



## CITY OF NORTH MIAMI BEACH

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

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

City Manager Roslyn B. Weisblum  
City Attorney Darcee S. Siegel  
City Clerk Pamela L. Latimore, CMC

### Notice to All Lobbyists

Any person who receives compensation, remuneration or expenses for conducting lobbying activities is required to register as a Lobbyist with the City Clerk prior to engaging in lobbying activities before City Boards, Committees, or the City Council.

## AGENDA

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1. **ROLL CALL OF CITY OFFICIALS**
2. **INVOCATION** - Reverend Dr. Ronald N. Fox
3. **PLEDGE OF ALLEGIANCE**
4. **REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA**
5. **PRESENTATIONS /DISCUSSIONS**
  - 5.1 **Pre-Session Update by Representative John Patrick Julien**
  - 5.2 **Proclamation Presentation to North Miami Beach Police Department Detective Craig Catlin (Councilwoman Beth E. Spiegel)**
6. **PUBLIC COMMENT**

### **To All Citizens Appearing Under Public Comment**

The Council has a rule which does not allow discussion on any matter which is brought up under Public Comment. We are, however, very happy to listen to you. The reason for this is that the Council must have Staff input and prior knowledge as to the facts and figures, so that they can intelligently discuss a matter. The Council may wish to ask questions regarding this matter, but will not be required to do so. At the next or subsequent Council meeting you may have one of the Councilpersons introduce your matter as his or her recommendation. We wish to thank you for taking the time to bring this matter to our attention. Under no circumstances will personal attacks, either from the public or from the dais, be tolerated.

### **Speaking Before the City Council**

There is a three (3) minute time limit for each speaker during public comment and a three (3) minute time limit for each speaker during all public hearings. Your cooperation is appreciated in observing the three (3) minute time limit policy. If you have a matter you would like to discuss which requires more

than three (3) minutes, please feel free to arrange a meeting with the appropriate administrative or elected official. In the Council Chambers, citizen participants are asked to come forward to the podium, give your name and address, and the name and address of the organization you are representing, if any. If you are speaking on a public hearing item, please speak only on the subject for discussion. Thank you very much, in advance, for your cooperation.

### **Pledge of Civility**

A resolution was adopted by the Mayor and City Council of the City of North Miami Beach recognizing the importance of civility, decency, and respectful behavior in promoting citizen participation in a democratic government. The City of North Miami Beach calls upon all residents, employees, and elected officials to exercise civility toward each other. (Resolution Nos. R2007-57, 11/06/07 and R2011-22, 4/26/11)

**7. APPOINTMENTS - *None***

**8. CONSENT AGENDA**

**8.1 May 15, 2012 Regular Meeting Minutes**

**9. CITY MANAGER'S REPORT**

**10. CITY ATTORNEY'S REPORT**

**10.1 Litigation List**

As of October 2, 2012.

**11. MAYOR'S DISCUSSION**

**12. MISCELLANEOUS ITEMS - *None***

**13. WAIVER OF FEE - *None***

**14. BUSINESS TAX RECEIPTS - *None***

**15. DISCUSSION ITEMS**

**15.1 Charter Employee Contract - City Manager**

**16. LEGISLATION**

**16.1 Resolution No. R2012-76 (City Planner Christopher Heid)**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL IN ORDER TO RE-OCCUPY AN EXISTING 16,600 SQUARE FOOT TWO-STORY BUILDING THAT HAS LOST ITS LEGAL NON-CONFORMING STATUS, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING CONDITIONAL USE APPROVAL IN ACCORDANCE WITH SECTION 24-48.2(C)(6) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH FOR THE OPERATION OF A NIGHT CLUB AND BANQUET HALL ON A 31,998 SQUARE FOOT (0.73 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 24-58.3(D) AND SECTION 24-58.3(H)(1) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO ALLOW ON-SITE PARKING TO REMAIN IN FRONT OF THE BUILDING AND ADJACENT TO A PRIMARY STREET (NE 164 STREET), AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A

VARIANCE FROM SECTION 24-58.3(F) AND SECTION 24-58.4(A)(2) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO EXCEED BY FIFTY (50) FEET THE MAXIMUM ALLOWED FRONT YARD SETBACK OF ZERO (0) FEET, WHERE EXISTING FRONT YARD SETBACK OF FIFTY (50) 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 24.58.3(I) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO ALLOW VEHICULAR ACCESS TO REMAIN ON NE 164 STREET, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-58.4(D) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THREE (3) FEET THREE (3) INCHES OF THE MINIMUM REQUIRED FIRST FLOOR CEILING HEIGHT OF TWELVE (12) FEET, WHERE EXISTING FIRST FLOOR CEILING HEIGHT OF EIGHT (8) FEET NINE (9) INCHES IS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM 24-58.4(F) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE FIVE (5) PERCENT (7' 6") OF THE MINIMUM REQUIRED BUILDING FRONTAGE OF EIGHTY-FIVE (85) PERCENT (127' 6"), WHERE EXISTING BUILDING FRONTAGE OF EIGHTY (80) PERCENT (120') IS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24.58.4(G) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE 45.6% (442.8 SQUARE FEET) OF THE MINIMUM REQUIRED GROUND FLOOR WINDOW AREA OF SIXTY-SIX (66) PERCENT (671.8 SQUARE FEET), WHERE GROUND FLOOR WINDOW AREA OF TWO HUNDRED TWENTY-NINE (229) 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 24.58.4(I) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE TWENTY-EIGHT (28) PERCENT (590.5 SQUARE FEET) OF THE MINIMUM REQUIRED WINDOW AREA ABOVE THE GROUND FLOOR OF THIRTY-THREE (33) PERCENT (707 SQUARE FEET), WHERE EXISTING WINDOW AREA OF FIVE (5) PERCENT (116.5 SQUARE FEET) IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: Tract A, Marx subdivision, According to the Plat Thereof, Recorded in Plat Book 91, Page 20, of the Public Records of Miami-Dade County, Florida, A/K/A 2255 N.E. 164 Street, North Miami Beach, Florida (P&Z Item No. 12-529 of September 10, 2012).

**16.2 Ordinance No. 2012-25 - First Reading by Title Only (City Attorney Darcee S. Siegel)**

AN ORDINANCE AMENDING SECTION 8-2 OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "AD VALOREM TAXATION: ADDITIONAL HOMESTEAD EXEMPTION FOR QUALIFYING SENIOR CITIZENS" TO BE APPLIED TO MILLAGE RATES LEVIED BY MIAMI-DADE COUNTY; INCREASING THE HOMESTEAD EXEMPTION FOR QUALIFYING SENIOR CITIZENS BY \$25,000.00 FROM \$25,000.00 TO UP TO \$50,000.00; 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.

**16.3 Ordinance No. 2012-26 - First Reading by Title Only (City Attorney Darcee S. Siegel)**

AN ORDINANCE AMENDING CHAPTER II OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "STRUCTURE OF CITY GOVERNMENT"; AMENDING SECTION 2-49 ENTITLED "ECONOMIC DEVELOPMENT COMMISSION"; MODIFYING THE NUMBER OF MEMBERS OF THE COMMISSION (2-49.1), THE

QUORUM OF THE COMMISSION (2-49.3), AND THE SCHEDULE OF THE COMMISSION'S REGULAR MEETINGS (2-49.5); 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.

**16.4 Ordinance No. 2012-27 - First Reading by Title Only (City Attorney Darcee S. Siegel)**

AN ORDINANCE AMENDING CHAPTER XIV OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "BUILDING AND HOUSING" AND AMENDING SECTION 14-8.13 ENTITLED "CODE ENFORCEMENT BOARD; ORGANIZATION; SPECIAL MAGISTRATES" BY ESTABLISHING A NEW CODE ENFORCEMENT BOARD; BY PROVIDING FOR EACH COUNCIL MEMBER TO APPOINT A MEMBER TO THE BOARD; BY PROVIDING FINANCIAL DISCLOSURE OF ITS MEMBERS; 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.

**16.5 Ordinance No. 2012-28 - First Reading by Title Only (City Attorney Darcee S. Siegel)**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL AMENDING CHAPTER II OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "STRUCTURE OF CITY GOVERNMENT" AND AMENDING SECTION 2-67 ENTITLED "PLANNING AND ZONING BOARD", BY ESTABLISHING A NEW PLANNING AND ZONING BOARD; BY CREATING QUALIFICATIONS OF MEMBERS; REQUIRING FINANCIAL DISCLOSURE OF BOARD MEMBERS; BY PROVIDING FOR EACH COUNCILMEMBER TO APPOINT A MEMBER TO THE BOARD; BY DELETING THE COMPENSATION PROVISION; BY CHANGING THE TIME AND FREQUENCY OF THE BOARD MEETINGS; BY PROVIDING FOR POSTING OF NOTICE OF MEETINGS ON THE CITY'S WEBSITE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

**16.6 Ordinance No. 2012-29 - First Reading by Title Only (City Attorney Darcee S. Siegel)**

AN ORDINANCE AMENDING CHAPTER II OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "STRUCTURE OF GOVERNMENT" AND AMENDING SECTION 2-55 ENTITLED "PUBLIC UTILITIES COMMISSION" BY ESTABLISHING A NEW PUBLIC UTILITIES COMMISSION; BY PROVIDING FOR EACH COUNCIL MEMBER TO APPOINT A MEMBER TO THE COMMISSION; BY REQUIRING FINANCIAL DISCLOSURE OF COMMISSION MEMBERS; BY DEFINING A QUORUM OF THE COMMISSION; BY DESIGNATING THE CLERK OR HIS/HER DESIGNEE AS THE COMMISSION'S SECRETARY; AND BY CREATING A NEW SUB-SECTION ENTITLED "QUALIFICATION OF MEMBERS"; 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.

**16.7 Ordinance No. 2012-30 - First Reading by Title Only (City Attorney Darcee S. Siegel)**

AN ORDINANCE AMENDING CHAPTER II OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "STRUCTURE OF CITY GOVERNMENT"; MODIFYING SECTION 2-1 ENTITLED "CITY COUNCIL" BY AMENDING

RESCHEDULED MEETINGS (2-1.1b) AND BY CREATING A VOTING ORDER FOR ALL VOTES TAKEN BY THE MAYOR AND CITY COUNCIL (2.1.1c); 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.

**17. CITY COUNCIL REPORTS**

**18. NEXT REGULAR CITY COUNCIL MEETING** - Tuesday, October 16, 2012

**19. ADJOURNMENT**



City of North Miami Beach  
17011 NE 19 Avenue  
North Miami Beach, FL 33162  
305-947-7581  
www.citynmb.com

## MEMORANDUM

 **Print**

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**TO:** Mayor and City Council  
**FROM:** Pamela L. Latimore, City Clerk  
**DATE:** Tuesday, October 2, 2012

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**RE:** May 15, 2012 Regular Meeting Minutes

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**BACKGROUND:** None.  
**RECOMMENDATION:** Approval.  
**FISCAL IMPACT:** None.  
**CONTACT PERSON(S):** Pamela L. Latimore, City Clerk

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### **ATTACHMENTS:**

❑ [Meeting Minutes of May 15, 2012](#)



## CITY OF NORTH MIAMI BEACH

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Council Chambers, 2nd Floor  
City Hall, 17011 NE 19th Avenue  
North Miami Beach, FL 33162

**Tuesday, May 15, 2011  
7:30 PM**

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

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 7:45 p.m. Present at the meeting were Mayor George Vallejo, Vice Mayor Beth E. Spiegel and Council Members Philippe Derosé, Barbara Kramer, Marlen Martell, Frantz Pierre, and Phyllis S. Smith. Also, present were City Manager Lyndon L. Bonner, City Attorney Darcee S. Siegel and City Clerk Pamela L. Latimore.

#### 2. INVOCATION – Reverend Dr. Marta Burke, Fulford United Methodist Church.

#### 3. PLEDGE OF ALLEGIANCE

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

**Withdrawal** of Item 8.1 - Resolution No. R2012-39 from the Consent Agenda and added to Legislation as Item 16, and Item 16.5 - Resolution No. R2012-44 is **Withdrawn**.

Legislation Items 16.3 - Resolution No. R2012-41, 16.7 - Ordinance No. 2012-6, and 16.4 - Resolution No. R2012-42 will be taken out of order,

#### 5. PRESENTATIONS/DISCUSSIONS

**5.1** Former President of Miami-Dade League of Cities, Mayor Juan Carlos Bermudez (City of Doral) and Miami-Dade League of Cities, Executive Director Richard Kuper

#### POINT OF PRIVILEGE (Councilwoman Kramer)

- Sanitation RFP process
- Vote of Confidence for Public Services Director Shari Kamali
- AFSCME Union negotiations

#### 6. PUBLIC COMMENT

City Clerk Latimore read the rules of Public Comment into record. The following person(s) spoke on the record:

1. Margie Love, 1579 NE 169 ST, North Miami Beach, FL
2. Robert Taylor, 1951 NE 157 TER, North Miami Beach, FL
3. Janice Coakley, PO Box 600951, North Miami Beach, FL
4. Bruce Lamberto, 3420 NE 165 ST, North Miami Beach, FL

## 7. APPOINTMENTS

Appointment of Vice Mayor (City Clerk Pamela L. Latimore)

**Motion** made by Councilman Derose, seconded by Councilwoman Smith to appoint Councilman Pierre as Vice-Mayor. (**Motion approved 7-0**)

## 8. CONSENT AGENDA

**8.1 Resolution No. R2012-39** (Public Services Director Shari Kamali) **WITHDRAWN** *Moved to Legislation*

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 PBS&J (NOW ATKINS NORTH AMERICA, INC.) FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE PATRICIA MISHCON ATHLETIC FIELD EXPANSION PROJECT.

**8.2 Resolution No. R2012-43** (Finance Director Janette Smith)

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 FIRST SOUTHWEST COMPANY FOR FINANCIAL ADVISORY SERVICES FOR THE CITY OF NORTH MIAMI BEACH.

**Motion** made by Councilman Derose, seconded by Councilwoman Kramer to approve the Consent Agenda. (Approved 7-0)

## 9. CITY MANAGER'S REPORT

### 9.1 Budget Calendar

City Manager Bonner has provided for Council's review the budget calendar for the year. City Manager Bonner said that he has finished his first review of all the budgets and in the coming weeks he will be looking at everything to determine what the budget gap will be. He asked Council make their schedules available on the Budget workshop dates, especially for the dates in July.

9.2 Budget Transfer Request **WITHDRAWN** (see Item 16.5)  
**Resolution No. R2012-44**



I.T. Manager Patrick Rosiak spoke about the City's website conversion. It will be a gradual process starting on Memorial Day weekend. Anyone going to the site will be re-directed to an under construction page that will have links to some important information such as events, the directory, online payments, etc.

**POINT OF PRIVILEGE** (Councilman Pierre)

- What has Council accomplished in the last year?
- Why has there been no forward progress on the issues the City is facing?
- Council members need to arrange a time when they can come together and lay out their objectives for the City.

**10. CITY ATTORNEY'S REPORT**

10.1 Litigation List

**11. MAYOR'S DISCUSSION**

Thursday will be one year since we were elected. I felt it is really important that The Herald's front page article reported about the nightmare scenario that Miami Dade County Water and Sewer Department is facing with their infrastructure. This is something he remembers speaking about during his campaigns and he was ridiculed by some that thought it wasn't a problem. Fortunately for us, we've rebuilt our water plant recently, so we don't have that issue to worry about but we do have miles and miles of water and sewer lines in the ground that are more than 30 years old. They can fail at any time, especially if there is a rain storm; this is what we are addressing. Mayor Vallejo wants to clarify for the residents that his vision is clear, that he and this Council work for the residents of this City, period end of story. During their campaigns many of them promised and spoke of transparency and he is committed to looking under every rock to see how we spend our money and insure that we account for every single penny. Making sure we provide the best services the residents, for what they want and for what they need and what they pay for with their hard earned dollars. He will not waiver from that course even though it has been a year into his term. As Councilwoman Kramer mentioned we are going places, we never have before as a City, in regard to pension reform, union negotiations, etc... it is all in the best interest of the City. We will continue to move forward on these issues. There continues to be a lot of discussion on this issue of outsourcing, privatizing or a public/private partnership as it relates to the sanitation department. He wants to remind everyone the reason the City exists is to provide services to the residents. The purpose of the City is not to run a jobs program. The purpose of the City is to provide the services the residents want. He realizes that this isn't what some people want to hear, but it's better to hear the truth. There has been a lot of waiting around for the numbers to be perfect and everything to line up. We have to look at the facts that are in front of us and the best information that we have available, and move on. When it comes down to it, we were elected to make the best decision in the best interest of the residents of the City as a whole.

**POINT OF PRIVILEGE** (Councilwoman Spiegel)

- Echoes what was said by Councilwoman Kramer
- Public Services Director Shari Kamali has served this City well and admirably
- There is nothing wrong with a Department Head answering questions posed to them or with them having conversations

- Shari Kamali has had a long and distinguished career here in this county
- She has responded to the Manager's challenges and has been an exemplary employee and Department Head

12. **MISCELLANEOUS ITEMS** - None

13. **WAIVER OF FEE** – None

14. **BUSINESS TAX RECEIPTS** - None

15. **DISCUSSION ITEMS** - None

16. **LEGISLATION** (Items taken out of sequence)

**16.3 Resolution No. R2012-41** (City Planner Christopher Heid)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING AN AFTER-THE-FACT VARIANCE FROM SECTION 24-44(D)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE TWO FEET (2') OF THE MINIMUM REQUIRED INTERIOR SIDE YARD SETBACK OF FIVE FEET (5'), WHERE INTERIOR SIDE YARD SETBACK OF THREE FEET (3') IS EXISTING ON PROPERTY LEGALLY DESCRIBED AS: LOT 13, BLOCK 9, OF FULFORD BY THE SEA SECTION "E", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 8, PAGE 63, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FL

A/K/A  
 1687 NE 174 Street  
 North Miami Beach, Florida  
 (P&Z Item No. 12-518 of April 9, 2012)

**JENNINGS RULE:** 6 – 1

**PUBLIC COMMENT:** *None*

**MOTION:** by Councilman Derose, seconded by Councilwoman Kramer, to adopt Resolution No. R2012-41. (**Adopted** 7-0)

**16.7 Ordinance No. 2012-6** – First Reading by Title Only (City Attorney Darcee S. Siegel)  
 Item came before Council previously on the following dates (First Reading 3/6/12) ( Second Reading 3/20/12 - **WITHDRAWN**)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING SECTION 2, PARAGRAPH 9, OF ORDINANCE 2006-6 LOWERING THE INTEREST RATE ON EACH MEMBER'S DROP ACCOUNT FROM 6.5% COMPOUNDED MONTHLY TO 3% COMPOUNDED MONTHLY; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION:** by Councilman Derose, seconded by Councilwoman Martell, to adopt Ordinance No. 2012-6. (**Adopted** 7-0)

**PUBLIC COMMENT:**

1. Richard Sicking, 1313 Ponce De Leon Blvd, Miami , FL – **Against**

**ROLL CALL VOTE:** Councilman Derose – **Yes**, Councilwoman Kramer – **Yes**, Councilwoman Martell – **Yes**, Councilman Pierre – **Yes**, Councilwoman Smith – **Yes**, Vice Mayor Spiegel – **Yes**, Mayor Vallejo – **Yes** (**Passes 7-0**)

**16.4 Resolution No. R2012-42** (City Planner Christopher Heid)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN MODIFICATION TO A SITE PLAN PREVIOUSLY APPROVED UNDER RESOLUTION NO. R2011-20 FOR THE CONSTRUCTION OF A ONE-STORY DORMITORY BUILDING ON A 126,653 SQUARE FOOT (2.9 ACRE) PARCEL OF LAND, 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. 12-522 of April 9, 2012)

**MOTION:** by Councilman Derose, seconded by Councilman Pierre, to adopt Resolution No. 2012-42.  
(**Adopted 7-0**)

**JENNINGS RULE:** 6 – 1

**PUBLIC COMMENT:** *None*

**ROLL CALL VOTE:** Councilman Derose – **Yes**, Councilwoman Kramer – **Yes**, Councilwoman Martell – **Yes**, Councilman Pierre – **Yes**, Councilwoman Smith – **Yes**, Vice Mayor Spiegel – **No**, Mayor Vallejo – **Yes** (**Passes 6-1**)

**16.1 Resolution No. R2012-37** (Finance Director Janette Smith)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA ADOPTING A FUND BALANCE POLICY TO PROVIDE DEFINITIONS OF FUND BALANCE CLASSIFICATIONS; TO PROVIDE AUTHORITY FOR CHANGES IN CLASSIFICATIONS; AND TO ESTABLISH MINIMUM LEVELS OF UNASSIGNED FUND BALANCE IN THE GENERAL FUND.

