

JULY 20, 2010 MEETING MINUTES
(CNMB-CC MINUTES TAPE #445)

1. ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 7:38 p.m. Present at the meeting were Mayor Myron Rosner, Vice Mayor Philippe Derosé, and Council Members Beth E. Spiegel (*arrived 10:27 p.m.*), Phyllis S. Smith, John Patrick Julien, Barbara Kramer, and Frantz Pierre. Also present were City Manager Kelvin L. Baker, City Attorney Darcee S. Siegel, and City Clerk Susan A. Owens.

2. INVOCATION

Rabbi Heshy Riesel was unable to attend, so the invocation was given by City Manager Kelvin L. Baker.

3. PLEDGE OF ALLEGIANCE

Mayor Rosner led the City Council in the Pledge of Allegiance.

Mayor Rosner recognized State House of Representatives-District 104 candidates, Dominique Simon and John Patrick Julien. Later in the meeting, Mayor Rosner also recognized State House of Representatives-District 108 candidate Daphne Campbell.

4. REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA

Item #15.1 was tabled.

Motion made by Councilman Julien, seconded by Councilwoman Smith, to table Item #15.3. In a roll call vote, with Councilwoman Spiegel absent, Vice Mayor Derosé, Councilwoman Smith, Councilman Julien, Councilwoman Kramer and Councilman Pierre voted yes; Mayor Rosner voted no. (**Motion carried 5-1-1**)

Motion made by Councilman Julien, seconded by Vice Mayor Derosé, to table Item #15.4. In a roll call vote, with Councilwoman Spiegel absent, Vice Mayor Derosé, Councilwoman Smith, Councilman Julien, Councilwoman Kramer and Councilman Pierre voted yes; Mayor Rosner voted no. (**Motion carried 5-1-1**)

Motion made by Councilman Julien, seconded by Vice Mayor Derosé, to table Item #15.5. In a roll call vote, with Councilwoman Spiegel absent, Vice Mayor Derosé, Councilwoman Smith, Councilman Julien, Councilwoman Kramer and Councilman Pierre voted yes; Mayor Rosner voted no. (**Motion carried 5-1-1**)

Motion made by Councilwoman Smith to table Item #15.8. (*Motion died for lack of second*)

5. **PRESENTATIONS** – *None*

6. **APPOINTMENTS** – *None*

7. **CONSENT AGENDA**

Motion made by Vice Mayor Derose, seconded by Councilman Julien, to introduce the Consent Agenda. By consensus, with Councilwoman Spiegel absent, the rest of the Council voted in favor. **(Motion carried 6-0-1)**

7.1 June 15, 2010 Meeting Minutes

7.2 July 6, 2010 Meeting Minutes

7.3 Resolution No. R2010-50

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, URGING LOCAL AND STATE GOVERNMENTS TO ENACT LEGISLATION CREATING PROTOCOLS AND PROCEDURES TO RESCUE ANIMALS ABANDONED IN VACANT HOMES.

7.4 Resolution No. R2010-51

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, URGING PRESIDENT OBAMA AND DEPARTMENT OF HOMELAND SECURITY SECRETARY JANET NAPOLITANO TO PROMPTLY PAROLE INTO THE UNITED STATES ALL HAITIAN BENEFICIARIES OF APPROVED IMMIGRANT VISA PETITIONS AND TO PERMIT THEM TO WORK LEGALLY IN THE UNITED STATES, AND TO EXPEDITE CONSIDERATION AND APPROVAL OF ALL PENDING BUT NOT YET APPROVED IMMIGRANT VISA PETITIONS.

7.5 Resolution No. R2010-52

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 FLORIDA DETROIT DIESEL-ALLISON, INC. FOR THE PURCHASE OF THE 275 KW GENERATOR AT MASTER LIFT STATION OF WASTEWATER COLLECTION SYSTEM.

Motion made by Councilman Julien, seconded by Councilwoman Smith, to approve the Consent Agenda. In a voice vote, with Councilwoman Spiegel absent, the rest of the Council voted in favor. **(Motion carried 6-0-1)**

8. **CITY MANAGER'S REPORT** – Kelvin L. Baker

8.1 Miscellaneous Updates

Gulf Coast Cleanup Jobs. City Manager Baker reported that the City is on a waiting list for jobs that may be available to unemployed residents to assist with the Gulf Coast area oil spill cleanup efforts; and, once a determination is made, the City will issue a press release.

