



## CITY OF NORTH MIAMI BEACH

City Council Meeting  
Council Chambers, 2nd Floor  
City Hall, 17011 NE 19th Avenue  
North Miami Beach, FL 33162  
**Tuesday, August 21, 2012**  
**7:30 PM**

Mayor George Vallejo  
Vice Mayor Frantz Pierre  
Councilman Philippe Derose  
Councilwoman Barbara Kramer  
Councilwoman Marlen Martell  
Councilwoman Phyllis S. Smith  
Councilwoman Beth E. Spiegel

City Manager Lyndon L. Bonner  
City Attorney Darcee S. Siegel  
City Clerk Pamela L. Latimore, CMC

### REGULAR MEETING MINUTES

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#### 1. ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 8:13 p.m. Present at the meeting were Mayor George Vallejo, Vice Mayor Frantz Pierre, and Council Members Philippe Derose, Barbara Kramer, Marlen Martell, Phyllis S. Smith, and Beth E. Spiegel. Also present were City Manager Lyndon L. Bonner, City Attorney Darcee S. Siegel and City Clerk Pamela L. Latimore.

#### 2. INVOCATION – City Manager Lyndon L. Bonner

#### 3. PLEDGE OF ALLEGIANCE

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

**4.1 Addition to Presentation/Discussions, Item 5.1** a presentation by The Knights of Columbus Center for Family Empowerment and vBackOffice.com

**4.2 Request to move Item 15.1** Review of Charter Employees' Contracts to the end of the agenda.

#### 5. PRESENTATIONS/DISCUSSIONS

**5.1** Video presentation by The Knights of Columbus, Center for Family Empowerment, and vBackOffice.com.

#### 6. PUBLIC COMMENT

1. Marilyn Baumohl - 18635 N.E. 20<sup>th</sup> Court, North Miami Beach, FL
2. Bert Kehren - 3302 N.E. 171<sup>st</sup> Street, North Miami Beach, FL
3. Robert Kaplan - 1331 N.E. 173<sup>rd</sup> Street, North Miami Beach, FL
4. Daniel Pierre - 15240 N.E. 10<sup>th</sup> Court, North Miami Beach, FL
5. Muriel Kemp - 1479 N.E. 178<sup>th</sup> Street, North Miami Beach, FL
6. Levingston Richie - 5901 N.W. 19<sup>th</sup> Street, Pembroke Pines, FL
7. Percival Davis - N/A

8. Carmen Kienzle - 1653 N.E. 178<sup>th</sup> Street, North Miami Beach, FL
9. Janice Coakley, AFSME President - PO Box 600951, Miami, FL
10. Richard Rand, IUPA President - PO Box 600824, Miami, FL
11. Allison Robie - 2131 N.E. 179<sup>th</sup> Street, North Miami Beach, FL
12. Volney Nerette - 16121 N.E. 19<sup>th</sup> Place, North Miami Beach, FL
13. Mubarak Kazan - 15564 N.E. 12 AVE, North Miami Beach, FL
14. Marilyn Baumoehl – 18635 N.E. 20<sup>th</sup> Court, North Miami Beach, FL
15. Richard Riess - 23 N.W. 169<sup>th</sup> Street, North Miami Beach, FL

**7. APPOINTMENTS - None**

**8. CONSENT AGENDA**

**8.1 April 3, 2012 Regular Meeting Minutes**

**8.2 May 1, 2012 Regular Meeting Minutes**

**8.3 Resolution No. R2012-63**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH DAC AIR CONDITIONING CORP FOR ALLEN PARK A/C DUCTWORK RENOVATIONS.

