak stated that the City must notify the applicant of the reason for said rejection by law. Mayor Bower inquired what recourse the applicant has. Ms. Crespo-Tabak responded that the applicant could explain the situation through their perspective; the Administration is required to consider those. The applicant can also give the Human Resources Department the names of individuals who can speak regarding their character; it boils down to the behavior, it not the arrest, as the arrest does not mean anything. Ms. Crespo-Tabak stated that she is aware that African-American and Hispanics statistically are arrested more frequently than others are. It is not the arrest; it is the behavior that leads to the arrest that is considered by the Human Resources Department. Ms. Crespo-Tabak, in response from a question by City Attorney Jose Smith explained that the individuals who are disqualified due to prior alleged criminal activity do not have an appellate process before the Personnel Board. Ms. Crespo-Tabak explained that the one place these applicants can go is the Equal Employment Opportunity Commission who has strict guidelines on how an employer can utilized criminal background checks.

Commissioner Weithorn inquired if the position for which an applicant was applying was important. If she had an applicant who at 25 had committed an economic crime, she would never allow them to work at the Finance Department, even at age 50; she would not take that risk. However, the same individual wants to work as an administrative assistant, where they do not have access to financial or fiduciary responsibility then she would consider that person. Commissioner Weithorn added that the City could not have concrete rules, because there are so many variables.

Mayor Bower reiterated that she has a problem with this. She has a problem with the objectivity of whoever is making the selection. She does not have a problem with rejecting someone, as long as there are clear rules that one can understand.

Ms. Crespo-Tabak assured Mayor Bower that as long as she serves as Human Resources Director, she would not disqualify anyone for criminal background without the concurrence of the Assistant City Manager and the City Manager.

Commissioner Weithorn stated that the rule should be, as Ms. Crespo-Tabak stated, that no one can be turned down because of a criminal background without a concurring opinion from the Assistant City Manager or the City Manager, because then you have a second set of eyes. Mayor Bower agreed that Commissioner Weithorn's suggestion was good. Commissioner

Weithorn added that this policy does not need to be in the Personnel Rules. In response to Mayor Bower's question, Ms. Crespo-Tabak added that the Policy would be written down in the City's Administrative Regulations. City Manager Jimmy Morales stated that said Administrative Regulation could be brought to the City Commission for final approval. **Silvia Crespo-Tabak to handle.**

Commissioner Libbin commented that the City has had some situations with Union employees, such as in Police and Code Compliance, where even if the person was guilty, they have the option to plead no contest, which means the employee may have done it, but the employee does not wish to admit it so the employee may then keep their job. How is that dealt with, Commissioner Libbin inquired. Ms. Crespo-Tabak explained that there is a change in philosophy with the new Administration. This Administration believes that the City should act on the criminal aspect of whatever is pending. The City may take administrative action if required, on the behavior that reflected poorly, a behavior that is unbecoming a City employee that is one of the rules in the revised Personnel Rules. Commissioner Libbin asked if a Union employee, a Police Officer for example, slaps a female resident in the face, is there anything in the Personnel Rules that says that behavior is unbecoming a Police Officer and the employee is terminated. Ms. Crespo-Tabak explained that there must be just cause and due process, but yes, the City can terminate for such behavior. Commissioner Góngora asked if that same Union employee in the scenario had the right to file for arbitration, and Ms. Crespo-Tabak responded in the affirmative. Commissioner Libbin asked if an employee acts in a way that is unbecoming would an arbitrator have to follow the Personnel Rules. City Attorney Jose Smith responded in the affirmative.

Commissioner Exposito stated that the term "conduct unbecoming" is vague. Ms. Crespo-Tabak, as an example stated, if tomorrow you read a headline in the newspaper that says she have done something that is immoral, and the front page identifies her as the Human Resources Director for the City of Miami Beach that is conduct unbecoming, that is reflecting poorly on the City. Commissioner Exposito stated that he understood that but he did not want such latitude unless there was some definition in place. Commissioner Weithorn stated that as before, if the Human Resources Director determines that a behavior is unbecoming, before discipline is implemented, the Human Resources Director must obtain a concurring opinion from the City Manager or an Assistant City Manager.

