



**SEPTEMBER 6, 2011
REGULAR MEETING MINUTES**

1. ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 9:29 p.m. Present at the meeting were Mayor George Vallejo, Vice Mayor Philippe Derosé and Council Members Barbara Kramer, Marlen Martell, 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 – Pamela L. Latimore, City Clerk

3. PLEDGE OF ALLEGIANCE

4. REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA

City Clerk Latimore stated that the requested changes to Minutes of July 19th 2011 meeting were completed. A copy was passed out to Mayor and Council.

5. PRESENTATIONS/DISCUSSIONS

None

6. APPOINTMENTS

6.1 Appointment to Beautification Committee

Osmaro Gutierrez

MOTION by Vice Mayor Derosé, seconded by Councilwoman Spiegel to appoint Osmaro Gutierrez to Beautification Committee. (**Motion approved 7-0.**)

6.2 Appointment of Vice Mayor.

There was a discussion as to the start of the term for the Vice-Mayor. Council directed the City Attorney to research the code and come back to item. (*See also item #9.1*)

7. CONSENT AGENDA

7.1 July 19, 2011 Minutes

7.2 August 2, 2011 Minutes

7.3 August 16, 2011 Minutes

7.4 Resolution No. R2011-44

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A UTILITY EASEMENT TO FLORIDA POWER; LIGHT COMPANY (FPL) TO INSTALL HARDENED POLES FOR ELECTRICAL FACILITIES ON CITY-OWNED PROPERTY THAT IS LOCATED ON A STRIP OF LAND DESCRIBED HEREIN BY EXHIBIT "A" AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN EASEMENT AGREEMENT TO EFFECT THE TRANSFER OF SAID PROPERTY.

7.5 Resolution No. R2011-46

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, RECOGNIZING THE 10th ANNIVERSARY OF THE TRAGIC EVENTS THAT OCCURRED ON SEPTEMBER 11, 2001.

7.6 Resolution No. R2011-48

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO APPLY FOR THE FLORIDA RECREATIONAL DEVELOPMENT ASSISTANCE PROGRAM (FRDAP) GRANT WITH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR IMPROVEMENTS TO MISHCON PARK.

MOTION made by Vice Mayor Derose, seconded by Councilman Pierre to approve the Consent Agenda. **(Motion approved 7-0).**

8. CITY MANAGER'S REPORT

8.1 Law Enforcement Trust Fund (LETF) Request

The City Manager requested a transfer from LETF for certain purchases and acquisitions that the Police Chief requested.

Councilwoman Smith asked City Manager if transfer was appropriate and if he was comfortable with it. The City Manager answered in the affirmative that he was comfortable that the request for purchases met the appropriate guidelines.

Mayor Vallejo requested that the possibility of purchasing Dash Cams be considered. Mac Serda, Asst. City Manager said possible purchase of Dash Cameras would be looked into.

Direction to City Manager: Councilman Pierre requested that performance deliverables be delivered on programs that request funding from LETF.

8.2 Code Enforcement Board

The City Manager presented to Mayor and Council the idea of having a workshop with the Code Enforcement Board. This workshop will be to gain the perspectives of the Board on the use of Special Magistrates and the streamlining of Board processes.

Code Enforcement Director Eric Wardle gave a presentation on his perspective and experiences with a Special Master.

The City Attorney made comments on the use of Special Masters. She spoke in the affirmative of the use of Special Masters.

Direction to City Manager: Councilwoman Kramer asked that a report be created containing the pros and cons of using a Special Master vs. Code Board System by other cities be given to Council for their review.

Direction to City Manager: Councilwoman Smith asked for a chart showing the exact costs associated with the use of a Special Master.

9. CITY ATTORNEY'S REPORT

9.1 The City Attorney informed the Council that the term for Vice Mayor was every 4 months and Council woman Smith's term would begin in October.

MOTION by Councilwoman Martell to appoint Councilwoman Smith as Vice-Mayor, seconded by Vice Mayor Derosé. **(Motion approved 7-0) (See also item # 6.2)**

9.2 The City Attorney reported that she passed out a Legal Opinion concerning the Contract that related to the Display Sign. It was determined that the contract was entered into by the City and since there was a "termination of convince" clause the Council would not need to vote to terminate the contract.

MOTION by Councilwoman Spiegel, seconded by Councilwoman Smith to terminate the contract to build the display sign. **(Motion approved 7-0)**

9.3 The City Attorney reported to Council that there were two projects passed by the Planning and Zoning Board. The projects were located at 15501 N.E. 21 Avenue and 15801 Biscayne Boulevard. The Planning and Zoning board will meet to discuss the reduction of fees and other items to make the city a more business friendly environment.

