



DECEMBER 21, 2010
REGULAR MEETING MINUTES
(CNMB-CC MINUTES TAPE #460)

1. ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 7:44 p.m. Present at the meeting were Mayor Myron Rosner, Vice Mayor Beth E. Spiegel, and Council Members Philippe Derose, McKenzie Fleurimond, Barbara Kramer, Frantz Pierre and Phyllis S. Smith. Also present were Acting City Manager Roslyn Weisblum, City Attorney Darcee S. Siegel, and Interim City Clerk Joanne M. Callahan.

2. INVOCATION

Reverend Marta Burke, Fulford United Methodist Church, led the invocation.

3. PLEDGE OF ALLEGIANCE

Mayor Rosner led the Pledge of Allegiance.

4. REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA

Interim City Clerk Callahan announced the following changes to the agenda: Remove Item 7.6 Resolution R2010-75 and Item 7.8 Resolution R2010- 88 from the Consent Agenda for discussion and withdraw 7.1 September 7, 2010 Regular Meeting Minutes, 7.2 September 13, 2010 Special Meeting Minutes, 7.3 September 14, 2010 Special Meeting Minutes, 7.4 September 14, 2010 Budget Meeting Minutes; and 7.5 September 21, 2010 Special Meeting Minutes.

5. PRESENTATIONS/DISCUSSIONS

- 5.1** Center for Family Empowerment Plaque Presentation to the City & Chief Rafael Hernandez – By Florence Thony, President, and Marie Leazar, Vice President
- 5.2** Snow Fest/Let's Freeze Out Crime Plaque Presentation to Leisure Services & the Police Department – Presented by the Mayor and City Council

6. APPOINTMENTS

- 6.1** Appointment of the Vice Mayor – Barbara Kramer

Motion made by Councilman Pierre, seconded by Councilwoman Smith to appoint Councilwoman Barbara Kramer as Vice Mayor. By consensus, all voted in favor of the motion. (**Motion carried 7-0**).

6.2 Re-Appointment of Roslyn Weisblum as Acting City Manager

Motion made by Councilman Derose, seconded by Councilwoman Smith to appoint Roslyn Weisblum as Acting City Manager Dec. 21, 2010 – March 21, 2011. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

Ms. Weisblum thanked the Council for their support.

6.3 Commission on Aging (Councilwoman Smith)

Alaine Stampler (Ex-Officio)

Motion made by Councilwoman Smith, seconded by Councilman Pierre to appoint Alaine Stampler as an Ex-Officio member of the Commission of Aging. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

7. CONSENT AGENDA

7.7 Resolution No. R2010-86

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, URGING THE FLORIDA LEGISLATURE TO CRACK DOWN ON PRESCRIPTION DRUG ABUSE BY REGULATING PILL MILLS AND IMMEDIATELY IMPLEMENTING SUCH LEGISLATION.

Motion made by Councilman Derose, seconded by Councilwoman Smith, to approve the Consent Agenda. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

8. CITY MANAGER'S REPORT

Acting City Manager Weisblum reported the following:

- a) Bond Refunding: Two (2) rating agencies conducted a review of the City's overall financial conditions. The City received an "AA minus" rating from Fitch Rating Agency and an "A minus" rating from S & P. She read an excerpt from the Fitch Rating Agency reflecting sound financial management. Mayor Rosner requested a copy of the ratings for the Council.
- b) Census 2010: Cities will receive the information sometime in February, but she will be following up to see if the City could get the information sooner.

9. CITY ATTORNEY'S REPORT

City Attorney Siegel reported that a resolution, sponsored by Councilman Derose, recognizing three (3) local veterans at the upcoming Veteran's Day Memorial Celebration, would be presented for consideration at the January 4th Council Meeting. She also noted that zoning regulations, sponsored by Councilman Fleurimond, regarding pill mills and the proximity of pharmacies in relation to actual clinics would be presented on a future agenda. City Attorney Siegel noted that at the January 10th Planning and Zoning Meeting, the Board would be considering text amendments, clean-ups,

additions, and some new projects to be presented on a future Council agenda. She wished everyone a Happy Holidays and a Happy & Healthy New Year. At the request of Mayor Rosner, she provided the definition of a pill mill and spoke of the lack of regulations.