9. CITY ATTORNEY'S REPORT – Darcee S. Siegel

Forfeiture Funds. City Attorney Siegel reported that on July 14th and July 15th the City and the Federal Drug Enforcement Agency successfully seized \$1.9 million; and, that her office has already filed to obtain forfeiture funds from the seizure.

Surplus Property Sale. City Attorney Siegel reported a resolution is being prepared to sell surplus property at 13900 Biscayne Boulevard. A buyer is interested in acquiring the property, and no City departments have expressed interest.

Red Light Camera Litigation. City Attorney Spiegel reported that the City has been served with a class action suit regarding use of red light cameras. Per the agreement with the camera company, the camera company will pay a portion of the attorneys' fees, and litigation will be handled in-house.

10. MAYOR'S DISCUSSION

“Principles over Politics.” Mayor Rosner read aloud several posts from a police blog site. The posts were from both employees and residents. Some requested that the City Council not touch employee pensions; and, others requested that the Council implement pension reforms. Mayor Rosner also stated that the union distributed flyers attacking the City Council and urging residents to attend the next City Council meeting. Mayor Rosner then read aloud a portion of a response to the blogs from Police Chief Hernandez, where he mandated that his officers remain respectful and control their personal feelings. The Chief also stated that he will not tolerate disrespectful behavior or personal attacks from his officers.

Mayor Rosner then spoke regarding the pension reform ordinances that were before the City Council. He explained that three of these ordinances would reinstate the Council's right to vote on pension amendments and remove the delegation the City had given of that right to the pension members. He explained that another ordinance would allow the City to stretch out the payments necessary to fund the Police and Firefighters' pension plan until 2020, and thereby lower the yearly costs. He stated that we are not taking away any benefits from vested employees. The last pension ordinance would merge the Management pension plan into the General Employees pension plan.

The Mayor stated that when he came on board in 2003 the Police Department's costs were 33% of the City's budget, today it is 70% of our budget. The City and the Police union are at impasse and have been without a contract for over a year. He further stated that this is all about the residents and the City Council dealing with a difficult issue head-on, and it's principles over politics.

11. PUBLIC COMMENT

Bert Kehren, 3302 NE 171 Street, North Miami Beach, FL, spoke regarding the Police Department and pension issues.

Marise Hayden, 16415 NE 32 Avenue, North Miami Beach, FL, spoke regarding the budget.

Charles Loeb, 16800 NE 15 Avenue, #112, North Miami Beach, FL, spoke regarding Little League, driver licenses, libraries, FDOT plans, the Census, and school opening.

Orlando Loli, 3384 NE 167 Street, North Miami Beach, FL, spoke regarding the Police Department.

George Vallejo, 2940 NE 164 Street, North Miami Beach, FL, spoke regarding pension issues.

Janice Coakley, 19681 NW 33 Avenue, North Miami Beach, FL, spoke regarding pension issues.

Mary Hilton, 1950 NE 157 Terrace, North Miami Beach, FL, spoke regarding the budget.

Richard Riess, 23 NW 169 Street, North Miami Beach, FL, spoke regarding pension issues and the budget.

Mike Pons, PO Box 600124, North Miami Beach, FL, spoke regarding police pension issues.

Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL, spoke regarding the minutes, the Police Department, and the City Council.

Joseph Romero, PO Box 600124, North Miami Beach, FL, spoke regarding the Police Department.

Sergio Garcia, 16901 NE 19 Avenue, North Miami Beach, FL, spoke regarding police pension issues.

Jason Ochoa, 16901 NE 19 Avenue, North Miami Beach, FL, spoke regarding police pension issues.

Carlos Castillo, 16901 NE 19 Avenue, North Miami Beach, FL, spoke regarding police pension issues.

Margie Love, 1579 NE 169 Street, North Miami Beach, FL, spoke regarding police pension issues.

Bruce Lamberto, 3420 NE 165 Street, North Miami Beach, FL, spoke regarding police pension issues and the budget.

