



CITY OF NORTH MIAMI BEACH
Council Chambers, 2nd Floor
City Hall, 17011 NE 19th Avenue
City of North Miami Beach, FL 33162

**SEPTEMBER 20, 2011
REGULAR MEETING MINUTES**

1. ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 10:20 p.m. Present at the meeting were Mayor George Vallejo, Vice Mayor Philippe Derose 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 – Reverend Dr. Gregory Mansfield, St. Bernard DeClairvaux.

3. PLEDGE OF ALLEGIANCE

4. REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA

City Clerk Latimore requested that Item 5.1 Presentations/Discussions be Withdrawn; addition of Item 6.3 Appointments, Beautification Committee Levins Jean.

5. PRESENTATIONS/DISCUSSIONS

5.1 Presentation of Plaque by Lyndon Bonner, City Manager, on behalf of the Mayor and City Council, to Audrea Hinds, Asst. Director Human Resources. **(Withdrawn)**

6. APPOINTMENTS

6.1 Multi-Cultural Committee (Councilwoman Barbara Kramer)

Stephanie Kienzle

MOTION by Councilwoman Kramer, seconded by Councilwoman Smith, to appoint Stephanie Kienzle to the Multi- Cultural Committee. **(Approved 7-0)**

6.2 Economic Development Commission

Anthony DeFillipo

MOTION by Councilwoman Martell, seconded by Councilwoman Spiegel, to appoint Anthony F. DeFillipo to the Economic Development Commission. **(Approved 7-0)**

6.3 Beautification Committee

Levins Jean

MOTION by Councilman Derose, seconded by Councilman Pierre, to appoint Levins Jean to the Beautification Committee. **(Approved 7-0)**

Councilwoman Spiegel recognized for Discussion: Councilwoman Spiegel asked the City Clerk which Council Seat Number was next to appoint to the Planning and Zoning Board.

City Clerk Pamela Latimore offered to get back to Councilwoman Spiegel with the seat number and order of rotation.

Direction to City Clerk: Send the seat number and appointment rotation for the Planning and Zoning Board to Mayor and Council.

7. CONSENT AGENDA

MOTION by Vice Mayor Derose, seconded by Councilman Pierre, to pull Item 7.1 from the Consent Agenda.

MOTION by Vice Mayor Derose, seconded by Councilwoman Kramer, to approve the Consent Agenda. By consensus, all voted in favor of the motion. **(Approved 7-0)**

7.1 Resolution No. R2011-51

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING AN AGREEMENT BETWEEN THE CITY AND THE STATE OF FLORIDA DIVISION OF EMERGENCY MANAGEMENT FOR A HAZARD MITIGATION GRANT PROGRAM FOR UPGRADE AND RETROFIT OF EXISTING STORMWATER SYSTEM IN HIGHLAND VILLAGE FOR AN AMOUNT NOT TO EXCEED 66,826.00; AUTORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT AND FUTURE AMENDMENTS AS NECESSARY; AND PROVIDING FOR AN EFFECTIVE DATE.

7.2 Resolution No. R2011-52

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 UNDER AN EXISTING CONTRACT WITH FLORIDA CLEANEX, INC. FOR JANITORIAL SERVICES FOR THE NORTH MIAMI BEACH PUBLIC SERVICES BUILDING ITB No. 2009-09 **(Pulled for discussion - see Item 15.3, Page 6).**

8. CITY MANAGER'S REPORT

8.1 City Manager's Contract

City Manager Bonner presented his contract to Mayor and Council for approval. After much discussion the following motion was made:

MOTION by Councilwoman Kramer, seconded by Councilwoman Martell, to table the discussion on the City Manager's Contract until the end of the meeting. **Motion was passed 4-3. (See also Item 15, Page 6). City Managers contract Approved 7-0.**

9. CITY ATTORNEY'S REPORT

9.1 City Attorney Spiegel reported on a Civil Rights Lawsuit filed back in 1983. Courts granted a motion notwithstanding the verdict. The court threw out the verdict against the city. The officers prevailed, the court issued order awarding the City its cost but an appeal has been filed. The City Attorney will continue to update Council on this case.

10. MAYOR'S DISCUSSION- None

11. PUBLIC COMMENT

City Clerk read the rules for Public Comment into the record.

The following person(s) spoke during public comment

1. Charles Loeb, 16800 N.E. 15th Avenue, Unit #112, Miami, FL.
2. Bert Kehren, 3302 N.E. 171st Street, North Miami Beach, FL.
3. Mubarak Kazan, 15564 N.E. 12th Avenue, North Miami Beach, FL.
4. Richard Riess, 23 N.W. 169th Street, North Miami Beach, FL.

12. MISCELLANEOUS ITEMS - None

13. WAIVER OF FEE - None

14. BUSINESS TAX RECEIPTS –City Clerk Latimore read the item into the record.

14.1 SMG Entertainment, Inc. D/B/A Queen of Diamonds Gentlemen's Club
(17450 Biscayne Boulevard, North Miami Beach, FL)
Extension of Hours License (4:00 a.m. – 6:00 a.m.)

