

MINUTES

OF THE
CITY COUNCIL MEETING

JUNE 24, 2008



PREPARED BY:
SOLOMON ODENZ, CITY CLERK

5. **APPOINTMENTS/PRESENTATIONS - CONTINUED:**

B. **PRESENTATIONS:**

1. **PRESENTATION BY MAYOR RAYMOND F. MARIN TO DETECTIVE CORA MANN AS THE OUTSTANDING OFFICER FOR THE MONTH OF APRIL 2008.**

MAYOR RAYMOND F. MARIN AND CHIEF RAFAEL P. HERNANDEZ JR., PRESENTED DETECTIVE CORA MANN THE OFFICER OF THE MONTH AWARD, AS THE OUTSTANDING OFFICER FOR THE MONTH OF APRIL 2008.

2. **PRESENTATION BY MAYOR RAYMOND F. MARIN TO OFFICER CHRIS SWEIGART AS THE OUTSTANDING OFFICER FOR THE MONTH OF MAY 2008.**

DEFERRED TO THE NEXT MEETING.

3. **PRESENTATION OF PROCLAMATION BY MAYOR RAYMOND F. MARIN PROCLAIMING JUNE 25, 2008 AS *CRISSY SIMONE DAY*.**

MAYOR RAYMOND F. MARIN AND CITY MANAGER KEVEN R. KLOPP PRESENTED A PROCLAMATION TO CRISSY SIMONE PROCLAIMING JUNE 25, 2008 AS *CRISSY SIMONE DAY*.

4. **PRESENTATION OF PROCLAMATION BY MAYOR RAYMOND F. MARIN PROCLAIMING JUNE 26, 2008 AS *CITY OF GOD BAND DAY*.**

WAS NOT PRESENTED AT THIS MEETING.

5. **PRESENTATION BY FORTUNA SMUKLER AND CLUB LAW AND ORDER PAYING COMPLIMENTS TO POLICE DEPARTMENT FOR THEIR GOOD WORK IN CLUB LAW AND ORDER.**

FORTUNA SMUKLER COMPLIMENTED THE POLICE DEPARTMENT FOR THEIR GOOD WORK IN CLUB LAW AND ORDER.

6. **APPROVAL OF MINUTES OF JUNE 10, 2008.**

MOTION by COUNCILWOMAN SMITH, seconded by MAYOR MARIN, to APPROVE the MINUTES of JUNE 10, 2008. MOTION CARRIED.

7. **CITY MANAGER'S REPORT - KEVEN R. KLOPP:**

A. **ALLEGIANCE TO THE CITY.**

1. FATHER'S DAY.
2. PEDESTRIAN BRIDGE SHOULD BE OPEN SOON.
3. HAPPY 4TH OF JULY – FLAGS IN THE CITY WILL BE UP.
4. CITY MANAGER CONCERNS REGARDING LAST MEETING (BUDGET CUTS, DUTIES, CRITICISMS, LOYALTY TO MAYOR AND CITY COUNCIL AND MANAGEMENT DECISIONS.

(CNMB-CC MINUTES TAPE #398)

7. **CITY MANAGER'S REPORT - CONTINUED:**

B. **PARKING FINES REIMBURSEMENT PROGRAM INTERLOCAL AGREEMENT.**

(CNMB-CC MINUTES TAPE #398)

8. **CITY ATTORNEY'S REPORT - HOWARD B. LENARD:**

THE CITY ATTORNEY WAIVED HIS REPORT.

(CNMB-CC MINUTES TAPE #398)

COUNCILMAN ROSNER ASKED FOR A POINT OF PERSONAL PRIVILEGE AND MADE A LENGTHY SET OF STATEMENTS AND VOICED A VARIETY OF ISSUES RELATIVE TO THE CITY MANAGER. FOLLOWING THOSE STATEMENTS, COUNCILMAN ROSNER MADE THE FOLLOWING MOTIONS:

MOTION by COUNCILMAN ROSNER, seconded by COUNCILMAN JULIEN to REMOVE the City Manager, but to include the six (6) month severance pay provision and any other provisions of his contract. MOTION CARRIED.

by the following ROLL CALL VOTE:

VICE MAYOR PIERRE	YES	
COUNCILMAN DEROSE	YES	
COUNCILWOMAN SMITH	YES	(VOTE: 5 YES
COUNCILMAN CHERNOFF	NO	2 NO)
COUNCILMAN ROSNER	YES	
COUNCILMAN JULIEN	YES	
MAYOR MARIN	NO	

MOTION by COUNCILMAN ROSNER, seconded by COUNCILMAN JULIEN was made to APPOINT Kelvin Baker as Interim City Manager for six (6) months. MOTION CARRIED.

by the following ROLL CALL VOTE:

VICE MAYOR PIERRE	YES	
COUNCILMAN DEROSE	YES	
COUNCILWOMAN SMITH	YES	(VOTE: 5 YES
COUNCILMAN CHERNOFF	NO	2 NO)
COUNCILMAN ROSNER	YES	
COUNCILMAN JULIEN	YES	
MAYOR MARIN	NO	

MOTION by COUNCILMAN ROSNER, seconded by VICE MAYOR PIERRE to have an Executive Session Meeting with the City Clerk. MOTION CARRIED.

VICE MAYOR PIERRE	YES	
COUNCILMAN DEROSE	YES	
COUNCILWOMAN SMITH	YES	(VOTE: 5 YES
COUNCILMAN CHERNOFF	NO	2 NO)
COUNCILMAN ROSNER	YES	
COUNCILMAN JULIEN	YES	
MAYOR MARIN	NO	

At this time, approximately 9:15 p.m., COUNCILMAN CHERNOFF excused himself from the Council Chambers.

MOTION by VICE MAYOR PIERRE, seconded by COUNCILMAN JULIEN, that as of tonight they conduct a national search for a City Manager. MOTION CARRIED,
by the following ROLL CALL VOTE:

VICE MAYOR PIERRE	YES	
COUNCILMAN DEROSE	YES	
COUNCILWOMAN SMITH	YES	(VOTE: 5 YES
COUNCILMAN ROSNER	YES	1 NO)
COUNCILMAN JULIEN	YES	
MAYOR MARIN	NO	

At this time, the Deputy City Manager made some statements into the record and, thereafter, made a request of the City Council to reconsider the vote.

9. SCHEDULED CITIZENS APPEARANCE:

A. BERT KEHREN
3302 N.E. 171 STREET
NORTH MIAMI BEACH, FL.

RE: THE BUDGET.

B. IRELENE ALLEN
181 NE 212 TERRACE
MIAMI GARDENS, FL.

RE: PROBLEMS IN THE CITY.

DID NOT APPEAR. DEFERRED TO THE NEXT MEETING.

