



APRIL 26, 2011
REGULAR MEETING MINUTES
(CNMB-CC MINUTES TAPE #468)

1. ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 7:39 p.m. Present at the meeting were Mayor Myron Rosner, Vice Mayor Barbara Kramer, and Council Members Philippe Derose, McKenzie Fleurimond, Frantz Pierre, 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 - Mayor Rosner

3. PLEDGE OF ALLEGIANCE - Mayor Rosner

4. REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA

City Manager Bonner requested Item #15.4 Ordinance No. 2011-6 (First Reading, By Title Only) to be moved from Legislation to right after Item #5.6 Presentations/Discussions. City Clerk Latimore requested to have the National Police Week Proclamation – Presented by Police Chief Rafael Hernandez added to Item #5.6 Presentations/Discussions. No objections were received.

5. PRESENTATIONS/DISCUSSIONS

- 5.1** Dropsavers Water Conservation Poster Contest Winners – Presented by John Deck, Public Services
- 5.2** Certificate of Appreciation to Student Marcella Ervolino and Teacher Raphael Trinidad, Alonzo & Tracy Mourning Senior High School - Presented by Councilwoman Smith
- 5.3** Anti-Bullying Campaign/Workshop - Presented by Ms. Kaisa Kerwin, American Tae-Kwondo Academy
- 5.4** Plaque & Certificate Presentation Regarding Jack Family Shooting - Presented by Police Chief Rafael Hernandez
- 5.5** Proclamation for April 10-16, 2011 as National Volunteer Week - Presented By Mayor Rosner
- 5.6** National Police Week Proclamation – Presented by Chief Rafael Hernandez

6. APPOINTMENTS

- 6.1 Economic Development Commission – Councilwoman Smith
- Brenda Hocherman

Motion made by Councilwoman Smith, seconded by Councilman Pierre, to appoint Brenda Hocherman to the Economic Development Commission. By consensus, all voted in favor of the motion. (**Motion carried 6-0**). Vice Mayor Kramer was not present for this vote.

15. LEGISLATION

Motion made by Councilman Derose, seconded by Councilwoman Smith, to introduce Ordinance No. 2011-6 on First Reading, By Title Only. By consensus, all voted in favor of the motion. (**Motion carried 7-0**).

15.4 Ordinance No. 2011-6 (First Reading, By Title Only)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$15,280,000 IN AGGREGATE PRINCIPAL AMOUNT OF OBLIGATIONS OF THE CITY TO REFINANCE THE ACQUISITION AND CONSTRUCTION OF VARIOUS CAPITAL IMPROVEMENTS AND TO PAY COSTS AND EXPENSES OF ISSUING SUCH OBLIGATIONS; PROVIDING FOR A PLEDGE OF AD VALOREM TAXATION WITHOUT LIMIT ON ALL TAXABLE PROPERTY IN THE CITY TO PAY THE PRINCIPAL OF, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE OBLIGATIONS; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SUCH OBLIGATIONS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

Motion made by Councilman Derose, seconded by Councilwoman Smith, to adopt Ordinance No. 2011-6 on First Reading, By Title Only.

Finance Director Andrew Fierman and Chris Dunlap, of Dunlap and Associates, 1146 Keys Avenue, Winter Park, FL 32789 were present to answer questions posed by the Council.

Vote: In a roll call vote, all voted in favor of the motion. (**Motion carried 7-0**).

7. CONSENT AGENDA

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

- 7.1 February 1, 2011 Regular Meeting Minutes
- 7.2 March 1, 2011 Regular Meeting Minutes
- 7.3 March 15, 2011 Regular Meeting Minutes
- 7.4 Resolution No. R2011-22

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, RE-EMPHASIZING OUR COMMITMENT TO MAINTAIN CIVILITY IN THE CONDUCT OF THE PUBLIC'S BUSINESS.

7.5 Resolution No. R2011-23

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, SUPPORTING THE PARTNERSHIP FOR SUSTAINABLE COMMUNITIES AND URGING CONGRESS TO MAINTAIN FUNDING FOR THE PARTNERSHIP IN FISCAL YEAR 2012 AND GOING FORWARD.