**PUBLIC COMMENT:** *None*

**MOTION:** by Councilman Derose, seconded by Councilwoman Kramer, to adopt Resolution No. 2012-37. (**Adopted 7-0**)

**16.2 Resolution No. R2012-38** (Finance Director Janette Smith)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ADOPTING AN INVESTMENT POLICY IN ACCORDANCE WITH SECTION 218.415, FLORIDA STATUTES, ESTABLISHING INVESTMENT OBJECTIVES AND PARAMETERS FOR THE MANAGEMENT OF SURPLUS PUBLIC FUNDS OF THE CITY OF NORTH MIAMI BEACH, FLORIDA.

**PUBLIC COMMENT:** *None*

**MOTION:** by Councilman Derose, seconded by Councilwoman Martell, to adopt Resolution No. R2012-38. (**Adopted** 7-0)

**16.5 Resolution No. R2012-44** (City Manager Lyndon L. Bonner) **WITHDRAWN**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA APPROVING A BUDGET AMENDMENT TO TRANSFER AN AMOUNT OF \$12,393 FROM THE LEGISLATIVE CONTINGENCY ACCOUNT INTO THE GENERAL FUND LEISURE SERVICES DEPARTMENT TENNIS CENTER UTILITY SERVICES ACCOUNT FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2011.

**16.6 Ordinance No. 2012-4** – First Reading by Title Only (City Attorney Darcee S. Siegel) (First Reading 3/6/12 - **Tabled**)

AN ORDINANCE AMENDING THE POLICE OFFICERS AND FIREFIGHTERS RETIREMENT PLAN OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, PROVIDING FOR COMPLIANCE WITH CHAPTER 2009-97, LAWS OF FLORIDA; AMENDING ARTICLE VI, OPTIONAL FORMS OF RETIREMENT INCOME; PROVIDING FOR SEVERABILITY; 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 Councilman Derose, seconded by Councilwoman Smith, to adopt Ordinance No. 2012-4. (**Adopted** 7-0)

**PUBLIC COMMENT:** *None*

**ROLL CALL VOTE:** Councilman Derose – **Yes**, Councilwoman Kramer – **Yes**, Councilwoman Martell – **Yes**, Councilman Pierre – **Yes**, Councilwoman Smith – **Yes**, Vice Mayor Spiegel – **Yes**, Mayor Vallejo – **Yes** (**Passes** 7-0)

**16.8 Ordinance No. 2012-10** – First Reading by Title Only (City Planner Christopher Heid)

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER 24, ARTICLE V, ENTITLED “ZONING USE DISTRICTS”, BY DELETING SUBSECTION (4) OF SECTIONS 21-41, 24-42, AND 24-43 OF THE CITY’S CODE OF ORDINANCES REGARDING EXCEPTIONS TO SETBACK REQUIREMENTS IN THE RS-1, RESIDENTIAL SINGLE-FAMILY DISTRICT, RS-2 RESIDENTIAL SINGLE-FAMILY DISTRICT, AND THE RS-3 RESIDENTIAL SINGLE-FAMILY DISTRICT; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLCT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION:** by Councilman Derose, seconded by Councilwoman Martell, to adopt Ordinance No. 2012-10. (**Adopted** 7-0)

**PUBLIC COMMENT:** *None*

**ROLL CALL VOTE:** Councilman Derose – **Yes**, Councilwoman Kramer – **Yes**, Councilwoman Martell – **Yes**, Councilman Pierre – **Yes**, Councilwoman Smith – **Yes**, Vice Mayor Spiegel – **Yes**, Mayor Vallejo – **Yes** (**Passes** 7-0)

**16.9 Resolution No. R2012-39** (Public Services Director Shari Kamali) *Moved from Consent Agenda*

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 PBS&J (NOW ATKINS NORTH AMERICA, INC.) FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE PATRICIA MISHCON ATHLETIC FIELD EXPANSION PROJECT.

**PUBLIC COMMENT:** *None*

**MOTION:** by Councilman Derose, seconded by Councilwoman Martell, to adopt Resolution No. R2012-39. (**Adopted** 6-1)

## 16. CITY COUNCIL REPORTS

**Councilman Derose** – Wishes all the Haitians a Happy Haitian Flag Day on Friday, May 18, 2012. Tomorrow, Wednesday, May 16, 2012, there will be a Beautification Committee Meeting. He invites everyone to the meeting at 5:30pm. Councilman Derose invites everyone to attend the Memorial Service tomorrow morning at 10:00 a.m. in front of the Police Department to honor Sergeant Ernesto Laurenzo.

**Councilwoman Kramer** – The mother's day breakfast was beautifully done, and commends Leisure Services for a job well done. Councilwoman Kramer extends an open invitation to the community to come out and become members of the Multi-Cultural Committee.

**Councilwoman Martell** – Wishes the City Clerk Pamela L. Latimore a Happy Birthday. The Economic Development Commission will be meeting tomorrow on the 4<sup>th</sup> floor. She invites businesses to come out and join them to try and make a difference in our community.

**Councilman Pierre** – Informs everyone about National Police Week and asks that we show our support by wearing a blue ribbon from May 13 – 19, 2012.

**Councilwoman Smith** – Public Utilities Commission (PUC) will be meeting on May 23, 2012 at 6:00 p.m. There will be a Seniors Luncheon on May 25, 2012 at 11:00 a.m. There will also be a Memorial Day Service at All Wars Memorial Park, behind the NMB Library from 10:00 a.m. – 1:00 p.m. North Miami Beach Chamber Luncheon is on May 17, 2012 at 12:00 p.m. This coming Saturday Councilwoman Smith will be hosting an energy meeting at 10:00 a.m. – 3:00 p.m. In closing she thanks all the City Employees for all their hard work and encourages everyone to show their support of National Police Week by wearing a blue ribbon.

**Vice Mayor Spiegel** – The Mother's Day breakfast was a wonderful success and thanks everyone that participated. She reminds the residents that tomorrow is recycling day and to put their recycling containers out tonight.

**Mayor Vallejo** – Wishes City Clerk L. Latimore a Happy Birthday and wishes his son Alex a Happy sixteenth (16<sup>th</sup>) Birthday.

## 17. NEXT REGULAR CITY COUNCIL MEETING

Tuesday, June 5, 2012

## 18. ADJOURNMENT

There being no further business to come before the City Council, Meeting was adjourned at 10:56 p.m.



City of North Miami Beach  
17011 NE 19 Avenue  
North Miami Beach, FL 33162  
305-947-7581  
www.citynmb.com

**MEMORANDUM**

 **Print**

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**TO:** Mayor and City Council  
**FROM:** Darcee S. Siegel, City Attorney  
**DATE:** Tuesday, October 2, 2012

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**RE:** Litigation List

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**BACKGROUND:** Litigation List.

**RECOMMENDATION:**

**FISCAL IMPACT:**

**CONTACT PERSON(S):** Darcee S. Siegel, City Attorney

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**ATTACHMENTS:**

▣ [Litigation List](#)

**TO: Mayor and City Council**  
**FROM: Darcee S. Siegel, City Attorney**  
**DATE: October 2, 2012**

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**LITIGATION LIST**

**I. Civil Rights: (6)**

Charles, Islande v. CNMB, Nelson Reyes  
Wrongful Death

Grizzle, R. and Wilson, D. v. CNMB, Mayor George Vallejo,  
Jason Williams (Aventura) and Christian Lystad (NMB)  
Civil Rights Violation/False Arrest **COURT DISMISSED THE  
SECOND AMENDED COMPLAINT  
WITH PREJUDICE**

Joseph, Johnny v. CNMB and City of Aventura  
Civil Rights Violation/False Arrest

Madura, Maryla v. CNMB, Antonio Marciante and Tony Sanchez, individually  
Civil Rights Violation/False Arrest **PARTIAL SUMMARY JUDGMENT/  
PARTIAL DISMISSAL/  
JURY VERDICT/  
JUDGMENT GRANTED IN FAVOR OF  
CITY AND POLICE OFFICERS  
DEFENDANTS.  
ALL BRIEFS HAVE BEEN FILED  
WITH THE 11TH CIRCUIT COURT  
OF APPEALS**

Smith, T. v. CNMB, Nelson Reyes (NMB), Luis Soto (NMB),  
Nelson Camacho (NMB), and Castronovo Cosimo (Aventura)  
Civil Rights Violation **THE CITY HAS BEEN DISMISSED**

Young, Chondria v. CNMB  
Employment and Racial Discrimination

**II. Personal Injury: (6)**

Donato, Karen v. CNMB  
Personal Injury

Garcia, Ramona v. CNMB  
Personal Injury

Hamilton, Chundean  
Vehicle Accident

Kassie v. CNMB  
Vehicle Accident

Ordonez Rotavista v. CNMB  
Vehicle Accident

Thomas v. CNMB  
Personal Injury

**CITY INDEMNIFIED AND  
HELD HARMLESS**

**III. Other Litigation: (16)**

American Pinnacle v. Susan Owens  
Writ of Mandamus/Public Records

American Pinnacle v. City of North Miami Beach  
Water Fees

Asset Acceptance LLC v. Pierre and CNMB  
Writ of Garnishment

CACV of Colorado v. Lubin and CNMB  
Writ of Garnishment

Citifinancial Services, Inc. v. Gordo and CNMB  
Writ of Garnishment

Equable Ascent Financial v. Darden and CNMB  
Writ of Garnishment



Fernandez v. CNMB  
Employment Discrimination

Perry v. CNMB  
Class Action

Leme v. CNMB and American Traffic Solutions, LLC  
Ordinance No. 2007-13 "Dangerous Intersection Safety Act"  
Class Action for Civil Damages

Progressive American Insurance/Weinblatt v. CNMB  
Property Damage

Rosner/Zabel v. CNMB  
Appeal of Code Enforcement Board Order

SMG Entertainment Inc. v. CNMB  
Constitutional Violation

\* Sports Advisory Consultants v. Fowkes v. CNMB, et al.  
Breach of Contract **CASE BEING HANDLED BY  
TENNIS CONTRACTOR PER  
TERMS OF CONTRACT.**

Thomas v. CNMB  
Writ of Garnishment

Weinberg, Bill v. CNMB  
Water Fees

Wirth v. CNMB  
Writ of Replevin

**IV. Forfeitures: (19)**

CNMB v. Alvarado/Paul  
Forfeiture

CNMB v. Central Auto Service/Fourreau/Guthrie  
Forfeiture **PARTIALLY DEFAULTED**

CNMB v. Cruz/Martinez/Polanco  
Forfeiture

CNMB v. Espinal  
Forfeiture

CNMB v. Fast Lane Auto/Rene/Rene/Walker  
Forfeiture

\* CNMB v. Garcia, F.  
Forfeiture

CNMB v. Garcia, J/Figueroa/King/Sirmons/Garcia, H  
Forfeiture

CNMB v. Garcia-Flores/Nieves  
Forfeiture

CNMB v. Gomez  
Forfeiture

CNMB v. Hunter/Hunter  
Forfeiture

CNMB v. Jean/Joseph/Guthrie/Central Auto Sales  
Forfeiture

\* CNMB v. Lamothe  
Forfeiture

CNMB v. McCray/Sims/Nealy  
Forfeiture

**PARTIALLY SETTLED**

CNMB v. Montes-Ramirez  
Forfeiture

CNMB v. Pagan/Gordillo-Rosas  
Forfeiture

CNMB v. Perez/Sosa  
Forfeiture

CNMB v. Philidor, A.  
Forfeiture

CNMB v. Rodriguez/Harris/Dunston  
Forfeiture

CNMB v. Torres-Sena/Vargas-Luna/Jumenez  
Forfeiture

**V. Mortgage Foreclosures: (207)**

Ajami Carpet Company v. (McCullough, et al.)  
Mortgage Foreclosure

American Airlines Federal Credit Union v. CNMB (Henriquez)  
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Garcia, et al.)  
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (George)  
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Gomez, et al)  
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Hernandez)  
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Martinez, et al)  
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Perez, et al.)  
Mortgage Foreclosure

Aurora Loan Services, LLC v. CNMB (Rodriguez, M., et al.)  
Mortgage Foreclosure

BAC Home Loans v. CNMB (Alberto, et al.)  
Mortgage Foreclosure

BAC Home Loans v. CNMB (Bonet, et al.)  
Mortgage Foreclosure

BAC Home Loans v. CNMB (Berger, et al)  
Mortgage Foreclosure

BAC Home Loans v. CNMB (Jacobi et al)  
Mortgage Foreclosure

BAC Home Loans v. CNMB (Morales, et al)  
Mortgage Foreclosure

BAC Home Loans. CNMB (Piedrahita, L. et al)  
Mortgage Foreclosure

BAC Home Loans v. CNMB (Prado, et al)  
Mortgage Foreclosure

BAC Home Loans v. CNMB (Sigler)  
Mortgage Foreclosure

BAC Home Loans v. CNMB (Temirao, et al)  
Mortgage Foreclosure

BAC Home Loans v. CNMB (Torain, et al)  
Mortgage Foreclosure

BAC Home Loans v. CNMB (Torres, et al)  
Mortgage Foreclosure

BAC Home Loans v. CNMB (Zephir, et al.)  
Mortgage Foreclosure

Bank of America v. CNMB (Alvarez, et al)  
Mortgage Foreclosure

Bank of America v. CNMB (Betancourt, et al)  
Mortgage Foreclosure

Bank of America v. CNMB (Britton, et al)  
Mortgage Foreclosure

Bank of America v. CNMB (Failer, et al)  
Mortgage Foreclosure

Bank of America v. CNMB (Failer, et al)  
Mortgage Foreclosure

**VOLUNTARY DISMISSAL**

Bank of America v. CNMB (Feliu)  
Mortgage Foreclosure

Bank of America v. CNMB (Gonzalez, et al.)  
Mortgage Foreclosure

Bank of America v. CNMB (Hernandez, et al.)  
Mortgage Foreclosure

Bank of America v. CNMB (Jean-Pierre, et al.)  
Mortgage Foreclosure

Bank of America v. CNMB (Miller, et al.)  
Mortgage Foreclosure

Bank of America v. CNMB (Pasmanter, et al)  
Mortgage Foreclosure

Bank of America v. CNMB (Peck, et al)  
Mortgage Foreclosure

Bank of New York v. CNMB (Blaustein, et al)  
Mortgage Foreclosure

\* Bank of New York v. CNMB (Chuy, et al)  
Mortgage Foreclosure

Bank of New York v. CNMB (Clancy, et al)  
Mortgage Foreclosure

Bank of New York v. CNMB (Fiallo, et al)  
Mortgage Foreclosure

\* Bank of New York v. CNMB (Garcia, W., et al)  
Mortgage Foreclosure

Bank of New York v. CNMB (Lauriston et al)  
Mortgage Foreclosure

Bank of New York v. CNMB (Le)  
Mortgage Foreclosure

Bank of New York v. CNMB (Mellian, et al)  
Mortgage Foreclosure

Bank of New York v. CNMB (Pierre/Calixte, et al)  
Mortgage Foreclosure

\* Bank of New York v. CNMB (Marzan, et al.)  
Mortgage Foreclosure

Bank of New York v. CNMB (Pissinis, et al.)  
Mortgage Foreclosure

Bank of New York v. CNMB (Valdes, et al.)  
Mortgage Foreclosure

Bank United v. CNMB (Debe, et al.)  
Mortgage Foreclosure

Baron, Marilyn S., et al v. CNMB (Campbell, et al)  
Mortgage Foreclosure

Beach Club Villas Condominium v. CNMB (Letizia)  
Mortgage Foreclosure

Beachwalk Properties, LLC v. CNMB (Oceanic Development, et al.)  
Mortgage Foreclosure

\* Beal Bank v. CNMB (Mangas, Oreste, LaFrance, et al.)  
Mortgage Foreclosure

Bayview Loan v. CNMB (Thomas)  
Mortgage Foreclosure

Beal Bank v. CNMB (Ramos, et al.)  
Mortgage Foreclosure

Bejarano, Antonio v. CNMB (Lightsey, et al.)  
Quiet Title

Chase Home Finance LLC v. CNMB (Cohen, et al)  
Mortgage Foreclosure

Chase Home Finance LLC v. CNMB (Marc, et al)  
Mortgage Foreclosure

Chase Home Finance, LLC v. CNMB (Panunzio, et al)  
Mortgage Foreclosure

Chase Home Finance, LLC. V. CNMB (Rene et al)  
Mortgage Foreclosure

Chase Home Finance LLC v. CNMB (Santiago et al)  
Mortgage Foreclosure

Citibank, N.A. v. CNMB (Anglade, et al)  
Mortgage Foreclosure

Citibank, N.A. v. CNMB (Austin)  
Mortgage Foreclosure

Citibank, N.A. v. CNMB (Boakye, et al)  
Mortgage Foreclosure

Citifinancial Equity Services, Inc. v. CNMB (Morales)  
Mortgage Foreclosure

Citimortgage v. CNMB (Bilgoray)  
Mortgage Foreclosure

Citimortgage v. CNMB (La Fond, et al.)  
Mortgage Foreclosure

Citimortgage v. CNMB (Garces), et al.)  
Mortgage Foreclosure

Citimortgage v. CNMB (Hernandez, et al.)  
Mortgage Foreclosure

Citimortgage v. CNMB (Pena et al)  
Mortgage Foreclosure

Citimortgage v. CNMB (Rudnick et al)  
Mortgage Foreclosure

Citimortgage v. CNMB (Rivaroli, et al)  
Mortgage Foreclosure

City of Miami Gardens v. CNMB (Beckford, et al)  
Action to Quiet Title

Cong Vo v. CNMB (Perroti, Miranda)  
Action to Quiet Title

Consumers Alliance Corp. v. CNMB (Haronda Realty)  
Action to Quiet Title

Credit Based Asset Servicing v. CNMB (Rojas, et al)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Bennette, et al)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Castaneda)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Daniels)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Evans, et al.)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (James, et al.)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Jimenez, L., et al)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Jonace, et al.)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Lobo, et al.)  
Mortgage Foreclosure