Marlen Martell, 17374 South Glades Drive, North Miami Beach, FL, spoke regarding the budget, spending, and employee pensions.

Mike DeMarcus, 16901 NE 19 Avenue, North Miami Beach, FL, spoke regarding police pension issues.

Allison Robie, 2131 NE 179 Street, North Miami Beach, FL, spoke regarding police pension issues and the budget.

Jimmy Randazzo, 16901 NE 19 Avenue, North Miami Beach, FL, spoke regarding the Police Department.

Chief Hernandez addressed the City Council with several issues he wished to bring to the attention of the community. He noted that the overall crime rate in the City is down 5-6%. Chief Hernandez pointed out the dangers of the job, comparing it to military service. With regard to allegations of police intimidation and threats, Chief Hernandez stated he has personally addressed those concerns. He stated that the North Miami Beach Police Department has been recognized and accredited by the Florida Commission on Accreditation. He further assured that the police officers would continue to work hard, and asked that the community try to understand the difficulties and hazards of the officers' jobs.

12. MISCELLANEOUS ITEMS – None

13. WAIVER OF FEE – None

14. BUSINESS TAX RECEIPTS – None

15. LEGISLATION

15.1 Ordinance No. 2010-13 (Second and Final Reading) - Item was tabled. (See Item #4)

Motion made by Councilman Julien, seconded by Vice Mayor Derose, to introduce Ordinance No. 2010-14 (Second and Final Reading). By consensus, with Councilwoman Spiegel absent, the rest of the Council voted in favor. **(Motion carried 6-0-1)**

15.2 Ordinance No. 2010-14 (Second and Final Reading)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING ORDINANCE 2009-31 ENTITLED THE NORTH MIAMI BEACH DANGEROUS INTERSECTION SAFETY ACT; PROVIDING FOR RECORDED IMAGE MONITORING AND ENFORCEMENT OF RED LIGHT TRAFFIC CONTROL DEVICES CONSISTENT WITH GENERAL LAW OF THE STATE OF FLORIDA, CHAPTER 2010-80 (THE MARK WANDALL TRAFFIC SAFETY ACT); PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

(Mayor Rosner passed the gavel to Vice Mayor Derose at 9:30 p.m. and briefly left the meeting.)

The following individuals came before the City Council:

Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL

Richard Riess, 23 NW 169 Street, North Miami Beach, FL

Allison Robie, 2131 NE 179 Street, North Miami Beach, FL

Motion made by Councilman Julien, seconded by Vice Mayor Derose, to adopt Ordinance No. 2010-14 (Second and Final Reading). In a roll call vote, with Mayor Rosner and Councilwoman Spiegel absent, Councilwoman Smith, Councilman Julien, Councilwoman Kramer, and Councilman Pierre voted yes; Vice Mayor Derose voted no. **(Motion carried 4-1-2)**

15.3 Ordinance No. 2010-15 (Second and Final Reading) - Item was tabled. (See Item #4)

15.4 Ordinance No. 2010-16 (Second and Final Reading) - Item was tabled. (See Item #4)

15.5 Ordinance No. 2010-17 (Second and Final Reading) - Item was tabled. (See Item #4)

Motion made by Councilman Julien, seconded by Councilwoman Smith, to introduce Ordinance No. 2010-18 (First Reading, By Title Only). By consensus, with Mayor Rosner and Councilwoman Spiegel absent, the rest of the Council voted in favor. **(Motion carried 5-0-2)**

15.6 Ordinance No. 2010-18 (First Reading, By Title Only)

AN ORDINANCE AMENDING CHAPTER XIV OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ENTITLED BUILDING AND HOUSING, AND IN PARTICULAR SUBSECTION (e) OF SECTION 14-1.3, ENTITLED "BUILDING INFORMATION REQUESTED IN WRITING"; DELETING THE STANDARD SEARCH/RESEARCH FEES; ADDING A PROVISION FOR A SPECIAL SERVICE CHARGE

ALSO KNOWN AS AN "EXTENSIVE USE FEE" ASSOCIATED WITH PROCESSING BUILDING PERMIT APPLICATIONS AND RELATED ACTIVITIES PURSUANT TO FLORIDA -STATUTE §119.07; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

