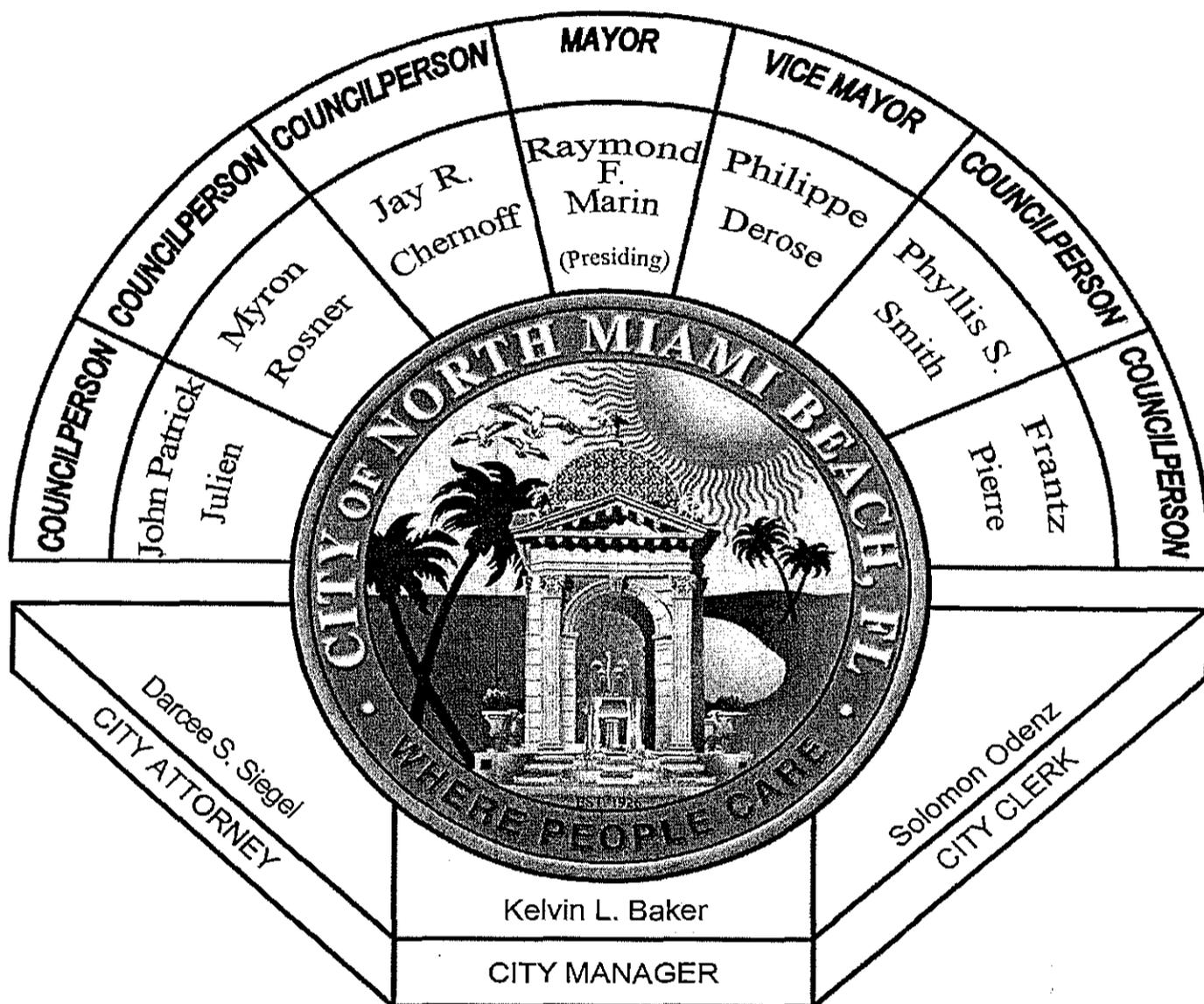


*Welcome*  
*To A Meeting of the*  
***City of North Miami Beach City Council***  
*Your City Officials*



## AGENDA

### REGULAR MEETING OF THE CITY COUNCIL CITY OF NORTH MIAMI BEACH, FLORIDA

DATE and TIME: TUESDAY, MARCH 3, 2009, 7:30 PM

LOCATION: CITY HALL, 17011 NE 19<sup>th</sup> AVENUE  
 2<sup>ND</sup> FLOOR, COUNCIL CHAMBERS

NEXT CITY COUNCIL MEETING: TUESDAY, MARCH 17, 2009

# AGENDA ITEMS

---

1. ROLL CALL OF THE CITY OFFICIALS:

2. INVOCATION:

(TO BE ANNOUNCED)

3. SALUTE TO THE AMERICAN FLAG.

4. REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA:

5. APPOINTMENTS/PRESENTATIONS:

A. APPOINTMENTS:

NONE

B. PRESENTATIONS:

NONE

6. APPROVAL OF MINUTES:

FEBRUARY 17, 2009

7. CITY MANAGER'S REPORT:

KELVIN L. BAKER

A. N.E. 15<sup>TH</sup> AVENUE CONSTRUCTION UPDATE.

B. VICTORY POOL SLIDE UPDATE.

8. CITY ATTORNEY'S REPORT:

DARCEE S. SIEGEL

# AGENDA ITEMS

## 9. SCHEDULED CITIZENS APPEARANCE:

### TO ALL CITIZENS APPEARING UNDER SCHEDULED APPEARANCES:

THE COUNCIL HAS A RULE WHICH DOES NOT ALLOW DISCUSSION ON ANY MATTER WHICH IS BROUGHT UP UNDER CITIZENS APPEARANCES UNLESS IT IS AN EMERGENCY. WE ARE, HOWEVER, VERY HAPPY TO LISTEN TO YOU. THE REASON FOR THIS IS THAT THE COUNCIL MUST HAVE STAFF INPUT AND PRIOR KNOWLEDGE AS TO FACTS AND FIGURES SO THAT THEY CAN INTELLIGENTLY DISCUSS A MATTER. THE COUNCIL MAY WISH TO ASK QUESTIONS REGARDING THIS MATTER BUT WILL NOT BE REQUIRED TO DO SO. AT THE NEXT OR SUBSEQUENT COUNCIL MEETING YOU MAY, IF YOU SO DESIRE, HAVE ONE OF THE COUNCIL PERSONS INTRODUCE YOUR MATTER AS HIS OR HER RECOMMENDATION. WE WISH TO THANK YOU FOR TAKING THE TIME TO BRING THIS MATTER TO OUR ATTENTION.

\*\*\*\*\*

### SPEAKING BEFORE THE CITY COUNCIL:

THERE IS A THREE (3) MINUTE TIME LIMIT FOR SPEAKERS/CITIZENS PARTICIPATION AT ALL PUBLIC HEARINGS AS WELL AS SCHEDULED/UNSCHEDULED CITIZENS APPEARANCE(S). YOUR COOPERATION IS APPRECIATED IN OBSERVING THE THREE (3) MINUTE TIME LIMIT POLICY.

IF YOU HAVE A MATTER YOU WOULD LIKE TO DISCUSS WHICH REQUIRES MORE THAN THREE (3) MINUTES, PLEASE FEEL FREE TO ARRANGE A MEETING OR AN APPOINTMENT WITH THE APPROPRIATE ADMINISTRATIVE OR ELECTED OFFICIAL.

\*\*\*\*\*

**NOTE:** IN THE COUNCIL CHAMBERS, CITIZEN PARTICIPANTS ARE ASKED TO COME FORWARD TO THE PODIUM, GIVE YOUR NAME AND ADDRESS, NAME AND ADDRESS OF THE ORGANIZATION YOU ARE REPRESENTING, IF ANY, AND SPEAK ONLY ON THE SUBJECT FOR DISCUSSION.

THANKING YOU VERY MUCH, IN ADVANCE, FOR YOUR COOPERATION.

\*\*\*\*\*

### PLEDGE OF CIVILITY

A RESOLUTION WAS ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH RECOGNIZING THE IMPORTANCE OF CIVILITY, DECENCY AND RESPECTFUL BEHAVIOR IN PROMOTING CITIZEN PARTICIPATION IN A DEMOCRATIC GOVERNMENT. THE CITY OF NORTH MIAMI BEACH CALLS UPON ALL RESIDENTS, EMPLOYEES, AND ELECTED OFFICIALS TO EXERCISE CIVILITY TOWARD EACH OTHER. (RESOLUTION NO. R2007-57, 11/06/07)

\*\*\*\*\*

### NOTICE TO ALL LOBBYISTS

ANY PERSON WHO RECEIVES COMPENSATION, REMUNERATION OR EXPENSES FOR CONDUCTING LOBBYING ACTIVITIES IS REQUIRED TO REGISTER AS A LOBBYIST WITH THE CITY CLERK PRIOR TO ENGAGING IN LOBBYING ACTIVITIES BEFORE CITY BOARDS, COMMITTEES OR THE CITY COUNCIL. A COPY OF THE APPLICABLE ORDINANCE IS AVAILABLE IN THE OFFICE OF THE CITY CLERK (CITY OF NORTH MIAMI BEACH CITY HALL) LOCATED AT 17011 N.E. 19<sup>TH</sup> AVENUE, GROUND FLOOR, NORTH MIAMI BEACH, FLORIDA 33162

\*\*\*\*\*

A. FRANCES RICCA  
1615 N.E. 174 STREET  
NORTH MIAMI BEACH, FL.

RE: PROBLEMS WITH ALLEYS AND DOGS IN NEIGHBORHOOD.

# AGENDA ITEMS

## 9. SCHEDULED CITIZENS APPEARANCE - CONTINUED:

B. RICHARD RIESS  
23 N.W. 169 STREET  
NORTH MIAMI BEACH, FL.

RE: THE WHOLE TRUTH.

## 10. MISCELLANEOUS ITEMS:

NONE

## 11. WAIVER OF FEE:

NONE

## 12. BUSINESS TAX RECEIPT MATTERS: CITY CLERK

A. EBONY & IVORY ENTERTAINMENT, LLC  
d/b/a DIAMOND'S CABARET  
337 N.W. 170 STREET  
NORTH MIAMI BEACH, FL

ROBERT DRAPER, MANAGING MEMBER  
NORMAN POWELL, ATTORNEY AT LAW

RE: REQUEST APPROVAL OF A BUSINESS TAX RECEIPT FOR EXTENSION OF HOURS -4:00 A.M.  
TO 6:00 A.M. (INITIAL APPROVAL - 6 MONTHS)

## 13A. ADMINISTRATION OF TESTIMONY OATH (CITY CLERK)

*RECENT FLORIDA SUPREME COURT RULINGS REGARDING MUNICIPAL ZONING MATTERS REQUIRE ALL CITIZENS WHO WILL BE PRESENT BEFORE THE LEGISLATIVE BODY OR CITY COUNCIL TO FOLLOW THE RULE OF TESTIMONY OATH (CITY CLERK TO ADMINISTER OATH).*

# AGENDA ITEMS

## 13B. LEGISLATION:

### RESOLUTIONS (SERIATIM NO. R2009-17):

#### RESOLUTION NO. R2009-15

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA GRANTING SITE PLAN APPROVAL, IN ORDER TO CONSTRUCT A 4,600 SQUARE FOOT ADDITION TO AN EXISTING 11,713 SQUARE FOOT CHURCH, AS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS:

WEST 268 FEET OF LOT 3 AND LOT 4 EASTERN SHORES, PLAT BOOK 65, PAGE 28, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

A/K/A  
2601 N.E. 163 Street  
North Miami Beach, Florida  
(P&Z Item No. 08-439 of February 9, 2009)

#### RESOLUTION NO. R2009-16

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, SUPPORTING THE SUBSTANCE ABUSE RESOURCE GUIDE ("SARG") PARTNERSHIP, A MULTI-COALITION PARTNERSHIP CAMPAIGN FOR THE PREVENTION OF UNDERAGE DRINKING IN THE STATE OF FLORIDA; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

### ORDINANCES - FIRST READING, BY TITLE ONLY (SERIATIM NO. 2009-8):

#### ORDINANCE NO. 2009-7

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN TO PROVIDE FOR THE STATE MANDATED REQUIREMENTS OF WATER SUPPLY PLANNING AS DESCRIBED IN COMPREHENSIVE PLAN AMENDMENT PACKAGE, (ITEM # 08-439/DCA NO. 09RWSP-1), THAT AMENDS THE FUTURE LAND USE ELEMENT, INFRASTRUCTURE ELEMENT, CONSERVATION ELEMENT, INTERGOVERNMENTAL COORDINATION ELEMENT, AND CAPITAL IMPROVEMENT ELEMENT BY INCORPORATING THE "10-YEAR WATER SUPPLY FACILITIES WORK PLAN"; AUTHORIZING TRANSMITTAL OF THESE ADOPTED AMENDMENTS TO THE AGENCIES REQUIRED UNDER CHAPTER 163, PART II, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE. PROVIDING FOR A REPEALER PROVISION, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

### ORDINANCES - SECOND AND FINAL READING:

#### ORDINANCE NO. 2009-4

AN ORDINANCE AMENDING CHAPTER TWO OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA; PROVIDING FOR "EARLY VOTING" FOR MAYOR AND CITY COUNCIL ELECTIONS TO BE HELD IN MAY, 2009; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION OF THIS ORDINANCE.