Mayor Bower explained that there could be a situation where the boss does not like an employee, and any action could be deemed unbecoming. Ms. Brooks explained that all disciplines go through the City Attorney's Office, and finally are reviewed by the City Manager.

Discussion was had that Unclassified employees, such as those in the Mayor's Office, may be terminated for any reason, and there is a greater flexibility to terminate as no reason need be given.

Ms. Brooks explained the last three proposed Personnel Rules. The rule only applies to the 20 or so Classified employees, the "Others" who are not in a bargaining unit (Union); they can still go to the Personnel Board to appeal a disciplinary action. As those employees do not have a Union to represent them, they may go before the Personnel Board on disciplinary matters. That currently exists, what the rule is doing is to say that if an employee does not show up, the lack of attendance may be used as a reason to deny the appeal. Finally, the performance evaluations right now are scored on numerous factors, right now an employee may go before the Personnel Board to appeal anyone of those factors that are below 50, even if the overall score is above 70, even 90. What the Personnel Board is saying is, unless the overall score is below 50, they are not going to hear it. Finally, Ms. Brooks explained that on page 6, is one of the items that the Administration does not agree with the proposed Personnel Rules. The proposed rule states that if there is an



indictment and or the filing of an information of an employee, the Human Resources Director must find that it is related to the employee's job before the Human Resources Director can suspend the employee; the City objects to that. Commissioner Libbin called the proposed rule "ridiculous." Commissioner Libbin inquired as to the procedure to change the proposal. Ms. Brooks explained that the Personnel Board had to change it.

Ms. Brooks stated that if the Commission agreed, the Administration would object on the two proposal discussed. The Commission agreed by acclamation.

The Committee of the Whole meeting concluded at approximately 5:00 p.m.

Handout of Reference Materials:

1. LTC dated October 16, 2013 RE: Proposed Changes to the Personnel Rules as Presented by the Sub-committee to the Personnel Board September 20, 2013.
2. City of Miami Beach Proposed Amendments to the Personnel Rules for the Classified Services Discussed by the Personnel Board, September 20, 2013.

R9L Discussion Regarding The Status Of The Collins Park Neighborhood Improvement Project.  
(Requested by Mayor Matti Herrera Bower)

**ACTION:** Item not reached.

**12:56:54 p.m.**

R9M Discussion Regarding Extending An Agreement For Governmental Services Between The City And MWW Group.  
(City Manager's Office)

**ACTION:** Discussion held. Motion made by Commissioner Weithorn to approve a one two-year option, as amended; seconded by Commissioner Libbin; Voice vote: 5-1; Opposed Commissioner Wolfson. Absent: Commissioner Góngora. **Joe Jimenez to handle.**

**Amendment**

- ✓ Add termination for convenience clause.
- ✓ Add benchmarks to the contract.
- ✓ After the end of renewal, put it out to bid.
- ✓ Provide written analysis on legislative projects and status update.
- ✓ Provide measurements to evaluate and monitor Legislative Lobbyists workload and activities.

Jimmy L. Morales, City Manager, introduced the item and explained that before renewing the services, he wanted to receive direction from the Commission.

Vice-Mayor Tobin asked the Administration if there are sufficient benchmarks within the contract to evaluate the performance.

Discussion held.

Joe Jimenez, Assistant City Manager, explained that benchmarks are difficult to obtain at times, but added that he is very happy with the service the City is getting with this firm and is confident with their representation, their access and their proactive communication.

Kevin Crowder explained that while the contract with MWW does not have benchmarks, they created some measures to evaluate and monitor the workload and activities. **City Manager's Office to provide.**

Commissioner Wolfson asked when the last time that this went out for bid was. City Attorney Smith answered that the last time it went out to bid was about fifteen years.

Discussion held regarding putting this out to bid. Commissioner Wolfson stated that in the spirit of competition, it is a good idea to see what is out there, and that is what he will support.

Commissioner Libbin requested a written status report or analysis on the legislative projects to see where they are on the items that they have asked them to address. **Joe Jimenez to handle.**

Discussion held.