9.1 Litigation List - *No Discussion*

10. MAYOR'S DISCUSSION

Mayor Rosner noted that a letter had been received from the State of Florida confirming the Fulford By-the-Sea Fountain as a historical monument and placed on National Historic Registry.

He also spoke about setting up an anonymous phone line for the employees and public to call with information that the City would not normally obtain. Chief Rafael Hernandez said he spoke to City management and recommended Sgt. Rick Silberman of Internal Affairs to document and handle the investigation. Chief Hernandez noted that while a case was underway, information could not be released to the Council or the Public until it was closed and approved by State and City Attorneys.

Vice Mayor Spiegel expressed concern for liability, what the options were and then requested that this item be placed on a Council Conference agenda, at which time the City Attorney could tell the Council of the pros, cons and liabilities with suggestions from the Chief. Councilwoman Smith expressed that there could be retaliation and that there were a lot of components to this. She encouraged the Public to come forward with any information and requested further details. City Attorney Siegel noted that there may or may not be protection afforded under the "Whistle Blower Act", that most people wanted their name to be attached to a "Whistle Blower" issue for the protection of their job, and that she did not see any liability for the City. Councilwoman Kramer suggested stating certain clauses to the caller and using a special code from the caller for that specific case. Chief Hernandez noted that those suggestions could be set up and spoke of the investigative process. Councilwoman Kramer suggested the idea be expedited. Mayor Rosner suggested a reward incentive. It was agreed to put the information together and present it on February 15th.

11. PUBLIC COMMENT

Interim City Clerk Callahan read the rules for Public Comment.

Charles Loeb, 16800 NE 15 Avenue #112, North Miami Beach, FL, spoke about FPL agreement, public transit, and extending the Library hours for kids on Tuesday and Thursday evenings.

Bert Kehren, 3302 NE 171 Street, North Miami Beach, FL, spoke about being thankful for what we have and Resident participation.

Rolland Veilleut, 13730 Highland Drive, North Miami Beach, FL, questioned the expense of "Haiti Day Mourning." Councilman Derose noted that Resolution R2010-88 has no financial impact on the City. City Attorney Siegel noted that it would allow the employees to have the flexibility to take the day off as a day of mourning.

Sandra Douglas, 1523 NE 152nd Street, North Miami Beach, FL, thanked Chief Hernandez and the entire NMB Police Department for their quick response concerning the tragedy the night before Thanksgiving in Washington Park when three (3) children were seriously shot and their mother was killed by her boyfriend and took his own life. She noted that the department had immediately solicited clothing contributions, since theirs was discarded and to make sure they had a good Christmas.

Brent Allen, South Florida News: FederalJack.com, Sunny Isles Beach, FL, spoke about water fluoridation. He provided information and CDS to the City Clerk for distribution.

Ketley Joachim, 210 NE 170 Street, North Miami Beach, FL, spoke about Club Law & Order, The Jack Family (tragedy in Washington Park) and the NMB Police Department.

Richard Riess, 23 NW 169 Street, North Miami Beach, FL, distributed a list of raises recently given to employees and spoke about spending.

Mayor Rosner questioned Acting City Manager Weisblum about the document. Acting City Manager Weisblum explained that there were a couple of employee promotions, and the rest were \$2,000 raises for supervisors that were making less than their employees. Councilman Derose requested that this item be discussed at the next Council Conference Meeting. Mayor Rosner asked Acting City Manager Weisblum to verify all of the numbers. Councilwoman Smith noted that the direction was not taken as voiced with a majority vote to freeze raises and hiring and to address the pension reform. Vice Mayor Spiegel requested the pension cost for each of the raises. Mayor Rosner noted that the budget had been passed as of October 1st with nine (9) employees with increases in Oct. Acting City Manager Weisblum noted consolidation, reduction, get rid of the waste and inequities. She further noted that budget was not increased and no vacancies were filled. Councilwoman Smith noted that the City was \$1,250,000 short and the desperate need for the computerization of our finance department in order to make records public. She expressed frustration and said she was appalled. Acting City Manager Weisblum explained that the removal of two (2) employees was equivalent to all of the raises for those 50 employees. A **Motion** made by Councilwoman Smith to put on hold the hiring of the finance manager and assistant city attorney positions. **It was agreed, at this time, to table this motion and continue with Public Comment.**