Deutsche Bank Trust v. CNMB (Marks-Williams)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Martinez, et al.)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (McCullough)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Nascimento)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Phillips)  
Mortgage Foreclosure



Deutsche Bank National v. CNMB (Rodriguez)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Sanchez)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Saint-Jean, et al)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Voltaire, et al)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Zaso, et al.)  
Mortgage Foreclosure

Deutsche Bank National v. CNMB (Bennette, et al)  
Mortgage Foreclosure

Doured, LLC v. CNMB (Steele, et al)  
Quiet Title

DYC, LLC v. CNMB (Macala, LLC, et al)  
Mortgage Foreclosure

Eastern Shores White House Association v. CNMB (Donoso)  
Mortgage Foreclosure

Eastern Shores White House Association v. CNMB (Grimany)  
Mortgage Foreclosure

Emmer, Bradford, Trustee v. CNMB (Weston, et al.)  
Mortgage Foreclosure

Fanny Mae v. CNMB (Van Wyk, et al.)  
Mortgage Foreclosure

Federal National v. CNMB (Arceneaux, et al)  
Mortgage Foreclosure

Federal National v. CNMB (Fernandez, et al.)  
Mortgage Foreclosure

Federal National v. CNMB (Guzman, et al)  
Mortgage Foreclosure

Federal National v. CNMB (Ledesma, et al.)  
Mortgage Foreclosure

FirstBank Puerto Rico v. CNMB (Perez, et al.)  
Mortgage Foreclosure

Flagstar Bank v. CNMB (Celiny, et al.)  
Mortgage Foreclosure

Flagstar Bank v. CNMB (Cox, et al)  
Mortgage Foreclosure

Flagstar Bank v. CNMB (Pena)  
Mortgage Foreclosure

Flagstar Bank v. CNMB (Starlight Investments)  
Mortgage Foreclosure

Flagstar Bank v. CNMB (Haronda Realty)  
Mortgage Foreclosure

Floridian Arms, Inc. v CNMB (Merino)  
Mortgage Foreclosure

Fiserv ISS & Co., vs. CNMB (Estime)  
Mortgage Foreclosure

FNBN I, LLC v. CNMB (Gomez, et al)  
Mortgage Foreclosure

GGH48, LLC v. CNMB (Louis, et al)  
Mortgage Foreclosure

GGH48, LLC v. CNMB (Levy, et al)  
Mortgage Foreclosure

Global Trust v. CNMB (Roth)  
Mortgage Foreclosure

Golden Beach (Town of) v. CNMB (Goodman, et al)  
Mortgage Foreclosure

Great Florida Bank v. CNMB (Miranda, et al)  
Mortgage Foreclosure

Great Florida Bank v. CNMB (Miranda, et al)  
Mortgage Foreclosure

Green Tree Servicing, LLC v. CNMB (Jesurum, et al)  
Mortgage Foreclosure

HSBC Bank v. CNMB (Jones-Clark, et al.)  
Mortgage Foreclosure

HSBC Bank v. CNMB (Miller, et al.)  
Mortgage Foreclosure

HSBC Bank, N.A. v. CNMB (Seepersad)  
Mortgage Foreclosure

HSBC Bank v. CNMB (Vidal, et al)  
Mortgage Foreclosure

HSBC Bank v. CNMB (Ward, et al)  
Mortgage Foreclosure

Indymac Federal Bank v. CNMB (Hernandez, et al)  
Mortgage Foreclosure

James B. Nutter & Co v. CNMB (Drayton Davis, et al)  
Mortgage Foreclosure

JP Morgan v. CNMB (Arroyo, et al.)  
Mortgage Foreclosure

JP Morgan v. CNMB (Caceres, et al)  
Mortgage Foreclosure

JP Morgan v. CNMB (Carlos)  
Mortgage Foreclosure

JP Morgan v. CNMB (Garcia, Ramon et al)  
Mortgage Foreclosure

JP Morgan v. CNMB (Garcia)  
Mortgage Foreclosure

JP Morgan v. CNMB (Lopez, et al)  
Mortgage Foreclosure

JP Morgan v. CNMB (Monsalve, et al.)  
Mortgage Foreclosure

JP Morgan v. CNMB (Perez, et al)  
Mortgage Foreclosure

JP Morgan v. CNMB (Quang Do, et al)  
Mortgage Foreclosure

JP Morgan v. CNMB (Villanustre)  
Mortgage Foreclosure

Juelle, Perla v. CNMB (Rodriguez, et al.)  
Mortgage Foreclosure

Kondaur Capital Corp v. CNMB (Rodarte, et al)  
Mortgage Foreclosure

**DISMISSED**

Lago Mar Ventures v. CNMB (Oliver)  
Mortgage Foreclosure

Metro Bank v. CNMB (Macala, LLC)  
Mortgage Foreclosure

Miami-Dade County v. CNMB (Morrobel)  
Mortgage Foreclosure

Midfirst Bank v. CNMB (Wolosz, et al.)  
Mortgage Foreclosure

Nationstar Mortgage, LLC v. CNMB (Gonzalez et al)  
Mortgage Foreclosure

New York Community Bank v CNMB (Lazerson)  
Mortgage Foreclosure

Ocean Bank v. CNMB (Perez,et al)  
Mortgage Foreclosure

OneWest Bank v. CNMB (Allen, Deceased, et al.)  
Mortgage Foreclosure

OneWest Bank v. CNMB (Gutierrez)  
Mortgage Foreclosure

OneWest Bank v. CNMB (Howard, et al.)  
Mortgage Foreclosure

OneWest Bank v. CNMB (Lopez)  
Mortgage Foreclosure

OneWest Bank v. CNMB (McCullough)  
Mortgage Foreclosure

OneWest Bank v. CNMB (Rodriguez, et al)  
Mortgage Foreclosure

OneWest Bank v. CNMB (Rodriguez, A. et al)  
Mortgage Foreclosure

OneWest Bank v. CNMB (Ward, et al.)  
Mortgage Foreclosure

OneWest Bank v. CNMB (Wright, et al)  
Mortgage Foreclosure

Owen Federal Bank v. CNMB (Bain)  
Mortgage Foreclosure

\* Pacific National Bank v. CNMB (Rodriguez, et al)  
Mortgage Foreclosure

Pennymac Corp v. CNMB (Iglesias)  
Mortgage Foreclosure

PHH Mortgage v. CNMB (Martinez, et al)  
Mortgage Foreclosure

PNC Mortgage v. CNMB (Ordonez/Child, et al.)  
Mortgage Foreclosure

Roth v. CNMB (Miller, et al)  
Mortgage Foreclosure

Shoreland Estates Condominium v. CNMB (Zalezhnew, et al.)  
Condominium Association Lien foreclosure

SunTrust Mortgage v. CNMB (Del Pilar, et al.)  
Mortgage Foreclosure

SunTrust Mortgage v. CNMB (Solomon, et al.)  
Mortgage Foreclosure

TBOM Mortgage Holding, LLC v. CNMB (Robiou, et al.)  
Mortgage Foreclosure

The Bank of New York Mellon v. CNMB (Chuy, et al.)  
Mortgage Foreclosure

The Bank of New York Mellon v. CNMB (Jones, et al.)  
Mortgage Foreclosure

The Bank of New York Mellon v. CNMB (Riderelli, et al.)  
Mortgage Foreclosure

Three Seasons Association v. CNMB (Cleary, et al.)  
Mortgage Foreclosure

Transatlantic Bank v. CNMB (and/or Expressway Corp., et al.)  
Mortgage Foreclosure

Transouth Mortgage Corp v. CNMB (Mozell)  
Mortgage Foreclosure

Trust Real Estate v. CNMB (Hegedus, et al.)  
Mortgage Foreclosure

U.S. Bank N.A. v. CNMB (Collado)  
Mortgage Foreclosure

U.S. Bank N.A. v. CNMB (Gonzalez, et al)  
Mortgage Foreclosure

U.S. Bank N.A. v. CNMB (Gonzalez, J., et al.)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Joseph, et al.)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Marin)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Martinez)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Mathieu, et al)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Mendez)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Miller, et al)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Otero)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Morcillo)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Robinson, et al)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Rodriguez, et al)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Rodriguez, Maria A., et al).  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Rosenberg)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Rubi), et al.  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Serrano, et al)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Suarez, et al.)  
Mortgage Foreclosure

U.S. Bank NA v. CNMB (Torres, et al.)  
Mortgage Foreclosure

U.S. Century Bank v. CNMB (Martinez, et al.)  
Mortgage Foreclosure

Vericrest Financial, Inc. v. CNMB (Palmer/ Webb Estate)  
Mortgage Foreclosure

Wachovia Bank v. CNMB (Martinez)  
Mortgage Foreclosure

Washington Mutual Bank, F.A. v. CNMB, Sandra T. Porter, et al  
Mortgage Foreclosure

Wells Fargo Bank N.A. v. CNMB (Amador)  
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Campos, et al.)  
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Fil-Aimee)  
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Frye)  
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Garcia)  
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Gonzalez)  
Mortgage Foreclosure

Wells Fargo Bank, N.A. v. CNMB (Hernandez, et al  
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Lopez, et al)  
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Marcaisse, et al)  
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Mendez, et al)  
Mortgage Foreclosure

Wells Fargo Bank v. CNMB (Parish, et al.)  
Mortgage Foreclosure

Wells Fargo v. CNMB (Peralta, et al)  
Mortgage Foreclosure

Wells Fargo v. CNMB (Roberts)  
Mortgage Foreclosure



Wells Fargo Bank, N.A. v. CNMB (Zamora, et al.)  
Mortgage Foreclosure

**VI. Bankruptcies:**

17315 Collins Avenue, LLC, dba Sole on the Ocean, dba Alba Mare

Adeleke, Mary M.

American LaFrance LLC

American Home Mortgage Holdings

Barros, Carlos D (Fogovivo North Miami)

Blockbuster

Bronstein, Joseph (Judaica Enterprises, Inc.)

Cadet, Jean & Marie

Carcamo, Ana Maritza

Carl's Furniture, Inc.

Casa Bonita Garden, LLC

Contract Research Solutions, Inc. (dba Allied Research)

Cimax USA, LLC

Coles, Steven

Curbelo, Federico

Duarte, Robert

Drummond, Errol

Filene's Basement, Inc.

Greater Miami Neighborhoods, Inc.

Hadad, Amos

Henao, Luz Stella

Idowu, Linda Eneas

Innovida Group

Jennifer Convertibles

Kazi Foods of Florida, Inc.

K&S Foods LLC

Lauriston, Charles  
Office 2020, LLC  
Pardo, Peter  
Petit, Pierre  
Phelan, Michael  
Ravazzani, Robert  
Reed, Raymond  
Residential Capital, LLC  
Rife, Joseph Alan  
Russel, Harold  
Segall, Sandy  
Siahaya, Jermias  
South Pointe Family and Children Center  
Saint-Fart, Lucner & Bernice  
United Retail Group, Inc.  
Vartec Telecom, Inc.  
Vitro America

**DISMISSED**

**\*New Cases**



City of North Miami Beach  
17011 NE 19 Avenue  
North Miami Beach, FL 33162  
305-947-7581  
www.citynmb.com

## MEMORANDUM

 Print

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**TO:** Mayor and City Council

**FROM:** Roslyn B. Weisblum, City Manager

**DATE:** Tuesday, October 2, 2012

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**RE:** Charter Employee Contract - City Manager

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**BACKGROUND:** N/A

**RECOMMENDATION:** N/A

**FISCAL IMPACT:**

**CONTACT PERSON(S):** Roslyn B. Weisblum, City Manager

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### ATTACHMENTS:

 [Conditions of Employment - Roslyn B. Weisblum](#)

## **CONDITIONS OF EMPLOYMENT**

**Employer:** *City of North Miami Beach*

**Employee:** *Roslyn B. Weisblum*

**Position:** *City Manager*

**Effective Date:** *October 1, 2012 – April 30, 2013 (Provisional Appointment)*

**Renewal/  
Expiration Date:** *This contract shall be reviewed and renewed by the Mayor and Council at a Council meeting in April 2013.*

**Duties:** *Employee shall perform the duties and exercise the powers as provided by State law, the City Charter and City Code, and to perform such other legally permissible and proper duties and functions as assigned by the City Council from time to time.*

**Salary:** *Employee's compensation shall be \$3,173.08 per week or 165,000.00 yearly equivalent and includes motor vehicle allowance, expense allowance, and cellular phone allowance.  
Employee may be entitled to receive a cost of living increase annually. Employee's salary and/or benefits may be enhanced at the City Council's discretion. Employee may also receive an annual discretionary performance bonus in the maximum amount of ten percent (10%) of Employee's current salary.*

**Leave:** *Employee shall be entitled to the following:*

<i>Annual Leave:</i>	<i>20 days/160 hours</i>
<i>Sick Leave:</i>	<i>10 days/80 hours</i>
<i>Floating Holiday:</i>	<i>None</i>
<i>Birthday:</i>	<i>None</i>

\_\_\_\_\_  
City

\_\_\_\_\_  
Weisblum

**Pension Eligibility:** *Since Employee is a drop member of the General Employee Pension Plan, she is precluded from participating in the Management Pension. As such, Employee shall participate in a 401(A) Plan whereby the City contributes 17% of Employee's salary and Employee's mandatory employee contribution is 8% and is subject to change as determined by the City.*

**Health Insurance:** *City shall provide Employee with health benefits that are consistent with the benefits that are provided to the City's senior management. Upon separation of employment with the City, Employee's health insurance shall be continued in accordance with Resolutions No. 98-53, 2008-51 and Ordinances No. 2000-10 and 2002-30 as amended from time to time.*

**Dental Insurance:** *City shall provide Employee with dental benefits that are consistent with the benefits that are provided to the City's senior management. Upon separation of employment with the City, Employee's dental insurance shall be continued in accordance with Resolutions No. 98-53, 2008-51 and Ordinances No. 2000-10 and 2002-30 as amended from time to time.*

**Disability:** *Employee shall be provided long and short term disability at no cost to employee.*

**Life Insurance:** *City shall provide Employee with life insurance in an amount that is twice Employee's annual salary. For this purpose salary shall be capped at \$200,000.00. At separation, City's obligation to continue to pay for Employee's life insurance shall discontinue. Employee's insurance shall be portable so that if the Employee elects, the policy may be converted.*

**Severance:** *Employee may be terminated from employment with or without cause at anytime. Employee shall not be entitled to any severance during her provisional appointment.*

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City

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Weisblum

**Professional**

**Development:** *City shall pay Employee's reasonable dues, subscriptions and travel expenses along with subsistence expenses for continuing education, membership and participation in professional associations and organizations.*

*City of North Miami Beach, Florida*

*Employee:*

**By:** \_\_\_\_\_  
GEORGE VALLEJO, Mayor

\_\_\_\_\_  
ROSLYN B. WEISBLUM

PURSUANT TO motion adopted unanimously  
on October 2, 2012

ATTEST:

\_\_\_\_\_  
PAMELA L. LATIMORE, City Clerk



City of North Miami Beach  
17011 NE 19 Avenue  
North Miami Beach, FL 33162  
305-947-7581  
www.citynmb.com

## MEMORANDUM

 **Print**

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**TO:** Mayor and City Council  
**FROM:** Roslyn B. Weisblum, City Manager  
**DATE:** Tuesday, October 2, 2012

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**RE:** Resolution No. R2012-76 (City Planner Christopher Heid)

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**BACKGROUND:** The applicant, Ben Laurenzo, requests site plan approval and variances in order to reoccupy a 16,600 square foot two-story building that has lost its legal nonconforming status, and request conditional use approval to operate a night club and banquet hall at 2255 NE 164 Street.

**RECOMMENDATION:** Approval.

**FISCAL IMPACT:** None.

**CONTACT PERSON(S):** Shari Kamali, Director of Public Services  
Christopher Heid, City Planner

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### ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [P&Z Minutes - September 10, 2012](#)
- ❑ [Resolution No. R2012-76](#)



# ***City of North Miami Beach, Florida***

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## **COMMUNITY DEVELOPMENT DEPARTMENT**

### **STAFF REPORT**

### **CITY COUNCIL MEETING**

**TUESDAY, OCTOBER 2, 2012**

<b>ITEM # 12-529</b>	<b>NIGHT CLUB/BANQUET HALL</b>
<b>OWNER OF PROPERTY</b>	<b>BEN LAURENZO, TRUSTEE</b>
<b>ADDRESS OF PROPERTY</b>	2255 NE 164 STREET
<b>LEGAL DESCRIPTION</b>	TRACT A, MARX SUBDIVISION, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 91, PAGE 20, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.
<b>EXISTING ZONING</b>	FCC, FULFORD CITY CENTER
<b>EXISTING LAND USE</b>	VACANT BANQUET HALL
<b>FUTURE LAND USE DESIGNATION</b>	MIXED USE TOWN CENTER

**THE REQUEST** - The applicant, Ben Laurenzo, requests site plan approval and variances in order to reoccupy a 16,600 square foot two-story building that has lost its legal nonconforming status, and request conditional use approval to operate a night club and banquet hall on a 31,998 square foot (0.73 acre) parcel of land located at 2255 NE 164 Street, in the FCC, Fulford City Center (Mixed Use) Zoning District.

Variances and conditional use requested are as follows:

1. Request conditional use in accordance with Section 24-48.2(C)(6) for the operation of a night club.
2. Request variance from Section 24-58.3(D) & Section 24-58.3(H)(1) to allow on-site parking to remain in front of the building and adjacent to a primary street (NE 164 Street).
3. Request variance form Section 24-58.3(F) & Section 24-58.4(A)(2) to exceed by 50' the maximum allowed front yard setback of 0'. (Front yard setback of up to 50' existing.)



4. **Request variance from Section 24-58.3(I) to allow vehicular access to remain on NE 164 Street.**
5. **Request variance from Section 24-58.4(D) to waive 3'-3" (three feet three inches) of the minimum required first floor ceiling height of 12'. (First floor ceiling height of 8'-9" existing.)**
6. **Request variance from Section 24-58.4(F) to waive 5% (7'-6") of the minimum required building frontage of 85% (127'-6"). (Building frontage of 80% (120') existing.)**
7. **Request variance from Section 24-58.4(G) to waive 45.6% (442.8 square feet) of the minimum required ground floor window area of 66% (671.8 square feet). (Ground floor window area of 229 square feet proposed.)**
8. **Request variance from Section 24-58.4(I) to waive 28% (590.5 square feet) of the minimum required window area above the ground floor of 33% (707 square feet). (Window area of 5% (116.5 square feet) existing above the ground floor.)**

**ZONING** - The subject property, as well as all surrounding properties, is zoned FCC, Fulford City Center (Mixed Use) Zoning District. (See attached Exhibit #1 for a Zoning Map of the subject property).