C. ALLISON ROBIE
2131 N.E. 179 STREET
NORTH MIAMI BEACH, FL.

RE: NMB CONCERNS.

D. MUBARAK KAZAN
15564 N.E. 12 AVENUE
NORTH MIAMI BEACH, FL.

RE: NMB ISSUES.

9. **SCHEDULED CITIZENS APPEARANCE – CONTINUED:**

E. STEPHANIE KIENZLE
1653 N.E. 178 STREET
NORTH MIAMI BEACH, FL.

RE: POLITICS AS USUAL.

F. RICHARD REISS
23 N.W. 169 STREET
NORTH MIAMI BEACH, FL.

RE: BELOW THE SURFACE.

10. **MISCELLANEOUS ITEMS:**

NONE

11. **WAIVER OF FEE:**

NONE

12. **BUSINESS TAX RECEIPT MATTERS - CITY CLERK:**

A. ULTIMATE BOXING AND FITNESS, INC.
d/b/a ULTIMATE BOXING AND FITNESS
2148 N.E. 164 STREET
NORTH MIAMI BEACH, FL.

GAIL GENSLER, PRESIDENT
WENDY TABB, VICE PRESIDENT

RE: REQUEST APPROVAL OF A BUSINESS TAX RECEIPT FOR A PRIVATE SCHOOL (TRANSFER OF OWNERSHIP).

MOTION by COUNCILMAN ROSNER, seconded by COUNCILMAN DEROSE to APPROVE the applicants request. MOTION CARRIED.

B. BETHEL CHRISTIAN SCHOOLS, INC.
d/b/a BETHEL CHRISTIAN LEARNING CENTER
1725 N.E. 164 STREET
NORTH MIAMI BEACH, FL.

SHARON BROWN, PRESIDENT

RE: REQUEST APPROVAL OF A BUSINESS TAX RECEIPT FOR A PRIVATE SCHOOL (INITIAL APPROVAL).

MOTION by COUNCILMAN ROSNER, seconded by COUNCILWOMAN SMITH to APPROVE the applicants request. MOTION CARRIED.

12. BUSINESS TAX RECEIPT MATTERS - CONTINUED:

- C. HOLIDAY CHARITIES & PROMOTIONS, INC.
199 N.E. 167 STREET
900 N.E. 167 STREET
13885 BISCAYNE BOULEVARD
NORTH MIAMI BEACH, FL.

RAUL CARMINERO

RE: REQUEST APPROVAL OF BUSINESS TAX RECEIPTS FOR THE SALE OF FIREWORKS AT: 199 N.E. 167 STREET, 900 N.E. 167 STREET AND 13885 BISCAYNE BOULEVARD FROM JUNE 28, 2008 THROUGH JULY 4, 2008 FROM 9:00 A.M. TO 8:00 P.M. - 20% OF PROCEEDS TO STOP HUNGER, INC. (SUBJECT TO APPROVAL BY THE MIAMI-DADE COUNTY FIRE DEPT. AND PROHIBITED FROM CONDUCTING ANY SALE(S) WITHOUT PRIOR FIRE DEPT. APPROVAL AS ABOVE-DESCRIBED).

MOTION by COUNCILMAN ROSNER, seconded by COUNCILWOMAN SMITH to APPROVE the applicants request. MOTION CARRIED.

MOTION by COUNCILMAN ROSNER, seconded by VICE MAYOR PIERRE, to GO OUT OF THE REGULAR ORDER OF BUSINESS to take up Item 12(E) on the Agenda. MOTION CARRIED.

- E. TORAH ACADEMY FOR GIRLS SHA'AREI BINA INC
1557 N.E. 164 STREET
NORTH MIAMI BEACH, FL.

RABBI CHARLES ABRAMCHIK

RE: REQUEST APPROVAL OF A BUSINESS TAX RECEIPT FOR A PRIVATE SCHOOL (INITIAL APPROVAL).

MOTION by COUNCILMAN ROSNER, seconded by COUNCILWOMAN SMITH to APPROVE the applicants request. MOTION CARRIED.

MOTION by MAYOR MARIN, seconded by COUNCILMAN DEROSE, to GO BACK TO THE REGULAR ORDER OF BUSINESS. MOTION CARRIED.

12. BUSINESS TAX RECEIPT MATTERS - CONTINUED:

D. SMG ENTERTAINMENT INC.
d/b/a SWEET DREAMS (FORMERLY SCORES)
17450 BISCAYNE BOULEVARD
NORTH MIAMI BEACH, FL.

TOM MOON, ATTORNEY

RE: REQUEST APPROVAL OF BUSINESS TAX RECEIPTS FOR EXTENSION OF HOURS FROM 2:00 A.M. TO 4:00 A.M. AND FROM 4:00 A.M. TO 6:00 A.M.

AT THIS TIME, COUNCILMAN ROSNER AND COUNCILMAN JULIEN RECUSED THEMSELVES.

MOTION by COUNCILMAN DEROSE, seconded by VICE MAYOR PIERRE to APPROVE the 2:00 a.m. – 4:00 a.m. extension of hours license including detail assigned to the location.

MOTION DEFEATED,

by the following ROLL CALL VOTE:

VICE MAYOR PIERRE	NO	
COUNCILMAN DEROSE	YES	
COUNCILWOMAN SMITH	YES	(VOTE: 2 YES
MAYOR MARIN	NO	2 NO)

MOTION by MAYOR MARIN to include recommendations of the Chief for the 4:00 a.m. – 6:00 a.m. extension of hours license including detail assigned to the location.

MOTION DIED FOR LACK OF A SECOND.

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.

13B. LEGISLATION:

RESOLUTIONS (SERIATIM NO. R2008-27):

RESOLUTION NO. R2008-25, entitled "A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO A PARKING FINES REIMBURSEMENT PROGRAM INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY", was introduced by MOTION OF MAYOR MARIN, seconded by COUNCILMAN DEROSE. MOTION CARRIED.

13B. LEGISLATION - CONTINUED:

RESOLUTIONS - CONTINUED):

RESOLUTION NO. R2008-25 – CONTINUED:

MOTION by COUNCILWOMAN SMITH, seconded by MAYOR MARIN, to ADOPT RESOLUTION NO. R2008-25. MOTION CARRIED.

RESOLUTION NO. R2008-26, entitled “A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA ADOPTING THE NORTH MIAMI BEACH URBAN DESIGN PLAN PREPARED BY THE CONSULTING FIRM OF GLATTING JACKSON KERCHER ANGLIN AS POLICY FOR THE FUTURE REDEVELOPMENT OF THE CITY OF NORTH MIAMI BEACH” was introduced by MOTION of MAYOR MARIN, seconded by COUNCILMAN ROSNER. MOTION CARRIED.