# AGENDA ITEMS

---

**13B. LEGISLATION - CONTINUED:**

**ORDINANCES - SECOND AND FINAL READING - CONTINUED:**

**ORDINANCE NO. 2009-5**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, RELATING TO MUNICIPAL ELECTIONS; CHANGING THE DATE FOR THE CITY OF NORTH MIAMI BEACH MUNICIPAL RUNOFF ELECTION NOW SCHEDULED FOR MAY 12, 2009 TO MAY 19, 2009 AND TO ADJUST THE TERMS OF OFFICE OF SITTING COUNCILPERSONS NECESSITATED BY SUCH CHANGE OF DATE, AS REQUESTED BY THE MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS AND AS AUTHORIZED BY FLORIDA STATUTES §166.021(4) AND 100.3605(2); PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR AN EFFECTIVE DATE.

**ORDINANCE NO. 2009-6**

AN ORDINANCE AMENDING THE POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PLAN OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING ARTICLE II, DEFINITIONS, ARTICLE VI, RETIREMENT BENEFITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE, PROVIDING FOR AN EFFECTIVE DATE.

**14. UNSCHEDULED CITIZENS APPEARANCES:**

**15. CITY COUNCIL COMMITTEE REPORTS:**

**16. RECESS: (IF APPLICABLE - FOR CITY CLERK'S USE)**

**17. ADJOURNMENT:**

**18. NEXT CITY COUNCIL MEETING:**

**TUESDAY, MARCH 3, 2009**

# Diamond's Cabaret



## BUSINESS TAX RECEIPT APPLICATION

CITY OF NORTH MIAMI BEACH  
OFFICE OF THE CITY CLERK

4 AM-6 AM 17011 N.E. 19TH AVENUE 4 AM-6 AM  
NORTH MIAMI BEACH, FL 33162  
PHONE: (305) 787-6001

OFFICIAL USE

791700

PURSUANT TO THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH AND ANY AMENDMENTS THERETO, I (WE) HEREBY MAKE APPLICATION FOR A BUSINESS TAX RECEIPT TO CONDUCT THE BUSINESS DESCRIBED BELOW, AND I (WE) EXPECT TO COMMENCE OPERATION, OR HAVE COMMENCED OPERATION OF SAID BUSINESS ON OR ABOUT TO BE DETERMINED

TRANSFER: PURSUANT TO THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, I (WE) HEREBY MAKE APPLICATION FOR TRANSFER OF:  LOCATION  OWNERSHIP

NEW:   
TRANSFER:  
ADDITION(S):  
CHANGE(S):  
OTHER:  
DATE: 11/19/08  
MAILED:  
REC'D:  
CLERK: JC

FROM:  
TO:  
ADDITION(S), DELETION(S), AND/OR CHANGE(S): **PAID**  
CK. NO.  
DATE 12/3/08

BUSINESS ADDRESS: 337 N.W. 170th Street, NMB, FLORIDA 33169  
MAILING ADDRESS: SAME AS ABOVE

NAME OF BUSINESS (INDIVIDUAL, CORP., PA., L.L.C., ETC.)  
EBONY & IVORY ENTERTAINMENT, LLC  
TRADE NAME: DIAMOND'S CABARET

NAMES OF ALL PERSONS ASSOCIATED as Partners/Officers/Mgrs/Sales People/etc. and their TITLES and RESIDENCE ADDRESS:  
ROBERT N. DRAPER, MGRM  
1419 OAKLAWN PLACE  
LAKELAND, FLORIDA 33803  
ANDREW MOORE, MGRM, 2717 EWEK ROAD, LAKELAND, FL 33811

STATE FULL NATURE OF BUSINESS: EXTENSION OF HOURS FROM 2-4 A.M. 4-6

TELEPHONE NUMBERS	STOCK/COST VALUE \$	AMOUNT(S)	CODE
BUSINESS: 305-654-3500	NO. SEATS/RESTAURANT:	4:00-6:00 AM	3,000.00 #4182
RESIDENCE: 786-683-0064	NO. ROOMS/APARTMENTS:	EXT HRS.	25.00
EMERGENCY: 786-355-4500	NO. WACHER/OBVERS: PANEL	1st 6 MONTHS	
CELLULAR: 863-640-3773	NO. AMUSEMENT DEVICES:		3,025.00
PRESIDENT	NO. GASOLINE PUMPS:		

### NOTICE

A BUSINESS TAX RECEIPT IS ISSUED ONLY AFTER APPROVAL OF ZONING, BUILDING, FIRE INSPECTION(S) (WHERE APPLICABLE), PAYMENT OF INPLANT FEE (WHERE APPLICABLE), POLICE DEPT. (WHERE APPLICABLE). I CERTIFY THAT ALL INFORMATION SHOWN ABOVE TO BE TRUE AND CORRECT, AND I DO UNDERSTAND THAT THE SAID BUSINESS AND/OR PREMISE IS NON-TRANSFERABLE WITHOUT CITY APPROVAL. BUSINESS TAX RECEIPTS OBTAINED ON A MISREPRESENTATION OF A MATERIAL FACT ARE NULL AND VOID.

D/B/A DIAMOND'S CABARET  
BUSINESS NAME  
APPLICANT OR AUTHORIZED AGENT  
President

### INSPECTION - ADMINISTRATIVE STATUS REPORT

(TO BE SIGNED BY AUTHORIZED PERSON - WHEN APPROVED RETURN TO OFFICE OF THE CITY CLERK)

APPROVED: [Signature]  
OFFICIAL DATE 12/4/08  
DENIED: OFFICIAL DATE

Department	Date Sent	Date Rec'd
ZONING	12/3/08	12/5/09
BUILDING	12/3/08	12/4/09
CITY CLERK		
FIRE	12/3/08	12/3/09
PUBLIC UTILITIES	12/3/08	12/3/09

CONDITIONS &/or STIPULATIONS (Res., Ord., Administrative or Council Action):  
Subject to City Council Approval

# City of North Miami Beach Police Department

## Inter-Office Memorandum

To: Sol Odenz  
City Clerk

Date: 2/26/09

From: Rafael P. Hernandez Jr.  
Chief of Police

Subject: Diamonds  
337-341 NW 170 St  
NMB, Fl.

Per your request, detectives conducted a complete background check into the business of Ebony and Ivory Entertainment, D.B.A. Diamonds at 337-341 NW 170 St. Using the State of Florida Corporation Web Sight (SUNBIZ.ORG). The following was learned: **Andrew F. Moore, Robert N. Draper** are the owners listed on the business license. The business is licensed through the State of Florida and is currently active (FEI-203067889).

A request for background history was made with the Florida Department of Law Enforcement and there was no criminal history on file in the State of Florida for the person's listed on the occupational license addendum. Those people have valid Florida driver's licenses.

Calls for service analysis was conducted for the time frame of 11-27-2008 to 02-25-2009, there were six (06) calls for service during that time frame.

- 1) Burglary Vehicle (1) 2008-1129-01 Occurred @ 2356 AM
- 2) Disturbance (1) 2008-1206-01 Occurred @ 1:25 AM (caused by intoxicated patron)
- 3) Patron Arrested (firearm violation, drug possession, resisting) 2008-1213-04 Occurred @ 0340 am
- 4) Hit and run (1) 2008-1221-03 Occurred @ 03:52 AM
- 5) Domestic Violence Arrest (1) 2009-0104-01 Occurred @ 04:22 AM
- 6) Fugitive Warrant Arrest (1) 2009-0104-02 Occurred @ 05:47 AM

LAW OFFICES OF  
**NORMAN C. POWELL**  
17100 NORTHEAST 19TH AVENUE  
NORTH MIAMI BEACH, FLORIDA 33162

TELEPHONE (786) 279-1603  
FACSIMILE (786) 279-1607  
E-MAIL n@normanpowell.com

February 25, 2009

**HAND DELIVERED**

Solomon Odenz, City Clerk  
Office of the City Clerk  
City of North Miami Beach  
17011 N.E. 19<sup>th</sup> Avenue  
North Miami Beach, Florida 33162

RECEIVED  
09 FEB 25 AM 10:17  
CNMB CITY CLERK'S OFFICE

Re: Ebony & Ivory Entertainment LLC d/b/a Diamond's Cabaret ("Diamond's"  
– Business Tax Receipt (4 a.m. to 6 a.m. license)

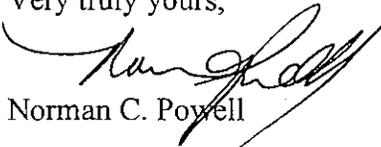
Dear Mr. Odenz:

The undersigned represents Diamond's regarding the above-referenced matter. Please allow this correspondence to request that Diamond's application for a 4 a.m. to 6 a.m. license be placed on the City Council's March 3, 2009 Agenda. As you may recall, Diamond's had previously completed an application for the license and withdrew its request from the Council's November 2008 Agenda. Please note that all of the information in Diamond's November (2008) application remain the same.

I have also included copies of Diamond's Miami-Dade County Fire Department Operating Permit and Alcohol license and a check in the amount of Three Thousand Twenty Five Dollars for the application fee.

We thank you for your anticipated cooperation with this matter. Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

  
Norman C. Powell

Enc: As stated.

**City of North Miami Beach  
Interoffice Memorandum**



*City Manager's Office*

**TO:** Sol Odenz, City Clerk  
**FROM:** Kelvin L. Baker, City Manager  
**DATE:** February 26, 2009

A handwritten signature in black ink, appearing to be "K. Baker", written over the "FROM:" line.

---

**RE: Ebony & Ivory Entertainment LLC / DBA Diamonds Cabaret**

---

This is to inform you that the Zoning, Building, and Public Utilities administrative route sheets (attached) for the Diamonds Cabaret application dated November 19, 2008, are hereby approved to be placed on the March 3, 2009 agenda for a 4am-6am business tax receipt.

If you have any questions or need any additional information, please feel free to call me.