**EXISTING LAND USE** - The subject property currently contains a vacant banquet hall. To the north is a condominium. To the west and south is retail. To the east are warehouses. (See attached exhibit #2 for a Land Use Map of the subject property).

**FUTURE LAND USE** - The subject property, as well as all surrounding properties, has a future land use designation of Mixed Use Town Center. (See attached exhibit #3 for a Future Land Use Map of the subject property.)

**THE SITE** – The subject property contains approximately 31,998 square feet, or .73 acres, with 150 feet of frontage along NE 164 Street. There is an existing 16,660 square foot two-story building that will remain.

**THE PROJECT** – The project proposes the re-occupancy and renovation of an existing banquet hall that has lost its legal nonconforming status through non occupancy for a period in excess of 180 days. Renovations include interior alterations, the addition of landscaping, and parking lot upgrades.

#### **REVIEW BY OTHER CITY DEPARTMENTS -**

##### **Engineering**

##### **A. General**

1. Install drainage system in the property. Existing drainage system structure belongs to the City. It is tied in to NE 164 Street and outfalls into Snake Creek canal.

2. Property owner needs to hire a Florida certified Civil Engineer to design the drainage system. I recommend for the engineer to set up a meeting with CNMB Engineering Division to discuss the design criteria and options.
3. Listed below are permit approval requirements.

**B. Engineering (Paving & Drainage) Permit Approval Requirements:**

1. Submit two (2) sets of Engineering Plans (Paving, Grading and Drainage). Plans must be signed and sealed by a State of Florida certified Engineer and must be **stamped approved by Miami-Dade County, D.E.R.M.** Plans must show at least, but not limited to the following:
  - Existing and proposed elevations around the property and adjacent public right-of-way, rim elevations, to indicate that the storm water run-off will be kept within the property and not allowed into the public right-of-way and adjacent properties.
  - Tributary areas for each catch basins or indicate flow of run-off to catch basins.
  - Profile and standard detail drawings of drainage facilities, cross-section showing elevations and dimensions per design calculations.
  - Profile and standard detailed drawings of proposed pavement, curbing, ADA compliant handicap parking stalls, ramps, sidewalks and driveway constructions.
  - Dimensions of sidewalks, driveways, parking stalls, parking aisles, medians, islands, setbacks per City of North Miami Beach standard specifications.
  - Traffic signs and pavement markings.
  - Locations and points of discharge of rain leaders or connection to catch basins.
2. Submit two (2) sets of Drainage Calculations, signed and sealed by an Engineer. Drainage Calculations must specify design criteria and must include all maps, charts, tables, and sources to support parameters used in calculations. Drainage calculations must be based on 5-year Storm, 10 minutes time of concentration (Intensity = 6.20 inches/hr.)
3. Submit one (1) original set of S.F.W.M.D Usual-Open-Hole Percolation Test, signed and sealed from an approved testing laboratory, 15' deep test hole at location of proposed exfiltration trench. Percolation rate from this test must be used for the drainage design. This will only be required if an exfiltration trench will be used.
4. Minimum exfiltration trench must be 15' deep, 3 feet wide and 25 feet in length.
5. Submit Erosion & Sediment Control Plan. CGP/NOI permits from DEP may be required (for projects 1 acre and above).

**City Forester**

1. Install speed humps throughout the parking lot.

**COMMUNITY DEVELOPMENT DEPARTMENT ANALYSIS**

The subject property was constructed in 1970 and in 2002 it was rezoned from B-2, General Business to FCC, Fulford City Center. Because the property did not meet the development

standards applicable to the FCC Zoning District, it was considered a legal nonconforming structure. However since the property has been vacant for more than 180 days it has lost its legal nonconforming status (a Business Tax Receipt for this property has not been issued in over 4 years). Before the building can be reoccupied, it must receive variances to be in compliance with the current FCC Zoning District.

Although there are several variances being requested, they are for existing construction and are reasonable. Staff has no objection to the request for conditional use approval for a night club. Once the building is renovated and occupied it will provide employment and bring activity to the area.

#### **PLANNING & ZONING BOARD HISTORY**

- This item was originally scheduled for the Planning & Zoning Board meeting of July 9, 2012, but was removed from the agenda at the applicant's request.
- This item was heard by the Planning & Zoning Board at the meeting of September 10, 2012 and received a favorable recommendation with a vote of 7-0.

#### **COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION**

It is recommended that the request for site plan review be approved, subject to the following conditions:

1. Plans submitted for building permit(s) shall substantially comply with those as currently submitted, including the following:
  - Survey, Sheets 1 of 1, by J.A.F. Surveying Services, dated 1/25/2012;
  - Existing Site Plan, Sheet A-1, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
  - Site Plan, Sheet A-2, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
  - Sign & Accessible Parking Detail, Sheet A-3, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
  - Ground Floor & Second Floor Plan, Sheet A-4, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
  - Landscape Plan, Sheet L-1, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012.
2. A complete paving and drainage plan showing proposed and existing grading, drainage details and calculations must be submitted to and approved by the City Engineer prior to the issuance of a building permit.
3. Project must be in complete conformity with the Americans with Disabilities Act (ADA) in accordance with State and Federal laws.
4. Building materials and color samples must be submitted to, and approved by, the Director of Public Services prior to the issuance of a building permit for this project.

5. A lighting plan for the entire property shall be submitted by a qualified lighting professional. Said plan shall include the entire property, and, if necessary, the adjacent swale areas, and shall include decorative facade lighting in addition to that provided for safety and security needs. All exterior lighting shall be white lighting only. All lighting shall be contained on-site.
6. A revised landscape and irrigation plan, signed and sealed by a Florida registered Landscape Architect, shall be submitted to, and approved by, the City Forester. The plan shall be approved prior to the issuance of a building permit, and the installed materials inspected and approved prior to the issuance of a Certificate of Occupancy.
7. The design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles, street furniture, and bicycle racks must be submitted to and approved by the Director of Public Services.
8. Garbage dumpsters shall be constructed of CBS, with roll up over-head doors, be large enough to encompass recycling materials and be equipped with air conditioning, interior light, running water, hose hook-up and a floor drain.
9. All roof top equipment shall be screened from ground view of all surrounding and adjacent properties.
10. All wall signage must be of individual, flush mounted channel letter type only. The number and size of which may not exceed that as permitted in the City's Land Development Regulations (LDRs). All signage requires a separate permit prior to installation.
11. Speed humps must be added throughout the parking lot.
12. When plans are submitted for building permit, a cover sheet must be included incorporating the final Resolution approving this project, including all conditions related to said approval



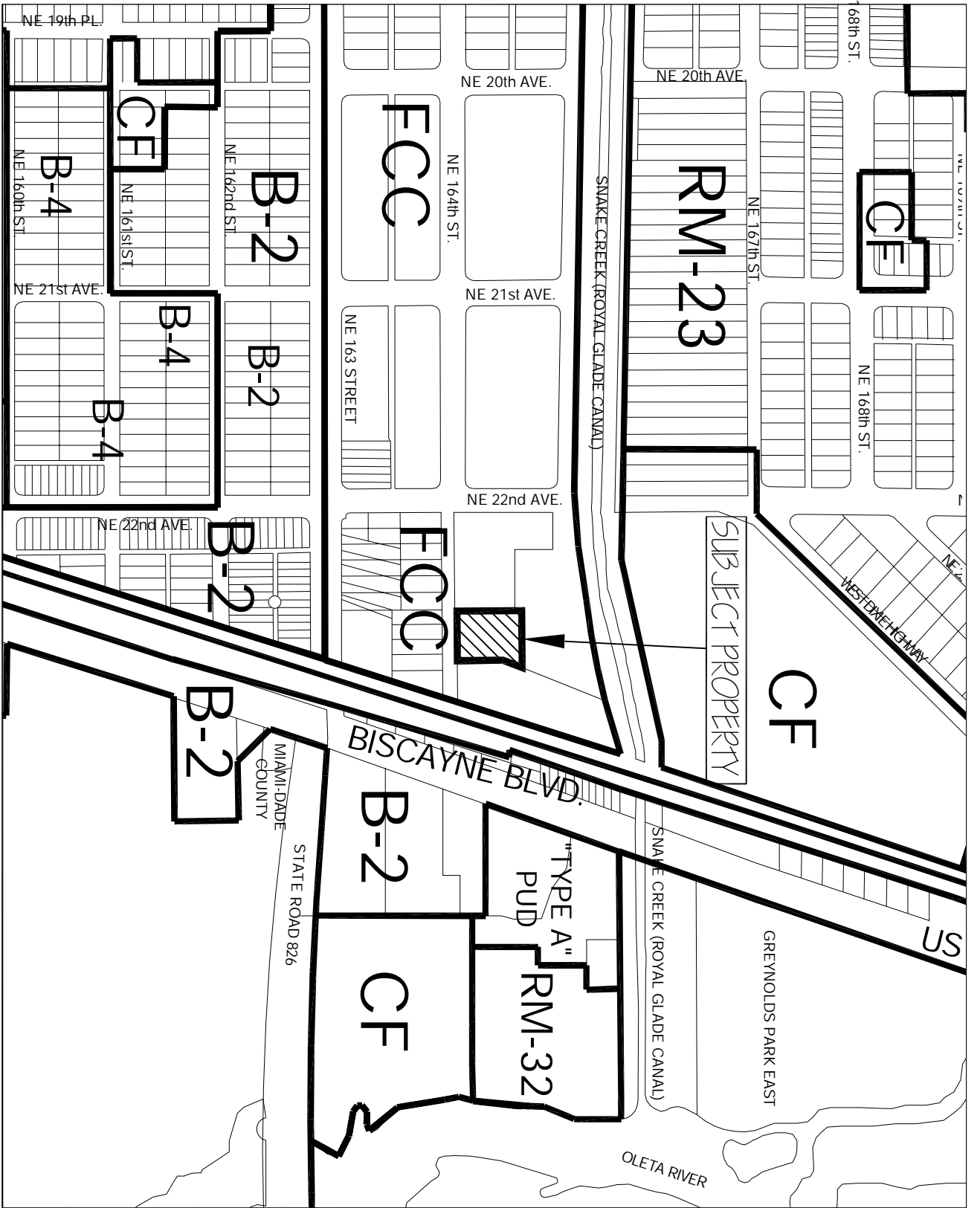
City of North Miami Beach  
 17050 N.E. 19th Avenue  
 North Miami Beach, Florida 33162

Night Club & Banquet Hall  
 2255 NE 164 Street



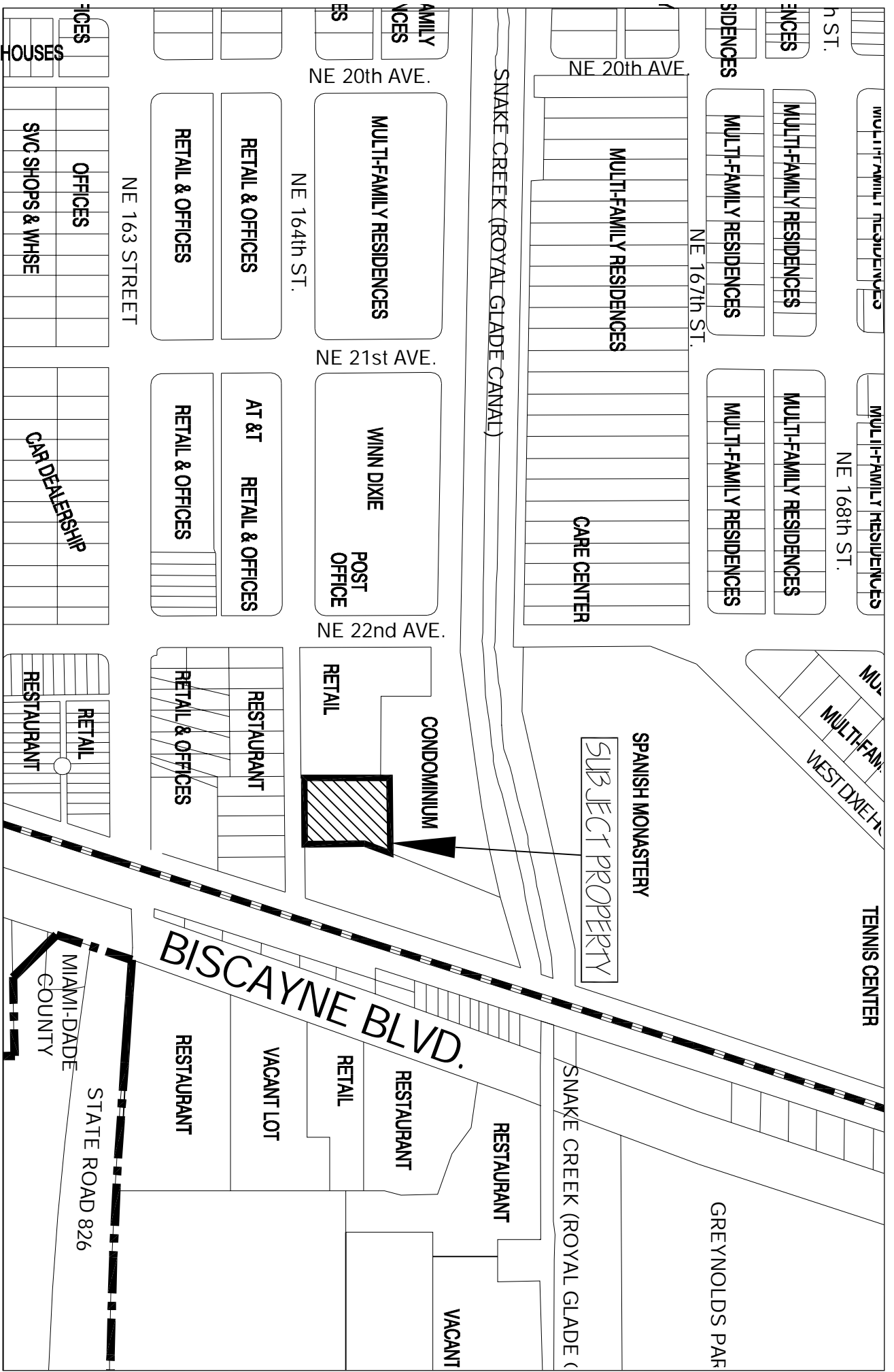
Existing Zoning Map  
 Exhibit No. 1

Prepared by CNMB Engineering Division



Legend:

- RS-1 Residential Single Family (8,000 SF minimum)
- RS-2 Residential Single Family (7,000 SF minimum)
- RS-3 Residential Single Family (6,000 SF minimum)
- RS-4 Residential Single Family (5,000 SF minimum)
- RS-5 Residential Single Family (1,200 SF minimum)
- MH-1 Mobile Home Subdivision
- RD Residential Two-Family (Duplex)
- RM-19 Residential Low Rise Multifamily Medium Density-19 Units / Acre
- RM-23 Residential Mid-Rise Multifamily High Density-23 Units / Acre
- RM-32 Residential High-Rise Multifamily High Density-32 Units / Acre
- RO Residential Office District
- B-1 Limited Business District
- B-2 General Business District
- B-3 Intensive Business District
- B-4 Distribution Business and Light Industrial
- B-5 Distribution Business and Medium Industrial
- CF Community Facility Planned Unit Development
- PUD Planned Unit Development



City of North Miami Beach  
 17050 N.E. 19th Avenue  
 North Miami Beach, Florida 33162

Night Club & Banquet Hall  
 2255 NE 164 Street

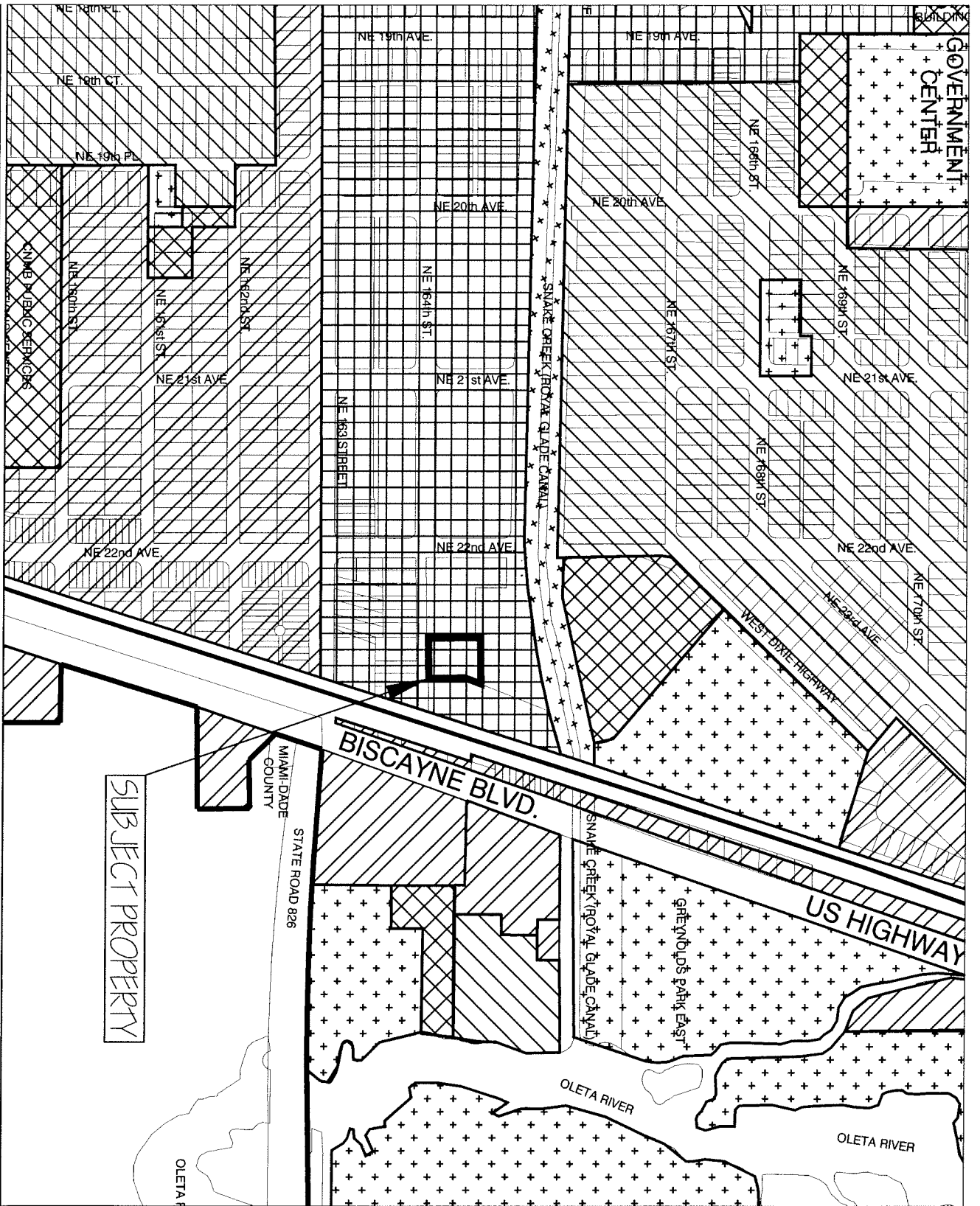


Existing Land Use Map  
 Exhibit No. 2

Prepared by CNMB Engineering Division

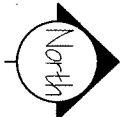


City of North Miami Beach  
 17050 NE 19th Avenue  
 North Miami Beach, Florida 33162



Night Club & Banquet Hall  
 2255 NE 164 Street

SUBJECT PROPERTY



Future Land Use Map  
 Exhibit No. 3  
 Prepared by CNMB Engineering Division

Legend:

	Residential Low Density
	Residential Medium Density
	Residential High Density
	Business
	Public and Quasi - Public
	Recreation and Open Space
	Industrial
	Mixed Use



# **City of North Miami Beach, Florida**

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## **COMMUNITY DEVELOPMENT DEPARTMENT**

### **PLANNING & ZONING BOARD MINUTES**

**MONDAY, SEPTEMBER 10, 2012**

#### **ATTENDEES**

Members - Chairman Evan Piper  
Jaime Eisen  
Saul Smukler  
Julian Kreisberg  
Norman Edwards  
Joseph Litowich  
Hector Marrero

Staff - Shari Kamali, Director of Public Services  
Christopher Heid, City Planner  
Darcee Siegel, City Attorney  
Steven Williams, Board Recorder

#### **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Chairman Piper called the meeting to order at 6:05 p.m. The Pledge of Allegiance was recited and roll was called.