MOTION by COUNCILMAN ROSNER, seconded by COUNCILMAN DEROSE, to ADOPT RESOLUTION NO. R2008-26. MOTION CARRIED.

Name of Party(ies) Appearing:

1. Robert Taylor
1951 N.E. 157 Terrace
North Miami Beach, FL.

ORDINANCES - FIRST READING, BY TITLE ONLY:
(SERIATIM NO. 2008-11)

NONE

ORDINANCES - SECOND AND FINAL READING:

ORDINANCE NO. 2008-10, entitled “AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE CITY OF NORTH MIAMI BEACH COMPREHENSIVE PLAN AS DESCRIBED IN COMPREHENSIVE PLAN AMENDMENT PACKAGE ITEM # 07-423/DCA NO. 08-PEFE1, PROVIDING FOR A NEW PUBLIC EDUCATION FACILITIES ELEMENT AND ASSOCIATED TEXT AMENDMENTS TO THE INTERGOVERNMENTAL COORDINATION ELEMENT AND CAPITAL IMPROVEMENT ELEMENT NECESSARY TO MEET STATE-MANDATED PUBLIC SCHOOL CONCURRENCY REQUIREMENTS; AUTHORIZING TRANSMITTAL OF THESE ADOPTED AMENDMENTS TO THE SOUTH FLORIDA REGIONAL PLANNING COUNCIL, FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS, AND OTHER APPLICABLE AGENCIES FOR COMPLIANCE REVIEW AS REQUIRED BY FLORIDA STATUTES; PROVIDING FOR A REPEALER PROVISION, A SAVINGS CLAUSE, A SEVERABILITY CLAUSE, AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE”, was introduced BY MOTION OF COUNCILMAN DEROSE, seconded by COUNCILMAN ROSNER ON ITS SECOND AND FINAL READING. MOTION CARRIED.

13B. LEGISLATION - CONTINUED:

ORDINANCES - SECOND AND FINAL READING - CONTINUED:

ORDINANCE NO. 2008-10 – CONTINUED:

MOTION by COUNCILMAN DEROSE, seconded by VICE MAYOR PIERRE, to ADOPT ORDINANCE NO. 2008-10 ON ITS SECOND AND FINAL READING. MOTION CARRIED,
by the following ROLL CALL VOTE:

VICE MAYOR PIERRE	YES	
COUNCILMAN DEROSE	YES	
COUNCILWOMAN SMITH	YES	(VOTE: 6 YES
COUNCILMAN ROSNER	YES	0 NO)
COUNCILMAN JULIEN	YES	
MAYOR MARIN	YES	

14. UNSCHEDULED CITIZENS APPEARANCES:

A. FORTUNA SMUKLER
3207 N.E. 168 STREET
NORTH MIAMI BEACH, FL

RE: PLEDGE OF CIVILITY.

B. HERBY JOSEPH
270 N.E. 175 STREET
NORTH MIAMI BEACH, FL

RE: ARREST IN PREVIOUS ELECTION.

C. BERT KEHREN
3302 N.E. 171 STREET
NORTH MIAMI BEACH, FL

RE: CITY MANAGER.

D. CHARLES LOEB
16800 N.E. 15 AVENUE #112
NORTH MIAMI BEACH, FL

RE: 15th AVENUE BRIDGE, TRANSPORTATION MEETING.

E. MARK LEVASSEUR
1070 N.E. 167 STREET
NORTH MIAMI BEACH, FL

RE: HOME ROBBERIES.

14. UNSCHEDULED CITIZENS APPEARANCES - CONTINUED:

F. NORMAN EDWARDS
1640 N.E. 1705 STREET
NORTH MIAMI BEACH, FL

RE: CITY MANAGER.

G. REGGIE RAHMING
2541 N.W. 67 STREET
MIAMI GARDENS, FL

RE: MOVING FORWARD.

H. MUBARAK KAZAN
15564 N.E. 12 AVENUE
NORTH MIAMI BEACH, FL

RE: LETTER TO FRANTZ PIERRE, PLEDGE OF CIVILITY, DIVISIVENESS, STRIP CLUBS, CONTINGENCY FUND.

I. MAMIE WILLIS
1417 N.E. 151 TERRACE
NORTH MIAMI BEACH, FL

RE: CITY IN CRISIS.

J. ALLISON ROBIE
2131 N.E. 179 STREET
NORTH MIAMI BEACH, FL

RE: CITY CRISIS, MARTIN LUTHER KING QUOTE.

K. RICHARD REISS
23 N.W. 169 STREET
NORTH MIAMI BEACH, FL

RE: CITY MANAGER.

L. ROBERT TAYLOR
1951 N.E. 157 TERRACE
NORTH MIAMI BEACH, FL

RE: CITY MANAGER.

M. JARRET GROSS
1557 N.E. 164 STREET
NORTH MIAMI BEACH, FL

RE: MANIPULATION, DIVISIVENESS.

15. **CITY COUNCIL COMMITTEE REPORTS:**

A. **VICE MAYOR PIERRE'S REPORT:**

1. VICE MAYOR PIERRE STATED THAT AS VICE MAYOR OF NORTH MIAMI BEACH HE ATTENDED THE 76TH ANNUAL MEETING OF THE MAYORS AT THE INTERCONTINENTAL HOTEL FOR A FOUR DAY CONFERENCE TO GATHER INFORMATION REGARDING DOMESTIC POLICY ISSUES THAT IMPACT URBAN AMERICA AND METROPOLITAN AREAS LIKE NORTH MIAMI BEACH. THE TITLE SPONSOR OF THE EVENT "TCP" IS A GLOBAL LEADER IN ENERGY EFFICIENT LIGHTING AND MUCH FOCUS WAS PLACED ON OUR ENVIRONMENT AND TOOLS SO THEY CAN UTILIZE IT TO INCORPORATE GREEN TECHNOLOGY. MIAMI MAYOR MANNY DIAZ WAS SWORN IN AS THE 66TH PRESIDENT OF THE U.S. CONFERENCE OF MAYORS. IN HIS INAUGURAL REMARKS HE STRESSED THE IMPORTANCE OF THE MAYORS BIPARTISAN TEN-POINT PLAN THAT HE SHARED WITH THE ADMINISTRATION, THE PRESIDENTIAL CANDIDATES. MAYOR DALEY OF CHICAGO REQUESTED THAT WE SUPPORT THE CHICAGO BID FOR THE OLYMPICS IN 2016. A RESOLUTION FROM NORTH MIAMI BEACH IS FORTHCOMING. VICE MAYOR PIERRE INDICATED THAT OF IMPORTANCE WAS THE KEYNOTE SPEAKERS SUCH AS PRESIDENT BUSH, SENATOR OBAMA, FORMER PRESIDENT BILL CLINTON, AND A HOST OF MAYORS. ON SATURDAY MR. PHILLIP MANGANO URGED THE MAYORS TO ACT TO CURE HOMELESSNESS RATHER THAN MERELY TREAT IT. HE BELIEVES CITIES NEED JOBS AVAILABLE AT ALL PAY SCALES, AFFORDABLE HOUSING INCLUDING RENTALS DURING THIS HOUSING CRISIS THAT IS FORCING MANY FAMILIES FROM THEIR HOMES. VICE MAYOR PIERRE STATED THAT AS YOUR VICE MAYOR HE IS COMMITTED TO MANY POINTS TO THIS AGENDA AND WILL BE INTRODUCING A RESOLUTION TO A PROJECT THAT IS CONNECTED TO A NEIGHBORHOOD COMPREHENSIVE PLAN. A COMMUNITY DEVELOPING MATTERS FOR INCREASING THE QUALITY OF LIFE REVITALIZING HOUSING AND BUSINESSES IN NORTH MIAMI BEACH AND INSURE THAT TAXPAYERS DOLLARS HAVE BEEN INVESTED FOR ASSISTING COMMUNITIES. VICE MAYOR PIERRE WISHED EVERYONE A GOOD NIGHT.