KLB:ep

Cc: Mayor and Council

# Diamond's Cabaret



## BUSINESS TAX RECEIPT APPLICATION

OFFICIAL USE

791700

4 AM-6 AM

CITY OF NORTH MIAMI BEACH  
OFFICE OF THE CITY CLERK  
17011 N.E. 19TH AVENUE  
NORTH MIAMI BEACH, FL 33162  
PHONE: (305) 787-6001

4 AM-6 AM

PURSUANT TO THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH AND ANY AMENDMENTS THERETO, I (WE) HEREBY MAKE APPLICATION FOR A BUSINESS TAX RECEIPT TO CONDUCT THE BUSINESS DESCRIBED BELOW, AND I (WE) EXPECT TO COMMENCE OPERATION, OR HAVE COMMENCED OPERATION OF SAID BUSINESS ON OR ABOUT TO BE DETERMINED

TRANSFER: PURSUANT TO THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, I (WE) HEREBY MAKE APPLICATION FOR TRANSFER OF:  LOCATION  OWNERSHIP

NEW:   
TRANSFER:  
ADDITION(S):  
CHANGE(S):  
OTHER:  
DATE: 11/19/08  
MAILED:  
REC'D:  
CLERK: *je*

FROM:  
TO:

**PAID**

ADDITION(S), DELETION(S), AND/OR CHANGE(S):

CK. NO.  
DATE: 12/3/08

BUSINESS ADDRESS: 337 N.W. 170th Street, NMB, FLORIDA 33169  
MAILING ADDRESS: SAME AS ABOVE

NAME OF BUSINESS (INDIVIDUAL, CORP., P.A., L.L.C., ETC.):  
EBONY & IVORY ENTERTAINMENT, LLC  
TRADE NAME: DIAMOND'S CABARET

NAMES of ALL PERSONS ASSOCIATED as Partners/Officers/Mgrs/Sales People/etc. and their TITLES and RESIDENCE ADDRESS:  
ROBERT N. DRAPER MGRM  
1419 OAK LAWN PLACE  
LAKELAND, FLORIDA 33803  
ANDREW MOORE, MGRM, 2717 EWELE ROAD, LAKELAND, FL 33811

STATE FULL NATURE OF BUSINESS: EXTENSION OF HOURS FROM 2-4 A.M. 4-6

TELEPHONE NUMBERS	STOCK/COST VALUE \$	AMOUNT(S)	CODE
BUSINESS: 305-654-3500	NO. SEATS/RESTAURANT:	4:00-6:00 AM	3,000.00 #4182
RESIDENCE: 786-683-0069	NO. ROOMS/APARTMENTS:	EXT HRS. 25.00	
EMERGENCY: 786-355-4500	LAW OFFICE OF NORMAN NO. WAREHOUSES: FAVES	1st 6 MONTHS	
CELLULAR: 786-640-3773	NO. AMUSEMENT DEVICES:	3,025.00	
PRESIDENT	NO. GASOLINE PUMPS:		

### NOTICE

A BUSINESS TAX RECEIPT IS ISSUED ONLY AFTER APPROVAL OF ZONING, BUILDING, FIRE INSPECTION(S) (WHERE APPLICABLE), PAYMENT OF INPLANT FEE (WHERE APPLICABLE), POLICE DEPT. (WHERE APPLICABLE). I CERTIFY THAT ALL INFORMATION SHOWN ABOVE TO BE TRUE AND CORRECT, AND I DO UNDERSTAND THAT THE SAID BUSINESS AND/OR PREMISE IS NON-TRANSFERABLE WITHOUT CITY APPROVAL. BUSINESS TAX RECEIPTS OBTAINED ON A MISREPRESENTATION OF A MATERIAL FACT ARE NULL AND VOID.

D/B/A DIAMOND'S CABARET  
BUSINESS NAME  
APPLICANT OR AUTHORIZED AGENT  
President

### INSPECTION - ADMINISTRATIVE STATUS REPORT

(TO BE SIGNED BY AUTHORIZED PERSON - WHEN APPROVED RETURN TO OFFICE OF THE CITY CLERK)

APPROVED: *[Signature]* 12/3/08  
OFFICIAL DATE

DENIED: \_\_\_\_\_  
OFFICIAL DATE

Department	Date Sent	Date Rec'd
ZONING	12/3/08	12/5/09
BUILDING	12/3/08	12/4/09
CITY CLERK		
FIRE	12/3/08	12/3/09
PUBLIC UTILITIES	12/3/08	12/3/09

CONDITIONS & or STIPULATIONS (Res. Ord., Administrative or Council Action):  
Subject to City Council Approval

*Diamonds Cabaret*



**BUSINESS TAX RECEIPT APPLICATION**  
 CITY OF NORTH MIAMI BEACH  
 OFFICE OF THE CITY CLERK  
 17011 N.E. 19TH AVENUE  
 NORTH MIAMI BEACH, FL 33162  
 PHONE: (305) 787-6001

OFFICIAL USE  
 791700

4 AM-6 AM 4 AM-6 AM

PURSUANT TO THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH AND ANY AMENDMENTS THERETO, I (WE) HEREBY MAKE APPLICATION FOR A BUSINESS TAX RECEIPT TO CONDUCT THE BUSINESS DESCRIBED BELOW, AND I (WE) EXPECT TO COMMENCE OPERATION, OR HAVE COMMENCED OPERATION OF SAID BUSINESS ON OR ABOUT TO BE DETERMINED

**TRANSFER:** PURSUANT TO THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, I (WE) HEREBY MAKE APPLICATION FOR TRANSFER OF:  LOCATION  OWNERSHIP

**FROM:** \_\_\_\_\_

**TO:** \_\_\_\_\_

**ADDITION(S), DELETION(S), AND/OR CHANGE(S):**

OK. NO. \_\_\_\_\_  
 DATE 12/3/08

NEW:

TRANSFER: \_\_\_\_\_

ADDITION(S): \_\_\_\_\_

CHANGE(S): \_\_\_\_\_

OTHER: \_\_\_\_\_

DATE: 1/1/11

MAILED: \_\_\_\_\_

REC'D: \_\_\_\_\_

CLERK: \_\_\_\_\_

**PAID**

**BUSINESS ADDRESS:** 337 N.W. 170th Street, NMB, Florida 33169  
**MAILING ADDRESS:** SAME AS ABOVE

**NAME OF BUSINESS (INDIVIDUAL, CORP, PA., L.L.C., ETC.):** EBONY & IVORY ENTERTAINMENT, LLC  
**TRADE NAME:** DIAMONDS CABARET

**NAMES of ALL PERSONS ASSOCIATED as Partners/Officers/Mgrs/Sales People/etc. and their TITLES and RESIDENCE ADDRESS:**

ROBERT N. DRAPER MGRM  
1419 OAK LAWN PLACE  
LAKELAND, FLORIDA 33803

ANDREW MOORE MGRM, 2717 EWELE ROAD, LAKELAND, FL 33811

**STATE FULL NATURE OF BUSINESS:** EXTENSION OF HOURS FROM 4 AM TO 6 AM

TELEPHONE NUMBERS	STOCK/COST VALUE \$	AMOUNT(S)	CODE
BUSINESS: <u>305-654-3500</u>	NO. SEATS/RESTAURANT:	<u>4:00-6:00 AM</u>	<u>4182</u>
RESIDENCE: <u>263-683-0069</u>	NO. ROOMS/APARTMENTS:	<u>EXT HRS 25.00</u>	
EMERGENCY: <u>786-355-4500</u>	LAW OFFICE OF MORNIN NO. WAGNER/DRIVERS: <u>PAUL</u>	<u>1st 6 MONTHS</u>	
CELLULAR: <u>863-640-3773</u>	NO. AMUSEMENT DEVICES:	<u>3,025.00</u>	
<u>RESIDENT</u>	NO. GASOLINE PUMPS:		

**NOTICE**

A BUSINESS TAX RECEIPT IS ISSUED ONLY AFTER APPROVAL OF ZONING, BUILDING, FIRE INSPECTION(S) (WHERE APPLICABLE), PAYMENT OF INPLANT FEE (WHERE APPLICABLE), POLICE DEPT. (WHERE APPLICABLE). I CERTIFY THAT ALL INFORMATION SHOWN ABOVE TO BE TRUE AND CORRECT, AND I DO UNDERSTAND THAT THE SAID BUSINESS AND/OR PREMISE IS NON-TRANSFERABLE WITHOUT CITY APPROVAL. BUSINESS TAX RECEIPTS OBTAINED ON A MISREPRESENTATION OF A MATERIAL FACT ARE NULL AND VOID.

D/B/A DIAMONDS CABARET 12/3/08 President  
 BUSINESS NAME APPLICANT OR AUTHORIZED AGENT

**INSPECTION - ADMINISTRATIVE STATUS REPORT** OFFICIAL USE  
 (TO BE SIGNED BY AUTHORIZED PERSON - WHEN APPROVED RETURN TO OFFICE OF THE CITY CLERK)

**APPROVED:** [Signature] 12/3/08  
 OFFICIAL DATE

**DENIED:** \_\_\_\_\_  
 OFFICIAL DATE

Department	Date Sent	Date Rec'd
ZONING	<u>12/3/09</u>	<u>12/5/09</u>
BUILDING	<u>12/3/09</u>	<u>12/4/09</u>
CITY CLERK		
FIRE	<u>12/3/08</u>	<u>12/9/09</u>
PUBLIC UTILITIES	<u>12/3/09</u>	<u>1/4/09</u>

CONDITIONS &/or STIPULATIONS (Res., Ord., Administrative or Council Action):

WHITE - Zoning Dept. GREEN - Utility Dept. CANARY - Building Dept. PINK - City Clerk GOLDENROD - Fire Dept.

Diamonds Cabaret



BUSINESS TAX RECEIPT APPLICATION

OFFICIAL USE

CITY OF NORTH MIAMI BEACH  
OFFICE OF THE CITY CLERK  
17011 N.E. 19TH AVENUE  
NORTH MIAMI BEACH, FL 33162  
PHONE: (305) 787-6001

791700

4 AM-6 AM

4 AM-6 AM

PURSUANT TO THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH AND ANY AMENDMENTS THERETO, I (WE) HEREBY MAKE APPLICATION FOR A BUSINESS TAX RECEIPT TO CONDUCT THE BUSINESS DESCRIBED BELOW, AND I (WE) EXPECT TO COMMENCE OPERATION, OR HAVE COMMENCED OPERATION OF SAID BUSINESS ON OR ABOUT TO BE DETERMINED

TRANSFER: PURSUANT TO THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, I (WE) HEREBY MAKE APPLICATION FOR TRANSFER OF:  LOCATION  OWNERSHIP

NEW:   
TRANSFER:  
ADDITION(S):  
CHANGE(S):  
OTHER:  
DATE: 11/19/08  
MAILED:  
REC'D:  
CLERK: JC

FROM:  
TO:

ADDITION(S), DELETION(S), AND/OR CHANGE(S)

PAID

CK. NO. 12/3/08  
DATE

BUSINESS ADDRESS: 337 N.W. 170th Street, NMB, FLORIDA 33169  
MAILING ADDRESS: SAME AS ABOVE

NAME OF BUSINESS (INDIVIDUAL, CORP., P.A., L.L.C., ETC.)

EBONY & IVORY ENTERTAINMENT, LLC  
TRADE NAME: DIAMONDS CABARET

NAMES of ALL PERSONS ASSOCIATED as Partners/Officers/Mgrs/Sales People/etc. and their TITLES and RESIDENCE ADDRESS:  
ROBERT N. DRAPER MGRM  
1419 OAK LAWN PLACE  
LAKELAND, FLORIDA 33803  
ANDREW MOORE, MGRM, 2717 EWELL ROAD, LAKELAND, FL 33811

STATE FULL NATURE OF BUSINESS: EXTENSION OF HOURS FROM 2 A.M. TO 4-6

TELEPHONE NUMBERS	STOCK/COST VALUE \$	AMOUNT(S)	CODE
BUSINESS: 305-654-3500		3,000.00	#4182
RESIDENCE: 863-683-0069	NO. SEATS/RESTAURANT:	4:00-6:00 AM	
EMERGENCY: 786-355-4100	NO. ROOMS/APARTMENTS:	EXT HRS. 25.00	
CELLULAR: 863-640-3773	NO. AMUSEMENT DEVICES:	1st 6 MONTHS	
PRESIDENT	NO. GASOLINE PUMPS:	3,025.00	

NOTICE

A BUSINESS TAX RECEIPT IS ISSUED ONLY AFTER APPROVAL OF ZONING, BUILDING, FIRE INSPECTION(S) (WHERE APPLICABLE), PAYMENT OF INPLANT FEE (WHERE APPLICABLE), POLICE DEPT. (WHERE APPLICABLE). I CERTIFY THAT ALL INFORMATION SHOWN ABOVE TO BE TRUE AND CORRECT, AND I DO UNDERSTAND THAT THE SAID BUSINESS AND/OR PREMISE IS NON-TRANSFERABLE WITHOUT CITY APPROVAL. BUSINESS TAX RECEIPTS OBTAINED ON A MISREPRESENTATION OF A MATERIAL FACT ARE NULL AND VOID.