10. PUBLIC COMMENT-City Clerk Latimore read the rules of public comment into the record.

1. Charles R. Loeb, 16800 N.E. 15th Ave. #112 Miami Dade, FL **made comments on the record.**
2. Bert Kehren, 3302 N.E. 171st Street, North Miami Beach, FL **made comments on the record.**
3. Gail Johnson, 8203 S. Palm Drive #111, Pembroke Pines, FL. 33025: **made comments on the record.**
4. Margie Love, 1579 N.E. 169th Street, North Miami Beach, Fl.: **made comments on the record.**
5. Esther S., 16900 N.E. 21st Avenue, North Miami Beach, Fl.: **made comments on the record.**
6. Elizabeth Tetreault, 3708 NE 167 Street, North Miami Beach, FL - **made comments on the record.**

7. Rolland Villieux, 13730 Highland Drive, North Miami Beach, FL – **made comments on the record.**
8. Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL, **made comments on the record.**
9. Janice Coakley, President of the AFSCME- General Employees Union, P.O. Box 60951, North Miami Beach, **made comments on the record.**

11. MISCELLANEOUS ITEMS- *None*

12. WAIVER OF FEE – *None*

13. BUSINESS TAX RECEIPTS-

13.1 Douglas Gardens CMHC of Miami Beach Inc. D/B/A Douglas Gardens A.C.L. F.
17000-17030 N.E. 21 Avenue
North Miami Beach, FL.

City Clerk Pamela Latimore read the item into the record.

MOTION by Vice Mayor Derose, seconded by Councilwoman Smith, to approve the applicants request. **(Motion passed 7-0)**

14. LEGISLATION

MOTION by Vice Mayor Derose, seconded by Councilwoman Kramer, to introduce Ordinance No. 2011-9. The Ordinance was read into the record by City Attorney Siegel.

14.1 Ordinance No. 2011-9 (Second and Final Reading *previously Ordinance No. 2010-23*)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER XXIV OF THE CITY CODE OF ORDINANCES, ENTITLED ZONING AND LAND DEVELOPMENT, BY ADDING DEFINITIONS FOR ACCESSORY USE STRUCTURES TO SECTION 24-22 OF ARTICLE II DEFINITIONS, ENTITLED DEFINITIONS; ADDING ADDITIONAL ALLOWABLE SETBACK ENCROACHMENTS AND AMENDING REGULATIONS FOR CARPORTS AND MECHANICAL EQUIPMENT IN SECTION 24-81 OF ARTICLE VIII SUPPLEMENTAL REGULATIONS, ENTITLED SETBACKS ENCROACHMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE

MOTION by Vice Mayor Derose, seconded by Councilwoman Smith, to adopt Ordinance No. 2011-9 on Second and Final Reading **(Approved 6-1)**

ROLL CALL: Kramer Yes, Pierre Yes, Smith Yes, Spiegel Yes, Derose Yes, Vallejo Yes, Martell No.

MOTION by Vice Mayor Derose, seconded by Councilwoman Kramer, to introduce Ordinance No. 2011-10. The Ordinance was read into the record by City Attorney Siegel.

14.2 Ordinance No. 2011-10 (Second and Final Reading)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER XXIV ARTICLE IV OF THE CITY'S CODE OF ORDINANCES, ENTITLED NONCONFORMITY, BY DECREASING THE GRANDFATHERING TIME FOR NONCONFORMING USES IN THE FCC ZONING DISTRICT; AMENDING ARTICLE V SECTION 24-51, ENTITLED B-1 LIMITED BUSINESS DISTRICT, AND SECTION 24-58, ENTITLED FCC FULFORD CITY CENTER (MIXED USE) DISTRICT, OF THE CITY'S CODE OF ORDINANCES, BY CHANGING PERMITTED AND CONDITIONALLY PERMITTED USES, AND REMOVING THE PROHIBITED OF OFFICES LOCATED ON THE GROUND FLOOR OF BUILDING FACING PRIMARY STREETS; AMENDING ARTICLE XV SECTION 24-177, ENTITLED SPECIAL LIMITED CONDITIONAL USES (SCLU), ALLOWING THE SCLU TO BE APPLIED TO THE FCC ZONING DISTRICT; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE.

MOTION by Vice Mayor Derosé, seconded by Councilwoman Smith, to adopt Ordinance No. 2011-10 on Second and Final Reading.

ROLL CALL: Kramer Yes, Martell Yes, Pierre Yes, Smith Yes, Spiegel Yes, Derosé Yes, Vallejo Yes. (Ordinance was adopted on second and final reading 7-0)

MOTION by Vice Mayor Derosé, seconded by Councilwoman Kramer, to introduce Ordinance No. 2011-11. The Ordinance was read into the record by City Attorney Siegel.

14.3 Ordinance No. 2011-11 (Second and Final Reading)

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, REPEALING IN IT'S ENTIRETY CHAPTER IX SECTION 9-14.1 OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS; AMMUNITION AND EXPLOSIVES; ARMOUR PIERCEING BULLETS PROHIBITED; EXCEPTIONS", 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 by Vice Mayor Derosé, seconded by Councilwoman Kramer, to adopt Ordinance No. 2011-11 on Second and Final Reading.