(CNMB-CC MINUTES TAPE #398)

B. **COUNCILMAN DEROSE'S REPORT:**

1. COUNCILMAN DEROSE WISHED EVERYONE A HAPPY FOURTH OF JULY AND A GOOD NIGHT.

(CNMB-CC MINUTES TAPE #398)

C. **COUNCILWOMAN SMITH'S REPORT:**

1. COUNCILWOMAN SMITH STATED THAT SHE WANTED TO THANK KEVEN KLOPP FOR HIS SERVICE AND SHE WISHED HIM THE BEST. COUNCILWOMAN SMITH INDICATED THAT WHAT THE PUBLIC MAY NOT KNOW EVERYTHING SHE HAS SAID TO KEVEN KLOPP AND SHE HAS SAID IT TO HIM MANY TIMES IN THEIR CONVERSATIONS IN HER SHORT TENURE HERE THEY HAD PRIVATE CONVERSATIONS AND HE KNEW EXACTLY WHERE SHE STOOD. COUNCILWOMAN SMITH INDICATED THAT SHE DOES NOT NEED TO BRING EVERYTHING INTO PUBLIC THAT THE PUBLIC DOES NOT SEE BEHIND THE SCENES. SHE

15. CITY COUNCIL COMMITTEE REPORTS - CONTINUED:

C. COUNCILWOMAN SMITH'S REPORT - CONTINUED:

CAN DOCUMENT WITH PLEASURE. ANYONE THAT WANTS TO CALL HER. THE CHANGE THAT SHE FELT NEEDS TO BE MADE. COUNCILWOMAN SMITH STATED WILL IT BE A STRUGGLE? DO WE HAVE A LOT OF WORK TO DO? COUNCILWOMAN SMITH STATED THAT SINCE SHE HAS BEEN ELECTED SHE HAS NOT STOPPED STRUGGLING. SHE WILL HAVE TO STRUGGLE A LITTLE MORE. COUNCILWOMAN SMITH WISHED HIM THE BEST. COUNCILWOMAN SMITH STATED THAT HE CERTAINLY HAS THE CAPABILITIES, BUT WHEN IT COMES TO WHAT WE NEED IN THIS ENVIRONMENT SHE FEELS THAT THEY WERE NOT ADDRESSED TO ALL SEVEN OF THEM ON MANY OCCASIONS AND SHE WISHED HIM THE BEST AND SHE KNOWS THAT HE WILL DO WELL. HE IS A NICE YOUNG MAN.

(CNMB-CC MINUTES TAPE #398)

2. COUNCILWOMAN SMITH STATED THAT SHE WANTED TO ADD, WITH A GREAT DEAL OF DISAPPOINTMENT, THAT SHE IS SHOCKED THAT ONE OF OUR COUNCILMEN WOULD GET UP AND TAKE HIS BALL AND GO HOME AND NOT PLAY WITH THE REST OF THEM. SHE NEVER EVER THOUGHT THAT SHE WOULD SEE THE DAY WHEN YOU HAVE AN AGENDA IN FRONT OF YOU THAT NEEDS TO BE ADDRESSED. WHETHER IT IS THE MAN THAT WANTS THE LICENSE TO OPEN UP HIS STORE, WHETHER IT IS THE PERSON THAT WANTS A LICENSE TO HAVE FIREWORKS, TO GET UP AND WALK OUT ON THE PUBLIC THAT ELECTED HIM TO SERVE SHE MUST SAY SHE IS DISAPPOINTED.

(CNMB-CC MINUTES TAPE #398)

3. COUNCILWOMAN SMITH STATED THAT SHE WANTED TO WISH EVERYONE A WONDERFUL FOURTH OF JULY. HER MOTHER PASSED AWAY THIRTY YEARS AGO THIS FOURTH OF JULY AND HER MOTHER RAISED THREE WONDERFUL CHILDREN AND SHE IS ONE OF THEM AND SHE HAS TO SIT HERE WITH CREDIBILITY AND IT IS A LOT OF WORK AND ANYBODY FROM THE PUBLIC THAT FEELS THAT THEY CAN COME AND DO A BETTER JOB FOR THE COUNCIL SHE URGES THEM TO RUN.

(CNMB-CC MINUTES TAPE #398)

4. COUNCILWOMAN SMITH STATED THAT WE WILL BE HAVING FOR EIGHT WEEKS BEGINNING IN SEPTEMBER, ON HOW DOES GOVERNMENT WORK. WE HAVE APPLICATIONS FOR THAT AND WE ARE GOING TO START THAT ANYBODY WHO HAS ANY QUESTIONS TO PLEASE CALL HER. SHE IS ANXIOUS FOR THE PUBLIC TO REALLY SEE HOW DOES THIS GOVERNMENT REALLY WORK BEHIND THE SCENES AND SHE HOPES THE DIRECTION OUR CITY WILL GO AND HOPES THE DIRECTION WE WANT IT TO GO CAN BE ADDRESSED FOR THE ENTIRE CITY STARTING TONIGHT. COUNCILWOMAN SMITH THANKED EVERYONE AND WISHED EVERYONE A WONDERFUL WEEK.