Sean Justus, 17107 North Bay Road, Sunny Isles, FL, encouraged the Council to review certain websites regarding the 9/11 Commission and take a stand on the truth.

Hupert Rose, Vice President of the American Federation of State County and Municipal Employees (AFSCME) Local #3293, 415 NW 192 Street, Miami Gardens, FL, spoke about the union members who turn the wheels of the City, work hard for the City and get paid the least of all employees.

Janice Coakley, PO Box 600951, North Miami Beach, FL 33160, President of the AFSCME Local #3293, spoke about the union increases and the relationship between the union and the City. She also spoke about the raises for the 50 employees totaling over \$215,000.

Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL, spoke about the Mayor not introducing the new candidates for election that attend the meetings, the "Haiti Mourning" resolution, raises for the 50 employees. City Attorney Siegel noted that there would be no cost to the City regarding the "Haiti Mourning" resolution, and the purpose was for an accommodation to those employees who lost loved-ones as a personal day. She further noted that it was similar to those in the City of Manhattan honoring 9/11.

George Vallejo, 2940 NE 164 Street, North Miami Beach, FL, spoke about the "surprise raises" and other surprises like the theft of \$64,000, the 2.5 million dollars of missing manholes, lifetime health benefits and uncovered expenses the taxpayers were having to pay for. He also spoke about transparency, the centerpiece of his campaign. He suggested putting the "checkbook" of the City being online. He also spoke about outcomes-based budgeting.

12. MISCELLANEOUS ITEMS

Raises

Councilwoman Smith asked if the document was accurate and could the Council do anything about this. City Attorney Siegel said she would need to research to see if this action was a violation of the charter. She added that the document would need to be verified, and she would also need to research if the Council could take any action on this decision and if it would be a violation of the charter. She also said she would either meet with each of the Council Members in person or by phone. Councilwoman Smith requested how this decision transpired – if the employees came to the City Manager or if the Human Resources Director came to the City Manager. City Attorney Siegel said that the appropriate way of getting that answer was for each Council Member to meet with the City Manager individually and have a conversation with her. Councilwoman Smith suggested going to the Finance Manager to find out how it happened. City Attorney Siegel noted that the unwritten policy here in the City, is that the Council does not go to the individual department head.

Mayor Rosner noted that there was no policy in place or in the charter that prohibits any of us to go to a department head. Vice Mayor Spiegel, as the charter review committee chair, noted that the Council had three (3) employees, and were responsible for setting policy and was entitled to expect those employees to carry out those policy decisions. She said the Council did not have the right to meddle in how policy decisions were carried out. Mayor Rosner noted that the Council was allowed to make requests to department heads. Councilwoman Smith said that this was unsettling and unacceptable and wanted a remedy. She said she wanted to know if it was accurate and did the Council have an authority to make a change in this piece of paper. City Attorney Siegel said she would have the information in a week. Councilwoman Smith added that she wanted this issue addressed at the next Council meeting. Vice Mayor Spiegel noted that she would have rather seen the money go to the needs of the residents. She said the money could have been used for the finance software that might have prevented the next theft and it was a poor use of an extra \$300,000 (including fica, unemployment and pension). She added that the remedy was to give direction back to the City Manager and that the cost of pensions was going to go up regarding police and fire. It was agreed upon by the Council to place this item for discussion at the January 4th Council Conference Meeting.