Discussion: Unknown Speaker from the audience- (comments inaudible)

Councilwoman Smith stated that the State changed regulations and that the Council had no choice but to vote for the item.

The City Attorney gave a brief explanation of the legislation. Mayor Vallejo asked for further clarification of the legislation which the City Attorney provided.

Public Comment opened on Ordinance No. 2011-11

1. Charles Loeb, 16800 N.E. 15th Avenue. #112, Miami FL - **made comments against legislation.**
2. Elizabeth Tetreault, 3708 N.E. 167th Street, North Miami Beach, FL - **made comments against the legislation.**

3. Mubarak Kazan, 15564 N.E. 12th Avenue, North Miami Beach, FL - made comments did not state either for or against.

Public Comment closed on Ordinance No. 2011-11

Councilwoman Spiegel was recognized for discussion; she asked the City Attorney about the monitoring of litigation in reference to Ordinance 2011-11. Councilwoman Spiegel then made clarification of a statement placed on the record in regards to the Police Department.

Direction to City Attorney: Councilwoman Smith asked City Attorney to take the question of litigation on the legislation back to the Miami-Dade League of Cities and the Broward League; she asked for clarification on the choice of the council vote, and was the mandate from the state.

The City Attorney gave clarification to the spirit of the legislation.

Mayor Vallejo asked Councilwoman Smith for clarifications of her objections.

After further discussion the Mayor called for the question.

ROLL CALL: Kramer Yes, Pierre Yes, Smith Yes, Derose Yes, Vallejo Yes. Martell No, Spiegel No. (Ordinance was adopted on second and final reading 5-2)

Councilwoman Spiegel was recognized for discussion. Councilwoman Spiegel asked that the City Attorney monitor any constitutional challenge that is proposed against this legislation. Councilwoman Spiegel stated that her issue is with any mandate that prohibits her and her colleagues from being able to act on the behalf and in good conscience for the constituents that she was elected to serve.

Direction to City Attorney: City Attorney is to monitor legislation and report back to Mayor and Council on any proposed challenge to this Ordinance.

MOTION by Vice Mayor Derose, seconded by Councilwoman Kramer, to introduce Ordinance No. 2011-10. The Ordinance was read into the record by City Attorney Siegel.

14.4 Ordinance No. 2011-12 (Second and Final Reading)

AN ORDINANCE AMENDING CHAPTER XII SECTION 12-14.15 OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ENTITLED "LOCAL BUSINESS TAX RECEIPTS AND REGULATIONS; LIMITATIONS ON AGENCY VEHICLE, EQUIPMENT, ETC.", 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 by Vice Mayor Derose, seconded by Councilwoman Smith, to adopt Ordinance No. 2011-12 on Second and Final Reading.

The City Attorney gave explanation of legislation.

Public Comment was opened and closed on Ordinance No. 2011-12.

ROLL CALL: Kramer Yes, Martell Yes, Pierre Yes, Smith Yes, Derose Yes, Vallejo Yes, Spiegel No. (Ordinance 2011-12 was adopted 6-1)

15. CITY COUNCIL REPORTS

Councilwoman Kramer wished to let everyone know that the budget was a work in progress. She announced the resurgence of the Multi-Cultural Committee and asked for volunteers to pick up an application and join.

Councilwoman Martell thanked staff and her colleagues for all the hard work on the budget. She stated that she was satisfied with the progress that was made. She thanked the residents for their support and ideas and for coming out.

Councilman Pierre reminded everyone to have a moment of silence on Sunday September 11th for all those who lost loved ones on that day.

Councilwoman Smith stated that she shared the sentiments of Councilwoman Martell. She shared that there was two weeks before the final presentation of the budget; she asked that anyone with ideas to help with the bloat of the budget should contact her for discussions. Councilwoman Smith called for the remembrance of 9/11.

Councilwoman Spiegel announced that a wonderful project was coming to the city; a house and that this may be the beginning of the rise in Ad Valorem taxes in the city. Councilwoman Spiegel asked for the remembrance of those affected by 9/11 and may such a tragedy never happen in this country again.

Vice Mayor Derosé reminded citizens to pray for the families who lost loved ones on 9/11. Vice Mayor Derosé encouraged all to participate in ceremonies and activities in remembrance of the tragedy.

Mayor Vallejo thanked staff for all the hard work on the budget; he also thanked his colleagues on the council for their efforts and long hours working on the budget. He feels that we are headed in the right direction and appreciates the spirited policy debates. The Mayor thanked the residents for coming out to the meetings; he stated the budget will be a work in progress and an ongoing process to improve the city.

16. NEXT REGULAR CITY COUNCIL MEETING – Tuesday, September 20, 2011

17. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:28 p.m.

ATTEST:

(S E A L)



Pamela L. Latimore
City Clerk