7.6 Resolution No. R2011-24

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO NEGOTIATIONS FOR REFUNDING REVENUE BONDS, SERIES 2011 WITH THE FIRST RANKED FIRM, JP MORGAN CHASE BANK, AND IF UNABLE TO MEET CITY'S NEEDS AND REQUIREMENTS, THEN PROCEED TO NEGOTIATE WITH THE SECOND RANKED FIRM, SUNTRUST BANK.

7.7 Resolution No. R2011-25

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO APPROVE A CHANGE ORDER REQUEST FOR ADDITIONAL WORK BY R&D ELECTRIC, INC., FOR THE PURCHASE AND INSTALLATION OF CITY HALL GENERATOR BID NO. 2009-05.

Vice Mayor Spiegel questioned if her changes to the minutes were made, to which City Clerk Latimore responded in the affirmative.

8. CITY MANAGER'S REPORT

City Manager Bonner reported of making good progress with the budget. He also reported that a scholarship had been received from the Florida League of Cities for a Council Member to participate in "The Good Government Initiative (GGI) - Cultivating Leaders of Excellence" at the University of Miami. City Manager Bonner was requesting the Council's affirmation for Vice Mayor Kramer to attend. He gave a brief overview of the program. Councilwoman Smith noted that she would like to attend if Vice Mayor Kramer could not.

Motion made by Councilman Derose, seconded by Councilman Pierre, to approve Vice Mayor Kramer to participate in the GGI Program. By consensus, all voted in favor of the motion. (**Motion carried 7-0**).

9. CITY ATTORNEY'S REPORT - *Waived*

9.1 Litigation List - *No Discussion*

10. MAYOR'S DISCUSSION - *Waived*

11. PUBLIC COMMENT

City Clerk Latimore read the rules for Public Comment.

Rolland Veilleux, 13730 Highland Drive, North Miami Beach, FL, wished City Manager Bonner well in "rowing his boat and becoming captain." He suggested reducing the number of Council Members from 7 to 5. Mayor Rosner noted that it was a Charter issue not a City Manager issue. Mr. Veilleux

also spoke about the upcoming candidate forum at Highland Village at 7:00 pm. Councilwoman Spiegel added that the forum was from 7:00 p.m. to 9:00 p.m. and the last debate.

Charles R. Loeb, 16800 NE 15 Avenue #112, North Miami Beach, FL, spoke about candidates having different views about support programs and spending, the importance of voting, and teacher merit pay.

Howard Levitt, 4000 NE 170 Street, Unit #103, North Miami Beach, FL, spoke about a code compliance issue relating to a shared common wall and the noise created by his neighbor's renovations completed without permitting from the City. He also noted that a permit was recently issued and was looking for a resolution. Mayor Rosner directed Mr. Levitt to call his office and make an appointment with the City Attorney, the City Manager and himself.

Bert Kehren, 3302 NE 171 Street, North Miami Beach, FL, spoke about the temporary 25% raise to Acting City Weisblum's salary for her additional duties during the City Manager vacancy that was still in effect, the financial condition of the City, and the sign ordinance not being enforced.

Volney Nerette, 16121 NE 19 Place, North Miami Beach, FL, questioned why the City needed two (2) assistant city managers and two (2) assistant city attorneys with high salaries.

Bruce Lamberto, 3420 NE 165 Street, North Miami Beach, FL, spoke specifically about the Mayor Rosner's campaign donations and misuse of public funds. He urged the City Council to look at the City of Miami Beach's lobbyist ordinance regarding businesses making campaign contributions must omit from doing business with the City for one (1) year after the donation was received. Mayor Rosner noted that about 80% of those people who had given him campaign contributions did not have an interest in the City, but believed in good government. Councilwoman Smith reported that the original salary for the city manager's position was \$200,000 reduced to \$150,000.