D/B/A DIAMONDS CABARET  
BUSINESS NAME APPLICANT OR AUTHORIZED AGENT President

INSPECTION - ADMINISTRATIVE STATUS REPORT (TO BE SIGNED BY AUTHORIZED PERSON - WHEN APPROVED, RETURN TO OFFICE OF THE CITY CLERK)

APPROVED: [Signature] DATE 12/3/08  
DENIED: OFFICIAL DATE

Department	Date Sent	Date Rec'd
ZONING	12/3/09	
BUILDING	12/3/09	
CITY CLERK		
FIRE	12/3/08	9
PUBLIC UTILITIES	12/3/08	

CONDITIONS &/or STIPULATIONS (Res., Ord., Administrative or Council Action):



# BUSINESS TAX RECEIPT APPLICATION

CITY OF NORTH MIAMI BEACH  
OFFICE OF THE CITY CLERK

17011 N.E. 19TH AVENUE  
NORTH MIAMI BEACH, FL 33162  
PHONE: (305) 787-6001

OFFICIAL USE

71170

4 AM-6 AM

4 AM-6 AM

PURSUANT TO THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH AND ANY AMENDMENTS THERETO, I (WE) HEREBY MAKE APPLICATION FOR A BUSINESS TAX RECEIPT TO CONDUCT THE BUSINESS DESCRIBED BELOW, AND I (WE) EXPECT TO COMMENCE OPERATION, OR HAVE COMMENCED OPERATION OF SAID BUSINESS ON OR ABOUT TO BE DETERMINED

**TRANSFER:** PURSUANT TO THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, I (WE) HEREBY MAKE APPLICATION FOR TRANSFER OF:  LOCATION  OWNERSHIP

FROM: \_\_\_\_\_

TO: \_\_\_\_\_

ADDITION(S), DELETION(S), AND/OR CHANGE(S):

**PAID**

CK. NO. \_\_\_\_\_  
DATE \_\_\_\_\_

NEW:

TRANSFER:

ADDITION(S):

CHANGE(S):

OTHER:

DATE:

MAILED:

REC'D:

CLERK:

BUSINESS ADDRESS: 337 N.W. 170th Street NMB FLORIDA 33117

MAILING ADDRESS: SAME AS ABOVE

NAME OF BUSINESS (INDIVIDUAL, CORP., P.A., L.L.C., ETC.)

RUBY & IVORY ENTERTAINMENT LLC

TRADE NAME: DIAMONDS CABARET

NAMES of ALL PERSONS ASSOCIATED as Partners/Officers/Mgrs/Sales People/etc. and their TITLES and RESIDENCE ADDRESS:

ROBERT N. AYRES, MGR

1411 OAK LAWN PLACE

DADELAND FLORIDA 33183

ANDREW MOORE, MGR, 577 EULL ROAD, DADELAND FL

STATE FULL NATURE OF BUSINESS: EXTENSION OF HOUSE TRAILER

4-6

TELEPHONE NUMBERS	STOCK/COST VALUE \$	AMOUNT(S)	CODE
BUSINESS: <u>305-254-3570</u>	NO. SEATS/RESTAURANT:	<u>4</u>	<u>41-0</u>
RESIDENCE: <u>263-683-6000</u>	NO. ROOMS/APARTMENTS:	<u>17</u>	
EMERGENCY: <u>786-355-4500</u>	NO. WASHER/DRYERS: <u>PASS</u>		
CELLULAR: <u>305-40-3773</u>	NO. AMUSEMENT DEVICES:		
<u>APPLICANT</u>	NO. GASOLINE PUMPS:		

## NOTICE

A BUSINESS TAX RECEIPT IS ISSUED ONLY AFTER APPROVAL OF ZONING, BUILDING, FIRE INSPECTION(S) (WHERE APPLICABLE), PAYMENT OF INPLANT FEE (WHERE APPLICABLE), POLICE DEPT. (WHERE APPLICABLE). I CERTIFY THAT ALL INFORMATION SHOWN ABOVE TO BE TRUE AND CORRECT, AND I DO UNDERSTAND THAT THE SAID BUSINESS AND/OR PREMISE IS NON-TRANSFERABLE WITHOUT CITY APPROVAL. BUSINESS TAX RECEIPTS OBTAINED ON A MISREPRESENTATION OF A MATERIAL FACT ARE NULL AND VOID.

D/R/A DIAMONDS CABARET

BUSINESS NAME

APPLICANT OR AUTHORIZED AGENT

OFFICIAL USE

### INSPECTION - ADMINISTRATIVE STATUS REPORT

OFFICIAL USE

(TO BE SIGNED BY AUTHORIZED PERSON - WHEN APPROVED RETURN TO OFFICE OF THE CITY CLERK)

APPROVED:

OFFICIAL

1-12-9-02  
DATE

DENIED:

OFFICIAL

DATE

CONDITIONS &/or STIPULATIONS (Res., Ord., Administrative or Council Action):

Department	Date Sent	Date Rec'd
ZONING		
BUILDING		
CITY CLERK		
FIRE		
PUBLIC UTILITIES		

**MEMORANDUM**

**TO: MAYOR AND CITY COUNCIL  
CITY CLERK  
CITY MANAGER**

**FROM: DARCEE S. SIEGEL  
CITY ATTORNEY**

**DATE: March 3, 2009**

---

**RE: RESOLUTION NO. R2009-15  
Mormon Church Addition**

---

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL  
OF THE CITY OF NORTH MIAMI BEACH, FLORIDA  
GRANTING SITE PLAN APPROVAL, IN ORDER TO  
CONSTRUCT A 4,600 SQUARE FOOT ADDITION TO AN  
EXISTING 11,713 SQUARE FOOT CHURCH, AS  
PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS:**

**WEST 268 FEET OF LOT 3 AND LOT 4 EASTERN SHORES,  
PLAT BOOK 65, PAGE 28, PUBLIC RECORDS OF MIAMI-  
DADE COUNTY, FLORIDA.**

**A/K/A  
2601 N.E. 163 Street  
North Miami Beach, Florida**

**(P&Z Item No. 08-439 of February 9, 2009)**

**RESOLUTION NO. R2009-15**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA GRANTING SITE PLAN APPROVAL, IN ORDER TO CONSTRUCT A 4,600 SQUARE FOOT ADDITION TO AN EXISTING 11,713 SQUARE FOOT CHURCH, AS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS:**

**WEST 268 FEET OF LOT 3 AND LOT 4 EASTERN SHORES, PLAT BOOK 65, PAGE 28, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.**

**A/K/A  
2601 N.E. 163 Street  
North Miami Beach, Florida**

**(P&Z Item No. 08-439 of February 9, 2009)**

**WHEREAS**, the property described herein is zoned B-2, General Business District; and

**WHEREAS**, the applicant requests site plan approval in order to construct a 4,600 square foot addition to an existing 11,713 square foot church at 2601 N.E. 163 Street; and

**WHEREAS**, the Planning and Zoning Board on February 9, 2009 recommended approval of the site plan, subject to the following conditions:

1. Plans submitted for building permit(s) shall substantially comply with those as currently submitted, including the following:
  - Survey, Sheets 1, 2, 3 and 4, by CPH Surveyors, dated 9/26/08 and last revised 1/05/09;
  - Site Plan, Sheet C-4, by CPH, dated 9/4/08 and last revised 12/30/08;
  - Demolition Plan, Sheet D-1, by CPH, dated 11/7/08 and last revised 12/30/08;
  - Floor Plan, Sheet A-1, by CPH, dated 11/7/08;
  - Exterior Elevations (West & South), Sheet A-2, by CPH, dated 10/20/08;
  - Exterior Elevations (North & East), Sheet A-3, by CPH, dated 10/20/08;
  - Roof Plan, Sheet A-4, by CPH, dated 9/4/08 and last revised 12/30/08;
  - Landscape Plan, Sheet L-1, by CPH, dated 1/06/09;
  - Landscape Details, Sheet L-2, by CPH, dated 10/08;
  - Photometric Lighting Plan, Sheet PH-1, by CPH, dated 12/17/08;
  - Freestanding Sign, Sheet S, by CPH, dated 12/30/08
2. A complete paving and drainage plan showing proposed and existing grading, drainage details and calculations must be submitted to and approved by the City Engineer prior to the issuance of a building permit.
3. All utilities, including but not limited to electrical, cable television and telephone must be located underground. The manner of locating these utilities, as well as the location of the transformer(s) must be submitted to and approved by the Community Development Director. Transformers and other above ground equipment must be screened with landscaping.
4. Project must be in complete conformity with the Americans With Disabilities Act (ADA).
5. Size and location of the garbage dumpster enclosure shall be submitted to and approved by the Directors of Public Works and Community Development prior to the issuance of a building permit for this project. The dumpster enclosure shall be constructed of cbs, have solid metal gates to prevent views into the enclosure, be large enough to encompass recycling materials, and be equipped with running water, hose hook-up and a floor drain.

6. Building materials and color samples must be submitted to, and approved by, the Community Development Director prior to the issuance of a building permit for this project.
7. A lighting plan for the entire property shall be submitted by a qualified lighting professional. Said plan shall include the entire property, and, if necessary, the adjacent swale areas, and shall include decorative facade lighting in addition to that provided for safety and security needs. All exterior lighting shall be white lighting only. Lighting shall be contained on-site only, and in particular, shall not “bleed” into the adjacent residential area to the north.
8. A revised landscape and irrigation plan, signed and sealed by a Florida registered Landscape Architect, shall be submitted to, and approved by, the City Forester. The plan shall be approved prior to the issuance of a building permit, and the installed materials inspected and approved prior to the issuance of a Certificate of Occupancy. This plan shall include all adjacent swale areas.
9. All wall signage must be a bronze wall-mounted plaque as indicated. Monument sign, if desired, shall be comprised of CBS, with applied metal letters as shown. Natural keystone shall be used to match the building. The use of cast stone is prohibited.
10. No external speaker system, including bells, chimes or similar shall be permitted.
11. The design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles and street furniture must be submitted to and approved by the Community Development Director.
12. Windows shall be true multi-paned divided windows.
13. Subject property shall not be used to operate a school or day care. However, this shall not preclude supervision of parishioner’s children during church services or other related activities.
14. Subject property shall not be used for the provision of homeless services, including, but not limited to meals, housing or social services.
15. Subject property shall not be used as a hall for hire, except for the use by parishioners for weddings and similar events.
16. Vehicular ingress and egress to the property shall not be permitted from NE 26 Avenue.
17. All curb-cut and driveway connections require the approval of the Florida Department of Transportation (FDOT) prior to the issuance of a building permit for this project. Vehicular access from NE 26 Avenue will not be permitted.
18. No change to the subject resolution or the conditions contained therein shall be permitted without public hearing.
19. Final plans for building permit must be reviewed and approved by the Police Department for safety and security issues.
20. When plans are submitted for building permit, a cover sheet must be included incorporating the final Resolution approving this project, including all conditions related to said approval.

**NOW, THEREFORE,**

**BE IT RESOLVED** by the City Council of the City of North Miami Beach, Florida.

**Section 1.** Site plan approval in order to construct an addition to an existing 11,713 square foot church, on property legally described as:

**WEST 268 FEET OF LOT 3 AND LOT 4 EASTERN SHORES,  
PLAT BOOK 65, PAGE 28, PUBLIC RECORDS OF MIAMI-  
DADE COUNTY, FLORIDA**

**A/K/A  
2601 N.E. 163 Street  
North Miami Beach, Florida**

be and the same is granted subject to the following conditions:

1. Plans submitted for building permit(s) shall substantially comply with those as currently submitted, including the following:
  - • Survey, Sheets 1, 2, 3 and 4, by CPH Surveyors, dated 9/26/08 and last revised 1/05/09;
  - • Site Plan, Sheet C-4, by CPH, dated 9/4/08 and last revised 12/30/08;
  - • Demolition Plan, Sheet D-1, by CPH, dated 11/7/08 and last revised 12/30/08;
  - • Floor Plan, Sheet A-1, by CPH, dated 11/7/08;
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  - • Exterior Elevations (North & East), Sheet A-3, by CPH, dated 10/20/08;
  - • Roof Plan, Sheet A-4, by CPH, dated 9/4/08 and last revised 12/30/08;
  - • Landscape Plan, Sheet L-1, by CPH, dated 1/06/09;
  - • Landscape Details, Sheet L-2, by CPH, dated 10/08;
  - • Photometric Lighting Plan, Sheet PH-1, by CPH, dated 12/17/08;
  - • Freestanding Sign, Sheet S, by CPH, dated 12/30/08
2. A complete paving and drainage plan showing proposed and existing grading, drainage details and calculations must be submitted to and approved by the City Engineer prior to the issuance of a building permit.
3. All utilities, including but not limited to electrical, cable television and telephone must be located underground. The manner of locating these utilities, as well as the location of the transformer(s) must be submitted to and approved by the Community Development Director. Transformers and other above ground equipment must be screened with landscaping.
4. Project must be in complete conformity with the Americans With Disabilities Act (ADA).
5. Size and location of the garbage dumpster enclosure shall be submitted to and approved by the Directors of Public Works and Community Development prior to the issuance of a building permit for this project. The dumpster enclosure shall be constructed of cbs, have solid metal gates to prevent views into the enclosure, be large enough to encompass recycling materials, and be equipped with running water, hose hook-up and a floor drain.
6. Building materials and color samples must be submitted to, and approved by, the Community Development Director prior to the issuance of a building permit for this project.
7. A lighting plan for the entire property shall be submitted by a qualified lighting professional. Said plan shall include the entire property, and, if necessary, the adjacent swale areas, and shall include decorative facade lighting in addition to that provided for safety and security needs. All exterior lighting shall be white lighting only. Lighting shall be contained on-site only, and in particular, shall not "bleed" into the adjacent residential area to the north.
8. A revised landscape and irrigation plan, signed and sealed by a Florida registered Landscape Architect, shall be submitted to, and approved by, the City Forester. The plan shall be approved prior to the issuance of a building permit, and the installed materials inspected and approved prior to the issuance of a Certificate of Occupancy. This plan shall include all adjacent swale areas.
9. All wall signage must be a bronze wall-mounted plaque as indicated. Monument sign, if desired, shall be comprised of CBS, with applied metal letters as shown. Natural keystone shall be used to match the building. The use of cast stone is prohibited.