**MOTION** by Councilman Derosé, seconded by Councilwoman Kramer to approve the Consent Agenda with the corrections to the April 3, 2012 Minutes. (**Approved 7-0**)

**9. CITY MANAGER'S REPORT**

**9.1 FIU NeighborhoodHELP Healthcare Program**

City Manager Lyndon L. Bonner explained that this program is in response to one of Council's initiatives of providing healthcare to the community. Leisure Services Director Paulette Murphy introduced Dr. Bruce Peters from the FIU School of Medicine. She explained that they are hoping to implement the FIU NeighborhoodHELP Healthcare Program in the City in conjunction with the North Miami Beach Library and some of the Community Centers to provide free healthcare to some of our residents. A few years ago FIU initiated a pilot program that did In-Home health studies using their social workers and the FIU School of Medicine. That program has been expanded to the FIU NeighborhoodHELP Healthcare Program.

**MOTION** by Councilwoman Smith, and seconded by Councilman Derosé, to execute the agreement with FIU once it has been approved by the Legal Department. Motion was withdrawn after discussion.

The Memorandum of Agreement will be brought before Council for approval after it has been reviewed by the City Attorney's Office.

Update: Leisure Services Director Murphy also announced that the North Miami Beach Amateur Athletic Union (AAU) Basketball Team that was sponsored by Council for a tournament in Kansas City has won the tournament. She thanked Council for their contribution which allowed these young men to have such an invaluable experience.

Councilwoman Smith requested that the team be invited to the next Council Meeting, where they can be recognized for their achievement.

**10. CITY ATTORNEY'S REPORT**

City Attorney Siegel took the opportunity to congratulate Maria de Jesus Santovenia, Assistant City Attorney for the City North Miami Beach, on her recent election to the Eleventh Circuit Court. It is a prestigious honor and Mrs. Santovenia will be an excellent asset in that position.

City Attorney Siegel just wanted to remind Council about the Public Utilities Commission, the Planning and Zoning Board, and the Code Enforcement Board ordinances will be coming up before them at a future meeting. She has been working with the City Clerk Pamela L. Latimore and City Clerk Latimore will be sending out a letter to the current members of those particular boards because we will be amending the ordinance for those boards to include qualifications. The reason it has taken this long is that she wanted to make sure each of the boards had an opportunity to review the proposed amendments to the ordinance. They have also given some feedback as to qualifications that they would like to see added. The other reason for the delay is that council had discussed that November 15, 2012 is when the new term will begin, in the past it was June 1<sup>st</sup>, so she was waiting until it got closer to November. The process will be that the City Clerk will be sending out letters to the current members of the boards. It will be up to each Council person to appoint a member to those particular boards. She is bringing it to their attention now because the appointments will take place on November 6, 2012. She will bring to Council, more than likely at the last meeting in September, the first amendments to the ordinance with the second reading being at the first meeting in October. Council will have roughly a month to make their appointments to the three (3) boards. We will need a total of twenty one (21) new members. Each Council person will be asked to pick one person for each of the boards. Council will contact City Clerk Latimore with their appointments.

Councilwoman Spiegel asked for clarification on the terms for the board member. City Attorney Siegel answered that all the terms turn over on November 15, 2012 and the board members term will be staggered depending on the Council person's seats number, whether seat is an odd or even number.

Mayor Vallejo suggested that a one page refresher be distributed to all the Council members to clear up the process that will take place for the boards.

**10.1 Litigation List (As of 8/21/12)**

- 11. MAYOR'S DISCUSSION - None**
- 12. MISCELLANEOUS ITEMS - None**
- 13. WAIVER OF FEE – None**
- 14. BUSINESS TAX RECEIPTS - None**
- 16. LEGISLATION**

**16.1 Resolution No. 2012-62**

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 7,973 SQUARE FOOT TWO-STORY SINGLE-FAMILY HOUSE ON A 15,500 SQUARE FOOT PARCEL OF LAND, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-41(D)(8) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE 41 (FORTY-ONE) PERCENT (601 SQUARE FEET) OF THE MINIMUM REQUIRED FRONT YARD PERVIOUS AREA OF 70 (SEVENTY) PERCENT