#### **MINUTES**

A motion was made by Hector Marrero, seconded by Julian Kreisberg, to approve the minutes of the August 20, 2012 meeting. In a voice vote, the motion passed unanimously.

Chairman Piper administered the oath for any members of the public wishing to speak during the meeting. He instructed them to sign in as well.

◆-----◆

#### **OLD BUSINESS**

Mr. Heid provided the following status report:

1. ITEM 11-509 Braha Dixie  
17400 West Dixie Highway, FLUM and Rezoning  
*-FLUM and rezoning have been approved by the City Council.*
  2. ITEM 12-524 Single-Family House  
3205 NE 167 Street, Site Plan Review and Variances  
*-Approved by the City Council.*
- ◆-----◆



## **NEW BUSINESS**

### **ITEM 12-530: Mishcon Field; 16601 NE 15 Avenue – Site Plan Approval**

Mr. Heid explained that although the Board had approved this Item at their August 20, 2012 meeting, the mailing labels provided to the City had not included the address of a nearby property owner who wished to speak on the Item. For this reason, the Item will be re-heard and a new vote is required.

The existing zoning for the property is FCC, Fulford City Center, which is a mixed-use district. The property is owned by the City. The existing land use is Vacant and the future land use designation is Mixed-Use Town Center. The Applicant, which is the City of North Miami Beach, is requesting site plan approval for the construction of a 57,600 sq. ft. multi-purpose sports field and related parking and fencing on a 2 acre parcel of land.

Kristin Caborn, project manager, explained that the City received grant funding through the Miami-Dade County Community Development Block Grant (CDBG) program to construct a multi-use athletic field that can be used for both soccer and football. On-site drainage is provided, and the parking lot to the south will be expanded to the existing limits of the property.

Mr. Edwards requested more information about the expansion of the parking lot. Ms. Caborn said the expanded area will be overlaid and striped. There are existing restroom facilities and concession stands at the park.

Chairman Piper opened the floor to public comment.

Charles Loeb, private citizen, said he resides to the northwest of the park. While he is not opposed to the project, he stated that it has raised concerns among his neighbors. He asked if any changes would be made to the present sports field. Ms. Caborn confirmed that there would be no changes at this time. She continued that there will be no additional buildings on the property, and 34 additional spaces will be added to the existing parking lot.

Barry Sharpe, private citizen, said he owns the property directly to the south of the proposed project. He stated that he would like to present a concept for a “destination point” for the area, which would include apartments or retail stores. He pointed out that the property is presently gated rather than open to the public, which he said did not fit the definition of a park.

Mr. Sharpe suggested that development could take place at no charge to the City if the appropriate incentives were offered to a developer. He noted that the area has not brought revenue into the City for some time; the City could offer a lease with an option to buy so the use of the property could be maximized. Another option might be to leave the property “as is” with a maintenance component. Mr. Sharpe said other sports fields and complexes are available to be used by the City.

He continued that other offers the City might make to a developer could include tax holidays or deferment of taxes for a certain time period, such as one year. He observed that the location of a Wal-Mart across the street could be attractive to developers.

Mr. Heid commented that while office space was formerly prohibited on ground floors in the FCC district, changes to this district were adopted one year ago which would allow office uses on any level of a building.

Brian Sharpe stated that he is Mr. Barry Sharpe's son. He explained that they feel there is an opportunity for development of the property, and they felt it should be put up to bid for a contractor.

As there were no other members of the public wishing to speak on the Item, public comment was closed at this time.

Chairman Piper asked the members of City Staff if there was any history suggesting an interest in developing the property for other uses. Ms. Siegel said it had been considered by a charter school at one time.

Paulette Murphy, Director of Leisure Services, explained that the north end of the site, on which Mishcon Field is located, was purchased with a general obligation bond in 1993 in order to create that field. There is a need for additional soccer, football, and baseball fields within the City. She asserted that placing an apartment complex on the site would result in complaints, as football games are played on the existing field and can last until well after dark. There are also issues with drug use in the area at present, which is why the area is fenced and locked when not in use.

Mr. Kreisberg asked how the parcel in question was acquired. Ms. Murphy said it has always been owned by the City, although private businesses have leased the site in the past. Mr. Kreisberg asked if Ms. Murphy felt residents of apartments would complain about athletic events on a previously existing park. Ms. Murphy advised that an amphitheater near the site is periodically leased, and residents of a nearby condominium have complained about noise, parking, and traffic associated with these events, despite the fact that the amphitheater preceded the condominium.

Mr. Brian Sharpe said there was a possibility that retail stores could develop the property rather than apartments, which would not result in complaints.

Chairman Piper stated that the project before the Board is a sports complex; the possibility of other development would be a question for the City Council, which would eventually be asked to approve use of the site.

Ms. Caborn observed that the master plan for the park shows the inclusion of the proposed field: adding the new field would complete the master plan rather than add onto it.

Mr. Heid stated that the City favorably recommends the project, with the nine conditions listed in the Staff report.

Mr. Litowich asked how it was determined that the City was greatly in need of additional playing fields. Ms. Murphy said this was determined by the number of requests to use the field by different recreational groups in the area. Other fields in the area are not sufficient for these requests, and an additional field would help rotate the use of fields to allow for a rest period for the turf. She estimated that eight to ten requests for field use by specific groups, such as Little League and youth soccer, are turned down each year.

Mr. Litowich asked how long the master plan including the proposed field has been in effect. Ms. Caborn said her firm began working on the design for the project in 2009. She estimated that the master plan has been in use for five years.

Mr. Kreisberg commented that while he understood the need for fencing the field, the fence was an “obnoxious structure” in the park; in addition, he recalled that the owner of an adjoining property had offered to purchase some of the property in question at a previous meeting. He noted that the area in question is not technically a public park, as it is restricted to authorized use by groups. He concluded that while he is in favor of more athletic fields, he did not see this field as being available for unrestricted public use. He recommended that the Board deny the request.

Mr. Edwards said he felt the proposed use would remove a buffer from between the park use and these businesses. He felt the request was not compatible with these adjacent uses.

Mr. Smukler asked if there is a revenue aspect to the park. Ms. Murphy said the only revenue that could be gained was through a contract soccer program, which contributes approximately \$250-\$300 per month. Little League and football use the field at no cost. She asserted that the most important factor is to provide fields and recreational activities for children, and pointed out that it is difficult to place a new field with lighting in a residential area. If the proposed field is beside the existing field, it will also be more convenient for parents who have multiple children participating in youth sports.

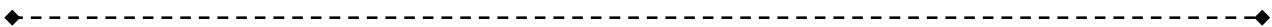
She continued that it is necessary to keep the park safe by gating it, as drug paraphernalia has been found on the premises in the past. It is also necessary to consider what can be developed next to a park while keeping the safety and activity of children in mind. Ms. Murphy concluded that there need to be more places for children to participate in activities.

Mr. Smukler requested clarification of who would be able to use the field. Ms. Murphy said when the City accepted the general obligation bond funds; they were not allowed to differentiate between North Miami Beach residents and non-residents. Children who reside in other municipalities or unincorporated areas may also participate in local sports leagues, although she noted that it is unlikely that teams from other municipalities will have room to use the fields.

Chairman Piper stated that unless the Board found the proposed project to be problematic for some reason, it should be considered independently of the possibility of other uses. It will then be sent to the City Council with the Board’s recommendation, at which time the Council may make a final determination on what is appropriate.

A motion to deny Item 12-530 was made by Julian Kreisberg and seconded by Joseph Litowich. In a roll call vote, the motion to deny Item 12-530 passed with a vote of 5-2 (Chairman Piper and Hector Marrero dissenting).

<b>Chairman Even Piper</b>	<b>No</b>
<b>Joseph Litowich</b>	<b>YES</b>
<b>Jaime Eisen</b>	<b>YES</b>
<b>Hector Marrero</b>	<b>NO</b>
<b>Julian Kreisberg</b>	<b>YES</b>
<b>Norman Edwards</b>	<b>YES</b>
<b>Saul Smukler</b>	<b>YES</b>



**ITEM 12-529: Night Club / Banquet Hall: 2255 NE 164 Street – Conditional Use Approval and Variances**

Mr. Heid recognized Councilwoman Beth Spiegel, who was in attendance at tonight's meeting. He stated that this Item has the existing zoning of FCC, Fulford City Center, and an existing land use of Vacant/Banquet Hall. The future land use designation is mixed use/town center. The Applicant, Ben Lorenzo, requests site plan approval and variances to reoccupy a 16,000 sq. ft. building that has lost its legal nonconforming status, and requests conditional use approval to operate a nightclub and banquet hall on a 31,998 sq. ft. parcel of land occupying 0.73 acres.

The following variances are requested:

- Allow on-site parking to remain in front of the building and adjacent to a primary street;
- Exceed by 50 ft. the maximum allowed front yard setback of 0 ft, as the existing setback is 50 ft.;
- Allow vehicular access to remain on NE 164 Street;
- Waive 3 ft. of the minimum required first floor ceiling height of 12 ft., as the existing first floor ceiling height is 8.9 ft.;
- Waive 5% of the minimum required building frontage of 85%, as the existing frontage is 80%;
- Waive 45.6% of the minimum required ground floor area of 66%;
- Waive 28% of the minimum required window area above the ground floor of 33%.

Mr. Heid added that because the building has not been in use for more than 180 days, the legal nonconforming use and characteristics are lost and must be regained through variance. The zoning district has changed from B-2 to FCC, which has different requirements for ceiling height, front setback, window area, and other components.

Larry Simon, architect representing the Applicant, explained that the building was renovated in the 1980s by the owner. Plans for the building include construction of a 6 ft. wall in order to lessen the impact to residential neighbors. The parking lot will be landscaped and curbs and gutters added. There are no windows on the back of the building, which lessens the effect on the residential neighbors to the north. The front of the building will be renovated.

Chairman Piper asked if the building would have been considered compliant if business tax receipts had been maintained on the property during the time it was vacant. Mr. Heid confirmed that this would not have been sufficient to maintain legal nonconforming status; the building must have been in use within the past 180 days. Business owners are advised to maintain this use sporadically in addition to maintaining their tax receipts.

Mr. Simon added that a sprinkler system and fire alarm system has been installed in the building, which has not been in use for approximately four to five years. The structure of the building has not deteriorated.

Chairman Piper opened the floor to public comment.

John Kurzman, private citizen, stated that he owns the property to the east of the building. He asserted that the Applicant has been an outstanding neighbor, and he was pleased that the property would no longer be vacant and its appearance would be maintained.

As there were no other members of the public wishing to speak on the Item, public comment was closed at this time.

Mr. Heid advised that the building will be brought up to current standards. The City recommends approval of the Item, with the 12 conditions listed. He noted that condition 8 requires a dumpster behind the property; however, the Applicant has requested that they use another dumpster located on the complex, which is actually closer to the building's front door. Ms. Kamali requested that this condition be discussed further when the Item is brought before the City Council.

A motion to approve Item 12-529 was made by Julian Kreisberg and seconded by Hector Marrero. In a roll call vote, Item 12-529 passed with a vote of 7-0.

<b>Chairman Even Piper</b>	<b>YES</b>
<b>Joseph Litowich</b>	<b>YES</b>
<b>Jaime Eisen</b>	<b>YES</b>
<b>Hector Marrero</b>	<b>YES</b>
<b>Julian Kreisberg</b>	<b>YES</b>
<b>Norman Edwards</b>	<b>YES</b>
<b>Saul Smukler</b>	<b>YES</b>

◆-----◆

**Item 12-532: LDR Text Amendment – Nonconforming Uses**

Mr. Heid stated that this proposed text amendment was requested by a member of City Council. The amendment would change the period of time during which a nonconforming use may be retained by a vacant property from 180 days to 90 days. After 90 days, an applicant requesting nonconforming use would be required to go through the public hearing process.

Chairman Piper asked what the benefit of this amendment would be. Mr. Heid replied that a problematic use would have less time to remain on the property if the use was discontinued; the downside would be that a beneficial use may not have sufficient time to regroup and remain on a property.

Ms. Siegel said the issue was one of grandfathering status. Uses that have been in existence were grandfathered in; if changes are made to zoning, this amendment would prevent properties with nonconforming uses to continue these uses into perpetuity.

Chairman Piper commented that a property owner may not realize that this law is in effect. He did not feel the amendment was business-friendly for this reason.

Mr. Smukler noted that while there may be cases in which an unwanted nonconforming use may be removed, he did not believe the current economy and rental market made it likely that a building would be rented within 90 days, which meant the property could remain vacant. He added that being required to go through the variance process made it less likely for a new tenant to be brought in. Ms. Siegel pointed out that the variance process would only be required if the use is no longer allowed in that location.

Mr. Smukler asked for some examples of businesses in the City that might fall into this category. Mr. Heid said auto repair, sales, accessories, and other related uses tend to be the type of business most affected by this issue, as a property may be suited only for this specific group of uses.

Mr. Edwards observed that in the current economy, it may be difficult for owners to find new tenants, particularly for very specialized uses, to take over certain spaces.

Mr. Kreisberg said he felt the proposed amendment would harm more businesses and individuals than it might help. Mr. Marrero and Mr. Litowich agreed with this. Mr. Litowich added that the current economy made this an inappropriate time for the proposed change.

Chairman Piper opened the floor to public comment.

Mr. Barry Sharpe pointed out that in addition to the difficulty of finding a new tenant within 90 days, the variance process also involves the City's Building Department, which means businesses are required to go through inspections and other processes.

As there were no other members of the public wishing to speak on the Item, public comment was closed at this time.

Mr. Heid said there was no recommendation on this Item by the City.

A motion to deny Item 12-532 was made by Hector Marrero and seconded by Julian Kreisberg. In a roll call vote, the motion to deny Item 12-532 passed with a vote of 7-0.

<b>Chairman Even Piper</b>	<b>YES</b>
<b>Joseph Litowich</b>	<b>YES</b>
<b>Jaime Eisen</b>	<b>YES</b>
<b>Hector Marrero</b>	<b>YES</b>
<b>Julian Kreisberg</b>	<b>YES</b>
<b>Norman Edwards</b>	<b>YES</b>
<b>Saul Smukler</b>	<b>YES</b>

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**Next Meeting**

- Monday, October 15, 2012

Chairman Piper advised that the Board should consider electing a Vice Chairman in the event he was not able to attend a meeting.

Ms. Siegel recalled that a new Ordinance will be proposed for a new Board, at which time all Board members will be up for re-appointment. She recommended that those members who would like to continue to serve inform the City Clerk of their wishes so this information can be passed along to the City Council. Appointments will take place on November 5 or 6, and will go into effect on November 15, 2012.

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**Adjournment**

There being no further business to come before the Board at this time, the meeting was adjourned at 7:25 p.m.

**RESOLUTION NO. R2012-76**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL IN ORDER TO RE-OCCUPY AN EXISTING 16,600 SQUARE FOOT TWO-STORY BUILDING THAT HAS LOST ITS LEGAL NON-CONFORMING STATUS, AS PROPOSED; AND**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING CONDITIONAL USE APPROVAL IN ACCORDANCE WITH SECTION 24-48.2(C)(6) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH FOR THE OPERATION OF A NIGHT CLUB AND BANQUET HALL ON A 31,998 SQUARE FOOT (0.73 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 24-58.3(D) AND SECTION 24-58.3(H)(1) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO ALLOW ON-SITE PARKING TO REMAIN IN FRONT OF THE BUILDING AND ADJACENT TO A PRIMARY STREET (NE 164 STREET), AS PROPOSED: AND**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-58.3(F) AND SECTION 24-58.4(A)(2) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO EXCEED BY FIFTY (50) FEET THE MAXIMUM ALLOWED FRONT YARD SETBACK OF ZERO (0) FEET, WHERE EXISTING FRONT YARD SETBACK OF FIFTY (50) 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 24.58.3(I) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO ALLOW VEHICULAR ACCESS TO REMAIN ON NE 164 STREET, AS PROPOSED; AND**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-58.4(D) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THREE (3) FEET THREE (3) INCHES OF THE MINIMUM REQUIRED FIRST FLOOR CEILING HEIGHT OF TWELVE (12) FEET, WHERE EXISTING FIRST FLOOR CEILING HEIGHT OF EIGHT (8) FEET NINE (9) INCHES IS PROPOSED; AND**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM 24-58.4(F) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE FIVE (5) PERCENT (7' 6") OF THE MINIMUM REQUIRED BUILDING FRONTAGE OF EIGHTY-FIVE (85) PERCENT (127' 6"), WHERE EXISTING BUILDING FRONTAGE OF EIGHTY (80) PERCENT (120') IS PROPOSED; AND**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24.58.4(G) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE 45.6% (442.8 SQUARE FEET) OF THE MINIMUM REQUIRED GROUND FLOOR WINDOW AREA OF SIXTY-SIX (66) PERCENT (671.8 SQUARE FEET), WHERE GROUND FLOOR WINDOW AREA OF TWO HUNDRED TWENTY-NINE (229) 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 24.58.4(I) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE TWENTY-EIGHT (28) PERCENT (590.5 SQUARE FEET) OF THE MINIMUM REQUIRED WINDOW AREA ABOVE THE GROUND FLOOR OF THIRTY-THREE (33) PERCENT (707 SQUARE FEET), WHERE EXISTING WINDOW AREA OF FIVE (5) PERCENT (116.5 SQUARE FEET) IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS:**

**Tract A, Marx subdivision, According to the Plat Thereof, Recorded in Plat Book 91, Page 20, of the Public Records of Miami-Dade County, Florida.**



**A/K/A  
2255 N.E. 164 Street  
North Miami Beach, Florida**

**(P&Z Item No. 12-529 of September 10, 2012)**

**WHEREAS**, the property described herein is in the FCC, Fulford City Center Zoning District; and

**WHEREAS**, the applicant requests site plan approval and variances in order to re-occupy a 16,600 square foot two-story building that has lost its legal non-conforming status, and requests conditional use approval to operate a night club and banquet hall on a 31,998 square foot (0.73 acre) parcel of land located at 2255 NE 164 Street.; and

**WHEREAS**, the Planning and Zoning Board on September 10, 2012 recommended approval of the site plan, related variances, and conditional use approval, subject to the following conditions:

1. Plans submitted for building permit(s) shall substantially comply with those as currently submitted, including the following:
  - Survey, Sheets 1 of 1, by J.A.F. Surveying Services, dated 1/25/2012;
  - Existing Site Plan, Sheet A-1, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
  - Site Plan, Sheet A-2, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
  - Sign & Accessible Parking Detail, Sheet A-3, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
  - Ground Floor & Second Floor Plan, Sheet A-4, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
  - Landscape Plan, Sheet L-1, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012.
2. A complete paving and drainage plan showing proposed and existing grading, drainage details and calculations must be submitted to and approved by the City Engineer prior to the issuance of a building permit.
3. Project must be in complete conformity with the Americans with Disabilities Act (ADA) in accordance with State and Federal laws.
4. Building materials and color samples must be submitted to, and approved by, the Director of Public Services prior to the issuance of a building permit for this project.