The following individuals came before the City Council:

Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL
Allison Robie, 2131 NE 179 Street, North Miami Beach, FL

Motion made by Councilman Julien, seconded by Councilwoman Smith, to adopt Ordinance No. 2010-18 (First Reading, By Title Only). In a roll call vote, with Mayor Rosner and Councilwoman Spiegel absent, the rest of the Council voted in favor. **(Motion carried 5-0-2)**

Motion made by Councilman Julien, seconded by Councilwoman Kramer, to introduce Ordinance No. 2010-19 (First Reading, By Title Only). By consensus, with Mayor Rosner and Councilwoman Spiegel absent, the rest of the Council voted in favor. **(Motion carried 5-0-2)**

15.7 Ordinance No. 2010-19 (First Reading, By Title Only)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE CITY OF NORTH MIAMI BEACH RETIREMENT PLAN FOR POLICE OFFICERS AND FIREFIGHTERS; CREATING A NEW SECTION 4.02(c) PROVIDING A DIFFERENT SUPPLEMENTAL CONTRIBUTION THROUGH THE 2019 PLAN YEAR, BUT REQUIRING A 70% FUNDED RATIO FOR THE OCTOBER 1, 2020 ACTUARIAL VALUATION (TO DETERMINE THE EMPLOYER CONTRIBUTION FOR THE FISCAL YEAR STARTING OCTOBER 1, 2021); PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

The following individual came before the City Council:

Charles Loeb, 16800 NE 15 Avenue, #112, North Miami Beach, FL

(Vice Mayor Derose passed the gavel back to Mayor Rosner, who returned to the meeting at 9:59 p.m.)

Motion made by Councilman Julien, seconded by Councilman Pierre, to adopt Ordinance No. 2010-19 (First Reading, By Title Only). In a roll call vote, with Councilwoman Spiegel absent, the rest of the Council voted in favor. **(Motion carried 6-0-1)**

Motion made by Councilman Julien, seconded by Vice Mayor Derose, to introduce Ordinance No. 2010-20 (First Reading, By Title Only). By consensus, with Councilwoman Spiegel absent, the rest of the Council voted in favor. **(Motion carried 6-0-1)**

15.8 Ordinance No. 2010-20 (First Reading, By Title Only)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, MERGING THE RETIREMENT PLAN AND TRUST FOR THE GENERAL MANAGEMENT EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH INTO THE RETIREMENT PLAN FOR GENERAL EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH; REPEALING ORDINANCE NO. 2002-30 AND ALL SUBSEQUENT AMENDMENTS THERETO; PROVIDING FOR THE TRANSFER OF ALL ASSETS AND LIABILITIES OF THE RETIREMENT PLAN AND TRUST FOR THE GENERAL MANAGEMENT EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH TO THE RETIREMENT PLAN FOR GENERAL EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH; DIRECTING THAT THE ADOPTION AGREEMENT WITH FLORIDA LEAGUE OF CITIES, INC. FOR ADMINISTRATION OF THE RETIREMENT PLAN AND TRUST FOR THE GENERAL MANAGEMENT EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH, DATED JANUARY 24, 2003, AND ALL SUBSEQUENT AMENDMENTS THERETO, BE TERMINATED; AMENDING ARTICLE II THE RETIREMENT PLAN FOR GENERAL EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH, ENTITLED "DEFINITIONS"; AMENDING SECTION 3.01 OF THE RETIREMENT PLAN FOR GENERAL EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH, ENTITLED "ELIGIBILITY; PARTICIPATION"; AMENDING SECTION 4.01 OF THE RETIREMENT PLAN FOR GENERAL EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH, ENTITLED "PARTICIPANT'S CONTRIBUTION ACCOUNT"; CREATING A NEW SECTION 6.15 OF THE RETIREMENT PLAN FOR GENERAL EMPLOYEES OF THE CITY OF NORTH MIAMI BEACH, ENTITLED "BENEFITS OF GENERAL MANAGEMENT EMPLOYEES"; 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 AN EFFECTIVE DATE.

(Councilwoman Spiegel arrived at 10:27 p.m.)