(CNMB-CC MINUTES TAPE #398)

15. CITY COUNCIL COMMITTEE REPORTS - CONTINUED:

D. COUNCILMAN ROSNER'S REPORT:

1. COUNCILMAN ROSNER STATED THAT HE TOO, HAS A LOT OF RESPECT FOR KEVEN, AND THE BIGGEST PROBLEM HERE TONIGHT WAS THAT OUR CHARTER IS SET UP WHERE WE ARE NOT ALLOWED TO INTERCEDE WITH ANY DEPARTMENT HEADS THAT THE CITY MANAGER PICKS. WHEN YOU ARE LEFT WITH NO ALTERNATIVE AND IN THE NEXT COUNCIL AGENDA THEY WERE GOING TO MOVE FORWARD TO PURCHASE THIS PROPERTY HE COULD NO LONGER SIT BY, FROM ALL THE INFORMATION THAT HE PRESENTED TONIGHT AND LET IT HAPPEN, AND THAT IS WHY YOU SAW THIS MOTION MOVE FORWARD LIKE A STEAM ROLLER JUST TRYING TO MOVE SOMETHING FORWARD THAT HE KNOWS, IN HIS GUT, IT IS NOT THE PLACE TO GO. COUNCILMAN ROSNER STATED THAT, UNFORTUNATELY, KEVEN IS THE VICTIM OF A CHANGE IN DIRECTION TO MAKE SURE THAT OUR CRA STAYS FOCUSED AND STAYS TRANSPARENT AND STAYS ABOVE BOARD. COUNCILMAN ROSNER STATED THAT HE WISHED KEVEN ALL THE BEST, AND IF KELVIN STEPS UP TO THIS PLATE AND HELPS US FOR THE NEXT SIX MONTHS GET THROUGH THIS COUNCILMAN ROSNER BELIEVED THAT HE HAS THE ABILITY TO BRING THIS COUNCIL TOGETHER, BRING THE DEPARTMENTS TOGETHER, AND HELPS US MOVE FORWARD. IF HE IS NOT UP TO THAT CHALLENGE OR IF HE CHOOSES TO GO SOMEWHERE ELSE COUNCILMAN ROSNER UNDERSTANDS THIS IS NOT AN EASY PLACE TO BRING THIS FORWARD. THIS IS NOT AN EASY BUDGET TO MOVE FORWARD AND WE HAVE A LOT OF CHALLENGES, BUT WE WANT TO MAKE SURE IT IS HEADED IN THE RIGHT DIRECTION.

(CNMB-CC MINUTES TAPE #398)

2. COUNCILMAN ROSNER STATED THAT A LOT OF OTHER THINGS THAT HAVE COME UP IN THE LAST SEVERAL WEEKS WITH CITIZENS COMING FORWARD WITH RESPECT TO OUR POLICE DEPARTMENT, PARKS AND RECREATION, EVERYBODY WANTS TO KEEP EVERYTHING IN PLACE. THE ONLY WAY THAT IS GOING TO HAPPEN IS WITH EVERY CITIZEN IN THIS CITY, FORTY-TWO THOUSAND PLUS, GETTING INVOLVED. COUNCILMAN ROSNER INDICATED THAT IN THE POLICE DEPARTMENT THEY HAVE A PROGRAM WHERE A LOT OF CITIZENS VOLUNTEER AND ARE INVOLVED. WE HAD A COMMUNITY MEETING LAST NIGHT AT SEVEN O'CLOCK REGARDING CRIME IN OUR CITY. COUNCILMAN ROSNER INDICATED THAT AT SIX O'CLOCK HIS WIFE WAS ROBBED AND HE WAS A FEW MINUTES LATE FOR THE MEETING BECAUSE THEY WERE DEALING WITH OUR POLICE DEPARTMENT AND FILING REPORTS. COUNCILMAN ROSNER STATED THAT THE ISSUE WAS WHEN HE WENT TO THE MEETING IT IS ALL ABOUT CITIZEN INVOLVEMENT. THE CITIZENS THAT CAME FORWARD WANT TO KEEP OUR RECREATION DEPARTMENT, AND HOW IMPORTANT IT IS TO KEEP OUR CITY TOGETHER SO THAT WE DO NOT CLOSE OUR FACILITIES. THAT WE KEEP OUR FACILITIES INTACT SO OUR KIDS ARE NOT OUT THERE REAKING HAVOC AND THEN WHERE WE HAVE TO BRING MORE POLICE OFFICERS TO CONTROL THIS CITY. COUNCILMAN ROSNER INDICATED THAT HE WOULD LIKE TO MAKE A SUGGESTION THAT WE DO SOMETHING VERY SIMILAR TO WHAT WE HAVE IN THE POLICE DEPARTMENT, WHICH WAS AN

15. **CITY COUNCIL COMMITTEE REPORTS - CONTINUED:**

D. **COUNCILMAN ROSNER'S REPORT - CONTINUED:**

ORGANIZED CITIZENS INVOLVEMENT WHERE THEY ARE TRAINED, WEAR UNIFORMS, ETCETERA REGARDING PARKS AND RECREATION. COUNCILMAN ROSNER STATED THAT HE HAS DISCUSSED IT WITH A FEW MEMBERS OF PARKS AND RECREATION. COUNCILMAN ROSNER STATED THAT YOU HAD A LOT OF RESIDENTS COME FORWARD SO HE PUT IT OUT TO THE RESIDENTS, THAT WE ORGANIZE PARKS AND RECREATION SIMILAR TO THE POLICE DEPARTMENT WERE PEOPLE WHO COME FORWARD AND SAY WE WANT TO KEEP THESE PROGRAMS WE WANT TO DO THIS AND THAT. THEY NEED TO BECOME INVOLVED THEY NEED TO BECOME VOLUNTEERS TO THE PARKS AND RECREATION DEPARTMENT SO WE CAN KEEP IT INTACT. IF WE CAN KEEP IT INTACT THAT WILL HELP SAVE PART OF OUR CITY. COUNCILMAN ROSNER BELIEVES THAT IS SOMETHING THAT WE NEED LOOK TO AT.

(CNMB-CC MINUTES TAPE #398)

3. COUNCILMAN ROSNER STATED THAT A LOT OF OTHER ISSUES CAME FORWARD IN THE STRATEGIC PLANNING THAT NEED TO BE ADDRESSED WITH OUR NEW CITY MANAGER AND OUR DIRECTION OF COHESION. THE THREE PEOPLE THAT ARE RUNNING OUR CITY AND ARE OUR EYES AND EARS WITH THE DEPARTMENT NEED TO BE WORKING TOGETHER AND THAT IS WHAT IS REALLY IMPORTANT. COUNCILMAN ROSNER THANKED EVERYONE AND WISHED EVERYONE A GOOD NIGHT.