5. A lighting plan for the entire property shall be submitted by a qualified lighting professional. Said plan shall include the entire property, and, if necessary, the adjacent swale areas, and shall include decorative facade lighting in addition to that provided for safety and security needs. All exterior lighting shall be white lighting only. All lighting shall be contained on-site.

6. A revised landscape and irrigation plan, signed and sealed by a Florida registered Landscape Architect, shall be submitted to, and approved by, the City Forester. The plan shall be approved prior to the issuance of a building permit, and the installed materials inspected and approved prior to the issuance of a Certificate of Occupancy.

7. The design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles, street furniture, and bicycle racks must be submitted to and approved by the Director of Public Services.

8. Garbage dumpsters shall be constructed of CBS, with roll up over-head doors, be large enough to encompass recycling materials and be equipped with air conditioning, interior light, running water, hose hook-up and a floor drain.

9. All roof top equipment shall be screened from ground view of all surrounding and adjacent properties.

10. All wall signage must be of individual, flush mounted channel letter type only. The number and size of which may not exceed that as permitted in the City's Land Development Regulations (LDRs). All signage requires a separate permit prior to installation.

11. Speed humps must be added throughout the parking lot.

12. When plans are submitted for building permit, a cover sheet must be included incorporating the final Resolution approving this project, including all conditions related to said approval.

**NOW, THEREFORE,**

**BE IT RESOLVED** by the City Council of the City of North Miami Beach, Florida.

**Section 1.** Site plan approval in order to reoccupy a 16,600 square foot two-story building that has lost its legal non-conforming status, on property legally described as:

**Tract A, Marx subdivision, According to the Plat Thereof,  
Recorded in Plat Book 91, Page 20, of the Public Records of  
Miami-Dade County, Florida.**

**A/K/A**  
**2255 N.E. 164 Street**  
**North Miami Beach, Florida**

is hereby granted subject to the following conditions:

1. Plans submitted for building permit(s) shall substantially comply with those as currently submitted, including the following:

- Survey, Sheets 1 of 1, by J.A.F. Surveying Services, dated 1/25/2012;
- Existing Site Plan, Sheet A-1, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
- Site Plan, Sheet A-2, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
- Sign & Accessible Parking Detail, Sheet A-3, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
- Ground Floor & Second Floor Plan, Sheet A-4, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012;
- Landscape Plan, Sheet L-1, by Lawrence Simon Architect, dated 4/23/2012, revised 6/12/2012.

2. A complete paving and drainage plan showing proposed and existing grading, drainage details and calculations must be submitted to and approved by the City Engineer prior to the issuance of a building permit.

3. Project must be in complete conformity with the Americans with Disabilities Act (ADA) in accordance with State and Federal laws.

4. Building materials and color samples must be submitted to, and approved by, the Director of Public Services prior to the issuance of a building permit for this project.

5. A lighting plan for the entire property shall be submitted by a qualified lighting professional. Said plan shall include the entire property, and, if necessary, the adjacent swale areas, and shall include decorative facade lighting in addition to that provided for safety and security needs. All exterior lighting shall be white lighting only. All lighting shall be contained on-site.

6. A revised landscape and irrigation plan, signed and sealed by a Florida registered Landscape Architect, shall be submitted to, and approved by, the City Forester. The plan shall be approved prior to the issuance of a building permit, and the installed materials inspected and approved prior to the issuance of a Certificate of Occupancy.

7. The design, dimensions, materials, quantity and location of all outdoor accessory features, including but not limited to security bollards, trash cans, light poles, street

furniture, and bicycle racks must be submitted to and approved by the Director of Public Services.

8. Garbage dumpsters shall be constructed of CBS, with roll up over-head doors, be large enough to encompass recycling materials and be equipped with air conditioning, interior light, running water, hose hook-up and a floor drain.

9. All roof top equipment shall be screened from ground view of all surrounding and adjacent properties.

10. All wall signage must be of individual, flush mounted channel letter type only. The number and size of which may not exceed that as permitted in the City's Land Development Regulations (LDRs). All signage requires a separate permit prior to installation.

11. Speed humps must be added throughout the parking lot.

12. When plans are submitted for building permit, a cover sheet must be included incorporating the final Resolution approving this project, including all conditions related to said approval.

**Section 2.** Conditional use approval in accordance with Section 24-48.2(C)(6) for the operation of a night club, as proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

**Section 3.** A variance from Section 24-58.3(D and Section 24-58.3(H)(1) to allow on-site parking to remain in front of the building and adjacent to a primary street (NE 164 Street), as proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

**Section 4.** A variance from Section 24-58.3(F) and Section 24-58.4(A)(2) to exceed by fifty (50) feet the maximum allowed front yard setback of zero (0) feet, where existing front yard setback of fifty (50) feet is proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

**Section 5.** A variance from Section 24-58.3(I) to allow vehicular access to remain on N.E. 164 Street, as proposed, on property legally described as aforesaid be and the same is hereby granted subject to the aforementioned conditions.

**Section 6.** A variance from Section 24-58.4(D) to waive three (3) feet three (3) inches of the minimum required first floor ceiling height of twelve (12) feet, where existing first floor ceiling height of eight (8) feet nine (9) inches is proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

**Section 7.** A variance from Section 24-58.4(F) to waive five (5) percent (7' 6") of the minimum required building frontage of eighty-five (85) percent (127' 6"), where existing building frontage of eighty (80) percent (120') is proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

**Section 8.** A variance from Section 24-58.4(G) to waive 45.6% (442.8 square feet) of the minimum required ground floor window area of sixty-six (66) percent (671.8 square feet), where ground floor window area of two hundred twenty-nine (229) square feet is proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

**Section 9.** A variance from Section 24.58.4(I) to waive twenty-eight (28) percent (590.5 square feet) of the minimum required window area above the ground floor of thirty-three (33) percent (707 square feet) where existing area of five (5) percent (116.5 square feet) is proposed, on property legally described as aforesaid is hereby granted subject to the aforementioned conditions.

**Section 10.** Pursuant to Section 24-172(I) of the Code of Ordinances of the City of North Miami Beach, the applicant must apply for a master building permit from the City within one (1) year of the date of this Resolution or the site plan approval granted shall be deemed null and

void and the applicant shall be required to reinstate the site plan review process unless the term is extended administratively or by the City Council prior to its expiration.

**Section 11.** Pursuant to Section 24-176(C)(4)(a) of the Code of Ordinances of the City of North Miami Beach, any variance granted shall automatically expire if a permit has not been applied for within one (1) year from the date of this Resolution or, if the permit is issued, expires or is revoked pursuant to the Florida Building Code.

**Section 12.** Pursuant to Section 24-175(C) of the Code of Ordinances of the City of North Miami Beach, a business tax receipt must be obtained within one year of the issuance of a certificate of occupancy or within one year of conditional use approval, whichever is longer, unless the term is extended administratively or by the City Council prior to its expiration.

**APPROVED AND ADOPTED** by the City Council of the City of North Miami Beach, Florida at regular meeting assembled this \_\_\_ **day of October, 2012.**

ATTEST:

\_\_\_\_\_  
PAMELA L. LATIMORE  
CITY CLERK

\_\_\_\_\_  
GEORGE VALLEJO  
MAYOR

(CITY SEAL)

APPROVED AS TO FORM:

\_\_\_\_\_  
DARCEE S. SIEGEL  
CITY ATTORNEY

SPONSORED BY: Mayor and City Council



City of North Miami Beach  
17011 NE 19 Avenue  
North Miami Beach, FL 33162  
305-947-7581  
www.citynmb.com

**MEMORANDUM**

 **Print**

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**TO:** Mayor and City Council  
**FROM:** Councilman Philippe Derose  
**DATE:** Tuesday, October 2, 2012

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**RE:** Ordinance No. 2012-25 - First Reading by Title Only (City Attorney Darcee S. Siegel)

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**BACKGROUND:** On November 3, 1998, the voters of the State of Florida approved an amendment to the Florida Constitution providing for an increased Homestead Exemption to certain qualifying senior citizens. Pursuant to provisions of Section 196.075 of the Florida Statutes, by local option, cities may adopt an ordinance increasing the exemption from \$25,000.00 to up to \$50,000.00. On August 15, 2006, the Mayor and City Council amended the City's Code to provide for the additional Homestead Exemption for qualifying senior in the amount of \$25,000.00. By increasing the low-income senior exemption from \$25,000.00 to \$50,000.00 approximately 85 residences would receive the full benefit and 162 would receive a partial benefit of the additional exemption. While the total tax revenue loss to the City of increasing the low-income senior exemption amount would be approximately \$24,580.00 per year at the City's current millage rate of 6.6036, the Mayor and City Council believe that the benefit of this exemption is a small price to pay to assist our low-income seniors.

**RECOMMENDATION:** Approval.

**FISCAL IMPACT:**

**CONTACT PERSON(S):** Councilman Philippe Derose  
Darcee S. Siegel, City Attorney

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**ATTACHMENTS:**

[Ordinance No. 2012-25](#)

**ORDINANCE NO. 2012-25**

**AN ORDINANCE AMENDING SECTION 8-2 OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "AD VALOREM TAXATION: ADDITIONAL HOMESTEAD EXEMPTION FOR QUALIFYING SENIOR CITIZENS" TO BE APPLIED TO MILLAGE RATES LEVIED BY MIAMI-DADE COUNTY; INCREASING THE HOMESTEAD EXEMPTION FOR QUALIFYING SENIOR CITIZENS BY \$25,000.00 FROM \$25,000.00 TO UP TO \$50,000.00; 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.**

**WHEREAS**, on November 3, 1998, the voters of the State of Florida approved an amendment to the Florida Constitution providing for an increased Homestead Exemption to certain qualifying senior citizens; and

**WHEREAS**, pursuant to the provisions of Section 196.075 of the Florida Statutes, by local option, cities may adopt an ordinance increasing the exemption from \$25,000.00 to up to \$50,000.00; and

**WHEREAS**, on August 15, 2006, the Mayor and City Council of the City of North Miami Beach amended the City's Code to provide for the additional Homestead Exemption for qualifying seniors in the amount of \$25,000.00; and

**WHEREAS**, in order to qualify for the low-income senior exemption for 2012, an applicant must be at least 65 years of age as of January 1, 2012 and have a combined household adjusted gross income for 2012 not to exceed \$27,030.00 as adjusted annually pursuant to Section 196.075(3), Florida Statutes; and

**ORDINANCE NO. 2012-25**



**WHEREAS**, Miami-Dade County and nineteen (19) of the thirty-four (34) cities located within Miami-Dade County have adopted City Senior Exemptions in the amount of \$50,000.00; and

**WHEREAS**, by increasing the low-income senior exemption from \$25,000.00 to \$50,000.00, approximately 85 residences would receive the full benefit and 162 would receive a partial benefit of the additional exemption; and

**WHEREAS**, while the total tax revenue loss to the City of increasing the low-income senior exemption amount would be approximately \$24,580.00 per year at the City's current millage rate of 6.6036, the Mayor and City Council believe that the benefit of this exemption is a small price to pay to assist our low-income seniors.

**NOW, THEREFORE,**

**BE IT ORDAINED** by the City Council of the City of North Miami Beach, Florida.

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** Section 8-2.1 of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Section 8-2.1 Eligibility.

In accordance with Section 6(f), Art. VII of the Florida Constitution and Section 196.075 of the Florida Statutes, any person sixty-five (65) years or over who has legal or equitable title to real estate located within the municipal boundaries of the City and maintains thereon his/her permanent residence which residence qualifies for and receives Homestead Exemption pursuant to Section 6(a), Art. VII of the Florida Constitution, and whose household income does not exceed twenty thousand (\$20,000.00) dollars, as heretofore adjusted annually pursuant to Section 196.075(3), Florida Statutes, shall be entitled to make application for an additional Homestead Exemption of ~~twenty-five~~ up to fifty thousand ~~(\$25,000.00)~~ (\$50,000.00) dollars. This additional Homestead

**ORDINANCE NO. 2012-25**

Exemptions, if granted, shall be applicable to all ad valorem tax millage rates levied by the City. (Ord. No. 2006-13 §20-14, 8/15/06).

**Section 3.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 4.** If any section, subsection, clause or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

**Section 5.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word “Ordinance” may be changed to “Section”, “Article” or other appropriate word as the codifier may deem fit.

**APPROVED BY TITLE ONLY** on first reading this \_\_\_ day of \_\_\_\_\_, 2012.

**APPROVED AND ADOPTED** on second reading this \_\_\_ day of \_\_\_\_\_, 2012.

ATTEST:

\_\_\_\_\_  
PAMELA L. LATIMORE  
CITY CLERK  
(CITY SEAL)

\_\_\_\_\_  
GEORGE VALLEJO  
MAYOR

APPROVED AS TO FORM

\_\_\_\_\_  
DARCEE S. SIEGEL  
CITY ATTORNEY

Sponsored by: Councilman Philippe Derose  
Mayor & Council



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www.citynmb.com

## MEMORANDUM

 [Print](#)

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**TO:** Mayor and City Council  
**FROM:** Councilwoman Marlen Martell  
**DATE:** Tuesday, October 2, 2012

---

**RE:** Ordinance No. 2012-26 - First Reading by Title Only (City Attorney Darcee S. Siegel)

---

**BACKGROUND:** The Economic Development Commission of the City of North Miami Beach was created to promote quality development and to nurture growth of businesses throughout the City. While the Economic Development Commission's objectives are to seek out new economic opportunities and retain the City's existing business wealth, the objectives cannot be accomplished if meetings are cancelled due to a lack of quorum. In order to meet the goals and responsibilities of the Economic Development Commission, the Mayor and City Council believe that by decreasing the number of members and changing the frequency of meetings and the quorum of the Commission, more business can be conducted to strengthen economic development throughout the City.

**RECOMMENDATION:** Approval.

**FISCAL IMPACT:**

**CONTACT PERSON(S):** Councilwoman Marlen Martell  
Darcee S. Siegel, City Attorney

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**ATTACHMENTS:**

▣ [Ordinance No. 2012-26](#)

**ORDINANCE NO. 2012-26**

**AN ORDINANCE AMENDING CHAPTER II OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "STRUCTURE OF CITY GOVERNMENT"; AMENDING SECTION 2-49 ENTITLED "ECONOMIC DEVELOPMENT COMMISSION"; MODIFYING THE NUMBER OF MEMBERS OF THE COMMISSION (2-49.1), THE QUORUM OF THE COMMISSION (2-49.3), AND THE SCHEDULE OF THE COMMISSION'S REGULAR MEETINGS (2-49.5); 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.**

**WHEREAS**, the Economic Development Commission of the City of North Miami Beach was created to promote quality development and to nurture growth of businesses throughout the City of North Miami Beach; and

**WHEREAS**, the Mayor and City Council believe that a strong and vibrant business community will allow for a better standard of living and increased economic and social wellbeing of the City's residents; and

**WHEREAS**, stimulating growth of the City's economy remains an important and integral component of the City's financial health and vitality; and

**WHEREAS**, while the Economic Development Commission's objectives are to seek out new economic opportunities and retain the City's existing business wealth, the objectives cannot be accomplished if meetings are cancelled due to a lack of quorum; and

**WHEREAS**, for the past few years, it has become difficult to elicit steady membership and commitment from the volunteers to achieve a productive Economic Development Commission; and

**WHEREAS**, in order to meet the goals and responsibilities of the Economic Development Commission, the Mayor and City Council believe that by decreasing the number of members and changing the frequency of meetings and the quorum of the Commission, more business can be conducted to strengthen economic development throughout the City.

**NOW, THEREFORE,**

**BE IT ORDAINED** by the City Council of the City of North Miami Beach, Florida.

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** Section 2-49.1 of the Code of Ordinances of the City of North Miami Beach entitled "Created; Membership" is hereby amended as follows:

Section 2-49.1 Created; Membership.

There is hereby created and established the City of North Miami Beach Economic Development Commission, which Commission shall consist of ~~up to fifteen (15)~~ five (5) members appointed by the City Council.

**Section 3.** Section 2-49.3 of the Code of Ordinances of the City of North Miami Beach, Florida entitled "Quorum; Voting" is hereby amended as follows:

Section 2-49.3 Quorum; Voting.

A quorum shall consist of ~~fifty percent (50% plus one (1))~~ three (3) of the duly appointed members of the Commission. The necessary vote for the passage of any motion or for the adoption of any reports by the Commission shall be a majority vote of those present and qualified to vote. (1957 Code §2-62[c]; Ord. No. 79-20 §3(B), 9-4-79)

**Section 4.** Section 2-49.5 of the Code of Ordinances of the City of North Miami Beach, Florida entitled "Meetings" is hereby amended as follows:

Section 2-49.5 Meetings.

Regular meetings shall be scheduled at least once a every two months (1957 Code §2-62[e]; Ord. No. 79-20 §3(B), 9-4-79).