Jimmy Morales, City Manager, added that on Page 1,047 of the Commission Agenda, there was a resolution in 2010 where this Commission re-awarded the contract to MWW, which expired in September 2013; at the City's sole discretion, meaning the City Commission. That is why the item is in front of the Commission and he explained the options. Discussion continued.

Vice-Mayor Tobin is in support of putting this out to bid.

#### **Amendment**

Commissioner Libbin offered an amendment to renew the contract with a two-year option and then go out to bid.

Commissioner Weithorn stated that this is not the time to lack representation in Washington, D.C., and the City has done very well compared to other cities. She seconded the amendment offered by Commissioner Libbin.

#### **Final Motion:**

Motion made by Commissioner Weithorn to renew for a two-year option, with the requirement that it goes out to bid after that; seconded by Commissioner Libbin.

Discussion continued.

Commissioner Wolfson stated that they are making a decision for a future Commission, and they are choosing a lobbyist that other elected officials are going to have to deal with. The new elected Commission should be allowed to make this decision. Discussion continued.

Commissioner Wolfson amended the motion to add termination for convenience clause.

Vice-Mayor Tobin added that he could vote yes if benchmarks are added to this contract.

**12:46:11 p.m.**

- R9N Discussion And Referral To The Finance & Citywide Projects Committee - Enhance Police Patrol In Miami Beach Schools, Which In Turn Secures The Safety Of All Students, Parents And Staff.  
(Requested by Commissioner Jorge R. Exposito)

**ACTION:** Discussion held. Item referred. Motion made by Commissioner Exposito to refer the item to the Finance and Citywide Projects Committee; seconded by Commissioner Libbin; Voice vote; 6-0; Absent: Commissioner Góngora. Patricia Walker to place on committee agenda. **Chief Martinez to handle.**

- R9O Discussion And Referral To The Finance & Citywide Projects Committee - Look Into What Occurs With Our MBPD Retired Police Dogs And To Discuss Possible Allocation Of Funding For Their Medical Needs.

(Requested by Commissioner Jorge R. Exposito)

**ACTION: Discussion held.** Item referred. Motion made by Commissioner Exposito to refer the item to the Finance and Citywide Projects Committee; seconded by Commissioner Libbin; Voice vote; 6-0; Absent: Commissioner Góngora. Patricia Walker to place on committee agenda. **Chief Martinez to handle.**

**1:56:24 p.m.****SUPPLEMENTAL MATERIAL 2: Item moved to C7NN**

- R9P Discussion Regarding Extending Hours For Winter Party, White Party And Pride.  
(Requested by Commissioner Michael Góngora)

**ACTION:** Item moved to Consent Agenda Item. See action with C7NN.

- R9Q A Presentation From The American Athletic Conference Regarding The Miami Beach Bowl.  
(City Manager's Office)

**ACTION:** Item moved to PA18.

**5:47:33 p.m.**

- R9R Discussion On The Outcome Of The Public Meetings Held By FDOT Regarding The Proposal To Add Medians Along The Alton Road Corridor Within The Project Limits Of The Current Reconstruction Project From 5th Street To Michigan Avenue.  
(Requested by Mayor Matti Herrera Bower)

**ACTION:** Discussion held. Item heard in conjunction with item R9W. Motion made by Commissioner Libbin to remain committed to the curbs as in Alternative 3, and direct staff to work with FDOT, the neighbors, and owners to identify ways to modify the median proposal; seconded by Commissioner Exposito; Voice vote 7-0. **Eric Carpenter to handle.**

See discussion with R9W.

- R9S Discussion And Referral To Neighborhood/Community Affairs Committee To Look Into An Establishment For A Handicap Beach Within Our City Limits.  
(Requested by Commissioner Jorge R. Exposito)

**ACTION: Discussion held. Item referred.** Motion made by Commissioner Exposito to refer the item to the Neighborhood/Community Affairs Committee; seconded by Commissioner Libbin; Voice vote; 6-0; Absent: Commissioner Góngora. Barbara Hawayek to place on committee agenda. **Eric Carpenter to handle.**

**7:26:48 p.m.**

**ADDENDUM MATERIAL 1:**

**SUPPLEMENTAL MATERIAL 2: Pictures**

- R9T Discussion Regarding City's Design For New Median On South Pointe Drive.  
(Requested by Vice-Mayor Edward L. Tobin)

**ACTION:** Item not reached. Lilia Cardillo to place on the December 11, 2013 Commission Agenda if instructed by Vice-Mayor Tobin's office.