12. MISCELLANEOUS ITEMS

12.1 Cancellation of the May 3rd Regular City Council Meeting Due to the Municipal Election

Motion made by Councilman Derose, seconded by Councilwoman Smith, to cancel the May 3rd Regular City Council Meeting due to the Municipal Election. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

Motion made by Councilman Derose, seconded by Councilwoman Smith, to cancel the May 17th Regular City Council Meeting in the case of a Run-off Election. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

13. WAIVER OF FEE – None

14. BUSINESS TAX RECEIPTS

14.1 Hispanic Flamenco Ballet Ensemble Inc. DBA Dance Studio - 2021 NE 163 Street, North Miami Beach, FL

City Clerk Latimore provided a brief overview and noted that it was for an initial approval. Jorge Ceron, director, 500 NW 26th Street, #313, Miami, FL 33127 provided details about the school.

Motion made by Councilman Derose, seconded by Councilman Pierre, to approve a Business Tax Receipt for the Hispanic Flamenco Ballet Ensemble Inc. DBA Dance Studio. By consensus, all vote in favor of the motion. **(Motion carried 7-0).**

14.2 The Lighthouse Group USA, Inc. - 16768 NE 5 Avenue, North Miami Beach, FL 33162

City Clerk Latimore noted that this application was also for an initial approval. Mark Nilson, president, provided details about the school.

Motion made by Councilman Derose, seconded by Councilwoman Smith, to approve a Business Tax Receipt for The Lighthouse Group USA, Inc. By consensus, all vote in favor of the motion. **(Motion carried 7-0).**

15. LEGISLATION

Motion made by Councilman Derose, seconded by Councilwoman Smith, to introduce Resolution No. R2011-21. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

15.3 Resolution No. R2011-21

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 6,829 SQUARE FOOT TWO-STORY SINGLE FAMILY HOUSE ON AN 8,800 SQUARE FOOT VACANT 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 660 SQUARE FEET OF THE MINIMUM REQUIRED FRONT YARD PERVIOUS AREA OF 1,400 SQUARE FEET, WHERE FRONT YARD PERVIOUS AREA OF 783 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)(8) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, TO WAIVE 696 SQUARE FEET OF THE MINIMUM REQUIRED PERVIOUS AREA OF 3,080 SQUARE FEET, WHERE PERVIOUS AREA OF 2,384 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)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, TO WAIVE TWENTY-FIVE FEET (25') OF THE MINIMUM REQUIRED REAR YARD SETBACK OF TWENTY-FIVE FEET (25'), WHERE REAR YARD SETBACK OF ZERO FEET (0') IS PROPOSED FOR AN OPEN TRELLIS STRUCTURE AT THE REAR PROPERTY LINE; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-81 OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, TO WAIVE THE PROHIBITION ON THE LOCATION OF MECHANICAL EQUIPMENT IN THE REQUIRED SIDE YARD, WHERE PROVISION FOR PLACEMENT OF MECHANICAL EQUIPMENT IN THE REQUIRED SIDE YARD IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: Lot 55, Block 5, Eastern Shores, According to the Plat Thereof, as Recorded in Plat Book 65, Page 28 of the Public Records of Miami-Dade County, Florida A/K/A 16456 N.E. 32 Avenue North Miami Beach, Florida (P&Z Item No. 11-495 of March 14, 2011)

Motion made by Councilman Derose, seconded by Councilman Fleurimond, to adopt Resolution No. R2011-21.

When City Clerk Latimore asked if any of the Council Members had communication with individual parties relating to this particular project, all responded in the negative.

Mayor Rosner passed the gavel to Vice Mayor and left the meeting at this time.

Architect Ramon Pacheko, 4990 SW 72 Avenue, Suite #101, (did not state the city) was present to answer questions.

Public Comment

Maurice Hayden, 16415 NE 32 Avenue, North Miami Beach, FL - spoke about the drainage problems.

Deborah Hayden, 16415 NE 32 Avenue, North Miami Beach, FL - spoke about the drainage problems.

Michael Casey, 16508 NE 26 Avenue, #605, North Miami Beach, FL – spoke about the drainage problems.