Norman Powell (Attorney) and Mr. Leonard Moore (President) appeared on behalf of SMG Entertainment.

Councilwoman Spiegel stated that she had met with the lobbyist for SMG Entertainment. She also stated that she had not received a campaign contribution from this business.

Vice Mayor Derosé stated that he had not received a campaign contribution from SMG Entertainment.

Councilman Pierre stated that he had not received a campaign contribution from SMG Entertainment.

Mayor Vallejo stated that he had not spoken to or met with the lobbyist for SMG Entertainment.

After further discussion the Mayor called for the question.

MOTION by Vice Mayor Derosé, seconded by Councilwoman Martell, to approve the extension of hours 4 a.m. to 6 a.m. for SMG Entertainment, Inc. **(6-0 Councilman Pierre was absent for the vote).**

14.2 Platinum South, Inc. d/b/a Dean's Gold
2355 N.E. 163rd Street, North Miami Beach, Fl.
Extension of Hours License (4:00 a.m. – 6:00 a.m.)

Alan Rosenthal (Attorney) appeared on behalf of Platinum South, Inc.

Mr. Rosenthal stated that while he had a presentation prepared to present Council he would forgo doing so due to the late hour.

Councilwoman Smith stated for the record that she had spoken to Mr. Rosenthal on this item.

Vice Mayor Derose stated for the record that he had spoken to Mr. Rosenthal on this item.

Councilwoman Kramer stated for the record that she had spoken to Mr. Rosenthal on this item.

Mayor Vallejo stated for the record that he had spoken to Mr. Rosenthal on numerous occasions.

After further discussion the Mayor called for the question.

MOTION by Vice Mayor Derose, seconded by Councilwoman Smith, to approve the extension of hours 4 a.m. to 6 a.m. for Platinum South, Inc. **(6-0 Councilman Pierre was absent for the vote).**

15. LEGISLATION

MOTION by Vice Mayor Derose, seconded by Councilwoman Smith, to introduce Resolution No. R2011-49.

15.1 Resolution No. R2011-49

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA GRANTING SITE PLAN APPROVAL IN ORDER TO CONSTRUCT A ONE-STORY WAREHOUSE TOTALING 15,623 SQUARE FEET ON A 29,772 SQUARE FOOT (0.68 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 24-54(D)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE FIFTEEN (15) FEET OF THE REQUIRED FRONT YARD SETBACK OF 25 (TWENTY FIVE) FEET, WHERE INTERIOR SIDE YARD SETBACK OF TEN (10) FEET IS PROPOSED; AND A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA GRANTING A VARIANCE FROM SECTION 24-54(D)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE TEN (10) FEET OF THE REQUIRED INTERIOR SIDE YARD SETBACK OF FIFTEEN (15) 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 24-54(D)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE TEN(10) FEET OF THE REQUIRED INTERIOR SIDE YARD SETBACK OF FIFTEEN (15) FEET

WHERE SOUTH INTERIOR SIDE YARD SETBACK OF FIVE (5) 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 24-54(D)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE TEN (10) FEET OF THE REQUIRED REAR SIDE YARD SETBACK OF FIFTEEN (15) FEET, WHERE REAR YARD SETBACK OF FIVE (5) FEET IS PROPOSED ON PROPERTY LEGALLY DESCRIBED AS: (LENGHTY LEGAL- SEE ATTACHED EXHIBIT "A") A.K.A. 15501 N.E. 21ST Avenue, North Miami Beach, Florida (P&Z Item No. 11-504 of August 22, 2011)

City Attorney Siegel polled Mayor and Council for Jennings Rule Disclosure: There were no disclosures of meetings by Mayor and Council with the applicant.

Public Comment was opened. Public Comment was closed.

MOTION by Vice Mayor Derose, seconded by Councilwoman Spiegel, to approve Resolution No. 2011-49. Resolution No. R2011-49 (**Approved 7-0**)

MOTION by Vice Mayor Derose, seconded by Councilwoman Kramer, to introduce Resolution No. R2011-50.

15.2 Resolution No. R2011-50

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA GRANTING SITE PLAN APPROVAL, IN ORDER TO CONSTRUCT THREE TWO –STORY OFFICE BUILDINGS TOTALING 45,258 SQUARE FEET ON A 182,050 SQUARE FOOT (3.48 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 24-95(B) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE TWENTY EIGHT (28) OF THE MINIMUM REQUIRED ONE HUNDRED SIXTY FIVE (165) VEHICULAR PARKING SPACES , WHERE ONE HUNDRED THIRTY-SEVEN (137) VEHICULAR PARKING SPACES ARE PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA GRANTING A VARIANCE FROM SECTION 24-97 OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE ONE (1) OF THE MINIMUM REQUIRED TWO (2) LOADING SPACES WHERE ONE (1) LOADING SPACE IS PROPOSED ON PROPERTY LEGALLY DESCRIBED AS Tract "A" OF Grovpac Subdivision, according to the plat thereof, recorded in Plat Book 115, at Page 90, of the Public Records of Miami-Dade County, Florida, less the Westerly 24 feet thereof acquired by the Department of Transportation, State of Florida, for a right-of-way for State Road No. 5 (Biscayne Boulevard). A /K/A 15801 Biscayne Boulevard, North Miami Beach, Florida (P&Z Item No. 11-503 of August 22, 2011).