**Section 5.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 6.** If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

**Section 7.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

**APPROVED BY TITLE ONLY** on first reading this \_\_\_ day of \_\_\_\_\_, 2012.

**APPROVED AND ADOPTED** on second reading this \_\_\_ day of \_\_\_\_\_, 2012.

ATTEST:

\_\_\_\_\_  
PAMELA L. LATIMORE  
CITY CLERK  
(CITY SEAL)

\_\_\_\_\_  
GEORGE VALLEJO  
MAYOR

APPROVED AS TO FORM

\_\_\_\_\_  
DARCEE S. SIEGEL  
CITY ATTORNEY

Sponsored by: Councilwoman Marlen Martell  
Mayor and City Council

**ORDINANCE NO. 2012-26**



City of North Miami Beach  
17011 NE 19 Avenue  
North Miami Beach, FL 33162  
305-947-7581  
www.citynmb.com

## MEMORANDUM

 Print

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**TO:** Mayor and City Council  
**FROM:** Darcee S. Siegel, City Attorney  
**DATE:** Tuesday, October 2, 2012

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**RE:** Ordinance No. 2012-27 - First Reading by Title Only (City Attorney Darcee S. Siegel)

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**BACKGROUND:** On September 16, 1980, the City of North Miami Beach established a Code Enforcement Board to promote, protect and improve the health, safety and welfare of its citizens by providing an equitable, expeditious and effective method of enforcing the City's Code of Ordinances. While the City's Code Enforcement Board consists of seven (7) residents appointed by the Mayor and City Council collectively, the Mayor and City Council believe that each Councilperson should have his/her own appointment to the Board to better represent all the City's residents.

**RECOMMENDATION:** Approval.

**FISCAL IMPACT:**

**CONTACT PERSON(S):** Darcee S. Siegel, City Attorney

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**ATTACHMENTS:**

[Ordinance No. 2012-27](#)

**ORDINANCE NO. 2012-27**

**AN ORDINANCE AMENDING CHAPTER XIV OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "BUILDING AND HOUSING" AND AMENDING SECTION 14-8.13 ENTITLED "CODE ENFORCEMENT BOARD; ORGANIZATION; SPECIAL MAGISTRATES" BY ESTABLISHING A NEW CODE ENFORCEMENT BOARD; BY PROVIDING FOR EACH COUNCIL MEMBER TO APPOINT A MEMBER TO THE BOARD; BY PROVIDING FINANCIAL DISCLOSURE OF ITS MEMBERS; 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.**

**WHEREAS**, Chapter 162 of the Florida Statutes authorizes a municipality to adopt an alternate code enforcement system that gives code enforcement boards, or special magistrates designated by the municipality, or both, the authority to hold hearings and assess fines against violators of a municipality's codes and ordinances; and

**WHEREAS**, pursuant to state law, the governing body of a municipality may designate the enforcement methods and penalties to be imposed for the violation of ordinances adopted by the municipality; and

**WHEREAS**, on September 16, 1980, the City of North Miami Beach established a Code Enforcement Board to promote, protect and improve the health, safety, and welfare of its citizens by providing an equitable, expeditious and effective method of enforcing the City's Code of Ordinances; and

**WHEREAS**, while the City of North Miami Beach's Code Enforcement Board consists of seven (7) residents appointed by the Mayor and City Council collectively, the Mayor and City



Council believe that each Councilperson should have his/her own appointment to the Board to better represent all the City's residents.

**NOW, THEREFORE,**

**BE IT ORDAINED** by the City Council of the City of North Miami Beach, Florida.

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** Section 14-8.13 of the Code of Ordinances of the City of North Miami Beach, entitled "Code Enforcement Board; Organization; Special Magistrates" is hereby amended as follows:

**14-8.13 Code Enforcement Board; Organization; Special Magistrates.**

a. There is hereby created and established a Code Enforcement Board to enforce the business tax receipts regulations, building, zoning, sign and other related codes and ordinances, which Board shall consist of seven (7) members and may additionally have up to two (2) alternate members to serve in the absence of Board members, appointed by the Mayor and City Council for three (3) year terms, except as set forth herein.

Four (4) members, who represent seats 1, 3, 5, and 7, shall be appointed to serve from November 15 of that year, and three (3) members, who represent seats 2, 4, and 6, shall be appointed to serve from November 15 of that year. For the first board only, members appointed representing seats 1, 3, 5, and 7 shall be appointed for a term of three (3) years, while members appointed representing seats 2, 4, and 6 shall be appointed for a term of two (2) years. Appointments to fill vacancies shall be for the unexpired term only. Vacancies shall be filled by the councilperson's seat that made the appointment.

Effective November 15, 2012, the first Code Enforcement Board shall consist of newly-appointed members, in accordance with the intent of the City Council and the City Charter. All board members shall be newly appointed at the City Council meeting on November 6, 2012. Alternates shall be appointed by the Mayor and City Council. Members of the Code Enforcement Board shall be subject to the provisions of Florida Statutes §286.012, relating to voting at meetings of the board, and to the provision of Florida Statutes §112.311-112.3175, inclusive, relating to financial disclosure and conflicts of interest, and to the provisions of Florida Statute §112.501, relating to suspension and removal from office.

Members of the Code Enforcement Board shall be residents of the City of North Miami Beach. No person holding an elective office of the City shall be eligible to appointment to the Code Enforcement Board until at least one (1) year following termination of his/her elective office. Appointments shall be made on the basis of experience or interest in the fields of zoning and building control. The membership of the Code Enforcement Board shall, whenever possible, include an architect, a businessman, an engineer, a general contractor, a subcontractor and a realtor, but shall not be limited to these professions.

b. Members of the Code Enforcement Board shall be appointed for three (3) year terms to commence on ~~June 1~~ November 15 of the year of appointment. ~~Any member may be reappointed upon approval by the Mayor and City Council.~~ Service as an alternate member shall not preclude service as a regular member. Appointments to fill a vacancy shall be for the remainder of the unexpired term. If any member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the ~~Chairman~~ person, the Code Enforcement Board shall declare the member's office vacant, and the Mayor and City Council shall promptly fill such vacancy for the remainder of the term.

c. Members of the Code Enforcement Board shall elect a ~~Chairman~~ person, who shall be a voting member from among the members of the Board. The presence of four (4) or more members shall constitute a quorum. Members shall serve without compensation but may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the Mayor and City Council.

d. Special Magistrates shall be appointed by the City Council to preside over code enforcement hearings in the same capacity as the Code Enforcement Board and shall have the same status as an Enforcement Board, pursuant to Florida Statute Chapter 162. The Special Magistrate shall be an attorney-at-law admitted to practice law in the State, a member in good standing of the Florida Bar, shall possess outstanding reputations for civic pride, interest, integrity, responsibility, and business or professional ability, and have significant knowledge of the City's Code enforcement matters and City Code.

e. The City Attorney or Assistant City Attorney shall either be counsel to the Code Enforcement Board or Special Magistrate or shall represent the City by presenting cases before the Code Enforcement Board or Special Magistrate. However, in no case shall the attorney serve in both capacities.

(1957 Code § 6-112; Ord. No. 80-43 § 5, 9-16-80; Ord. No. 82-21 §§ 1, 2, 7-6-82; Ord. No. 91-2 § 2, 2-5-91; Ord. No. 2000-4 § 2, 5-2-00; Ord. No. 2010-9 § 2, 5-4-10)

**Section 3.** Section 14-8.14 of the Code of Ordinances of the City of North Miami Beach, entitled "Enforcement Procedures" is hereby amended as follows:

**14-8.14 Enforcement Procedures.**

a. It shall be the duty of the Code Inspector to initiate enforcement proceedings of the various codes. No member of the Board or Special Magistrate shall have the power to initiate such enforcement proceedings.

b. Except as provided in paragraph c, if a violation of any code is found, the Code Inspector shall notify the violator and give him reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the Code Inspector shall request a hearing pursuant to the procedure in the following section. Written notice shall be mailed or hand-delivered to said violator as provided herein. Notice may also be served by publication or posting.

c. If the Code Inspector has reason to believe a violation or condition causing the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible in nature, the Code Inspector may proceed directly to the procedure set forth in subsection 14-48.15.

d. If the owner of property which is subject to a Code Enforcement proceeding changes ownership of the property between the time when the initial notice was served and the time of the hearing, the owner shall:

1. Disclose in writing the violation to the prospective transferee.

2. Deliver a copy of the violation to the prospective transferee.

3. Disclose in writing that the new owner will be responsible for compliance.

4. File a notice with the City's Department of Code Compliance and send a copy to the new owner stating the identity and address of the new owner within five (5) days after the date of transfer.

(a) Failure to make the disclosures before the transfer creates a rebuttable presumption of fraud.

(b) If the property is transferred before the hearing, the case shall not be dismissed, but the new owner shall be given a reasonable time to correct the violation before the hearing. (1957 Code § 6-113; Ord. No. 80-43 § 6, 9-16-80; Ord. No. 2000-4 § 2, 5-2-00; Ord. No. 2010-9 §3, 5-4-10)

**Section 4.** Section 14-8.15 of the Code of Ordinances of the City of North Miami Beach, entitled "Enforcement Procedures" is hereby amended as follows:

**14-8.15 Conduct of Hearing.**

a. The Chairman of the Board or Special Magistrate may call hearings. Hearings may also be called by written notice signed by at least three (3) members of the Board or by a Special Magistrate. The Board or Special Magistrate, at any hearing, may set a future hearing date. The Board or Special Magistrate shall hold hearings as necessary. Minutes shall be kept of all hearings and all hearings shall be open to the public. The City Council shall provide clerical and administrative personnel as may be reasonably required for the proper performance of the Board's and Special Magistrate's duties.

b. Each case before the Board or Special Magistrate shall be presented by the ~~Code Compliance~~ City Manager or his/her authorized designee.

c. The Board or Special Magistrate shall proceed to hear the cases on the agenda for that day. The Board or Special Magistrate shall take testimony from the Code Inspector and alleged violator. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings.

d. At the conclusion of the hearing, the Board or Special Magistrate shall issue findings of fact based on evidence and conclusion of law and shall issue an order affording the proper relief consistent with powers granted herein. The findings of the Board shall be by motion approved by a majority of those present and voting, except that at least four (4) members of the Board must vote for the action to be official.

e. The City Attorney or his/her authorized designee shall serve as counsel and advisor to the Code Enforcement Board and Special Magistrate. If the City prevails at the hearing before the Code Enforcement Board and Special Magistrate, it shall be entitled to recover all costs incurred in presenting the case before the Board or Special Magistrate and such costs may be included in the lien. (1957 Code § 6-114; Ord. No. 80-43 § 7, 9-16-80; Ord.

No. 80-67 § 2, 1-6-81; Ord. No. 82-21 § 3, 7-6-82; Ord. No. 2000-4 6-114, 5-2-00; Ord. No. 2010-9 § 4, 5-4-10)

**Section 5.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 6.** If any section, subsection, clause or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

**Section 7.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word “Ordinance” may be changed to “Section”, “Article” or other appropriate word as the codifier may deem fit.

**APPROVED BY TITLE ONLY** on first reading this \_\_\_ day of \_\_\_\_\_, 2012.

**APPROVED AND ADOPTED** on second reading this \_\_\_ day of \_\_\_\_\_, 2012.

**ATTEST:**

\_\_\_\_\_  
**PAMELA L. LATIMORE**  
**CITY CLERK**  
**(CITY SEAL)**

\_\_\_\_\_  
**GEORGE VALLEJO**  
**MAYOR**

**APPROVED AS TO FORM**

\_\_\_\_\_  
**DARCEE S. SIEGEL**  
**CITY ATTORNEY**

**Sponsored by: Mayor and City Council**



City of North Miami Beach  
17011 NE 19 Avenue  
North Miami Beach, FL 33162  
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## MEMORANDUM

 Print

---

**TO:** Mayor and City Council  
**FROM:** Darcee S. Siegel, City Attorney  
**DATE:** Tuesday, October 2, 2012

---

**RE:** Ordinance No. 2012-28 - First Reading by Title Only (City Attorney Darcee S. Siegel)

---

**BACKGROUND:** The City of North Miami Beach's Planning & Zoning Board was created pursuant to City Charter. The Mayor and City Council have determined that establishing criteria/qualifications of Board members would allow the Board to acquire the expertise needed to serve on this Board. While the City's Planning & Zoning Board consists of seven (7) residents appointed by the Mayor and City Council collectively, the Mayor and City Council believe that each Councilperson should have his/her own appointment to the Board to better represent all the City's residents. Since the Planning & Zoning Board Ordinance contains antiquated language and has not been amended for many years, the Mayor and City Council believe that updating the language to be consistent with State statutes and modern technology is warranted. The Mayor and City Council believe that the proposed changes to this Ordinance will provide for a more efficient and knowledgeable Board that will serve in a better manner, and will be in the best interest of all the citizens of the City of North Miami Beach.

**RECOMMENDATION:** Approval.  
**FISCAL IMPACT:**  
**CONTACT PERSON(S):** Darcee S. Siegel, City Attorney

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**ATTACHMENTS:**  
 [Ordinance No. 2012-28](#)

**ORDINANCE NO. 2012-28**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL AMENDING CHAPTER II OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "STRUCTURE OF CITY GOVERNMENT" AND AMENDING SECTION 2-67 ENTITLED "PLANNING AND ZONING BOARD", BY ESTABLISHING A NEW PLANNING AND ZONING BOARD; BY CREATING QUALIFICATIONS OF MEMBERS; REQUIRING FINANCIAL DISCLOSURE OF BOARD MEMBERS; BY PROVIDING FOR EACH COUNCILMEMBER TO APPOINT A MEMBER TO THE BOARD; BY DELETING THE COMPENSATION PROVISION; BY CHANGING THE TIME AND FREQUENCY OF THE BOARD MEETINGS; BY PROVIDING FOR POSTING OF NOTICE OF MEETINGS ON THE CITY'S WEBSITE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of North Miami Beach's Planning and Zoning Board was created pursuant to City Charter; and

**WHEREAS**, the Mayor and City Council have determined that establishing criteria/qualifications of Board members would allow the Board to acquire the expertise needed to serve on this Board; and

**WHEREAS**, while the City of North Miami Beach's Planning and Zoning Board consists of seven (7) residents appointed by the Mayor and City Council collectively, the Mayor and City Council believe that each Councilperson should have his/her own appointment to the Board to better represent all the City's residents; and

**WHEREAS**, since the Planning and Zoning Board Ordinance contains antiquated language and has not been amended for many years, the Mayor and City Council believe that

updating the language to be consistent with State statutes and modern technology is warranted; and

**WHEREAS**, the Mayor and City Council believe that the proposed changes to this Ordinance will provide for a more efficient and knowledgeable Board that will serve in a better manner, and will be in the best interest of all the citizens of the City of North Miami Beach.

**NOW, THEREFORE,**

**BE IT ORDAINED** by the City Council of the City of North Miami Beach, Florida.

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** Section 2-67.2 of the Code of Ordinances of the City of North Miami Beach entitled "First Board" is hereby amended as follows:

**2-67.2 First Board.**

Effective November 15, 2012, the first Planning and Zoning Board appointed hereunder shall be effected at the first meeting of the City Council immediately following May 1, 1958, shall consist of newly-appointed members in accordance with the intent of the City Council and the City Charter Board and the ruling by the Attorney for the Charter Board, the intent and ruling now being on file with the City Clerk. All board members shall be newly appointed at the City Council meeting on November 6, 2012. (1957 Code § 2-72; Ord. No. 843 §§ 2-4, 12, 5-6-58; Ord. No. 60-22 § 1, 7-19-60; Ord. No. 79-20 § 2, 9-4-79)

**Section 3.** Section 2-67.3 of the Code of Ordinances of the City of North Miami Beach entitled "Membership. Qualification of Members and Financial Disclosure" is hereby amended as follows:

**2-67.3 Membership. Qualification of Members and Financial Disclosure.**

Every member appointed to the Planning & Zoning Board shall be a qualified elector residing within the City of North Miami Beach and not an employee of the County or City. No person holding an elective office of the City shall be eligible for appointment to the Planning and Zoning Board at least one (1) year following termination of his/her elective office.

Members of the Board shall be subject to the provisions of Florida Statutes §286.012, relating to voting at meetings of the Board, and to the provision of Florida Statutes §112.311-112.3175, inclusive, relating to financial disclosure and



conflicts of interest, and to the provisions of Florida Statutes §112.501, relating to suspension and removal from office.

Members of the Planning and Zoning Board shall have a license in engineering or contracting, or have equivalent professional experience in the area(s) of city planning, land use planning, transportation planning, urban planning, community development, real estate, mixed-use development, statistics, public economics, construction management, general contracting, architecture, or a law degree.

Each of the seven (7) councilpersons shall appoint one (1) member to the Planning and Zoning Board. Each member of the Planning and Zoning Board shall sit as one particular councilperson's appointee and shall be designated as sitting in that councilperson's seat number.

The Planning and Zoning Board members shall be appointed for terms of two (2) years. Four (4) members, who represent seats 1, 3, 5 and 7, shall be appointed in every odd-numbered year to serve from ~~June 1~~ November 15 of that year, and three (3) members, who represent seats 2, 4 and 6, shall be appointed in every even-numbered year to serve from ~~June 1~~ November 15 of that year. For the new first board only, members appointed representing seats 1, 3, 5, and 7 shall be appointed for a term of three years. The Appointments to fill vacancies shall be for the unexpired term only. Vacancies shall be filled by the councilperson's seat that made the appointment. (1957 Code § 2-72; Ord. No. 843 §§ 2-4, 12, 5-6-58; Ord. No. 60-22 § 1, 7-19-60; Ord. No. 79-20 § 2, 9-4-79)

**Section 4.** Section 2-67.4 of the Code of Ordinances of the City of North Miami Beach entitled "Compensation" is hereby deleted as follows:

**~~2-67.4 Compensation.~~**

~~—The members of the Planning and Zoning Board shall receive as compensation for their expenses the sum of ten (\$10.00) dollars per month per member, except that the chairman of the Board shall receive as compensation for his expenses an additional forty (\$40.00) dollars per month. (Ord. No. 843 §§ 2-4, 12, 5-6-58; Ord. No. 60-72 § 1, 7-19-60; Ord. No. 79-20 § 2, 9-4-79)~~

~~**Charter reference**—For provisions relating to Planning and Zoning and to Planning and Zoning Board see Charter §§ 101—107.~~

~~**Cross reference**—For provisions relating to Zoning, generally, see Chapter XXIV.~~

**Section 5.** Section 2-67.~~54~~ of the Code of Ordinances of the City of North Miami Beach entitled "Meetings" is hereby amended as follows:

**2-67.54 Meetings.**

The regular meeting of the Planning and Zoning Board shall be at ~~7:30~~ 6:00 p.m. on the second ~~and fourth~~ Mondays of each month, at City Hall. (1957 Code

§ 2-73; Ord. No. 843 §§ 5-10, 13, 5-6-58; Ord. No. 862 §§ 1, 2, 5-27-58; Res. No. R61-69, 8-1-61; Res. No. R76 § 1, 9-7-61; Ord. No. 73-10 § 1, 6-19-73; Ord. No. 73-14 § 1, 9-4-73; Res. No. R77-13 § 1, 2-1-77).