City Planner Chris Heid noted that Staff was also very concerned about the drainage and that a nine (9) point requirement was included in the drainage plans recommended by City Engineers. He also noted that Department of Environmental Resource Management (DERM) would review it for adequacy and if approved, it would be returned to the City for review. He answered questions posed from the Council.

In response to Councilwoman Spiegel's request to increase the pervious area, Architect Pacheko explained that a pervious paver was going to be used and passed around a sample of that material. He added that when installed, it has a gap in between for water to percolate. City Planner Heid noted that this pervious type of paver will drain better than a stamped concrete driveway or solid asphalt driveway and the most pervious paver driveway material that one could use. Architect Pacheko also noted that trench drains would also be installed to prevent the water from going onto the street. He also noted that the only way to increase the pervious area was to remove the circular driveway.

Vice Mayor Kramer noted that when she corresponded with DERM, it was stated that an approval was not needed for two (2) acres. City Planner Heid clarified that her statement was correct; however, if a drainage plan was included, then the approval would be needed. Vice Mayor Kramer asked how much the pavers would reduce the drainage. Architect Pacheko noted that the City of South Miami and the City of Coral Gables were very picky about the same issues and have approved the pavers. City Planner Chris Heid noted that the percentage was not exactly known. Vice Mayor Kramer requested to know the age of the pipes. Karl Thompson, Public Services, noted that the storm water pipes installed in Eastern Shores were about 30 or more years old. Vice Mayor Kramer noted that they were 50 years old. Karl Thompson agreed and further noted that some had been replaced and some were aged, but working. He provided a brief overview of the replacements.

Councilman Derose said it was a nice project, that would enhance the neighborhood, and as long as it met all of the guidelines, he had no problem with it.

Motion made by Vice Mayor Kramer, seconded by Councilman Derose, to amend the resolution to include that the permeable pavers must be used to assist in the drainage. By consensus, all voted in favor of the motion. (**Motion carried 5-0**). Mayor Rosner and Commissioner Pierre were not present for this vote.

Motion made by Vice Mayor Kramer, seconded by Councilman Derose, to amend the resolution to include that 660 foot waiver of 24-41(D) must be a permeable paver. By consensus, all voted in

favor of the motion. **(Motion carried 5-0)**. Mayor Rosner and Commissioner Pierre were not present for this vote.

Councilwoman Spiegel requested incorporating the Staff Report into the resolution regarding obtaining the approvals for the drainage plans. City Attorney Siegel explained that Council can put it on the record that the Staff Report will be attached as an exhibit and made part of the resolution. She further explained that there were now seven (7) conditions and it would need to be modified to include the Staff Reports as a condition of #7.

Motion made by Vice Mayor Kramer, seconded by Councilman Derose, to modify Condition #7 to include the Staff Reports. By consensus, all voted in favor of the motion. **(Motion carried 5-0)**. Mayor Rosner and Commissioner Pierre were not present for this vote.

Roll Call Vote for Adoption of Resolution R2011-21 as Amended: Following Vice Mayor Kramer's negative vote and Councilwoman's Spiegel's positive vote, City Manager Bonner explained that the full conscience of the Board was not present and that there could be a comprised vote. He requested a five (5) minute recess and a suspension of the vote in order to locate Mayor Rosner and Councilman Pierre.

The meeting was recessed at 10:35 p.m. Councilman Pierre returned to the meeting at this time. Councilman Fleurimond noted that he understood the intention of the City Manager. He further noted that when there was a quorum present, business could continue and that those absent were not fully aware of what had taken place. One member was still not present. City Manager Bonner confirmed that Councilman Fleurimond was absolutely correct, but wanted the applicant to have a full conscience of the Board. Councilwoman Smith noted that the meeting could be heard through the speakers in the hall, in the side room, and in the restroom. Vice Mayor Kramer said she rescinded her vote, was mistaken by her comment and was educated quite a bit in the last five (5) minutes.

Vote: In a roll call vote, all voted in favor of the motion. **(Motion carried 6-0)**. Mayor Rosner was not present for this vote.

Mayor Rosner returned to the meeting at this time.