(CNMB-CC MINUTES TAPE #398)

E. **COUNCILMAN JULIEN'S REPORT:**

1. COUNCILMAN JULIEN STATED THAT HE HEARD A LOT OF THINGS TONIGHT AND HE HAS BEEN VERY NOTICEABLY QUIET ABOUT THE WHOLE THING, BUT THERE ARE A COUPLE OF THINGS THAT HE NEEDS TO POINT OUT. THERE ARE INDIVIDUALS THAT TALK ABOUT THIS ENTIRE VOTE WAS PREPLANNED AND THAT COUNCILMAN ROSNER AND I TALK TO ONE ANOTHER. YES, WE DO. IF HE SAT NEXT TO THE MAYOR HE WOULD BE TALKING TO THE MAYOR FROM TIME TO TIME. IF HE SAT NEXT TO ANY OF HIS COLLEAGUES AT ANY POINT IN TIME HE WOULD HAVE SOMETHING TO SAY TO HIM OR HER. THAT DOES NOT MEAN THAT THERE IS ANYTHING CLANDESTINE GOING ON AND UNFORTUNATELY THERE ARE CERTAIN INDIVIDUALS THAT SIT IN THIS ROOM THAT STAND AND SPEAK BEFORE THE TV AUDIENCE THAT ARE SO CLOUDED, THEIR MINDS ARE SO FOGGED BY HATRED THAT THEY REFUSE TO SEE THE BIG PICTURE. THE BIG PICTURE IS THAT IF YOU LOOK AT ANY OF THE SEVEN OF US THAT ARE SITTING UP HERE, AT ANY GIVEN POINT IN TIME, YOU WILL SEE THAT THERE WILL BE SOME INTERACTION GOING ON, AS RIGHTFULLY SO. WE HAVE QUESTIONS ABOUT CERTAIN THINGS YOU KNOW, BUT IT DOES NOT MEAN WE ARE PLANNING ANYTHING THAT IS UNETHICAL AND THERE WAS A COMMENT THAT WAS MADE ABOUT HIM IN

15. **CITY COUNCIL COMMITTEE REPORTS - CONTINUED:**

E. **COUNCILMAN JULIEN'S REPORT - CONTINUED:**

PARTICULAR BEING IN THE HALLWAY. COUNCILMAN JULIEN INDICATED THAT HE DOES RESPECT COUNSEL. HE DOES RESPECT THAT COUNSEL STATED THAT HE HAD A POSSIBLE CONFLICT OF INTEREST AND, AS SUCH, HE REMOVED HIMSELF FROM THIS PODIUM AND HE WENT OUT INTO THE HALLWAY SO THAT HE WOULD NOT BE A PART OF THIS CONVERSATION. COUNCILMAN JULIEN STATED THAT IF YOU HAVE A PROBLEM WITH THE FACT THAT HE WAS OUT IN THE HALLWAY SPEAKING THEN, SO BE IT, BUT AT THE SAME TIME AS COUNCILWOMAN SMITH STATED, WE HAVE ONE COUNCILMEMBER WHO GOT UP AND LEFT. COUNCILMAN JULIEN STATED THAT HE WAS NOT SAYING THAT WHAT HE DID WAS RIGHT OR WRONG. HE GOT UP AND LEFT BECAUSE HE HAD LEGAL COUNSEL THAT TOLD HIM HE HAD A POSSIBLE CONFLICT OF INTEREST AND HE GOT UP AND HE LEFT.

(CNMB-CC MINUTES TAPE #398)

2. COUNCILMAN JULIEN STATED THAT, ANYTHING ELSE THAT ANYBODY WANTS TO KNOW AS FAR AS WHAT HAS BEEN GOING ON WITH HIM PERSONALLY WITH THE CITY MANAGER, HE PUTS ALMOST EVERYTHING THAT HE COMMUNICATES WITH THIS CITY MANAGER IN WRITING. COUNCILMAN JULIEN STATED THAT HE CHALLENGES ANYONE OF YOU TO GO AHEAD AND DO A FREEDOM OF INFORMATION ABOUT HIS COMMUNICATIONS BETWEEN HIMSELF AND THE CITY MANAGER AND YOU WILL BEGIN TO SEE A PATTERN. COUNCILMAN JULIEN INDICATED THAT HIS VOTE WAS NOT JUST TODAY. HIS VOTE DID NOT JUST HAPPEN TODAY. HE CANNOT SPEAK ABOUT ANY OF HIS OTHER COLLEAGUES, BUT HIS VOTE DID NOT COME ABOUT TODAY AND ANYBODY THAT WANTS TO THREATEN HIM ABOUT RUNNING AGAINST HIM, GOD BLESS YOU, GO FOR IT. COUNCILMAN JULIEN STATED THAT HE DOES NOT NEED THIS TO EARN A LIVING. BY THE GRACE OF GOD HE DOES JUST FINE. AS A MATTER OF FACT, COUNCILMAN JULIEN INDICATED THAT HE WOULD PREFER TO BE HOME WITH HIS WIFE AND CHILDREN BECAUSE ON FRIDAY HE HAS TO TAKE HIS DAUGHTER TO TALLAHASSEE TO SCHOOL. HE WOULD MUCH PREFER TO SPEND THESE LAST COUPLE OF DAYS WITH HER AT HOME, BUT HE IS HERE DOING HIS CIVIC DUTY AND IF SOMEONE OUT THERE THINKS THAT HE IS NEGLIGENT IN WHATEVER IT IS THAT HE IS DOING OR THAT HE IS DERELICT IN HIS DUTY, GOD BLESS YOU, GO AHEAD AND RUN AGAINST ME. THEREAFTER, COUNCILMAN JULIEN WISHED EVERYONE A GOOD EVENING.

(CNMB-CC MINUTES TAPE #398)

F. **MAYOR MARIN'S REPORT:**

1. MAYOR MARIN STATED THAT A LOT HAS CHANGED THIS EVENING. MAYOR MARIN STATED HE WAS SORRY TO KEVEN AND WISHED HIM AND HIS FAMILY THE BEST. MAYOR MARIN KNOWS HE WILL BOUNCE BACK. MAYOR MARIN STATED GOOD LUCK TO KELVIN.