10. No external speaker system, including bells, chimes or similar shall be permitted.
11. The design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles and street furniture must be submitted to and approved by the Community Development Director.
12. Windows shall be true multi-paned divided windows.
13. Subject property shall not be used to operate a school or day care. However, this shall not preclude supervision of parishioners' children during church services or other related activities.
14. Subject property shall not be used for the provision of homeless services, including, but not limited to meals, housing or social services.
15. Subject property shall not be used as a hall for hire, except for the use by parishioners for weddings and similar events.
16. Vehicular ingress and egress to the property shall not be permitted from NE 26 Avenue.
17. All curb-cut and driveway connections require the approval of the Florida Department of Transportation (FDOT) prior to the issuance of a building permit for this project. Vehicular access from NE 26 Avenue will not be permitted.
18. No change to the subject resolution or the conditions contained therein shall be permitted without public hearing.
19. Final plans for building permit must be reviewed and approved by the Police Department for safety and security issues.
20. When plans are submitted for building permit, a cover sheet must be included incorporating the final Resolution approving this project, including all conditions related to said approval.

**Section 2.** Pursuant to Section 24-172(I) of the Code of Ordinances of the City of North Miami Beach, the applicant shall submit the final building plans within six (6) months of the date of this Resolution or the site plan approval granted shall be deemed null and void and the applicant shall be required to reinstate the site plan review process unless the term is extended by the City Council prior to its expirations.

**APPROVED AND ADOPTED** by the City Council of the City of North Miami Beach, Florida at regular meeting assembled this \_\_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

\_\_\_\_\_  
SOLOMON ODENZ  
CITY CLERK

\_\_\_\_\_  
RAYMOND F. MARIN  
MAYOR

(CITY SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
DARCEE S. SIEGEL  
CITY ATTORNEY

SPONSORED BY: Mayor and City Council

**MEMORANDUM**

**TO:           MAYOR AND CITY COUNCIL  
              CITY CLERK  
              CITY MANAGER**

**FROM:       DARCEE S. SIEGEL  
              CITY ATTORNEY**

**DATE:       March 3, 2009**

---

**RE:   RESOLUTION NO. R2009-16  
      Prevention of Underage Drinking**

---

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL  
OF THE CITY OF NORTH MIAMI BEACH, FLORIDA,  
SUPPORTING THE SUBSTANCE ABUSE RESOURCE  
GUIDE ("SARG") PARTNERSHIP, A MULTI-COALITION  
PARTNERSHIP CAMPAIGN FOR THE PREVENTION OF  
UNDERAGE DRINKING IN THE STATE OF FLORIDA;  
PROVIDING FOR SEVERABILITY; PROVIDING FOR AN  
EFFECTIVE DATE.**

**RESOLUTION NO. R2009-16**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, SUPPORTING THE SUBSTANCE ABUSE RESOURCE GUIDE (“SARG”) PARTNERSHIP, A MULTI-COALITION PARTNERSHIP CAMPAIGN FOR THE PREVENTION OF UNDERAGE DRINKING IN THE STATE OF FLORIDA; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, The Miami Coalition for a Safe and Drug Free Community Company, Inc. has coordinated a countywide and regional underage drinking prevention campaign calling for enforcement of laws relating to alcoholic beverage sales to minors, and by supporting community events to foster underage drinking prevention initiatives directed to our community’s youth and adults; and

**WHEREAS**, local community coalitions involved in this initiative represent Homestead, Florida City, South Miami, Miami Gardens, and Opa Locka, as well as other community groups throughout Broward and Miami-Dade Counties; and

**WHEREAS**, the campaign includes a multi-agency enforcement initiative, in conjunction with the State Division of Alcoholic Beverages and Tobacco (ABT), to actively participate with South Florida communities in the planning of an underage drinking prevention campaign, conducting compliance enforcement efforts with regard to the sale of alcoholic beverages to minors, and providing training for alcohol vendors; and

**WHEREAS**, research shows that retail convenience stores in South Florida are among the lowest with regard to compliance rates for adherence to underage drinking laws and recent studies show the low age of first alcohol use (12.8 years) in South Florida, the significant adverse impacts of alcohol on the brain and the potential for permanent damage, and the negative impacts on academic performance and violence as a result of underage alcohol use; and

**WHEREAS**, in late October, there will be a statewide Governor sponsored Florida Youth Delegation underage drinking prevention campaign to help manage the statewide effort to prevent underage drinking in the State; and

**WHEREAS**, the Mayor and City Council of the City of North Miami Beach, Florida, support the admirable effort of the SARG partnership and deem it in the best interest of the public health, welfare and safety to support and assist with this worthwhile multi-coalition effort.

**NOW, THEREFORE,**

**BE IT RESOLVED** by the City Council of the City of North Miami Beach

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** The Mayor and Council of the City of North Miami Beach, Florida, hereby express their support for the SARG Partnership and the important work they accomplish.

**Section 3.** The City Clerk is hereby directed to transmit copies of this Resolution to the Governor of the State of Florida, the Mayor and Members of the Miami-Dade County Board of County Commissioners, and the Mayors, Chairs, and Members of the governing bodies of the municipalities within Miami-Dade County.

**APPROVED AND ADOPTED** by the City of North Miami Beach City Council at the regular meeting assembled this \_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

\_\_\_\_\_  
SOLOMON ODENZ  
CITY CLERK

(CITY SEAL)

\_\_\_\_\_  
RAYMOND F. MARIN  
MAYOR

APPROVED AS TO FORM:

\_\_\_\_\_  
DARCEE S. SIEGEL  
CITY ATTORNEY

SPONSORED BY: Councilwoman Phyllis Smith  
Mayor and Council

**MEMORANDUM**

**TO:           MAYOR AND CITY COUNCIL  
              CITY CLERK  
              CITY MANAGER**

**FROM:       DARCEE S. SIEGEL  
              CITY ATTORNEY**

**DATE:       MARCH 3, 2009**

---

**RE:   ORDINANCE NO. 2009-7  
      Water Supply Plan Comprehensive Plan Amendment**

---

**AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN TO PROVIDE FOR THE STATE MANDATED REQUIREMENTS OF WATER SUPPLY PLANNING AS DESCRIBED IN COMPREHENSIVE PLAN AMENDMENT PACKAGE, (ITEM # 08-439/DCA NO. 09RWSP-1), THAT AMENDS THE FUTURE LAND USE ELEMENT, INFRASTRUCTURE ELEMENT, CONSERVATION ELEMENT, INTERGOVERNMENTAL COORDINATION ELEMENT, AND CAPITAL IMPROVEMENT ELEMENT BY INCORPORATING THE "10-YEAR WATER SUPPLY FACILITIES WORK PLAN"; AUTHORIZING TRANSMITTAL OF THESE ADOPTED AMENDMENTS TO THE AGENCIES REQUIRED UNDER CHAPTER 163, PART II, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE. PROVIDING FOR A REPEALER PROVISION, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**ORDINANCE NO. 2009-7**

**AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN TO PROVIDE FOR THE STATE MANDATED REQUIREMENTS OF WATER SUPPLY PLANNING AS DESCRIBED IN COMPREHENSIVE PLAN AMENDMENT PACKAGE, (ITEM # 08-439/DCA NO. 09RWSP-1), THAT AMENDS THE FUTURE LAND USE ELEMENT, INFRASTRUCTURE ELEMENT, CONSERVATION ELEMENT, INTERGOVERNMENTAL COORDINATION ELEMENT, AND CAPITAL IMPROVEMENT ELEMENT BY INCORPORATING THE "10-YEAR WATER SUPPLY FACILITIES WORK PLAN"; AUTHORIZING TRANSMITTAL OF THESE ADOPTED AMENDMENTS TO THE AGENCIES REQUIRED UNDER CHAPTER 163, PART II, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE. PROVIDING FOR A REPEALER PROVISION, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the 2005 Florida Legislature enacted legislation with regard to water supply that amended Chapter 163 Florida Statutes and required a new Water Supply Facilities Work Plan be incorporated into the City's Comprehensive Plan; and

**WHEREAS**, the City wishes to amend the Comprehensive Plan as described in ITEM # 08-439/DCA NO. 09RWSP-1 and in accordance with the requirements of Chapter 163 of the Florida Statutes; and

**WHEREAS**, the City of North Miami Beach Planning and Zoning Board, as the local Planning Agency, pursuant to Florida Statutes and Florida Administrative Rules, held a duly noticed public hearing on September 8, 2008 at which time it recommended by an affirmative vote of 7-0 that the City of North Miami Beach amend its Comprehensive Plan as described and transmit ITEM # 08-439//DCA NO. 09RWSP-1; and

**WHEREAS**, the Mayor and Council of the City of North Miami Beach, as the local governing body of the City of North Miami Beach held on October 7, 2008, pursuant to Florida Statutes and Florida Administrative Rules, a duly noticed public hearing at which time it recommended that the City transmit the proposed Comprehensive Plan text amendments, as described in ITEM # 08-439/DCA NO. 09RWSP-1, attached herein by reference; and

**WHEREAS**, on December 26, 2008, the Florida Department of Community Affairs issued an Objections, Recommendations, and Comments (ORC) Report that raised minor comments with ITEM # 08-439/DCA NO. 09RWSP-1; and

**WHEREAS**, ITEM # 08-439/DCA NO. 09RWSP-1 has been revised pursuant to the ORC Report recommendations (highlighted in double ~~strike through~~ / underline format); and,

WHEREAS, the City Council believes it is in the best interest of the public to amend the Comprehensive Plan as described in ITEM # 08-439/DCA NO. 09RWSP-1.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach

**Section 1. Findings.** The foregoing "Whereas" clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 3. Inclusion in the Comprehensive Plan.** It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Comprehensive Plan of the City of North Miami Beach.

**Section 4. Transmittal.** The City Clerk is directed to transmit the adopted amendment to the State of Florida Department of Community Affairs and other agencies as provided under Chapter 163, Part II of the Florida Statutes.

**Section 5. Effective Date.** This Ordinance shall be effective pursuant to Chapter 163 of the Florida Statutes.

APPROVED BY TITLE ONLY on first reading this \_\_\_ day of \_\_\_\_\_, 2009.