(1,026 SQUARE FEET), WHERE FRONT YARD PERVIOUS AREA OF 29 (TWENTY-NINE) PERCENT(435 SQUARE FEET) IS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-41(D)(9)(a) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THE MINIMUM REQUIRED ROOF PITCH OF 3-1/2 (THREE AND ONE HALF) FEET IN 12 (TWELVE) FEET, WHERE ROOF PITCH OF 3 (THREE) INCHES IN 12 (TWELVE) FEET IS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-85(A) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE 5 (FIVE) FEET OF THE MINIMUM REQUIRED 5 (FIVE) FOOT DISTANCE BETWEEN A POOL AND STRUCTURE, WHERE DISTANCE BETWEEN POOL AND STRUCTURE IS 0 (ZERO) FEET, AS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: Lot 16, Block 8, Eastern Shores 1st Addition, according to the Plat thereof, as recorded in Plat Book 65, Page 39, of the Public Records of Miami-Dade County, Florida. A/K/A 3205 N.E. 167 Street, North Miami Beach, Florida (P&Z Item No. 12-524 of July 9, 2012)

**MOTION** by Councilman Derose, seconded by Councilwoman Smith, to adopt **Resolution No. R2012-62** with the nine (9) conditions as listed.

**JENNINGS DISCLOSURE:** Derose - No, Kramer - No, Martell - No, Smith - No, Spiegel - No, Pierre – No, Vallejo – No (Councilwoman Spiegel heard their presentation at the Planning and Zoning Board meeting)

City Clerk Latimore swore in all persons who were giving testimony on this item.

Daniel Suarez and Enrique Feldman, project designers, spoke to Council about the project.

**Public Comment:** Open

1. Bruce Lamberto – 3470 N.E. 165<sup>th</sup> Street, North Miami Beach, FL

**ROLL CALL VOTE:** Derose - Yes, Kramer - Yes, Martell - Yes, Smith - Yes, Spiegel - Yes, Pierre – Yes, Vallejo – Yes (Adopted 7-0)

## **16.2 Ordinance No. 2012-18 - First Reading by Title Only**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL AMENDING CHAPTER XII OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ENTITLED "LOCAL BUSINESS TAX RECEIPTS AND REGULATIONS" BY AMENDING SECTION 12-2.12 ENTITLED "NUDITY; SEXUAL CONDUCT PROHIBITED"; AND AMENDING CHAPTER XIII OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ENTITLED "ADULT ENTERTAINMENT CODE" BY AMENDING SECTIONS 13-43 AND 13-49(D) ENTITLED "PROSCRIPTIONS WHERE ALCOHOLIC BEVERAGES ARE SOLD, DISPENSED OR PERMITTED AND WHERE FOOD OR BEVERAGES ARE SOLD OR DISPENSED" AND "ENGAGED IN PROHIBITED ACTIVITY", RESPECTIVELY, BY REMOVING THE PROHIBITION OF THE SALE, DISPENSING, SERVING OR CONSUMPTION OF ALCOHOLIC BEVERAGES IN ADULT ENTERTAINMENT BUSINESSES AND FOLLOWING STATE LAW AS TO PROHIBITED ACTIVITY BY REMOVING THE PROHIBITION OF STRADDLE DANCES AND PRIVATE PERFORMANCES IN ADULT ENTERTAINMENT BUSINESSES; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS

ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION** by Councilman Derose, seconded by Councilwoman Kramer, to adopt **Ordinance No. 2012-18** on First Reading by Title only.