Council Pierre noted that the Council was heading into micromanaging. He said he did not believe that the City did not have any money and gave various examples of money being used and money being lost. Councilman Pierre expressed concern about employees who make the most getting the raises versus those who make the City look good are nowhere near the salaries. Councilman Pierre said the City needed to find the monies that were lost and use that money for services like extending the library hours. Councilwoman Kramer said it was an embarrassing moment and felt like she was punched in the gut again. She apologized to the residents and thanked that resident who brought it forward. Councilwoman Kramer spoke about focusing on the future. She said that the Council needed to evaluate why this happened and how they were going to fix it.

Mayor Rosner said that he felt betrayed. He spoke about the budgeting process and the C.A.R.E. Program and said he believed that this was not micromanaging. He said it was unacceptable and passed the gavel to the Vice Mayor. Before he continued, Councilman Fleurimond asked to make a comment. He said that the system of checks and balances was in question, that serving residents was important and that we needed to be concerned about our employees. Councilman Fleurimond said that the City needed to be mindful of the direction given by the Council.

Acting City Manager Weisblum said that she was sorry if she disappointed the Council, but believed that it was in the purview of her job. She said that a couple of employees received offers from other cities and were given a counter-offer to stay because they were essential. Councilwoman Smith said that this issue was unsettling. She spoke about a reverend who told her that many people were sleeping in their cars and that there were so many people out of jobs. Mayor Rosner said he believed the issue of purview has been taken to the extreme. He questioned why issues like these continue to happen.

Motion made by Mayor Rosner, seconded by Councilwoman Smith, to reconsider the appointment of Roslyn Weisblum as Acting City Manager. Mayor Rosner said he was miffed for words and rescinded his confidence in her continuing as Acting City Manager. Acting City Manager Weisblum said that it was not the intention to embarrass the Council or hurt the City in any way. She said that whatever the decision was, she respected the Council fully, that she loved the City and had given her entire career to the City. Acting City Manager Weisblum said that she was working with finance to ensure a balance with a great budget, that she was working with the department heads in evaluating their employees, and moving forward with other reductions and shifting monies into infrastructure. Acting City Manager Weisblum said she did not mean to hurt anyone by helping others and apologized again.

Councilman Fleurimond noted that Acting City Manager Weisblum had contributed 31 years of employment to the City and expressed that the City would be moving in the right direction to remove her. He asked that the Council make a decision in hiring a new City Manager. Councilwoman Smith noted, for the record, that she had seconded the motion for purpose of discussion. She said that in “her seat” this action was a bad judgment. Councilwoman Smith said that no one was indispensable. She said that with the right manager, the City would see a drastic change and would show us how the City should be run. Councilwoman Smith said she would like to propose a motion to freeze jobs, including the Finance Director and Assistant City Attorney positions, until the Council worked this out because she felt deceived. She also requested the City Attorney to let her know what the reversal could be and said she wanted to make the right decision for the residents and the City. Councilman Derose noted that we all agreed that we needed more time for verifying the information for accuracy and that he was not ready to make a decision to change the status of the Acting City Manager. He added that any action would be premature.

Councilwoman Kramer said to Acting City Manager Weisblum that she did it backwards. She continued to say that an analysis should have been done of the employees and then the increases should have come before us. Mayor Rosner said that discussion would take place after this action. She asked Mayor Rosner if Acting City Manager Weisblum was removed, did he have someone in mind to put in her place. Councilwoman Kramer said that the Council needed to stick with what they had and to “giddy up” on selecting a new City Manager. Vice Mayor Spiegel said that Acting City Manager Weisblum loved that City and that she was not willing to throw the City into disarray. She said the City needed some stability. Vice Mayor Spiegel said that Acting City Manager Weisblum was a professional and deserved the opportunity to explain her reasoning, her thought processes and give the Council the option of explaining where the money was coming from or why this was necessary. She said the best option was to trust that Ms. Weisblum knew the Council’s displeasures and would provide stability going into the interview process. Interim City Clerk Callahan then reiterated the motion made by Mayor Rosner.

Vote: All Council Members voted in the negative with the exception of Mayor Rosner who voted in the affirmative. (**Motion failed 6-1**).