Mr. Ronald Starkman inquired if this item was going to be heard tonight.

Commissioner Weithorn suggested referring the item to committee.

Mr. Ronald Starkman added that one of the alternate suggested fixes requires a resolution vote, and until they have that, staff cannot work on the alternate solution that everyone thinks makes sense.

Mayor Bower explained that she had adjourned the meeting before Mr. Starkman spoke, and the meeting cannot be reopened. She suggested sending the item to committee.

No vote taken.

**ADDENDUM MATERIAL 1:**

- R9U Discussion Regarding Flooding At Royal Palm Avenue And 46th Street, Miami Beach.  
(Requested by Vice-Mayor Edward L. Tobin)

**ACTION:** Item not reached.

**2:15:19 p.m.**

**ADDENDUM MATERIAL 1:**

- R9V Discussion Regarding Noise Issues From 6301 Collins Avenue.  
(Requested by Commissioner Michael Góngora)

**ACTION:** Discussion held. Motion made by Commissioner Weithorn to give the City Attorney's Office and the City Manager's Office instructions to do whatever is necessary to resolve the issue, including speaking to the attorneys; seconded by Commissioner Exposito; Voice vote 7-0. **City Manager's Office and City Attorney's Office to handle.**

Jimmy L. Morales, City Manager, stated that the building at 6261 is the offending building, which for a number of years was not occupied. A new owner came in and renovated the building, and

chillers were installed on the roof. In September, they started cooling the building. Immediately, the complaints started coming in about the noise. Because of the complaints, many members of staff visited the building. On September 11, 2013, the contractor was asked to come to our office. He directed the contractor to shut off the chillers at night, and asked him to start the process to mitigate the noise. The Code was searched and it was found that it does not require that the chiller be covered; also, a cooling tower is not required. Everything was done according to Code. The equipment was checked and there is no evidence that the equipment is malfunctioning. As more fans are turned on, it creates a tunnel effect. He added that this is a difficult situation and the attorneys are all present to discuss this problem. He added that under the City's Noise Ordinance, the City does not have the power to ask the Court to shut the building down because it only applies to amplified noise.

Commissioner Libbin clarified that the City's Ordinance models the Miami-Dade County Ordinance and it specially talks about any unnecessary and obtrusive noise, and he does not think it merely states amplified noise. He asked clarification from the City Attorney.

Jose Smith, City Attorney, explained that the ordinance states "any unreasonable or unnecessary noise," and it does not say amplified noise. He added that amplified is a different issue. From the City's perspective, if these air-conditioner units were properly approved by the boards, all the building permits were issued, and all of the mechanical inspectors signed off on the permits, if the equipment complies with its specification and installed properly there is no legal basis to issue a violation at this point. He has not been there or heard it. It could be that maybe the unique place where these chillers were placed creates an unreasonable and unnecessary noise, and a tunnel effect.

Discussion held.

Jose Jimenez, Assistant City Manager, stated that according to the Code Enforcement Department, this noise is not considered unreasonable or unnecessary. They are implementing a remedial process that is a one-inch wrap that goes around where they think the source of the noise is. He explained that it is not the volume but the pitch of the noise. The "acoustic wrap" is being delivered either today or tomorrow and will be installed over the weekend. The experts believe this will solve the problem.

Discussion continued.

Commissioner Exposito stated that he has been hearing that once all the four A/C units are on, the windows and doors inside the apartment vibrate. He asked if this dampening cloth/wrap would resolve that.

Jose Jimenez, Assistant City Manager, deferred to the attorney who represents the association and is a resident, Richard Alayon.

Jose Diaz Esq., with Akerman and Senterfitt, spoke.

Richard Alayon, Esq., spoke.

Mariano Fernandez, Building Department Director, spoke.

Discussion continued.

Maury Greenberg spoke.

Mayor Bower asked if the A/C could be replaced with a chiller and does the same job and the answer was "yes." She added that maybe it should be required that they install the less noisy equipment.