APPROVED AND ADOPTED on second reading this \_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

\_\_\_\_\_  
SOLOMON ODENZ  
CITY CLERK  
(CITY SEAL)

\_\_\_\_\_  
RAYMOND F. MARIN  
MAYOR

APPROVED AS TO FORM

\_\_\_\_\_  
DARCEE SIEGEL  
CITY ATTORNEY

Sponsored by: Mayor and City Council

**MEMORANDUM**

**TO:           MAYOR AND CITY COUNCIL  
              CITY CLERK  
              CITY MANAGER**

**FROM:       DARCEE S. SIEGEL  
              CITY ATTORNEY**

**DATE:       ~~FEBRUARY 17, 2009~~                           MARCH 3, 2009**

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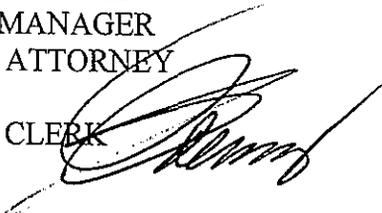
**RE:    ORDINANCE NO. 2009-4  
          Early Voting**

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**AN ORDINANCE AMENDING CHAPTER TWO OF THE  
CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI  
BEACH, FLORIDA; PROVIDING FOR "EARLY VOTING"  
FOR MAYOR AND CITY COUNCIL ELECTIONS TO BE  
HELD IN MAY, 2009; PROVIDING FOR THE REPEAL OF  
ALL ORDINANCES IN CONFLICT HEREWITH;  
PROVIDING FOR CODIFICATION OF THIS ORDINANCE.**

MEMORANDUM

TO: MAYOR RAYMOND F. MARIN  
MEMBERS OF THE CITY COUNCIL  
KELVIN L. BAKER, CITY MANAGER  
DARCEE S. SIEGEL, CITY ATTORNEY

FROM: SOLOMON ODENZ, CITY CLERK 

DATE: FEBRUARY 25, 2009

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RE: ORDINANCE NO. 2009-4

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This is an ordinance providing for Early Voting.

Suggested dates by the City Council:

**Regular Election:** Sunday, April 26, 2009 – Saturday, May 2, 2009

Sunday, April 26, 2009 (Hours: 2:00 p.m. – 6:00 p.m.)

Monday April 27, 2009 – Friday, May 1, 2009 (Hours: 10:00 a.m. – 6:00 p.m.)

Saturday, May 2, 2009 (Hours: 2:00 p.m. – 6:00 p.m.)

**Runoff Election:** Thursday, May 14, 2009 - Friday, May 15, 2009

Thursday, May 14, 2009 (Hours: 10:00 a.m. – 6:00 p.m.)

Friday, May 15, 2009 (Hours: 10:00 a.m. – 6:00 p.m.)

ORDINANCE NO. 2009-4

AN ORDINANCE AMENDING CHAPTER TWO OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA; PROVIDING FOR "EARLY VOTING" FOR MAYOR AND CITY COUNCIL ELECTIONS TO BE HELD IN MAY, 2009; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION OF THIS ORDINANCE.

WHEREAS, the City Council, pursuant to North Miami Beach Ordinance No. 2005-5, exempted municipal Mayor and City Council election(s) commencing with the May 3, 2005 election(s) from the duration, hours of operation and other restrictions for early voting as provided by Section 101.657(1)(b), Florida Statutes, while enabling the City to provide for sufficient, but shortened, schedule of early voting in advance of such municipal election(s); and

WHEREAS, the City Council desires to establish the early voting time period for the May 2009 election cycle.

NOW, THEREFORE,

BE IT ORDAINED, by the City Council of the City of North Miami Beach, Florida.

Section 1. All foregoing recitals are true and correct.

Section 2. That Section 2-9(b) of the Code of Ordinances of the City of North Miami Beach is hereby amended to read as follows:

(b) In lieu of the above-described provisions of Section 101.657(1)(b), Florida Statutes, it is hereby provided that early voting shall be provided at North Miami Beach City Hall as follows: ~~Monday, Sunday, April 16, 2007~~ April 26, 2009 through ~~Friday, Saturday, April 20, 2007~~ May 2, 2009, and ~~Monday, April 23, 2007~~ through ~~Friday, April 27, 2007~~. Voting hours shall be from 10:00 a.m. to 6:00 p.m. Monday through Friday, and from 2:00 p.m. to 6:00 p.m. on Saturday and Sunday. If a Runoff Election occurs, early voting will be provided on Thursday, May 10, 2007 May 14, 2009 and ~~Friday, May 11, 2007~~ May 15, 2009, from 10:00 a.m. to 6:00 p.m., as feasible, based upon information by the Miami-Dade County Supervisor of Elections Office.

Section 3. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be

changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

**APPROVED BY TITLE ONLY** on first reading this 17<sup>th</sup> day of February, 2009.

**APPROVED AND ADOPTED** on second reading this \_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

\_\_\_\_\_  
SOLOMON ODENZ  
CITY CLERK

(CITY SEAL)

\_\_\_\_\_  
RAYMOND F. MARIN  
MAYOR

APPROVED AS TO FORM:

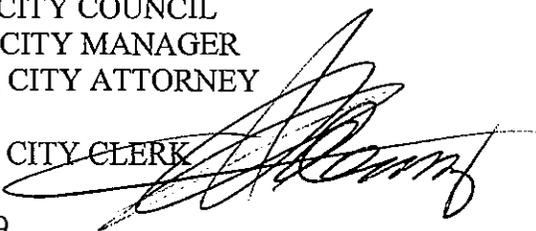
\_\_\_\_\_  
DARCEE S. SIEGEL  
CITY ATTORNEY

Sponsored by: Mayor and City Council



MEMORANDUM

TO: MAYOR RAYMOND F. MARIN  
MEMBERS OF THE CITY COUNCIL  
KELVIN L. BAKER, CITY MANAGER  
DARCEE S. SIEGEL, CITY ATTORNEY

FROM: SOLOMON ODENZ, CITY CLERK 

DATE: FEBRUARY 25, 2009

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RE: ORDINANCE NO. 2009-5

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This is an ordinance changing the date of the Runoff Election from the present one (1) week provision to two (2) weeks after the regular Election as per the request of the City Councils Amendment on February 17, 2009 (i.e. from May 12, 2009 to May 19, 2009)

**ORDINANCE NO. 2009-5**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, RELATING TO MUNICIPAL ELECTIONS; CHANGING THE DATE FOR THE CITY OF NORTH MIAMI BEACH MUNICIPAL RUNOFF ELECTION NOW SCHEDULED FOR MAY 12, 2009 TO MAY 19, 2009 AND TO ADJUST THE TERMS OF OFFICE OF SITTING COUNCILPERSONS NECESSITATED BY SUCH CHANGE OF DATE, AS REQUESTED BY THE MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS AND AS AUTHORIZED BY FLORIDA STATUTES §166.021(4) AND 100.3605(2); PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH, PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article III of the Charter of the City of North Miami Beach provides for regular elections to be held biennially on the first Tuesday in May and runoff elections, if required to be held the second Tuesday in May; and

**WHEREAS**, the Miami-Dade Supervisor of Elections and the County Manager have requested that the North Miami Beach City Council adopt an Ordinance changing the date of the upcoming runoff election, if one is required, from May 12, 2009 to May 19, 2009 to allow for the accurate programming of voting machines, as well as the preparation, printing, testing and return of absentee ballots; and

**WHEREAS**, Sections 100.3605(2) and 166.021(4), Florida Statutes, specifically empower municipalities to enact changes in election dates and changes in terms of office that are necessitated by such changes in election dates, without approval by referendum of the electors; and

**WHEREAS**, in reliance on the representations of Miami-Dade County, and the herein cited state law as to the necessity and legality of such changes, the Mayor and City Council have determined it to be in the best interests of the citizens and residents of the City to change this year's runoff election, if any, from May 12, 2009 to May 19, 2009, and to extend the terms of office of all sitting councilpersons until the declaration of such election results, and installation of all newly elected (or re-elected) members of Council at the regular meeting of the City Council to be held on or about 7:00 p.m. on Tuesday, June 2, 2009, pursuant to the City's Charter and ordinance provisions, and above cited state law.

**NOW, THEREFORE,**

**BE IT ORDAINED**, by the City Council of the City of North Miami Beach, Florida.

**Section 1.** All foregoing recitals are true and correct.

**Section 2.** The Mayor and City Council of the City of North Miami Beach, Florida pursuant to Municipal powers vested by state law in accordance with Florida Statutes §100.3605(2) and 166.021(4), hereby change the election date for a runoff election, if required, for the general election for the year 2009, from May 12, 2009 to May 19, 2009 and hereby extend the terms of office for all sitting councilpersons, until the declaration of said election results and installation of all newly elected or re-elected councilpersons, at the regular meeting of the City Council to be held at 7:00 p.m. on Tuesday, June 2, 2009.

**Section 3.** The City Clerk is hereby directed to send a certified copy of this ordinance to the Miami-Dade County Supervisor of Elections.

**Section 4.** All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**Section 5.** If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

**Section 6.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

**APPROVED BY TITLE ONLY** on first reading this 17<sup>th</sup> day of February, 2009.

**APPROVED AND ADOPTED** on second reading this \_\_\_\_ day of \_\_\_\_\_, 2009.

ATTEST:

\_\_\_\_\_  
SOLOMON ODENZ  
CITY CLERK

(CITY SEAL)

\_\_\_\_\_  
RAYMOND F. MARIN  
MAYOR

APPROVED AS TO FORM:

\_\_\_\_\_  
DARCEE S. SIEGEL  
CITY ATTORNEY

Sponsored by: Mayor and City Council

**MEMORANDUM**

**TO: MAYOR AND CITY COUNCIL  
CITY CLERK  
CITY MANAGER**

**FROM: DARCEE S. SIEGEL  
CITY ATTORNEY**

**DATE: ~~FEBRUARY 17, 2009~~ MARCH 3, 2009**

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**RE: ORDINANCE NO. 2009-6  
Police & Firefighters' Pension Plan – Mortality Table Revision**

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**AN ORDINANCE AMENDING THE POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PLAN OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING ARTICLE II, DEFINITIONS, ARTICLE VI, RETIREMENT BENEFITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE, PROVIDING FOR AN EFFECTIVE DATE.**

# SUGARMAN & SUSSKIND

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ATTORNEYS AT LAW

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♦ Board Certified Labor  
& Employment Lawyer

## MEMORANDUM

February 10, 2009

TO: Miriam Bensinger, Asst. City Attorney  
City of North Miami Beach

FROM: Robert Sugarman 

RE: Retirement Plan for the Police Officers and Firefighters of the City of North Miami Beach / Proposed Ordinance on Mortality Table and IRS Compliance

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The Police Officers and Firefighters' Retirement Plan's actuary recommended changing the mortality tables specified in the pension ordinance to a more modern and recent mortality table. The actuary utilizes the mortality table to estimate the life expectancy of each of the retirement plan's members. Since pensions are paid for life, this permits the actuary to estimate the amount of money that will be needed by the pension plan to pay a member's pension. Using a more modern and current table permits the pension plan to make more accurate estimates of its pension obligations so that the plan can be properly funded. This amendment was approved by a referendum of the retirement plan's active police members.

The Retirement Plan's attorney has recommended that the plan be amended to comply with the recent changes in the Internal Revenue Code that applied to governmental pension plans. Changes to remain in compliance with the Internal Revenue Code (IRC) do not require member approval.

While most of these IRC changes are technical, they:

- Include in pensionable compensation members' earnings that are paid with pre-tax dollars, such as amounts contributed to their deferred compensation (§457) plans, or their cafeteria (§125) plans.

*Memo In Re: Proposed Ordinance on Morality Table and IRS Compliance*

February 10, 2009

Page 2 of 2

- Lower the amount of the total value of the pension that the trustees can force a member to accept as a lump sum rather than monthly benefits (it is unlikely that this will ever be used).
- Changes the amount and method of calculation of the maximum amount of the pension that can legally be paid under the Internal Revenue Code (changes to §415 limits).
- Requires that pensions for retirees begin no later than age 70 ½ with provisions for payments to designated beneficiaries.
- Regulates retroactive annuity start dates for retired members who delay applying for pensions.
- Changes the maximum amount of pay that can be pensionable (the current limit under the IRC is \$200,000.00).

Because the Internal Revenue Service is increasing the attention that it pays to governmental pension plans, it was recommended that the changes be made at this time.