Motion made by Councilwoman Smith to put a freeze on any new hires until January 6th, until the Council meets with the Pension Board, and until the Council finds out about the list, including the two (2) positions, both of which offers have been made, but the contracts had not been signed. **(Motion failed due to a lack of a second.)**

Motion made by Mayor Rosner, seconded by Councilwoman Kramer, to put a freeze on any new hires, including the positions of Finance Director and Assistant City Attorney, until the Council meets with the Pension Board, and until the Council finds out about the list.

Vice Mayor Spiegel expressed strong concern for liability in not having a 3rd attorney. She also expressed concern for not having a Finance Director for the City. Vice Mayor Spiegel suggested that the contract include foregoing pension vesting rights for two (2) weeks. Acting City Manager Weisblum said she would contact the candidate to see if he has not given notice yet and was taking a cut in pay to come to the City. She said she did not want to put his job in jeopardy. Vice Mayor Spiegel noted that police officers and others told her of how impressed they were with Acting City Manager Weisblum's knowledge of numbers, budget and math. Regardless of what happened with the raises, she got rid of a Finance Director and put her efforts into hiring another Finance Director. Vice Mayor Spiegel said she found it difficult after an offer had been made and added that the City needed a Finance Director. Councilwoman Kramer agreed with Vice Mayor Spiegel's comments about a 3rd attorney. She said she wanted to leave the hiring decision to the City Attorney and to wait about hiring the Finance Director until the Council decides what to do with the Pension.

Amended motion made by Mayor Rosner, seconded by Councilwoman Kramer, to put a freeze on any further hires until the Council has direction on the Pension.

Vice Mayor Spiegel asked if the City Attorney Siegel would include in the Finance Director and Assistant City Attorney contracts' a month delay to determine the pension benefit. City Attorney Siegel said she would research and check that the law if the benefits in place on the date of hire were the benefits in place or could be modified. She said she personally understood the Council's direction and what was being said and expressed concern for any possible liability in the future.

Mayor Rosner clarified that if Acting City Manager Weisblum had a need to fill a position, she would present that request at a Council Conference Meeting to unfreeze it.

Acting City Manager Weisblum spoke of the Staff as being outstanding to work with and the Council's generosity to her. She said she was sorry that she disappointed the Council. Acting City Manager Weisblum said that people want to come and work on a great team at NMB.

Councilwoman Smith expressed the importance of Acting City Manager Weisblum's understanding of what the Council wanted in going forward with packages for new hires.

Before Vice Mayor Spiegel voted in the negative, she wanted to express the reason of her vote. She explained that the Council had passed a budget approving certain positions, certain salaries. She said the Council had now given the Manager direction in bringing new hires back before the Council. Vice Mayor Spiegel expressed that she did not believe that it was appropriate and that was not the job of the Council according to her read of the Charter. Before Councilwoman Smith voted in the negative, she said she was voting in the affirmative because of the lack of information she had regarding the raises.

Vote: Vice Mayor Spiegel, Councilman Fleurimond, Councilman Derose and Councilman Pierre all voted in the negative, while Councilwoman Smith, Councilwoman Kramer and Mayor Rosner voted in the affirmative. (**Motion failed 4-3**).

12.1 2011 Council Meeting Dates

Interim City Clerk Callahan explained that two (2) Council Meeting dates were in conflict with holidays.

Motion made by Councilwoman Smith, seconded by Councilwoman Kramer, to approve the 2011 Council Meeting Dates as presented with an amendment to change the April 19th meeting to April 26th. By consensus, all voted in favor of the motion. (**Motion carried 7-0**).

13. **WAIVER OF FEE** – *None*

14. **BUSINESS TAX RECEIPTS** – *None*

15. LEGISLATION

Motion made by Councilman Derose, seconded by Councilwoman Kramer, to introduce Ordinance No. 2010-29 First Reading, By Title Only. By consensus, all voted in favor of the motion. (**Motion carried 7-0**).