**Public Comment: Open**

1. Norman Powell - 17100 N.E. 19<sup>th</sup> Avenue, North Miami Beach, FL – representing SMG Entertainment, Inc., dba Swinging Richards - **For**
2. Kevin Burns - 2065 Alamanda Drive, North Miami, FL – representing Dean’s Gold - **For**
3. Allison Robie - 2131 N.E. 179<sup>th</sup> Street, North Miami Beach, FL - **Against**
4. Alan Rosenthal - 20900 N.E. 30<sup>th</sup> Avenue, Aventura, FL - Dean’s Gold – **For**
5. Richard Riess - 23 N.E. 169<sup>th</sup> Street, North Miami Beach, FL – **Against**
6. Mubarak Kazan - 15564 N.E. 12<sup>th</sup> Avenue, North Miami Beach, FL – **Against**
7. Ron Silver - 2031 N.E. 209<sup>th</sup> Street, North Miami Beach, FL – representing Platinum South/Dean’s Gold – **For**
8. Bruce Lamberto - 3420 N.E. 165<sup>th</sup> Street, North Miami Beach, FL – **For**

Councilwoman Smith will bring forth an Ordinance that sets a limit as to how late the establishments can be open. She would like the support of her colleagues on this issue to have the adult establishments closed by 4:00 a.m.

Councilwoman Spiegel directed her statement to the City Attorney for clarification. She wants to make it clear that if they vote for this ordinance that the grandfathering in continues in perpetuity. She would like to see that if there is a change in the corporate ownership, if the liquor license is transferred to a new corporation that then terminates the grandfathering in. City Attorney Siegel stated that we can amend the section that talks about the transfer of licenses as well as the name change. And make it that a new application has to be filed and with that new application it will go through all the disciplines in the City, for instance Zoning, Building, Code Enforcement and things of that nature, as if they are a brand new business. If they do not conform with the zoning laws they will not be permitted in that location.

**ROLL CALL VOTE:** Derose - **Yes**, Kramer - **Yes**, Martell - **Yes**, Smith - **Yes**, Spiegel - **Yes**, Pierre – **Yes**, Vallejo – **Yes** (**Adopted** 7-0)

City Attorney Siegel pointed out that at the last council meeting the Mayor and Council gave the establishments extended time to comply with the current law and since the ordinance has been passed on first reading and won’t be back before council until September 4<sup>th</sup> for the second reading. She suggests that Council extend the time for compliance. She recommends that council make a motion to extend compliance until September 30<sup>th</sup> to coincide with their current license. This precaution is just in case the ordinance doesn’t pass on second reading it affords us the time to go to court and to be able to figure out what happens next.

**MOTION** by Councilwoman Smith, seconded by Councilman Derose, to instruct the City Manager stay of enforcement until September 30<sup>th</sup>. (**Passed** 7-0)

**15. DISCUSSION ITEMS (see Item 4.2)**

**15.1 Review of Charter Employees’ Contracts**

Mayor Vallejo suggested that review of the Charter Employee’s contracts should be taken in the order of City Manager, City Attorney, and City Clerk.

**City Manager’s Contract**

Mayor Vallejo was first to give his comments on the review of the City Manager's Contract. His review of the contract has been an eye opening experience and he then took time to go back and look at his first four hundred and fifty five (455) days as Mayor of the City. He realizes that City Manager Bonner definitely inherited quite a mess. We had a big financial mess and in a lot of ways we didn't know where our money was or where it was going. This is definitely something that Mr. Bonner has cleared up and worked on diligently. We have had some very good responses so far. It is definitely a difficult situation being an agent of change. During this time Mr. Bonner has made some tough choices, some unpleasant choices, and certainly some enemies have been made in the process. Mayor Vallejo stated that he isn't certain if he would change much of what has been done in those four hundred and fifty five (455) days. Did he agree with everything that has been done? No. The information was not perfect so the decisions were not perfect, but overall he appreciates all that Mr. Bonner has done. He is now looking forward to where we need to take the City in the next one thousand and five days (1,005) left in his term and his colleagues on the dais. He was elected Mayor to make the difficult decisions that need to be made with respect to our City and to make the right decision. So, the decision now, is who or what is the right way to go forward from today. We have a City that hasn't grown in decades and certainly that is a priority for him. He thinks it is time to take a little bit of a different approach in our leadership. He has nothing but respect for Mr. Bonner but he believes that it is time to make a change in that position. For that reason and for the future, tonight, he will be voting not to renew City Manager Bonner's contract.