(CNMB-CC MINUTES TAPE #398)

15. CITY COUNCIL COMMITTEE REPORTS - CONTINUED:

F. MAYOR MARIN'S REPORT - CONTINUED:

2. MAYOR MARIN STATED HE ONLY HAD TWO ANNOUNCEMENTS TO MAKE. HE WANTED TO WISH EVERYBODY A HAPPY FOURTH OF JULY COMING UP. MAYOR MARIN STATED THAT HE WANTED TO ANNOUNCE THAT THIS EVENING HIS WIFE SIGNALLED HIM. HIS SON CALLED HIM FROM PASADENA CALIFORNIA AND ANNE HAD A LITTLE BABY GIRL. HE STILL DOES NOT KNOW THE NAME. HE WILL BE GOING OUT TO CALIFORNIA ON TUESDAY AND SPENDING A WEEK THERE VISITING NO NAME MARIN, A BABY GIRL. THAT GIVES THEM TWO BOYS AND TWO GIRLS. MAYOR MARIN STATED THAT BECAUSE OF TIME AND BECAUSE THEY ARE RUNNING OUT OF DISC HE WILL SAVE HIS OTHER COMMENTS REGARDING WHAT HAPPENED THIS EVENING FOR ANOTHER DAY. MAYOR MARIN WISHED EVERYONE A GOOD EVENING.

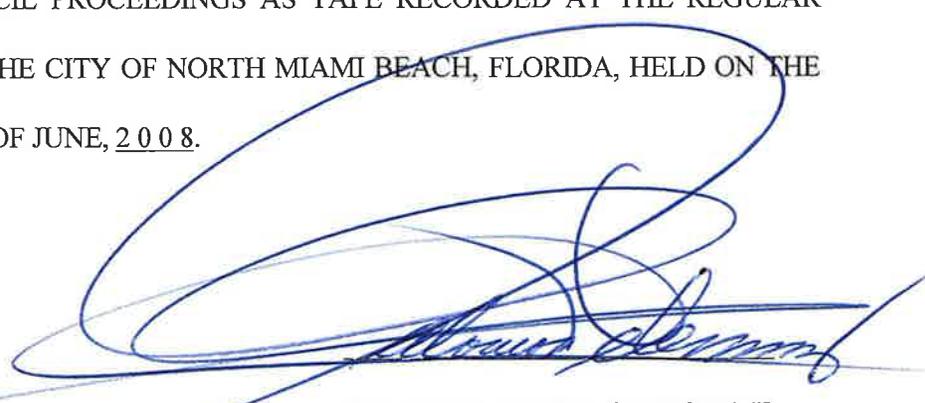
(CNMB-CC MINUTES TAPE #398)

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH WAS ADJOURNED AT 11:10 PM.

CERTIFICATION

I, SOLOMON ODENZ, CITY CLERK OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, DO HEREBY CERTIFY THAT THE FOREGOING MINUTES, PAGES ONE (1) THROUGH PAGE SIXTEEN (16) INCLUSIVE, PLUS THREE (3) ATTACHMENTS (ONE MEMORANDUM OF VOTING CONFLICT- COUNCILMAN JOHN PATRICK JULIEN; ONE(1) SONY CASSETTE TAPE DATED 4/19/07 SUBMITTED BY MR. MUBARAK KAZAN; AND ONE (1) SET OF ATTACHMENTS SUBMITTED BY MR. TOM MOON, ESQUIRE CONSISTING OF 189 PAGES) TO BE THE OFFICIAL RECORD OF THE CITY COUNCIL PROCEEDINGS AS TAPE RECORDED AT THE REGULAR CITY COUNCIL MEETING OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, HELD ON THE TWENTY-FOURTH (24TH) DAY OF JUNE, 2008.

(SEAL)



SOLOMON ODENZ, CITY CLERK
CITY OF NORTH MIAMI BEACH

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, JOHN PATRICK JULIEN, hereby disclose that on JUNE 24, 2008:

- (a) A measure came or will come before my agency which (check one) SEE BELOW (NOT APPLICABLE)
- inured to my special private gain or loss;
 - inured to the special gain or loss of my business associate, _____;
 - inured to the special gain or loss of my relative, _____;
 - inured to the special gain or loss of _____, by whom I am retained; or
 - inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:
MY EMPLOYER, BIQUÉ INTERNATIONAL, INC., HAS A BUSINESS RELATIONSHIP WITH AN ASSOCIATE AT THE LAW FIRM OF FROMBOLD, BELOW & KORNIG, WHICH CAME BEFORE US ON A LICENSING MATTER.

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JULY 7, 2008
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

APPOINTED OFFICERS (continued)

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- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, _____, hereby disclose that on _____, 20 _____:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

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Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

\$

Miami-Dade Commission on Ethics

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fax

CITY ATTORNEY'S OFFICE
CITY OF NORTH MIAMI BEACH

Subject: INQ 08-123 Councilman Myron Rosner
Date: July 21, 2008

To: Darcee S. Siegel, Esq.
Phone Number: 305.948.2939
Fax Number: 305.787.6004
Pages, with cover: 9

From: Victoria Frigo
Phone Number: 305.350-0601
Fax Number: 305.579.0273

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frigov@miamidade.gov 19 West Flagler St., Suite 820 Miami, FL 33130

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Magda Abdo-Gomez
Judge Seymour Gelber
Erica Wright

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

July 21, 2008

Daroc S. Siegel, Assistant City Attorney
City of North Miami Beach
17011 NE 19th Ave.
North Miami Beach, FL 33162-3100

Via First Class Mail and Fax at 305.787.6004

Re: **INQ 08-123**
Councilman Myron Rosner's possible voting conflict
Miami-Dade County Code at Section 2-11.1 (d)

Dear Ms. Siegel:

In your letter dated July 7, 2008, you asked if Councilman Myron Rosner has a voting conflict on matters present to the North Miami Beach City Council by attorney Tom Moon or the law firm Mr. Moon is associated with, Fromberg, Perlow & Kornik, P.A.

In brief, no conflict under the County Ethics Code is triggered, based on the facts you presented, as restated below:

- Tom Moon, an associate of the law firm of Fromberg, Perlow & Kornik, P.A., represented Councilman Rosner approximately one year ago, without payment, in a lawsuit.
- The issue in the lawsuit is completely unrelated to any matters that have come before the City of North Miami Beach in the past, are currently before the City, or are likely to come before the City in the future.
- Councilman Rosner and Mr. Moon have had no further dealings subsequent to the final judgment rendered in the lawsuit last year.

The section of the Code relevant to this matter is found at Section 2-11.1 (d), *Further prohibition on transacting business with the County:*

... [N]o [council member] shall vote on or participate in any way

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has any of the above relationships *or who would or might, directly or indirectly, profit or be enhanced* by the action of the [city council members] shall absent himself or herself from the [council] meeting during the discussion of the subject item and shall not vote on or participate in any way in said matter. (Emphasis added.)

The Ethics Commission has rendered several opinions on this section of the Ethics Code; the following two represent fact patterns somewhat similar to Councilman Rosner's.

- In RQO 05-24, a County Commissioner was allowed to vote on matters presented by a law firm that employed his son as an associate. The law firm represented clients who appeared regularly before the County Commission on land use and other local government issues.
- In RQO 05-108, a City Mayor was allowed to vote on matters before the City Council presented by a law firm in which her son was a partner.