Vivian Fernandez spoke and played a recording of the noise from inside her apartment.

Discussion continued.

Commissioner Libbin asked what the City could do legally to address this problem.

Jimmy L. Morales, City Manager, stated that maybe they can seek injunction.

Dr. Zoe Lewis stated that, for the record, this is a public health hazard, because the decibels are high enough to cause hearing loss. This is a public safety issue and the City can use that to shut it down. This is regulated under OSHA or state law.

Commissioner Góngora stated that if there is a nuisance that affect the quality of life, the Special Master, the City Manager and the Building Department could shut the building down.

Discussion continued.

Commissioner Weithorn stated that there are no more meetings until December and the residents cannot live in their units with the noise. She asked to direct the Administration to give them five days to correct the noise, and if the noise continues, direct the Administration to take all action necessary to shut them down.

Mayor Bower does not agree to give them the five days, and is concerned that the level of the noise will not change that much even after the installation of the remedial measures.

Jimmy L. Morales, City Manager, stated that the Administration has the ability to do two things: 1) under the Noise Ordinance seek an injunction from the Court, and 2) have the Building official disconnect the electricity to the building. He added that the Legal Department must advise the Administration as to the legality of this.

Discussion continued.

Vice-Mayor Tobin asked Mr. Alayon, the attorney representing the homeowners, if this is an issue that he can go to Court for an emergency injunction. Mr. Alayon said they are in the process of finalizing the emergency motion. They are looking at two weeks to gather the evidence. He stated, for the record, that they are not looking at putting the developer out of business.

Discussion continued.

Richard Alayon, Esq., Director for La Gorce Palace Condominium Association, Inc. stated that they filed a Court action on behalf of the homeowners association.

Jose Smith, City Attorney, asked if they are naming the City as a party and Mr. Alayon responded absolutely not because the City has not done anything wrong.

Jose Smith, City Attorney, stated that he is not suggesting that they will be adversary but he is suggesting that if they need the City to turn off the power to the A/C units, he may need to name the City in order to do that.

Richard Alayon, Esq. stated that he is actually pleading with the City to join them in the suit.

Discussion continued.

Neisen Kasdin Esq. spoke.

Discussion continued.

Commissioner Weithorn asked how much time is needed to do the wrap and see the results of it, and for the attorneys to talk.

Richard Alayon, Esq. stated that about a day or two.

Commissioner Weithorn suggested, that after the wrapping and after the attorneys meet, sending the Building Department to the site next week, and if sufficient progress has not been made, take the necessary action.

Discussion continued.

Neisen Kasdin Esq., spoke.

Commissioner Weithorn stated that by Friday, October 25 if the issue is not resolved, Administration should be given instruction to do what is necessary, including shutting down the power.

Jose Smith, City Attorney, stated that the City needs to go to Court and ask the judge to enter an order allowing the City to do that.

Neisen Kasdin Esq., stated that as long as they are operating within the Code and doing everything legally, the Commission could not tell administrative officials what to do or not to do about enforcing the law, because they are operating within the law.

Mr. Richard Alayon spoke.

Discussion continued.

Vice-Mayor Tobin stated that waiting a week is not the right thing to do. He asked looking at maybe not granting the Certificate of Occupancy for the building. He suggested that the City join in the lawsuit.

Jose Smith, City Attorney, stated that if counsel believes that the evidence proves that the noise is unreasonable and unnecessary and there is evidence from the experts for him to join the City, he needs to speak to the attorneys on this matter. **City Attorney's Office to handle.**

**Motion No. 1:**

Motion made by Commissioner Weithorn giving direction to the City Attorney and City Administration to do what is deemed necessary to correct this issue. It takes a week to ten days for anything to happen, and during that time if the problem is not resolved, she is asking to step-up the effort, and make this a real priority.

Neisen Kasdin Esq. stated that it is not right or appropriate to hold the issuance of the Certificate of Occupancy when everything was done to Code and they followed proper procedures.

Vice-Mayor Tobin stated that if the City determines that the noise is unnecessary and

unreasonable, it is a violation of the law. Mr. Kasdin's contention is that the noise is neither unnecessary nor unreasonable. Vice-Mayor Tobin added that they are not asking staff to do anything illegal, but they should do everything they can to not issue the Certificate of Occupancy if it is within the City's legal purview.