ORDINANCE NO. 2009-6

AN ORDINANCE AMENDING THE POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PLAN OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING ARTICLE II, DEFINITIONS, ARTICLE VI, RETIREMENT BENEFITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it has been determined that the City of North Miami Beach pension plan for police officers and firefighters requires certain technical amendments to bring it into conformity with the federal Internal Revenue Code, Economic Growth and Tax Relief Reconciliation Act of 2001, and the Pension Protection Act of 2006; and

WHEREAS, the Retirement Plan's Actuary has recommended a change in mortality table; and

WHEREAS, the Retirement Plan must be amended to specifically provide for the recently established federal regulations; and

WHEREAS, the City Council has received an actuarial impact statement concerning these amendments; and

WHEREAS, the amendment changing the mortality table has been approved by a majority of the Plan's active participants voting in a referendum and the remaining amendments required for Internal Revenue Code compliance do not require such approval,

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida:

**Section 1.** The foregoing WHEREAS clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**Section 2.** Article II, Definitions, of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by adding the following underlined language and deleting the stricken language:

Actuarial Equivalent as used herein means equality in value of the aggregate amounts expected to be received under different forms of payment. Actuarially-equivalent amounts will be determined for all purposes based on the 1994 Group Annuity Reserving Table, projected by 2002, based upon a fixed blend 50% male mortality rates – 50% female

~~mortality rates, per IRS Revenue Ruling 2001-62 with interest 8.0% where the disabled Member's age shall be set forward five (5) years for all calculations, 1951 Group Annuity Mortality Table projected by Scale C to 1965 with interest at 8.0% where the Participant's age shall be set back one (1) year and the Beneficiary's age shall be set back four (4) years for all calculations.~~

**Basic Compensation for Police Officers** means, as per the State Statute, the total cash remuneration paid to a police officer for services rendered, and shall include any elective deferral (as defined in Code Section 402(g)(3)), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in Section 6.08(C) hereof, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Code.

**Basic Compensation for Firefighters** means the regular fixed monthly compensation actually paid to a participant by Metropolitan Dade County, and shall include any elective deferral (as defined in Code Section 402(g)(3)), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in Section 6.08(C) hereof, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Code.

**Section 3.** Section 6.07, Lump Sum Payment of Small Retirement Income, of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by adding the following underlined language and deleting the stricken language:

Notwithstanding any provision of the Plan to the contrary, if the monthly retirement income payable to any person entitled to any benefit hereunder is less than \$100 or if the single-sum value of the accrued retirement income is less than ~~\$3,500~~ 1,000 as of the date of retirement or termination of service, whichever is applicable, the Retirement Committee may, in the exercise of its discretion, specify that the actuarial equivalent of such retirement income be paid in a lump sum or in monthly installments for a period certain of not more than 60 months.

**Section 4.** Section 6.08(C), Application of Code Section 415 Limitations, of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by adding the following underlined language and deleting the stricken language:

**(C) Application of Code Section 415 Limitations**

~~Defined-contribution plan limits of IRC Section 415(e) and regulations thereunder, and combined plan limits of IRC Section 415(e) and regulations thereunder, are hereby incorporated by reference to the extent that such provisions may apply to this plan.~~

~~If, as a result of this allocation of forfeitures, a reasonable error in estimating a member's compensation or other facts and circumstances to which Regulation 1.415-6(b)(6) shall be applicable, the annual additions under this plan would cause the maximum annual additions to be exceeded for any member, the administrator shall (1) return any employee contributions credited for the "limitation year" to the extent that the return would reduce the excess amount in the member's accounts; (2) hold any "excess amount" remaining after the return of any employee contributions in a "Section 415 suspense account"; (3) use the "Section 415 suspense account" in the next limitation year (and succeeding limitation years if necessary) to reduce employer contributions for that member if that member is covered by the plan as of the end of the limitation year; or (4) reduce employer contributions to the plan for such limitation year by the amount of the "Section 415 suspense account" allocated and reallocated during such "limitation year". For purposes of this section, "excess amount" for any member for a limitation year shall mean the excess, if any, of (1) the annual additions which would be credited to his account under the terms of the plan without regard to the limitations of IRC Section 415 or (2) the maximum annual additions determined pursuant to the previous paragraph.~~

~~For purposes of this section, "Section 415 suspense account" shall mean an unallocated account equal to the sum of "excess amounts" for all members in the plan during the limitation year. The "Section 415 suspense account" shall not share in any earnings or losses of the fund.~~

~~The foregoing shall not apply if Section 415 of the Internal Revenue Code is made inapplicable to this Plan either by statute or regulation.~~

(A) Definitions Used in this Section

(1) "Annual Pension" means the sum of all annual benefits payable in the form of a single life annuity or qualified joint and survivor annuity from all defined benefit plans (whether or not terminated) maintained by the City, provided that effective for limitation years beginning after December 31, 2001, the Plan shall not be combined or aggregated with any other plan for purposes of applying Section 415(b)(1)(B) of the Code to such other plan for purposes of applying the limitations of Code Section 415. Benefits payable in any other form shall be adjusted to the larger of:

(a) the Actuarial Equivalent of a single life annuity beginning at the same age, computed using the interest rate and mortality basis (or other tabular factor) used for Actuarial Equivalence for the particular form of payment under the Plan, or

(b) the actuarial equivalent of a single life annuity beginning at the same age, computed using a 5.00% interest rate (or for any form of payment subject to IRC Section 417(e)(3), the Applicable Interest Rate) and the Applicable Mortality Table.

The Annual Pension shall not be adjusted for any benefit that is payable on account of the death or disability of the Member as defined in Section 415(b)(2)(H)(I) of the Code.

(2) "Dollar Limitation" means the adjusted value of \$160,000 (or such other amount as may be in effect on the last day of the calendar year pursuant to Section 415(d) of the IRC) based on the age of the Member when the benefit begins as follows:

<u>Age:</u>	<u>Adjustment of Dollar Limitation:</u>
<u>Over 65</u>	<p>The smaller of:</p> <p>(a) <u>the Actuarial Equivalent of the limitation for age 65, computed using the interest rate and mortality basis (or other tabular factor) used for Actuarial Equivalence for Late Retirement Income under the Plan, or</u></p> <p>(b) <u>the actuarial equivalent of the limitation for age 65, computed using a 5.00% interest rate and the Applicable Mortality Table.</u></p> <p><u>For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.</u></p>
<u>62 to 65</u>	<u>No adjustment.</u>
<u>Less than 62</u>	<p><u>No adjustment for qualified Police Officers and Firefighters as defined in Section 415(b)(2)(G) of the code; otherwise:</u></p> <p><u>The greater of:</u></p> <p>(a) <u>the Actuarial Equivalent of the limitation for age 62, computed using the interest rate and mortality basis (or other tabular factor) used for Actuarial Equivalence for Early Retirement Income under the Plan, or</u></p> <p>(b) <u>the actuarial equivalent of the limitation for age 62, computed using 5.00% interest rate and the Applicable Mortality Table.</u></p> <p><u>Dollar Limitation determined in accordance with this paragraph shall not reflect a mortality decrement if benefits are not forfeited upon the death of the Participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.</u></p>

(3) The term "limitation year" is the 12 month period which is used for application of the limitations under Section 415 of the Code and shall be the calendar year.

(B) This Section 6.08(C) will not be applicable if Annual Pension benefits do not exceed \$10,000 multiplied by a fraction whose value cannot exceed one, the numerator of which is the Member's period of service measured by total Vested Service, and the denominator of which is 10, provided the Member has never participated in a defined contribution plan maintained by the City.

(C) Cost-of-living adjustments in the Dollar Limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury that become effective no sooner than January 1 of each year. As a result of such an adjustment, a Retirement Income that had been limited by the provisions of this Section 3.6 in a previous Plan Year may be increased with respect to future payments to the lesser of the adjusted Dollar Limitation amount or the amount of Retirement Income that would have been payable under this Plan without regard to the provisions of this Section 3.6.

(D) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this Section 6.08(C) and the provisions of Section 415 of the Code and regulations hereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code.

(E) In no event shall the amount of Retirement Income considered under this Plan exceed the amount of a benefit that is non-discriminatory under Code Section 401(a)(4).

(F) In no event shall distributions to the 25 most highly-compensated active and former Members (as that term is defined in Code Section 414(q)) exceed the amount that would be paid to such individual under a straight-life annuity that is the Actuarial Equivalent of the Member's accrued benefit and the Member's other benefits under the Plan, except that the preceding restriction on the amount of distribution to the 25 most highly-compensated Members ("Restricted Member") will not apply if any of the following requirements have been met for each Restricted Member:

(1) After payment of the benefits otherwise provided under this Plan to such Restricted Member, the value of plan assets equals or exceeds 110 percent of the value of current liabilities as defined in Code Section 412(l)(7);

(2) The value of the benefits otherwise provided under this Plan to such Restricted Member is less than one percent of the value of current liabilities, as defined in Code Section 412(l)(7), before distribution of such benefit; or

(3) The value of such Restricted Member's benefits does not exceed \$5,000.

**Section 4.** Section 6.08A, Annual Compensation Limits Provided by Section 401(A)(17) of the Internal Revenue Code, of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby amended by adding the following underlined language and deleting the stricken language:

~~Notwithstanding any other provision of this Retirement Plan to the contrary, a participant's annual compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. However, for those participants who commence participation in the Retirement Plan prior to the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount that was allowed to be taken into account under the Retirement Plan as in effect on July 1, 1993.~~

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, the annual Compensation of each Member taken into account under the Plan

shall not exceed the OBRA '93 annual compensation limit. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

Any reference in the Plan to the limitation under Section 401 (a)(17) of the Code shall mean the OBRA '93 annual compensation limit set forth in this provision.

[p1]

**Section 5.** Section 6.08B, Required Distributions, of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby created by adding the following underlined language:

**S.6.08B REQUIRED DISTRIBUTIONS**

(A) Required Beginning Date:

Notwithstanding any other provision of the Plan, payment of a Member's benefits under the Plan shall commence not later than the later of:

(a) April 1 of the calendar year that next follows the calendar year in which the Member attains or will attain the age of 70½ years; or

(b) April 1 of the calendar year that next follows the calendar year in which the Member retires;

(B) Time and Manner of Distribution.

(1) Required Beginning Date. The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's Required Beginning Date.

(2) Death of Member Before Distributions Begin. If the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) If the Member's surviving spouse is the Member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age 70½, if later.

(b) If the Member's surviving spouse is not the Member's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died.

(c) If there is no designated beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(d) If the Member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this Paragraph

6.08B(B)(2), other than Subparagraph 6.08B(B)(2)(a), will apply as if the surviving spouse were the Member.

For purposes of this Paragraph 6.08B(B)(2) and Subsection 6.08B(E), distributions are considered to begin on the Member's Required Beginning Date (or, if Subparagraph 6.08B(B)(2)(d) applies, the date distributions are required to begin to the surviving spouse under Subparagraph 6.08B(B)(2)(a)). If annuity payments irrevocably commence to the Member before the Member's Required Beginning Date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under Subparagraph 6.08B(B)(2)(a)), the date distributions are considered to begin is the date distributions actually commence.

(3) Form of Distribution. Unless the Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Subsections 6.08B(C), 6.08B(D) and 6.08B(E). If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the Member's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

(C) Determination of Amount to be Distributed Each Year.

(1) General Annuity Requirements. If the Member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(a) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(b) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Subsections 6.08B(D) or 6.08B(E);

(c) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

(d) payments will either be nonincreasing or increase only as follows:

(i) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(ii) to the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Subsection 6.08B(D) dies or is no longer the Member's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;

(iii) to provide cash refunds of member contributions upon the Member's death; or

(iv) to pay increased benefits that result from a Plan amendment.

(2) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Member's Required Beginning Date (or, if the Member dies before distributions begin, the date distributions are required to begin under Subparagraph 6.08B(B)(2)(a) or Subparagraph 6.08B(B)(2)(b)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's Required Beginning Date.

(3) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(D) Requirements For Annuity Distributions That Commence During Member's Lifetime.

(1) Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse. If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary, annuity payments to be made on or after the Member's Required Beginning Date to the designated beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Member using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(2) Period Certain Annuities. Unless the Member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Member's lifetime may not exceed the applicable distribution period for the Member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Member reaches age 70, the applicable distribution period for the Member is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Member as of the Member's birthday in the year that contains the annuity starting date. If the Member's spouse is the Member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Member's applicable distribution period, as determined under this Paragraph 6.08B(D)(2), or the joint life and last survivor expectancy of the Member and the Member's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Member's and spouse's attained ages as of the Member's and spouse's birthdays in the calendar year that contains the annuity starting date.

(E) Requirements For Minimum Distributions Where Member Dies Before Date Distributions Begin.