15.1 Ordinance No. 2010-29 (First Reading, By Title Only)

AN ORDINANCE AMENDING CHAPTER II, ARTICLE III, SECTION 2-4 OF THE CODE OF THE ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "CITY CLERK"; AMENDING SECTION 2-4.1 ENTITLED "DUTIES AND RESPONSIBILITIES; EXCLUSIONS"; DELETING BUSINESS TAX RECEIPTS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion made by Councilman Derose, seconded by Councilwoman Smith, to adopt Ordinance No. 2010-29 First Reading, By Title Only. City Attorney Siegel provided a brief overview. Vice Mayor Spiegel suggested that the City no longer accept cash to prevent theft and perform proper accounting. In a roll call vote, all voted in the favor of the motion. (**Motion carried 7-0**).

Motion made by Councilman Derose, seconded by Vice Mayor Spiegel, to introduce Ordinance No. 2010-30 First Reading, By Title Only. By consensus, all voted in favor of the motion. (**Motion carried 7-0**).

15.2 Ordinance No. 2010-30 (First Reading, By Title Only)

AN ORDINANCE AMENDING CHAPTER XII, ARTICLE I, SECTION 12-1 OF THE CODE OF THE ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "LOCAL BUSINESS TAX RECEIPT AND REGISTRATION OF BUSINESSES, OCCUPATIONS AND PROFESSIONS"; DELETING CITY CLERK AND INSERTING COMMUNITY DEVELOPMENT DIVISION OF THE PUBLIC SERVICES DEPARTMENT; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES

IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion made by Councilman Derose, seconded by Councilman Pierre, to adopt Ordinance No. 2010-30 First Reading, By Title Only. In a roll call vote, all voted in the favor of the motion. **(Motion carried 7-0).**

Motion made by Councilman Derose, seconded by Vice Mayor Spiegel, to introduce Ordinance No. 2010-28 Second and Final Reading. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

15.3 Ordinance No. 2010-28 (Second and Final Reading)

AN ORDINANCE AMENDING SECTION 24-147.2(D) POLITICAL SIGNS OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA; LIMITING THE TIME SIGNS MAY BE DISPLAYED; 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.

Motion made by Councilman Derose, seconded by Councilman Fleurimond, to adopt Ordinance No. 2010-28 Second and Final Reading. City Attorney Siegel provided a brief overview.

Public Comment

Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL, spoke about Mayor Rosner's holiday signs.

Councilwoman Kramer expressed that the time of 8 weeks for new candidates to get their name out was unfair. Vice Mayor Spiegel spoke about the unfair advantage to incumbents. Councilman Pierre noted that March 1st was a good compromise. Councilman Derose said that there were too many signs put out. Councilwoman Smith spoke about the efforts placing the signs out and noted that she was in favor of February 1st. Councilman Fleurimond noted that he was in favor of the ordinance.

Vote: Vice Mayor Spiegel, Councilwoman Smith, Councilwoman Kramer, and Mayor Rosner all voted in the negative, while Councilman Fleurimond, Councilman Derose, and Councilman Pierre voted in the affirmative. **(Motion failed 4-3).**

Motion made by Vice Mayor Spiegel, seconded by Councilman Derose, to introduce Resolution No. R2010-75. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

7.6 Resolution No. R2010-75

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, URGING THE FLORIDA STATE LEGISLATURE TO PASS STATEWIDE LEGISLATION BANNING SAGGY PANTS IN GOVERNMENT FACILITIES (I.E., PARKS, GOVERNMENT BUILDINGS AND GOVERNMENT RECREATIONAL FACILITIES).

Motion made by Councilman Derose, seconded by Councilwoman Smith, to adopt Resolution No. R2010-75. City Attorney Siegel noted two (2) Scrivener's Errors in the last two (2) Whereas clauses both should have read government facilities. In addition, she asked that the following Whereas clause be added: residents tax dollars are used to build government facilities.