Motion made by Councilman Derose, seconded by Councilwoman Spiegel, to introduce Resolution No. R2011-19. By consensus, all voted in favor of the motion. **(Motion carried 7-0)**.

15.1 Resolution No. R2011-19

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 19,680 SQUARE FOOT, TWO-STORY CLASSROOM ADDITION TO AN EXISTING SCHOOL CAMPUS ON A 129,106 SQUARE FOOT (2.96 ACRE) LOT, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-55(D))(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE SEVENTEEN FEET AND FOUR INCHES (17'4") OF THE MINIMUM REQUIRED FRONT YARD SETBACK OF THIRTY FEET (30'), WHERE FRONT YARD SETBACK OF TWELVE FEET AND EIGHT INCHES (12'8") IS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-55(D)(4) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO EXCEED BY

FOUR FEET (4') THE MAXIMUM PERMITTED BUILDING HEIGHT OF THIRTY-FIVE FEET (35'), WHERE BUILDING HEIGHT OF THIRTY-NINE FEET (39') IS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-95(C) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE 101 OF THE MINIMUM REQUIRED 173 VEHICULAR PARKING SPACES, WHERE PROVISION OF 72 VEHICULAR PARKING SPACES IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: (LENGTHY LEGAL - SEE ATTACHED EXHIBIT "A") A/K/A 1051 North Miami Beach Boulevard, North Miami Beach, Florida (P&Z Item No. 10-482 of March 14, 2011)

Motion made by Councilman Derose, seconded by Councilman Fleurimond, to adopt Resolution No. R2011-19.

Jose Murguido, Zyscovich Architects, 100 North Biscayne Blvd, Miami, FL 33132, provided a brief overview of the project. City Planner Heid added to the overview.

Public Comment

Robert Brass, parent, 18020 NE 9 Place, North Miami Beach, FL - spoke about car pooling and parking spaces and expressed that he was in favor of the project.

Issac Jaroslawicz, 1100 NE 170th Street, North Miami Beach, FL - spoke in favor of the project.

Mr. Murguido explained and displayed the carpooling route and spoke about the cueing lane. He answered questions posed by the Council.

Councilman Derose and Councilman Pierre both spoke in favor of the project.

Councilwoman Smith questioned the fencing on the rooftop being high enough not to allow a basketball to go over. She also spoke about the playground that was a part of City property. City Planner Heid noted that there was some sort of a right-of-way separating the City property, a dirt lot that businesses use for parking. He added that the applicant would be willing curve the lot to allow for an increased playground and a larger parcel, and the City would get a removed dirt lot and enhanced area. He further added that more research needed to be done. Councilwoman Smith noted that she was in favor of the project, but wanted the fence as high as possible.

Councilwoman Spiegel requested a commitment to the landscape fronting North Miami Beach Boulevard prior to the construction being completed. Mr. Murguido noted that the construction fence being installed could be painted. City Planner Heid mentioned some resolutions to the request. Mr. Murguido said he would work with Staff. Councilwoman Spiegel had several questions about the parking to which Mr. Murguido addressed. Rabbi Mordechai Palgon, faculty member, 17601 NE 7th Avenue, North Miami Beach, FL, noted a dual curriculum.

City Manager Bonner suggested a performance bond. Mr. Murguido noted it would be a burden to the project. Mayor Rosner said that the Council would continue the discussion and return to this subject later on.

Motion made by Councilwoman Spiegel, seconded by Councilman Derose, to amend the resolution to include the construction fence (fronting North Miami Beach Boulevard.) requiring an attractive design consistent with North Miami Beach Boulevard. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

Regarding Councilwoman Smith's concern about the basketball court, Mr. Murguido suggested curving the top of the basketball court fences.

Motion made by Councilwoman Smith, seconded by Councilman Fleurimond, to amend the resolution to include curving the top of the basketball court fences. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

Motion made by Vice Mayor Kramer, seconded by Councilwoman Smith, to extend the meeting after 12 o'clock midnight. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

Mayor Rosner spoke in favor of the school and project and spoke against performance bonds. Councilwoman Smith noted that everyone in the City wanted this project to happen; however, she asked about alternatives and expressed concern about not having assurance that the project would be completed. City Manager Bonner provided an overview of the feedback from the community regarding the issue of a performance bond. Mr. Murguido explained that the City held the Certificate of Occupancy and could use that for insurance. Councilwoman Smith noted that it came at the end and questioned what would happen if the funds were not there to complete the building in the middle of construction.