Discussion continued.

Jose Smith, City Attorney, restated Commissioner Weithorn's motion giving the City Manager and the City Attorney's Office direction to do whatever is necessary to resolve this issue.

Motion seconded by Commissioner Exposito; Voice vote: 7-0. City Attorney's Office and City Manager's Office to handle.

**5:47:36 p.m.**

**ADDENDUM MATERIAL 2:**

R9W Discussion Regarding Proposed Medians And Design For Alton Road By FDOT And The Economic Impact On Local Businesses, The Proper Functioning Of The Roadway, Potential Traffic Intrusion Into Adjacent Residential Neighborhoods, And Pedestrian Safety.  
(Requested by Commissioner Deede Weithorn)

**ACTION:** Discussion held. Item heard in conjunction with item R9R. Motion made by Commissioner Libbin to remain committed to the curbs as in Alternative 3, and direct staff to work with FDOT, the neighbors, and owners to identify ways to modify the median proposal; seconded by Commissioner Exposito; Voice vote 7-0. **Eric Carpenter to handle.**

**TO DO:**

LTC informing residents of the meetings.

Jimmy L. Morales, City Manager, introduced the item and stated that FDOT is willing to do whatever the City likes on this issue and are looking for guidance.

Jimmy Resnick expressed his disappointment with the medians and added that the medians are going to create a logjam on Alton Road and gave examples as to what will happen.

Discussion held.

Jimmy L. Morales, City Manager, stated that Public Works has received comments from the Police and Fire Department and is working with FDOT to resolve the issues.

Discussion continued regarding flooding issues on Alton Road. Commissioner Libbin suggested thinking about public transportation or some type of transit system, and look at the options of loading and unloading in the middle aisle; and does that mean that both cannot be accomplished. He believes that as long one does not block the ability to make a turn, one can preserve the opportunity to use the median for loading and unloading of transit, and by not blocking intersection it can be left open to make a right or left hand turns.

Discussion continued.

Jimmy Resnick spoke.

Christine Flores spoke.

Mayor Bower stated that nothing is going to change today. They should discuss the particular



issue of the median that prevents the east/west movement of traffic. She added that the City should look at the issue of the median with the residents. **Eric Carpenter to handle.**

Discussion continued.

Mayor Bower stated that they need to make sure the residents are notified of the meetings. **Eric Carpenter to handle.**

Discussion continued.

Vice-Mayor Tobin stated that perhaps there should be a rapid transit, just a loop going up Alton Road from 5<sup>th</sup> to 17<sup>th</sup> Street, 17<sup>th</sup> street across to Washington Avenue, and Washington Avenue down a square, and they will need one side of the street. The option of having extra space available is a good idea for rapid transit. He suggested this Commission give a commitment that they are not going to move the sidewalks as Alternative 3. This is the commitment because Mr. Resnick raised some good points. He added that everyone needs to take a second look.

Discussion continued.

The following individuals spoke:

Graham Pembroke  
Ronald Starkman  
Jack Johnson

Vice-Mayor Tobin as a point of clarification stated that it has been decided that they need to take a look at some of the concerns, that the curbs will stay so FDOT can continue, and asked when they will know the details explained by the experts.

Jimmy L. Morales, City Manager, suggested that they may want to take a vote to remain committed to the curbs as in Alternative 3, and direct staff to work with FDOT, the neighbors, and owners to identify ways to modify the median proposal.

Motion made by Commissioner Libbin to approve the City Manager's suggestion; seconded by Commissioner Exposito.

Mayor Bower asked if the needs of the Fire Department change the curbs. The answer was no. She requested an LTC from the City Manager after he meets with the neighbors. **Eric Carpenter to handle.**

### **R10 - City Attorney Reports**

R10A City Attorney's Status Report.

(City Attorney Office)

**ACTION:** Written Report given.

**R10B Notice Of Closed Executive Session**

Pursuant To Section 447.605, Florida Statutes, A Closed Executive Session Will Be Held During Recess Of The City Commission Meeting On Wednesday, October 16, 2013, In The City Manager's Large Conference Room, Fourth Floor, City Hall, For A Discussion Relative To Collective Bargaining.