Vice Mayor Spiegel said she pulled the item from the Consent Agenda because she believed that the resolution impeded on a person's 1st Amendment Rights Freedom of Expression, that it was unconstitutional, that it was something that government should not regulate, and that it was an unenforceable ordinance. Councilwoman Smith spoke strongly of the ordinance being enforced only in government buildings and facilities and the positive feedback she received from the Public. She spoke of Opa-Locka's fine of \$250.00 and asked the Council for its support of this ordinance. Councilman Pierre spoke of the possibility of a customer applying for a permit and being denied because of his saggy pants. He said to make it a general rule was going too far. Councilman Fleurimond spoke of his research on this subject and that Opa-Locka proposed an ordinance not a resolution and that there was a big difference. He said that the resolution was sending an important message. Vice Mayor Spiegel questioned if it was appropriate for government to tell people how to dress.

City Attorney Siegel clarified that the courts had been up and down regarding the legislation from various cities throughout the nation. She added that the resolution was to urge the legislation to come up with uniform rules, if they desire, so everyone would be on the same page. Mayor Rosner noted that he believed that some of the people who wear saggy pants think that it was part of their culture and that there had been lots of cultures attacked because of their dress. He noted that the City reaches out to kids to use the City's facilities and some of these kids wear saggy pants. Councilman Fleurimond noted that saggy pants originated in prison, where inmates were not allowed to wear belts and laces in their shoes.

Note: Vice Mayor Spiegel, Councilman Derose, Councilwoman Kramer, and Mayor Rosner all voted in the negative, while Councilwoman Smith, Councilman Fleurimond, and Councilman Pierre voted in the affirmative. (**Motion failed 4-3**).

Motion made by Councilman Derose, seconded by Vice Mayor Spiegel, to introduce Resolution No. R2010-88. By consensus, all voted in favor of the motion. (**Motion carried 7-0**).

7.5 Resolution No. R2010-88

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO GRANT CITY EMPLOYEES THE FLEXIBILITY TO TAKE JANUARY 12, 2011 OFF AS AN ANNUAL DAY, AND EVERY YEAR SUBSEQUENT THEREAFTER, TO OBSERVE HAITI'S DAY OF MOURNING.

Motion made by Councilman Derose, seconded by Councilman Fleurimond, to adopt Resolution No. R2010-75. City Attorney Siegel suggested the following amendments: a) Title and Section 2 - day as a "personal annual leave day." b) Add a Whereas Clause: Whereas giving the City employees flexibility of taking a personal annual leave day will have no extra financial burden on the City. Councilman Derose noted that he was comfortable with the language. In response to Vice Mayor Spiegel inquiry if the resolution violated any provision in the City's union contracts, City Attorney Siegel responded in the negative.

Motion made by Vice Mayor Spiegel, seconded by Councilman Fleurimond, to adopt Resolution No. R2010-75 as amended. In a roll call vote, all voted in the favor of the motion. (**Motion carried 7-0**).

16. CITY COUNCIL COMMITTEE REPORTS

Vice Mayor Spiegel announced that the City's Pension contribution would be increased by .5% of the value of the assets, \$300,000 per year starting with Fiscal Year 2012. This item will be coming before the Council. Vice Mayor Spiegel also reported about the Police Department's "Shop with a Cop" event in conjunction with the Commission on the Status of Women. A breakfast and Christmas present shopping event took place. Parks & Recreation provided the names of 32 children in need. The children were brought in police cars to Target, where New York Big Apple Deli hosted a free breakfast for the children and volunteers, and Target supplied the forks, knives, napkins, juices and Starbucks Coffee. In addition, Target donated gift cards and wrapping paper to the children. She thanked everyone involved. Vice Mayor Spiegel wished everyone a Happy Holiday Season.