**Section 6.** Section ~~2-67.76~~ of the Code of Ordinances of the City of North Miami Beach entitled "Failure to Attend Meetings" is hereby amended as follows:

**2-67.76 Failure to Attend Meetings.**

If any member fails to attend ~~more than four (4)~~ two (2) of three (3) consecutive regular or special meetings, without due cause and without prior approval of the Chairperson, ~~his~~ that member's seat shall be automatically vacated and thereupon the City Council person whose seat corresponds to the appointment shall appoint a new member ~~in his stead~~ to that seat for the remainder of ~~his~~ that member's term of appointment. (1957 Code § 2-73; Ord. No. 843 §§ 5-10, 13, 5-6-58; Ord. No. 862 §§ 1, 2, 5-27-58; Res. No. R61-69, 8-1-61; Res. No. R76 § 1, 9-7-61; Ord. No. 73-10 § 1, 6-19-73; Ord. No. 73-14 § 1, 9-4-73; Res. No. R77-13 § 1, 2-1-77)

**Section 7.** Section ~~2-67.98~~ of the Code of Ordinances of the City of North Miami Beach entitled "Chairman; Call for Special Meetings" is hereby amended as follows:

**2-67.98 Chair~~man~~person; Call for Special Meetings.**

A ~~chairman~~ person of the Board shall be elected annually ~~on~~ during the ~~second Tuesday~~ meeting of each ~~May~~ December of each year by a majority of the members. He/she shall serve as permanent ~~chairman~~ person for one (1) year. In his/her absence, a vice-~~chairman~~ person may be named for the meeting by a majority of the members present. The ~~chairman~~ person, or ~~his~~ designated representative, shall attend all regular and special meetings of the City Council. A special meeting of the Board may be called by not less than five (5) members of the Board. The call shall be in writing and a copy shall be furnished to each member of the Board not less than three (3) days prior to the date of the special meeting. (1957 Code § 2-73; Ord. No. 843 §§ 5-10, 13, 5-6-58; Ord. No. 862 §§ 1, 2, 5-27-58; Res. No. R61-69, 8-1-61; Res. No. R76 § 1, 9-7-61; Ord. No. 73-10 § 1, 6-19-73; Ord. No. 73-14 § 1, 9-4-73; Res. No. R77-13 § 1, 2-1-77)

**Section 8.** Section ~~2-67.109~~ of the Code of Ordinances of the City of North Miami Beach entitled "Special Meeting" is hereby amended as follows:

**2-67.109 Special Meeting.**

A special meeting of the Board may be called in writing. The purpose or purposes of the special meeting shall be clearly stated in the notice and no matters may be considered at the special meeting other than those stated in the notice. The

notice of the special meeting shall be posted on the bulletin board of the City Hall and on the City's website for not less than three (3) days prior to the date of the meeting. An agenda of the special meeting shall be prepared ~~and published~~ not less than three (3) days prior to the special meeting and copy thereof shall be posted on the bulletin board and on the City's website, together with the notice of the special meeting. (1957 Code § 2-73; Ord. No. 843 §§ 5-10, 13, 5-6-58; Ord. No. 862 §§ 1, 2, 5-27-58; Res. No. R61-69, 8-1-61; Res. No. R76 § 1, 9-7-61; Ord. No. 73-10 § 1, 6-19-73; Ord. No. 73-14 § 1, 9-4-73; Res. No. R77-13 § 1, 2-1-77)

**Section 9.** Section ~~2-67.4211~~ of the Code of Ordinances of the City of North Miami Beach entitled "Secretary Authorized; Certified Copies of Minutes to be Furnished Councilmembers by Secretary " is hereby amended as follows:

**2-67.4211 Secretary Authorized; Certified Copies of Minutes to be Furnished Councilmembers by Secretary.**

a. A permanent secretary shall be assigned by the City Manager. The secretary shall receive such compensation for his/her expenses and services as the City Council may direct. The secretary shall be responsible for and shall keep permanent minutes and records of all meetings of the Board. The secretary shall file the minutes and records in the office of the City Clerk.

~~b. Certified copies of the minutes of all meetings of the Planning and Zoning Board, be they regular or special, shall be furnished to each City Councilmember by the permanent secretary of the Planning and Zoning Board. Delivery of sufficient certified copies of the minutes to the City Clerk shall be sufficient to meet these requirements.~~

(1957 Code § 2-74; Ord. No. 843 §§ 11, 15, 5-6-58)

**Section 10.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 11.** If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

**Section 12.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

**APPROVED BY TITLE ONLY** on first reading this \_\_\_ day of \_\_\_\_\_, 2012.

**APPROVED AND ADOPTED** on second reading this \_\_\_ day of \_\_\_\_\_, 2012.

**ATTEST:**

\_\_\_\_\_  
**PAMELA L. LATIMORE**  
**CITY CLERK**  
**(CITY SEAL)**

\_\_\_\_\_  
**GEORGE VALLEJO**  
**MAYOR**

**APPROVED AS TO FORM**

\_\_\_\_\_  
**DARCEE S. SIEGEL**  
**CITY ATTORNEY**

**Sponsored by: Mayor and City Council**



City of North Miami Beach  
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## MEMORANDUM

 [Print](#)

---

**TO:** Mayor and City Council  
**FROM:** Darcee S. Siegel, City Attorney  
**DATE:** Tuesday, October 2, 2012

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**RE:** Ordinance No. 2012-29 - First Reading by Title Only (City Attorney Darcee S. Siegel)

---

**BACKGROUND:** The City of North Miami Beach's Public Utilities Commission was created pursuant to City Charter. While the City's Public Utilities Commission consists of seven (7) residents appointed by the Mayor and City Council collectively, the Mayor and City Council believe that each Councilperson should have his/her own appointment to the Commission to better represent all the City's residents. The Mayor and City Council believe that the changes of this Ordinance will provide for a more efficient and knowledgeable Commission that will serve in a better manner, and will be in the best interest of all the citizens of North Miami Beach.

**RECOMMENDATION:** Approval.

**FISCAL IMPACT:**

**CONTACT PERSON(S):** Darcee S. Siegel, City Attorney

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**ATTACHMENTS:**

[Ordinance No. 2012-29](#)

**ORDINANCE NO. 2012-29**

**AN ORDINANCE AMENDING CHAPTER II OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "STRUCTURE OF GOVERNMENT" AND AMENDING SECTION 2-55 ENTITLED "PUBLIC UTILITIES COMMISSION" BY ESTABLISHING A NEW PUBLIC UTILITIES COMMISSION; BY PROVIDING FOR EACH COUNCIL MEMBER TO APPOINT A MEMBER TO THE COMMISSION; BY REQUIRING FINANCIAL DISCLOSURE OF COMMISSION MEMBERS; BY DEFINING A QUORUM OF THE COMMISSION; BY DESIGNATING THE CLERK OR HIS/HER DESIGNEE AS THE COMMISSION'S SECRETARY; AND BY CREATING A NEW SUB-SECTION ENTITLED "QUALIFICATION OF MEMBERS"; 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.**

**WHEREAS**, the City of North Miami Beach's Public Utilities Commission was created pursuant to City Charter; and

**WHEREAS**, the Mayor and City Council have determined that establishing criteria/qualifications for Public Utilities Commission members would allow the Commission to acquire the expertise needed to serve on this Commission; and

**WHEREAS**, while the City of North Miami Beach's Public Utilities Commission consists of seven (7) residents appointed by the Mayor and City Council collectively, the Mayor and City Council believe that each Councilperson should have his/her own appointment to the Commission to better represent all the City's residents; and

WHEREAS, the Mayor and City Council believe that the changes to this Ordinance will provide for a more efficient and knowledgeable Commission that will serve in a better manner, and will be in the best interest of all the citizens of North Miami Beach.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** Section 2-55.1 of the Code of Ordinances of the City of North Miami Beach entitled "Creation" is hereby amended as follows:

**2-55.1 Creation; First Board.**

There is hereby created, and shall be in and for the City, a Public Utilities Commission. Effective November 15, 2012, the Public Utilities Commission shall consist of newly-appointed members, in accordance with the intent of the City Council and the City Charter. All board members shall be newly appointed at the City Council meeting on November 6, 2012. (1957 Code § 2-121; Ord. No. 74-13 § 1, 10-1-74)

**Section 3.** Section 2-55.2 of the Code of Ordinances of the City of North Miami Beach entitled "Membership; Vacancies, Chairperson" is hereby amended as follows:

**2-55.2 Membership; Vacancies, Chairperson; Quorum.**

The Public Utilities Commission shall be composed of seven (7) members appointed by the City Council, which members shall serve terms of two (2) years. Each of the seven (7) Councilpersons shall appoint one (1) member to the Public Utilities Commission. Each member of the Public Utilities Commission shall sit as one particular Councilperson's appointee and shall be designated as sitting in that Councilperson's seat number. In every ~~even~~ odd-numbered year, four (4) members, who represent Seats 1, 3, 5 and 7, shall be appointed to serve terms of two (2) years each, which terms shall commence on ~~June 1~~ November 15 of that year; and, three (3) members, who represent Seats 2, 4, and 6, shall be appointed in every ~~odd~~ even-numbered year, each to serve a term of two (2) years from ~~June 1~~ November 15 of that year. For the first new board only, members appointed

representing seats 1, 3, 5, and 7 shall be appointed for a term of three years.

Should a vacancy occur for ~~any reason~~, illness, removal or ~~otherwise any other reason~~, then, and in that event, the vacancy so created shall be filled for the remainder of the unexpired term by the ~~City Council~~ Councilperson's seat that made the appointment.

All appointments shall continue until the successors have ~~qualified~~ been appointed. Each person appointed to the Commission shall be a bona fide resident of the City, but no person holding an elective office of the City shall be eligible to appointment until at least one (1) year following termination of his/her last elective office. Any member may be appointed to succeed himself and may be removed and disqualified for cause at any time, as set forth by the terms of the Charter amendment for appointed members, by the affirmative vote of five (5) members of the City Council, after being given an opportunity to be openly heard on the charges against him, and any member shall also be subject to recall and removal upon petition of the qualified voters in the same manner provided for the recall and removal of an elective officer of the City. Members of the Commission shall be subject to the provisions of Florida Statutes §286.012, relating to voting at meetings of the Commission, and to the provision of Florida Statutes §112.311-112.3175, inclusive, relating to financial disclosure and conflicts of interest, and to the provisions of Florida Statutes §112.501, relating to suspension and removal from office. The members of the Commission shall receive such compensation as may be fixed from time to time by the City Council, and all such compensation shall be paid monthly as an operating expense of the ~~Works and Sewer Systems~~ City's Public Services Department; provided, however, that no member of the Commission may be employed as a manager, engineer, attorney, or other operating officer of the ~~Works and Sewer System~~ City's Public Services Department. The members of the Commission shall designate one (1) of their ~~number~~ members to serve as ~~Chairman~~ person for a period of one (1) year, and shall thereafter annually designate one (1) of their ~~number~~ members to serve as ~~Chairman~~ person for one (1) year. The presence of four (4) or more members shall constitute a quorum. (1957 Code § 2-122; Ord. No. 74-13 § 1, 10-1-74; Ord. No. 79-20 § 2, 9-4-79)



**Section 4.** Section 2-55.3 of the Code of Ordinances of the City of North Miami Beach entitled "Appointment of Members" is hereby amended as follows:

**2-55.3 Appointment of Members.**

~~Upon the expiration of the term of any appointee to the Public Utilities Commission, the City Council shall appoint a successor. The appointment of members to the Public Utilities Commission shall be in accordance with Section 2-55.2. Any member may be appointed by the City Council to succeed himself. In the event of a vacancy for any cause at any time, it shall be filled for the unexpired term in the same manner as set out herein. All appointments shall continue until the successors have qualified been appointed. No person holding an elective office of the City shall be eligible for appointment until at least one (1) year following the termination of his last elective office. (1957 Code § 2-123; Ord. No. 74-13 § 1, 10-1-74)~~

**Section 5.** Section 2-55.4 of the Code of Ordinances of the City of North Miami Beach entitled "Secretary; Duties" is hereby amended as follows:

**2-55.4 Secretary; Duties.**

~~The Public Utilities Commission shall designate one (1) of its members as secretary, who The City Clerk or his/her designee shall perform the functions and duties customarily performed by a secretary, as defined in Robert's Rules of Order. In addition, the secretary shall have the duty of ~~countersigning all checks for disbursements made by the Public Services Department. If the secretary fails, or is unable to sign, the Director of Finance shall sign. The secretary shall also check and approve all monthly budget reports prepared by the chief accountant and shall perform such other duties as may be assigned to him by the Public Utilities Commission, the City Manager, or the existing or future bond ordinances transcribing and storing all minutes, agenda and documents for the Public Utilities Commission.~~ (1957 Code § 2-124; Ord. No. 74-13 § 1, 10-1-74)~~

**Section 6.** Section 2-55.6 of the Code of Ordinances of the City of North Miami Beach entitled "Limitation on Powers" is hereby amended as follows:

**2-55.6 Limitation on Powers.**

The Public Utilities Commission shall at all times perform its duties with regard to the water and sewer systems consistent and in accordance with the ordinances adopted by the City Council, ~~from time to time, specifying the powers and duties of the Public Utilities Commission.~~ The Public Utilities Commission shall also review and approve all monthly budget reports prepared by the Public Services Department and/or the City's Finance Department. (1957 Code § 2-126; Ord. No. 74-13 § 1, 10-1-74)

**Section 7.** Section 2-55.7 of the Code of Ordinances of the City of North Miami Beach entitled "Qualification of Members; Financial Disclosure; Suspension and Removal from Office" is hereby created as follows:

**2-55.7 Qualification of Members; Financial Disclosure; Suspension and Removal from Office.**

Every member appointed to the Public Utilities Commission shall be a resident within the City of North Miami Beach, and not an employee of the County, the City, or in an area serviced by the City's water service.

Members of the Commission shall be subject to the provisions of Florida Statutes §286.012, relating to voting at meetings of the Commission, and to the provision of Florida Statutes §§112.311-112.3175, inclusive, relating to financial disclosure and conflicts of interest, and to the provisions of Florida Statutes §112.501, relating to suspension and removal from office.

Members of the Public Utilities Commission shall have a professional degree or equivalent professional experience in the area(s) of public economics, public finance, public infrastructure, taxation, asset management, city planning, civil engineering, electrical engineering, architectural engineering, agricultural engineering, mechanical engineering, ocean engineering, energy engineering, any management position, any supervisory position, any board experience or any other related field associated with the above.

**Section 8.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 9.** If any section, subsection, clause or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

**Section 10.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word “Ordinance” may be changed to “Section”, “Article” or other appropriate word as the codifier may deem fit.

**APPROVED BY TITLE ONLY** on first reading this \_\_\_ day of \_\_\_\_\_, 2012.

**APPROVED AND ADOPTED** on second reading this \_\_\_ day of \_\_\_\_\_, 2012.

**ATTEST:**

\_\_\_\_\_  
**PAMELA L. LATIMORE**  
**CITY CLERK**  
**(CITY SEAL)**

\_\_\_\_\_  
**GEORGE VALLEJO**  
**MAYOR**

**APPROVED AS TO FORM**

\_\_\_\_\_  
**DARCEE S. SIEGEL**  
**CITY ATTORNEY**

**Sponsored by: Mayor and City Council**



City of North Miami Beach  
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## MEMORANDUM

 **Print**

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**TO:** Mayor and City Council  
**FROM:** Darcee S. Siegel, City Attorney  
**DATE:** Tuesday, October 2, 2012

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**RE:** Ordinance No. 2012-30 - First Reading by Title Only (City Attorney Darcee S. Siegel)

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**BACKGROUND:** Occasions have arisen when City Council meetings must be rescheduled due to a quorum not being available. Usually, the rescheduling of a Council Meeting is discussed and voted upon at a public meeting, giving everyone plenty of notice of the new meeting date. While such practice has existed for many years, no such procedure has been clearly stated within the Code of Ordinances. Even though the City Council follows Robert's Rules of Order, when it comes to the voting order of roll call votes, requiring the Council to vote in the same order consistently has resulted in unintended consequences. In order to correct such actions, the Mayor and City Council believe that rotating the voting order will be a more fair manner in which to conduct the City's business at its meetings.

**RECOMMENDATION:** Approval.

**FISCAL IMPACT:**

**CONTACT PERSON(S):** Darcee S. Siegel, City Attorney

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**ATTACHMENTS:**

[Ordinance No. 2012-30](#)

**ORDINANCE NO. 2012-30**

**AN ORDINANCE AMENDING CHAPTER II OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "STRUCTURE OF CITY GOVERNMENT"; MODIFYING SECTION 2-1 ENTITLED "CITY COUNCIL" BY AMENDING RESCHEDULED MEETINGS (2-1.1b) AND BY CREATING A VOTING ORDER FOR ALL VOTES TAKEN BY THE MAYOR AND CITY COUNCIL (2.1.1c); 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.**

**WHEREAS**, occasions have arisen when City Council meetings must be rescheduled due to a quorum not being available; and

**WHEREAS**, usually the rescheduling of a Council Meeting is discussed and voted upon at a public meeting, giving everyone plenty of notice of the new meeting date; and

**WHEREAS**, while such a practice has existed for many years, no such procedure has been clearly stated within the Code of Ordinances; and

**WHEREAS**, even though the City Council follows Robert's Rules of Order, when it comes to the voting order of roll call votes, requiring the Council to vote in the same order consistently has resulted in unintended consequences; and

**WHEREAS**, in order to correct such actions, the Mayor and City Council believe that rotating the voting order will be a more fair manner in which to conduct the City's business at its meetings.

**NOW, THEREFORE,**

**BE IT ORDAINED** by the City Council of the City of North Miami Beach, Florida.

**ORDINANCE NO. 2012-30**

**Section 1.** The foregoing recitals are true and correct.

**Section 2.** Chapter 11, Section 2-1.1 entitled "Meetings of the City Council" of the Code of Ordinances of the City of North Miami Beach is hereby amended as follows:

Section 2-1.1 Meetings of the City Council

b. *Rescheduled Meetings. Notice to Councilmembers and the Public.* Whenever the Mayor is informed in writing or at a public meeting by a sufficient number of Councilmembers that the Councilmembers will not be present at a scheduled Council meeting so that their absence will result in less than an official quorum being present, the Mayor may reschedule the regular meeting by giving ~~written~~ notice to all Councilmembers ~~at their places of residence~~ at least forty-eight (48) hours prior to the rescheduled meeting that the scheduled meeting has been reset to a particular date and time. In addition, notice shall be given to the public of the rescheduled meeting at least forty-eight (48) hours prior to the rescheduled meeting. Any agenda prepared for the regularly scheduled meeting shall automatically become the agenda for the rescheduled meeting. (1957 Code §2-24; Ord. No. 80-8 §2,3-4-80)

c. *Voting Order.* All votes taken by the Mayor and City Council shall be conducted on an alphabetical basis and the voting order shall be rotated at each subsequent meeting. The Mayor shall always cast his/her vote last on any vote taken at a meeting.

**Section 3.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 4.** If any section, subsection, clause or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

**Section 5.** It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

**APPROVED BY TITLE ONLY** on first reading this \_\_\_ day of \_\_\_\_\_, 2012.

**APPROVED AND ADOPTED** on second reading this \_\_\_ day of \_\_\_\_\_, 2012.

ATTEST:

\_\_\_\_\_  
PAMELA L. LATIMORE  
CITY CLERK  
(CITY SEAL)

\_\_\_\_\_  
GEORGE VALLEJO  
MAYOR

APPROVED AS TO FORM

\_\_\_\_\_  
DARCEE S. SIEGEL  
CITY ATTORNEY

Sponsored by: Mayor and City Council