**ACTION:** Closed Executive Session announced and held.

**Reports and Informational Items**

1. Reports and Informational Items (see LTC No. 370-2013)
2. List of Projects Covered by the Cone of Silence Ordinance - LTC.  
(Procurement)
3. Report From Commission Committees Of Withdrawn Items Not Heard Within (6) Six Months From Their Referral Date.  
(City Clerk's Office)

**End of Regular Agenda**

## Miami Beach Redevelopment Agency

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

October 16, 2013

Chairperson of the Board Matti Herrera Bower

Member of the Board Jorge Exposito

Member of the Board Michael Góngora Absent

Member of the Board Jerry Libbin

Member of the Board Edward L. Tobin

Member of the Board Deede Weithorn

Member of the Board Jonah Wolfson Absent

Executive Director Jimmy L. Morales

Assistant Director Joe Jimenez

General Counsel Jose Smith

Secretary Rafael E. Granado

### AGENDA

#### 1. NEW BUSINESS

**12:51:03 p.m.**

A A Resolution Of The Chairperson And Members Of The Miami Beach Redevelopment Agency (“RDA”) Accepting The Recommendation Of The City’s Finance And Citywide Projects Committee (“FCWPC”) Pertaining To The Lease Agreement Between The Miami Beach Redevelopment Agency (“Landlord”) And 1560 Collins Avenue, Inc. D/B/A Shan (“Tenant”), In Connection With The Use Of Suites B And C In The Anchor Shops, Located At 1560 Collins Avenue, Suite No. 2, Miami Beach, Florida (“Space”) And Approving And Authorizing The Chairperson To Execute Lease Amendment No. 1, Exercising The Renewal Option Period, For The Five (5) Year Period Commencing March 19, 2013 And Ending March 18, 2018, Based Upon The Renewal Rent Schedule Approved By FCWPC.

(Tourism, Culture & Economic Development Department)

**ACTION: Resolution No. 600-2013 adopted.** Rafael E. Granado, City Clerk, announced that all Board members are present, except for Board Members Góngora and Wolfson. Motion made by Board Member Weithorn; seconded by Board Member Exposito; Voice-vote: 5-0; Absent: Commissioners Góngora and Wolfson. **Max Sklar to handle.**

Max Sklar, Tourism, Culture & Economic Development Department Director, introduced the item and explained that this is to exercise an amendment to the lease with Shan, a swimwear clothing store on their last month to month renewal. Negotiations have continued, and they met the same conditions as their adjacent tenants, US Vintage. Currently they pay \$47.50 per square foot; the lessor had approved from US Vintage \$65 plus other fees for a total of \$66.41 cents a square foot for the last five year term on this agreement; otherwise, everything is the same.

Commissioner Weithorn clarified that this item was discussed at Finance and Citywide Projects Committee and moved the item.

Vice-Mayor Tobin commented that this is a very good analysis by the people doing leasing, and in light of the fact of tenant mix in a strip center; they determined that the average square foot rent in

the neighborhood was \$89 a foot, so tenant pays for the cost in addition to the rent. When there is an \$89 per square foot, it usually means that you add 50% if you do gross with everything included. If the rent is \$100 per foot gross and the City is getting \$60 per foot, he thinks the rent is a large component of the deal in a five-year deal. He commended staff for presenting an excellent analysis and asked if this item will come back to the Commission.

Max Sklar, Tourism, Culture & Economic Development Department Director, explained that they considered going out and finding new tenants, paying brokerage fees and costs associated, but the current tenant will not pay anymore. Based upon that they felt this was the better option for the next five years.

Vice-Mayor Tobin recommended reviewing the tenant leases to see when they are about to expire, to avoid a situation like this. He reiterated that the staff doing the analysis now is very sharp and commended her for her efforts.

Max Sklar is looking at other leases for this property in 2014 that will come to the Commission. He recognized Gisela Torres for doing a great job.

Meeting adjourned at 7:28:47 p.m. - Commissioner Góngora made a motion to adjourn the meeting; seconded by Commissioner Libbin; Opposed: Vice-Mayor Tobin and Vice-Mayor Wolfson.