Mayor Vallejo stated that he met with the developers of the project.

Council was polled and there were no disclosure of meetings by the rest of the Council with the applicant.

MOTION by Vice Mayor Derose, seconded by Councilwoman Smith, to approve Resolution No. R2011-50. **(Approved 7-0)**

Chris Heid stated that the applicant stated that there was a modification of Condition 12. He and the applicant agreed that to put in the infrastructure at this time would be premature due to the fact that it may not be needed for future uses.

MOTION by Councilwoman Spiegel, seconded by Councilwoman Smith, to re-consider Resolution No. R2011-50. **(Approved 7-0)**

MOTION by Councilwoman Smith, seconded by Vice Mayor Derose, to amend Resolution No. R2011-50 with the modified language to condition 12 as to conform with the recommendation by Community Development. **(Approved 7-0)**

MOTION by Councilwoman Smith, seconded by Councilman Pierre, to approve Resolution No. R2011-50, as amended. **(Approved 7-0)**

MOTION by Vice Mayor Derose, seconded by Councilman Pierre, to continue the meeting beyond midnight. **(Approved 7-0)**

MOTION by Vice Mayor Derose, seconded by Councilwoman Smith, to introduce Resolution No. R2011-52. (Resolution pulled from Consent Agenda - See Item 7.1, Page 2)

15.3 Resolution No. R2011-52

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 UNDER AN EXISTING CONTRACT WITH FLORIDA CLEANEX, INC. FOR JANITORIAL SERVICES FOR THE NORTH MIAMI BEACH PUBLIC SERVICES BUILDING ITB No. 2009-09

MOTION by Vice Mayor Derose, seconded by Councilwoman Kramer, to **adopt Resolution No. R2011-52.**

Vice Mayor Derose stated that he did not feel comfortable voting for the Resolution. Vice Mayor Derose stated that five employees would be affected by this decision.

Councilwoman Smith stated that she was concerned about the large change order that was already added to the bid.

Brian O'Connor, Chief Procurement Officer, reported to Council that the savings afforded to the city through this contract was \$247,084.

After further discussion the Mayor called the question.

Resolution No. R2011-52 was Approved 7-0. (See also Item 7.2, Page 2)

The City Manager's Contract was reopened for discussion:

After much discussion the following points of the City Manager's Contract were agreed upon (see attached agreement):

Pension Issue will be resolved between Mr. Bonner's Attorney and the Management Pension Attorney. Councilwoman Spiegel stated that the Council could agree in principle until the language was worked out.

Car Allowance: The Manager would be reimbursed at the IRS amount for mileage.

Severance would be allotted at the amount of 20 weeks' salary for termination without cause. The Manager agreed to give Council resignation notice of 30 days in exchange for vesting of leave time accumulated in the first 6 months of the contract, this concession gives the City Manager additional 10 days vacation and additional 5 sick days.

MOTION by Councilwoman Martell, seconded by Councilwoman Spiegel, to approve the City Manager's Contract as discussed. **Approved 7-0. (See also Item # 8.1, Page 2)**

16. CITY COUNCIL REPORTS

Councilwoman Kramer wished everyone a good morning.

Councilwoman Martell thanked everyone for coming out, listening, and all their support.

Councilman Pierre thanked everyone, he stated that the budget had been passed and he wanted to continue looking at 3 areas: 1) The city's finances, especially the water funds, 2) Creating a Housing Agency for the City, and 3) Establishing performance evaluations for employees. He stated that if the city had to do anything in the future it would not seem so subjective. Councilman Pierre said to the City Manager and the City Attorney that when it comes time to renegotiate our next contract get rid of the deadwood so there would be less bumps on the rock.

Councilwoman Smith said good morning to everyone.

Councilwoman Spiegel thanked the staff for all their work, for answering questions with a smile, and getting answers to her questions. She said thanks to the staff that was still there. She thanked all the employees for their input and for being our employees. Councilwoman Spiegel reminded everyone of the Domestic Violence Walk being held on October 1st, at the Gwen Margolis Amphitheater and issued a friendly challenge to match former Councilmember David Templer again this year. Councilwoman Spiegel wished everyone a Happy Rosh Hashanah.

Vice Mayor Derosé thanked the citizens for their suggestions during the budget process. He stated that while this was a difficult one (budget) he was glad it was over. Vice Mayor Derosé said that while he did not vote in favor of the budget he respects the will of the Council and his heart goes out to all who were affected.

Mayor Vallejo thanked everyone for bearing all of the late nights. He congratulated Councilwoman Martell on her son getting married. He reminded everyone that Saturday was National Day of Play we will be participating at Allen Park from 12-3 p.m. The Mayor reminded everyone that this week was Constitution Week and Saturday was Constitution Day celebrating 224 years of the U.S. Constitution.

17. NEXT REGULAR CITY COUNCIL MEETING

Tuesday, October 4, 2011.

18. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 1:26 a.m.

ATTEST:

(S E A L)



Pamela L. Latimore
City Clerk