City Manager Bonner expressed his gratitude for the opportunity to serve the community for the five hundred and eleven (511) days that he has been in service. It has been a unique ride as you have said the change agent will always bear the brunt of a lot of things; some good, some bad. We have shared some moments together and we have been surprised by some of the things that have come about. Some of it was disappointing. The threats to his family and those kinds of things are difficult to accept. The investigations and all the other issues that was detracting and difficult to work with. The attacks on staff we have gone through have been tough. He has said to Mayor Vallejo that regardless of what they do with his agreement he will always be grateful for the opportunities that have been given to him here. He would like to suggest a few things; first he would like to be fired because if he has done everything that Council has asked him to do. He has put Council's wishes, desires, and directives first, and he's been their advocate. He has met all the requirements that the charter required. He has fulfilled every part of his agreement. He would rather be fired without cause because that triggers the severance portion of his contract.

#### Council discussion

**MOTION** by Councilwoman Spiegel, seconded by Councilman Derose, to not renew City Manager Lyndon L. Bonner's contract. (**Passes** 7-0)

City Manager Bonner reminded Council that there were some transitional issues that need to be taken care of, such as the storm that is out there. There are a few things he will need to close out but he will live up to the obligations of his contract. He will start making the transition but Council will need to appoint someone who is going to be taking over his signature for FEMA and those things that are regulatory.

Vice Mayor Pierre suggests that Assistant City Manager Roslyn Weisblum be appointed to the position. He feels that Assistant City Manager Weisblum has the necessary experience to make a smooth transition to the City Manager position.

**MOTION** by Vice Mayor Pierre, seconded by Councilwoman Smith, to appoint Assistant City Manager Roslyn Weisblum to the Acting City Manager position. Councilwoman Smith withdrew her second to the motion.

Mayor Vallejo deferred to City Attorney Siegel as to what the process should be for appointing

Assistant City Manager Weisblum as Acting City Manager. City Attorney Siegel responded that it would be up to Council to make a motion that will state what the terms will be. City Manager

Bonner reminded Council that they have some very serious business to take care of in the next twenty one days. It would not be fair to Council to not have some kind of transitional plan in place. Vice Mayor Pierre asked City Attorney Siegel if they could give City Manager Bonner leave with pay until his contract expires. City Attorney Siegel answered that if there is a motion and a second and a discussion, it can be done.

City Attorney Siegel clarified that the Charter states that once there is a vacancy in the City Manager's position, you appoint an Acting City Manager. So, as long as the City Manager position is still occupied it would be against the Charter to appoint someone as the Acting City Manager.

City Attorney Siegel stated that it would be inappropriate to have an Acting City Manager and a City Manager at the same time. City Attorney read an excerpt from the City Charter (Article VI. City Manager, Section 31) "In the event of a vacancy in the office of City Manager..." She's stated that as long as there is a City Manager in that position you do not have a vacancy and as a result you cannot appoint an Acting City Manager.

**MOTION** by Councilman Derosé, seconded Councilwoman Martell, to have City Manager Lyndon L. Bonner continue his contract until September 30, 2012. (**Passed** 5 – 2, **No** – Vallejo, **No** – Pierre)

Assistant City Manager Weisblum thanked Council for their trust and confidence and she will work closely with City Manager Bonner to get the budget done in a timely manner. Councilwoman Spiegel requested to place on the next Council Conference Agenda, September 4<sup>th</sup>, a discussion on how they proceed after City Manager Bonner's Contract expires.