Rabbi Mordechai Palgon spoke about providing paperwork, as approved by the Federal Government and by the State of Florida, for the reimbursement of funds from FEMA as the guarantee. City Manager Bonner explained that the funds from FEMA could be pulled at anytime due to availability, reduction, requirements not being met, or the project not being completed. He further explained that he thought there might be another mechanism with the applicant not having to pay the facilities costs. Councilwoman Smith explained that the Council, representing the Public, must have assurance that any project was going to be completed. Councilman Fleurimond noted that we need to foster this kind of growth.

Councilwoman Spiegel questioned City Attorney Siegel if the Council could move forward with the resolution with the understanding that Staff and the applicant would work on sufficient security that the building was completed. City Attorney Siegel explained that the Council could move forward, but there was no guarantee. Mr. Murguido explained that putting a performance bond on the entire construction value of the project was a substantial burden on being able to move forward. Councilwoman Spiegel inquired about the amount of the FEMA funds. Rabbi Palgon (?) noted that FEMA was obligated to replace the building that was torn down.

Motion made by Councilwoman Smith, seconded by Councilwoman Spiegel, to amend the resolution to include a 2% performance assurance for off-site improvements. In a roll call vote, all voted in favor of the motion with the exception of Mayor Rosner who voted in the negative. **(Motion carried 6-1).**

Motion made by Councilwoman Smith, seconded Councilwoman Spiegel, to adopt Resolution No. R2011-19 as amended. In roll call vote, all voted in favor of the motion. **(Motion carried 7-0).**

Motion made by Councilman Derosé, seconded by Councilwoman Smith, to introduce Resolution No. R2011-20. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

15.2 Resolution No. R2011-20

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 2,990 SQUARE FOOT ONE STORY DORMITORY BUILDING ON A 126,653 SQUARE FOOT (2.9 ACRE) 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 24-55(D)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE FIFTEEN FEET THREE INCHES (15'3") OF THE MINIMUM REQUIRED FRONT YARD SETBACK OF THIRTY FEET (30'), WHERE FRONT YARD SETBACK OF FOURTEEN FEET NINE INCHES (14'9") IS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-55(D)(3) TO WAIVE THIRTEEN FEET (13') OF THE MINIMUM REQUIRED REAR YARD SETBACK OF TWENTY FEET (20'), WHERE REAR YARD SETBACK OF SEVEN FEET (7') IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: (LENGTHY LEGAL - SEE ATTACHED EXHIBIT "A") A/K/A 1055 Miami Gardens Drive, North Miami Beach, Florida (P&Z Item No. 10-483 of March 14, 2011)

Motion made by Councilman Derose, seconded by Councilwoman Smith, to adopt Resolution No. R2011-20.

Jose Murguido, Zyscovich Architects, 100 North Biscayne Blvd, Miami, FL 33132, provided a brief overview of the project.

Public Comment

Robert Brass, condo association director, 18020 NE 9th Place, North Miami Beach, FL – spoke in favor of the resolution.

Motion made by Councilwoman Smith, seconded by Councilman Derose, to adopt Resolution No. R2011-20.

Councilwoman Spiegel questioned about the drainage not being completed with the previous construction. Rabbi Palgon explained that anything that was not done was getting done.

Vote: In roll call vote, all voted in favor of the motion. **(Motion carried 7-0).**

Motion made by Councilman Derose, seconded by Councilwoman Smith, to introduce Ordinance No. 2010-10 on Second and Final Reading. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

15.5 Ordinance No. 2010-10 (Second and Final Reading)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ADOPTING THE EVALUATION AND APPRAISAL REPORT-BASED AMENDMENTS TO THE COMPREHENSIVE PLAN; AUTHORIZING TRANSMITTAL TO REVIEW AGENCIES; 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 Fleurimond, to adopt Ordinance No. 2010-10 on Second and Final Reading. By consensus, all voted in favor of the motion. **(Motion carried 7-0).**

Motion made by Councilman Derose, seconded by Councilman Fleurimond, to introduce Ordinance No. 2011-5 on Second and Final Reading. By consensus, all voted in favor of the motion. (**Motion carried 7-0**).