In both cases, the Ethics Commission found that the elected officials' relationships with the lawyers and their firms did not correspond to any of the relationships prohibited under the Code. Additionally, neither elected official was likely, directly or indirectly, to profit or be enhanced by voting on matters represented by these particular law firms.

Similarly, Councilman Rosner does not have a voting conflict on matters presented by Tom Moon or the law firm of Fromberg, Perlow & Kornick, P.A., because Councilman Rosner does not have a current prohibited relationship with Mr. Moon or his firm. Additionally, it does not appear that Councilman Rosner will or might, directly or indirectly, profit or be enhanced by voting on matters represented by Mr. Moon or his firm.

The Ethics Commission, at its most recent public meeting on July 8, 2008, recognized the difficulties facing city attorneys when responding to ethics questions that arise from the dais, without prior notice, during public meetings. Acting with an abundance of caution under these circumstances is understandable. Thank you for contacting the Ethics Commission subsequently for further clarification in this matter.

Sincerely,


VICTORIA FRIGO
Staff Attorney

Copy:
Councilman Myron Rosner
17011 NE 19th Ave., 4th Floor
North Miami Beach, FL 33162-3100
Fax: 305.787.6036

Attachments:
RQO 05-24 Carlos A. Gimenez
RQO 08-108 Susan Gottlieb

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ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

March 3, 2005

The Honorable Carlos J. Giminez
Board of County Commissioners
District Seven
111 N.W. First Avenue
Suite 220
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION 05-24

Dear Commissioner Giminez:

I received your request for an advisory opinion regarding any voting conflicts created by your son's employment with a firm a firm that appears before the Board of County Commissioners. The Chairperson of the Ethics Commission and I have reviewed this matter and our opinion is based on the facts stated in your letter.

In your letter, you advised the Commission that your son is an associate with the firm Bilzin, Sumberg, Baena, Price and Axelrod. Bilzin Sumberg regularly appears before the Board of County Commissioners on land use and zoning matters.

The Conflict of Interest and Code of Ethics ordinance permits you to participate and vote on matters where the firm appears before the Board of County Commissioners. Section 2-11.1(d) does not prohibit county commissioners from voting on matters where the employer of an immediate family member is appearing before the Board. Section 2-11.1(d)

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of the Code of Miami-Dade County prohibits county commissioners from voting or participating in any way in any matter presented to the Board of County Commissioner if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners: (i) officer, director, partner, of counsel, consultant, employee fiduciary or beneficiary or (ii) stockholder, bondholder, debtor or creditor, if in any instance the transaction or matter would affect the person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally. Any commissioner who has any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall absent himself or herself from the Commission meeting during discussion of the subject item and shall not vote on or participate in any way in said matter.

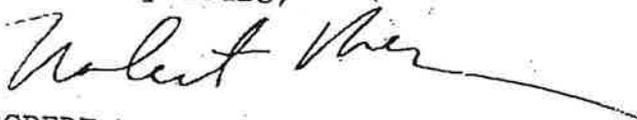
Since you do have any of the enumerated relationships with your son's law firm and you would not personally benefit or be uniquely affected by making decisions on matters where the law firm makes an appearance, the Conflict of Interest ordinance permits you to participate in discussion and vote on matters where your son's law firm makes an appearance.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

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Sincerely Yours,



ROBERT MEYERS
Executive Director

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ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL F. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

November 16, 2005

The Honorable Susan Gottlieb
City of Aventura
19200 West Country Club Drive
Aventura, FL 33180

Via First Class Mail and e-mail at sgottlieb@cityofaventura.com

RE: REQUEST FOR ADVISORY OPINION
VOTING CONFLICT OF INTEREST
RQO 05-108

Dear Mayor Gottlieb:

On November 15, 2005, the Commission on Ethics & Public Trust considered your request and rendered its opinion at a public meeting, based on facts stated in your letter of September 22, 2005.

Specifically, you inquired about voting conflicts you might have as Mayor of the City of Aventura when issues before the City of Aventura are represented by a law firm in which your son is an equity shareholder.

THE RELEVANT SECTIONS of the Conflict of Interest and Code of Ethics Ordinance are as follows:

2-11.1(d), *Further prohibition on transacting business with the County*, prohibits officials from voting on issues brought forth by persons with any of the following relationships to the official—officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor. Absent any of these relationships, Section (d) further prohibits an official from voting on a subject item if she might profit or otherwise be enhanced, directly or indirectly, by the action.

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2-11.1 (n), *Actions prohibited with financial interest involved*, prohibits city officials from participating in any official action, directly or indirectly, that would affect a business in which the official or any immediate family member (including a child) has a financial interest.

THE FACTS as presented by you indicate that, prior to your election, the City of Aventura adopted a resolution to acquire a parcel of land, either by eminent domain or negotiated purchase, from Gulfstream Race Track, which is headquartered in the neighboring city of Hallandale Beach. The law firm of Akerman, Senterfit, Edison, P.A., is general counsel to Gulfstream, and your son is an equity shareholder in the law firm. It is likely that matters involving Gulfstream regarding land acquisition will come before the City of Aventura Commission within the near future.

OUR ANALYSIS under Section 2-11.1(d) finds that you are not prohibited from voting on matters represented by your son's law firm because (1) you do not have any of the enumerated relationships with your son's firm and (2) you would neither personally benefit nor be uniquely affected by voting on matters where the law firm makes an appearance.

This interpretation is consistent with RQO 05-24. There the Ethics Commission allowed a County Commissioner to vote on matters represented by a law firm that employs his son as an associate. The law firm represents clients who appear before the County Commission on land use and other local government issues. The one distinction between RQO 05-24 and your circumstances is that in RQO 05-24 the elected official's son was an associate (with no financial interest) in his law firm. This distinction is addressed below, under Section 2-11.1 (n).

OUR ANALYSIS under Section 2-11.1(n) finds that although your son is an equity shareholder (with a financial interest) in his law firm, any financial gain the law firm might achieve as a result of your official actions are too remote to prohibit you from voting on issues presented by the firm.

IN CONCLUSION, the Ethics Commission found that you may vote on matters represented by Akerman, Senterfit, Edison, P.A., on behalf of its client Gulfstream Race Track.

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However, the appearance of impropriety may arise under certain circumstances, and although not prohibited by law *per se*, you may want to take this into consideration as well.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. It is our understanding that you have received an opinion letter from the State of Florida Commission on Ethics, dated October 24, 2005, which reached similar conclusions.

If you wish to discuss this opinion in greater detail, please call me at (305) 579-2594 or Victoria Frigo at (305) 350-0601.

Sincerely yours,



ROBERT MEYERS
Executive Director

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