Councilwoman Smith directed the City Clerk to add to the next meeting new appointees on Boards for the Mayor to appoint with the Council's approval. She said she had attended the Police Luncheon where they honored Jerry Wimberly, who had been a mechanic for 21 years with the City and was retiring. She mentioned that he and his wife foster eight (8) children with special needs and wished him the best of luck. Councilwoman Smith noted that the Economic Development Committee, maybe in conjunction with the North Miami Beach Chamber of Commerce, was going to implement a Red Carpet Rollout for people looking to build or to improve in the City in the Permitting Department in order to make our City a desirable city to come to instead a city to run from when it comes to permitting. She also noted that the Senior Citizens Advisory Board/Commission on Aging were collecting sweaters, blankets, gloves and scarves for donation to Abuse Against Women, Homeless Shelters and the American Red Cross. The drop-off location was at the Recreation Department at the McDonald Center. Councilwoman Smith spoke about the Jack Family Funeral. She noted that people came and spoke from out of town and within the City. There were donations of dozens of yellow long-stemmed roses, the casket, the food and the clothes for the children – it was all community. Part of the giving of the holidays is about our community. She added that she had attended a PanZOU event where 400 toys were given away to children. Councilwoman Smith announced that Pension Reform was underway and would follow what was happening with the economy with the 1st meeting on January 6th. She wished everyone Happy Holidays and good 2011 and spoke of the bringing back the troops.

Councilman Fleurimond wished everyone a Happy and Safe Holiday Season and a Happy New Year. He recognized the Police Department for the Snow Fest, the Jack Family Funeral and "Shop with a Cop." He thanked Leisure Services and the other departments that helped make the Snow Fest a possibility. Councilman Fleurimond spoke of the workshop with Mr. Levinson and thanked the residents for their encouragement. He also spoke of the importance of the resident's feedback and involvement. Councilman Fleurimond commended the Council for its work and help. He also encouraged the Staff to move together in a concerted way. Councilman Fleurimond said he gave direction to Staff at the last Council Meeting to get an approval for the Gun Mount on 19th Avenue as a historic site, so the City can acquire state funding for the refurbishment. He asked that the City Manager look into this. He spoke of volunteers needed for the Multi-Cultural Committee meetings and noted a vacancy on the Redevelopment Advisory Board. Councilman Fleurimond announced that parks and the Library were open during the holiday break.

Councilman Derose expressed his heartfelt sympathy to the Jack Family and spoke about the funeral. He thanked the Police Department for its support to the family and commended the Staff for Snow Fest. Councilman Derose wished everyone a Merry Christmas and Happy New Year. He wished the City of NMB to continue to be a city of progress, a city where people care.

Councilwoman Kramer noted that she was the liaison to the Leisure Services Parks and Recreation and that ideas and input were welcomed from residents. Water Fest was coming up and the information will be out way ahead of time. She thanked Miami Dade County Commissioner Sally Heyman, the Police Department, the Bal Harbour Police Department and Metro Dade Police for their participation in the Latin Builders Association bicycle giveaway to needy children. They are picked up in a police van and given their bicycles. She wished everyone a Happy Winter and to watch for your space heaters, children playing in the street and on bicycles. She also wished her mother-in-law and father-in-law a Happy 63rd Anniversary and to everyone a Merry Christmas, Happy Kwanza and Happy and Healthy New Year.

Councilman Pierre asked everyone to take a moment to reflect for 2010. He spoke about dedication from employees and thanked the residents for their involvement. Councilman Pierre wished everyone a Happy Holidays, Merry Christmas and Happy Kwanza. He encouraged everyone to use the City's services and reminded everyone that the Library was open on Sundays.

Vice Mayor Spiegel reminded everyone that the Wednesday after Christmas was recycling.

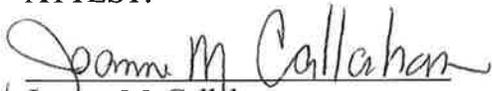
Mayor Rosner expressed thoughts and sympathy to the Jack Family. He wished everyone a Happy and Healthy New Year.

17. NEXT REGULAR CITY COUNCIL MEETING – Tuesday, January 4, 2011

18. ADJOURNMENT - There being no further business to come before the City Council, the meeting was adjourned at 11:50 p.m. on a motion made by Councilman Derose and seconded by Councilman Fleurimond. By consensus, all voted in favor. **(Motion carried 7-0).**

ATTEST:

(S E A L)


Joanne M. Callahan
Interim City Clerk