The following individuals came before the City Council:

James Linn, Lewis Longman & Walker, P.A., Tallahassee, FL, City's outside counsel

Hupert Rose, 415 NW 192 Street, North Miami Beach, FL

Janice Coakley, 19681 NW 33 Avenue, North Miami Beach, FL

Mary Hilton, 1950 NE 157 Terrace, North Miami Beach, FL

Richard Riess, 23 NW 169 Street, North Miami Beach, FL

Mubarak Kazan, 15564 NE 12 Avenue, North Miami Beach, FL

Charles Loeb, 16800 NE 15 Avenue, #112, North Miami Beach, FL

Lori Helton, 17011 NE 19 Avenue, North Miami Beach, FL

Allison Robie, 2131 NE 179 Street, North Miami Beach, FL

Victor Espinal, 4851 NW 21 Street, Lauderhill, FL

Motion made by Councilman Julien, seconded by Councilwoman Kramer, to adopt Ordinance No. 2010-20 (First Reading, By Title Only).

Motion made by Councilwoman Smith, seconded by Councilwoman Kramer, to table Ordinance No. 2010-20. In a roll call vote, Vice Mayor Derose, Councilwoman Smith, Councilman Julien, Councilwoman Kramer, and Mayor Rosner voted yes; Councilwoman Spiegel and Councilman Pierre voted no. **(Motion carried 5-2)**

16. CITY COUNCIL COMMITTEE REPORTS

VICE MAYOR DEROSE

Vice Mayor Derose expressed his sympathy to Councilwoman Spiegel and her family for the loss of her aunt, and relayed to the City Manager the positive feedback he received from the citizens of Highland Village regarding the renovations to the resource center.

COUNCILWOMAN SPIEGEL – *Left the meeting at 10:49 p.m.*

COUNCILWOMAN SMITH

Councilwoman Smith expressed her sympathy to Councilwoman Spiegel; thanked Margie Love for her Crime Watch; stated that she was also trying to get Crime Watches going in other areas of the City; announced that the Economic Development Committee meeting is tomorrow night at 5:30 p.m. on the 4th floor and urged people to attend; and thanked everyone that came out to speak tonight and told them that she is listening and doing her research.

COUNCILMAN JULIEN

Councilman Julien stated that he did not vote to table the pension ordinances out of intimidation, he further stated that, after last week's emergency pension board meeting, he saw that the officers have questions that need to be answered; stated that he also voted to table the merger ordinance because he had questions on whether or not merging the pension plans would be beneficial; and reminded everyone that school will be opening next month.

COUNCILWOMAN KRAMER

Councilwoman Kramer stated that those who complained about Councilwoman Spiegel coming to the meeting late owe her an apology as she was coming from her aunt's funeral; in response to comments that the Council doesn't care, she stated that she does and that she makes the best decisions she can; and announced that the City will be hosting a free Ethics Training Seminar on July 29th, from 7:00 p.m. to 9:00 p.m. at the McDonald Center and encouraged board members and residents to attend.

COUNCILMAN PIERRE

Councilman Pierre thanked everyone who contacted him regarding the pension issues and stated that he understands the apprehension the employees feel when the rules are changed after all of their commitment to their jobs; stated that we are acting in good faith by tabling it to get more information so that we can make the best decision; and reminded students and parents to have a safe summer and that the library is still open.

MAYOR ROSNER – *Waived report*

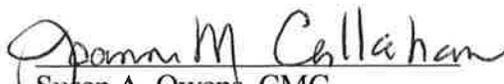
At the conclusion of the reports, Councilwoman Smith spoke again to announce that the City will be hosting its annual Health Fair on August 14th at the McDonald Center, and that back-to-school supplies will also be collected at the event for needy children.

- 17. **NEXT REGULAR CITY COUNCIL MEETING** - Mayor Rosner announced that the next regular City Council meeting will be Tuesday, August 17, 2010.

- 18. **ADJOURNMENT** - There being no further business to come before the City Council, the meeting was adjourned at 10:57 p.m. on a motion made by Vice Mayor Derosé and seconded by Councilman Pierre. By consensus, with Councilwoman Spiegel absent, the rest of the Council voted in favor. **(Motion carried 6-0-1)**

ATTEST:

(SEAL)

for 
Susan A. Owens, CMC
City Clerk