#### **City Attorney's Contract**

Councilwoman Smith had a few points she wanted to make that do not necessarily pertain to the City Attorney's contract. She does not believe that as a City, they should pay a severance package for more than three (3) months. Mayor Vallejo clarified that by state law they can pay up to twenty (20) weeks. Councilwoman Smith stated that she would like to see a minimum of three months of service before anyone can collect a severance package included in the contracts. Her second point is that she would like the two (2) floaters and one (1) birthday floater removed from the contracts. City Attorney Siegel agreed to voluntarily give up the two (2) floaters and one (1) birthday floater.

**MOTION** by Mayor Vallejo, seconded by Vice Mayor Pierre, to table the review of the City Attorney's contract until the 2<sup>nd</sup> Council meeting in September. (**Passed** 5 - 2, **No** – Derosé, **No** - Spiegel)

**MOTION** by Councilwoman Spiegel, seconded by Councilman Derosé, to continue the meeting past mid-night. (**Passed** 6 – 1, **No** – Smith)

**MOTION** by Councilwoman Spiegel, seconded by Councilwoman Smith, to move the second Council Meeting in September to September 20, 2012. (**Passed** 7 – 0)

#### **City Clerk's Contract**

Mayor Vallejo proposed that the City Clerk's contract be moved into the same flat rate salary contract to be disbursed as she feels fit. Councilwoman Spiegel stated that if they have tabled the City Attorney's contract until they can resolve the pension issues they should do the same for the City Clerk's contract.

**MOTION** by Councilwoman Spiegel, seconded by Councilwoman Smith, to table the review of the City

Clerk's contract to the second Council Meeting in September. (Passed 6 – 1, No - Derose)

**MOTION** by Vice Mayor Pierre, seconded by Mayor Vallejo, to pay out the remaining six (6) weeks of the City Manager's contract and have him stay on as a consultant. (Failed 2 – 5, Yes – Vallejo, Yes – Pierre)

**MOTION** by Councilwoman Smith, seconded by Councilwoman Kramer, to retain the City Attorney's contract subject to approval of the terms and conditions at the September 20<sup>th</sup> Council Meeting. (Passed 7 – 0)

**MOTION** by Councilwoman Martell, seconded by Councilwoman Kramer, to retain the City Clerk's contract subject to approval of the terms and conditions at the September 20<sup>th</sup> Council Meeting. (Passed 6 – 1, No - Smith)

**17. CITY COUNCIL REPORTS**

**Councilman Derose** – No report

**Councilwoman Kramer** – No Report

**Councilwoman Martell** – On July 21<sup>st</sup>, National Hang Out Day, she attended the event and wanted to thank the sponsors. She had a meeting at Washington Park with the Voter's Council and one of the things they mentioned was their disappointment with Martin Luther King Park being designated as a park. She suggested that it be renamed a path or bike path. She thinks that will be more respectful than to call something that is basically an alleyway a park. She also spoke about the great job that is being done by Public Services Director Shari Kamali. She also congratulated Maria de Jesus Santovenia on her election to the Eleventh Circuit Court. She expressed what a pleasure it has been to work with City Manager Bonner and thanked him for his service to the City.

**Councilwoman Smith** – Congratulated Maria de Jesus Santovenia on the election to the Eleventh Circuit Court. She thanked City Manager Bonner for his service to the City.

**Councilwoman Spiegel** – Wanted to congratulate Maria de Jesus Santovenia on the election to the Eleventh Circuit Court. She encouraged everyone to go out and vote and thanked City Manager Bonner for his service to the City. She reminded everyone to put out their recycling tonight.

**Vice Mayor Pierre** – No Report

**Mayor Vallejo** – Congratulated Yakko-San Japanese Restaurant here in the City that was featured in Esquire magazine as one of "The Best Late-Night Food in the U.S.A." for their Kimchee Pork.

**18. NEXT REGULAR CITY COUNCIL MEETING**

Tuesday, September 4, 2012

**19. ADJOURNMENT**

There being no further business to come before the City Council, Meeting was adjourned at 12:33 a.m.

ATTEST:

(S E A L)