15.6 Ordinance No. 2011-5 (Second and Final Reading)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING ARTICLE II, SECTION 24-22 OF THE CITY'S CODE OF ORDINANCES, ENTITLED DEFINITIONS, BY DEFINING PAIN MANAGEMENT CLINIC, AND DEFINING DRUG STORE; AMENDING ARTICLE V, SECTION 24-52 OF THE CITY'S CODE OF ORDINANCES, ENTITLED B-2 GENERAL BUSINESS DISTRICT, BY ADDING PAIN MANAGEMENT CLINIC TO THE LIST OF CONDITIONALLY PERMITTED USES; 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 Fleurimond, to adopt Ordinance No. 2011-5 on Second and Final Reading. By consensus, all voted in favor of the motion. (**Motion carried 7-0**).

16. CITY COUNCIL REPORTS

Vice Mayor Kramer encouraged everyone to vote in the election on May 3rd. She also noted the dates and times for early voting in City Hall.

Councilwoman Spiegel thanked the Public for their attention. She also thanked Staff for staying late and for spending time with her regarding Zoning. Councilwoman Spiegel announced the event "Jacqueline H. Smith Breakfast with the Stars" celebrating Mother's Day was on Saturday, May 7th from 9:00 a.m. to 11:00 a.m. at the Silver Auditorium. She wished all of the mothers a Happy Mother's Day, encouraged everyone to vote, and wished a Happy Birthday to her brother. Councilwoman Spiegel wished all Council Members luck in the upcoming election and said it was a pleasure serving with them for the past two (2) years. She thanked the voters for the privilege of serving these past two (2) years.

Councilwoman Smith announced the 3rd Annual Reverse Trade Show and Golf Tournament at the McDonald Center on May 6th and May 7th from 8:00 a.m. to 3:30 p.m. and noted that the tournament benefitted underprivileged children to attend summer camp. She said a Happy Birthday to her daughter. She noted that it was an absolute honor to serve on the dais and encouraged everyone to vote. Councilwoman Smith reminded everyone about the last candidate forum taking place on April 27th at Highland Village.

Councilman Fleurimond noted that it had been a pleasure to serve as an appointed official and was looking forward to continue as an elected official. He wished everyone a Happy Mother's Day. Councilman Fleurimond noted that it was Fleet Week. He announced the Sunset Bike Ride with Chief Hernandez starting at the Washington Park Community Center on April 27th at 6:00 p.m. Councilman Fleurimond thanked his colleagues for working with him.

Councilman Derose encouraged everyone to vote early and wished all of the candidates the best.

Councilman Pierre spoke about the upcoming election and gave a special message to his Hispanic friends.

City Clerk Latimore noted that May 1st through the 7th was Municipal Clerks' Week and that she would not be hosting any celebrations because of the election. She also wished her dad a Happy Birthday. City Attorney Siegel wished her son, Adam, a Happy Birthday.

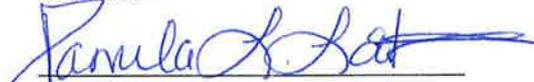
Mayor Rosner expressed appreciation for having served the City. He also thanked his wife and kids. He said he looked forward to continuing to serve the City and moving it forward in a positive direction.

17. NEXT REGULAR CITY COUNCIL MEETING – ~~Tuesday, May 17, 2011~~ – See Item #12.

18. ADJOURNMENT - There being no further business to come before the City Council, the meeting was adjourned at 1:02 a.m. on a motion made by Councilman Derose and seconded by Councilwoman Smith. By consensus, all voted in favor. (**Motion carried 7-0**).

ATTEST:

(S E A L)



Pamela L. Latimore
City Clerk