(1) Member Survived by Designated Beneficiary. If the Member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in Subparagraph 6.08B(B)(2)(a) or Subparagraph 6.08B(B)(2)(b), over the life of the designated beneficiary or over a period certain not exceeding:

(a) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death; or

(b) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) No Designated Beneficiary. If the Member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Member dies before the date distribution of his or her interest begins, the Member's surviving spouse is the Member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Subsection 6.08B(E) will apply as if the surviving spouse were the Member, except that the time by which distributions must begin will be determined without regard to Subparagraph 6.08B(B)(2)(a).

(F) Definitions.

(1) Designated beneficiary. The individual who is designated as the beneficiary under Section 6.4 of the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Member's Required Beginning Date. For distributions beginning after the Member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Paragraph 6.08B(B)(2).

(3) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

**Section 6.** Section 6.08C, Retroactive Annuity Start Dates, of the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach is hereby created by adding the following underlined language:

**S.6.08C            RETROACTIVE ANNUITY START DATES**

In the event an Member elects a retroactive annuity starting date, such Member's future periodic payments shall be the same as the future periodic payments, if any, that would have been paid with respect to the Member had payments actually commenced on the retroactive annuity starting date. Such Member must receive a make-up payment to reflect any missed payment or payments for the period from the retroactive annuity starting date to the date of the actual make-up payments (with an appropriate adjustment for interest from the date the missed payment or payments would have been made to the date of the actual make-up payment). An Member cannot elect a retroactive annuity starting date that precedes the date upon which the Member could have otherwise started receiving benefits. If an Member elects a retroactive annuity starting date, the actuarial assumptions as of the retroactive annuity starting date shall be used to determine such Member's benefits. However, if the exceptions for benefits subject to Code Section 417(e) and 415 are not complied with in accordance with the final regulations, the actuarial assumptions as of the date distributions begin shall be used.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 7.** If any section, subsection, clause or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 8.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

**Section 9.** This Ordinance shall take effect upon adoption.

**APPROVED BY TITLE ONLY on first reading this 17<sup>th</sup> day of February, 2009.**

**APPROVED AND ADOPTED** on second reading this \_\_\_ day of \_\_\_\_\_, 2009.

**ATTEST:**

\_\_\_\_\_  
**SOLOMON ODENZ**  
**CITY CLERK**

**(CITY SEAL)**

\_\_\_\_\_  
**RAYMOND F. MARIN**  
**MAYOR**

**APPROVED AS TO FORM**

\_\_\_\_\_  
**DARCEE S. SIEGEL**  
**CITY ATTORNEY**

**Sponsored by: Mayor and City Council**

**TO: Mayor and City Council**  
**FROM: Darcee S. Siegel, City Attorney**  
**DATE: March 3, 2009**

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## LITIGATION LIST

### **I. Wrongful Deaths:**

Graham Donald/Smith Sylvia vs. CNMB  
Wrongful Death

Hernandez, Estate of v. CNMB  
Wrongful Death

Kelly, Estate of v. CNMB  
Wrongful Death

### **II. Civil Rights:**

Mack, Eugene E. v. Loizzo, et al  
Civil Rights Violation/False Arrest

Madura, Maryla vs. CNMB, Antonio Marciante and Tony Sanchez, individually  
Civil Rights Violation/False Arrest

Nelson, Travis v. CNMB, et al  
Civil Rights Violation/False Arrest

Smith, Louis v. John Richard Renaud, NMBPD, & CNMB  
Civil Rights Violation/False Arrest

Torres, Antonio v. CNMB  
Civil Rights Violation/False Arrest

### **III. Personal Injury:**

Donahue, Louise, et al v. CNMB  
Slip & Fall/Personal Injury

Gilmore, Turner and Frances v. CNMB and Christopher C. Sweigart  
Automobile Accident/Personal Injury

Jones, Zettie & Earnest v. CNMB, et al  
Slip & Fall/Personal Injury

Martell, Erlinda vs. CNMB  
Personal Injury

Moy, Christian vs. CNMB  
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**IV. Land Use Litigation:**

Donahue, John, et al. v. CNMB, Sol Odenz and Miami-Dade County  
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State of Florida, Division of Administrative Hearings  
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Comprehensive Plan Challenge

Baron, Charles & Taylor, Robert v. CNMB  
Administrative Zoning Appeal

Builders Association of South Florida (The), et al., v. CNMB  
Declaratory Judgment and Permanent Injunction

**V. Other Litigation:**

Capital One Bank vs. Altiaga and CNMB  
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CACV of Colorado v. Lubin and CNMB  
Writ of Garnishment

Chase Manhattan Bank v. Guiteau and CNMB  
Writ of Garnishment

**VI. Forfeitures:**

CNMB v. Abarca/Tablas/Vazquez-Casimiro/Nunes/Perez/Romero  
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CNMB v. Alonso/Gonzalez  
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CNMB v. Bernadin  
Forfeiture

CNMB v. Camejo  
Forfeiture

CNMB v. Chavez/Hernandez  
Forfeiture

CNMB v. Colon  
Forfeiture

CNMB v. Diaz/Ramirez/Rodriguez  
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CNMB v. Exposito/Leiva/Moore  
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CNMB v. Gedeon  
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CNMB v. Gilles  
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CNMB v. Giordano  
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CNMB v. Goodman  
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CNMB v. Harryton/Cunningham/Furbush  
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CNMB v. Johnson/Murat  
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CNMB v. Jones/Morgan  
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CNMB v. Lassus  
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CNMB v. Molina/Fernadnez  
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CNMB v. Muhammad/Camarioca Auto  
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CNMB v. Mullins/Holmes/Upshaw  
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CNMB v. Noa/Corrales  
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CNMB v. Ottoni/Silva  
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CNMB v. Parra/Martinez  
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CNMB v. Pecina/Portillo/Tango  
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CNMB v. Peoples  
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CNMB v. Perrier  
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CNMB v. Poitier/Jean-Pierre  
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CNMB v. Rodriguez/Pinon  
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CNMB v. Rojas  
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CNMB v. St Hilaire/Mazard/Donaldson  
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CNMB v. Virgile  
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Alphera Financial Services v. CNMB  
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Bennie v. CNMB (Police Department)  
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**VII. Mortgage Foreclosures:**

Accredited Home Lenders, Inc. v. CNMB (Funes)  
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ACT Properties, LLC v. CNMB (Robinson, et al)  
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Aegis Mortgage Corp v. CNMB (Galina Pikh)  
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Aegis Mortgage Corp v. CNMB (Galina Pikh, et al.)  
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Allied Mortgage & Financial Corp. vs. CNMB (Sorota)  
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Ameriquet Funding vs. CNMB (Caraballo)  
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Argent Mortgage Company v. CNMB (Harmitt)  
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Aurora Loan Services, LLC v. CNMB (George)  
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- Aurora Loan Services, LLC v. CNMB (Manser, et al)  
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- Aurora Loan Services, LLC v. CNMB (Rivera, et al)  
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- \* Bank of America v. CNMB (Coffey, et al)  
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- Bank of America v. CNMB (Escalante, et al)  
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- \* Bank of America v. CNMB (Tamir, et al)  
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- Bank of New York v. CNMB (Johnson, Nick, et al)  
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- Bank of New York Mellon v. CNMB (Gonzalez)  
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- Baron, Marylin S., et al v. CNMB (Campbell, et al)  
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- Bayview Loan Servicing, LLC v. CNMB (Avin)  
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- Chase Home Finance LLC v. CNMB (Espinosa)  
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- Chase Home Finance LLC v. CNMB (Meisels)  
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- Chase Home Finance LLC v. CNMB (Rua, et al)  
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- Chevy Chase Bank, F.S.B. v. CNMB (Gonzalez, et al)  
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- \* Citibank, N.A. v. CNMB (Anglade, et al)  
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- Citibank, N.A. v. CNMB (Austin, et al)  
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- Citifinancial Equity Services, Inc. v. CNMB (Morales)  
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- Citimortgage v. CNMB (Anchava)  
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Citimortgage v. CNMB (Rivaroli, et al)  
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Cong Vo v. CNMB (Perroti, Miranda)  
Action to Quiet Title

Consumers Alliance Corp. v. CNMB (Haronda Realty)  
Action to Quiet Title

Countrywide Home Loans, Inc. vs. CNMB (Gilles)  
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Countrywide Home Loans, Inc. v. CNMB (Monroy, et al)  
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Countrywide Home Loans v. CNMB (Schmidt, et al)  
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Credit Based Asset Servicing v. CNMB (Rojas)  
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Deutsche Bank National v. CNMB (Adelson)  
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Deutsche Bank Trust v. CNMB (Barksdale)  
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Deutsche Bank National v. CNMB (Sierra, et al)  
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Deutsche Bank National v. CNMB (Voltaire, et al)  
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Fremont Investment & Loan v. CNMB (Rubes)  
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GMAC Mortgage v. CNMB (Calix)  
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GMAC Mortgage v. CNMB (Platel, et al)  
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Golden Beach (Town of) v. CNMB (Goodman, et al)  
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\* Greenpoint Mortgage v. CNMB (Global Properties Investment et al)  
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Happy Home Lending Corp. vs. CNMB (Shon Furman)  
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HSBC Bank v. CNMB (Miranda)  
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HSBC Bank, N.A. v. CNMB (Mora)  
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HSBC Bank, N.A. v. CNMB (Pinero)  
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Indymac Federal Bank v. CNMB (Hamami, et al)  
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JP Morgan vs. CNMB (Abraham)  
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LaSalle Bank v. CNMB (Campbell, et al)  
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Miami-Dade County v. CNMB (Morrobel)  
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Mortgage Electronic Registration System, Inc. vs. CNMB (Miller)  
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Mortgage Investment Group v. CNMB (Deliford, et al)  
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Novastar Mortgage v. CNMB (Montas)  
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REO Properties Corporation v. CNMB (Cotto, et al)  
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\* Sazant v. CNMB(Pluiose)  
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U.S. Bank NA v. CNMB (Cabrera)  
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U.S. Bank N.A. v. CNMB (Gonzalez, et al)  
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\* U.S. Bank N.A. v. CNMB (Gonzalez, J., et al.)  
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U.S. Bank N.A. v. CNMB (Hernandez, et al)  
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U.S. Bank NA v. CNMB (Island Place Apts., et al)  
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U.S. Bank NA v. CNMB (Marin)  
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U.S. Bank NA v. CNMB (Martinez)  
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U.S. Bank NA v. CNMB (Maxwell)  
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U.S. Bank NA v. CNMB (Michel)  
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U.S. Bank NA v. CNMB (Mora, et al)  
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\* U.S. Bank NA v. CNMB (Oratz, et al)  
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U.S. Bank NA v. CNMB (Whittaker, et al)  
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Venice Isle, Inc. v. CNMB (Suhag)  
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Wachovia Bank v. CNMB(Peraza)  
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Wachovia Bank v. CNMB (Martinez)  
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Washington Mutual Bank, F.A. v. CNMB, Sandra T. Porter, et al  
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Washington Mutual Bank v. CNMB (Schmidt)  
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Wells Fargo Bank, N.A. vs. CNMB (Bojotte, et al)  
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Wells Fargo Bank, N.A. vs. CNMB (Bonilla)  
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Wells Fargo Bank, N.A. vs. CNMB (Hernandez, et al)  
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Wells Fargo Bank, N.A. v. CNMB (Jackson)  
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Wells Fargo Bank v. CNMB (Mendez, et al)  
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Wells Fargo Bank v. CNMB (Mohr, et al)  
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Wells Fargo Bank, N.A. v. CNMB (Torres)  
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Wells Fargo Bank, N.A. v. CNMB (Sacco)  
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Wells Fargo Bank, N.A. v. CNMB (Rand)  
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Zahs, Frederick v. CNMB (Coates)  
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**CASE DISMISSED**

**VIII. Bankruptcies:**

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American Home Mortgage Holdings  
Cimax USA, LLC

Diversified Displays/Michael Phelan  
Florida Select Insurance  
Kim, Myung Ja  
Porter, Michael and Shanda  
The New Kosher World Bakery  
SMG Entertainment  
South Pointe Family and Children Center  
Sunny Isles Unicenter  
Tweeter Intellectual Property (Sound Advice)  
Vartec Telecom, Inc.  
Verestar, Inc.  
Villaverde, Olga  
WCI Communities, Inc.

\*New Cases