



## CITY OF NORTH MIAMI BEACH

City Council Meeting  
Council Chambers, 2nd Floor  
City Hall, 17011 NE 19 Avenue  
North Miami Beach, FL 33162  
**Tuesday, December 18, 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 Ronald N. Fox
3. **PLEDGE OF ALLEGIANCE**
4. **REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA**
5. **PRESENTATIONS /DISCUSSIONS**
  - 5.1 **Award Presentation by the Florida League of Cities**
  - 5.2 **Proclamation Presentation to the Valente Brothers (Mayor George Vallejo)**
  - 5.3 **Special Recognition for Assistant City Attorney/Circuit Court Judge Elect Maria J. Santovenia (City Attorney Darcee S. Siegel)**

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**

### **7.1 Redevelopment Advisory Board - Councilwoman Phyllis S. Smith**

Brent D. Carraway

### **7.2 Charter Review Committee - Councilman Philippe Derose**

Bruce Lamberto

### **7.3 Swearing In of Assistant City Attorney Dotie Joseph (City Attorney Darcee S. Siegel)**

## **8. CONSENT AGENDA**

### **8.1 July 17, 2012 Regular Meeting Minutes (City Clerk Pamela L. Latimore)**

### **8.2 August 7, 2012 Regular Meeting Minutes (City Clerk Pamela L. Latimore)**

### **8.3 Resolution No. R2012-94 (Director of Leisure Services Paulette Murphy)**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING AN ANNUAL PLAN OF SERVICE FOR THE LIBRARY AND FORWARDING THE PLAN TO THE FLORIDA DEPARTMENT OF STATE, DIVISION OF LIBRARY AND INFORMATION SERVICES.

## **9. CITY MANAGER'S REPORT**

## **10. CITY ATTORNEY'S REPORT**

### **10.1 Litigation List**

## **11. MAYOR'S DISCUSSION**

## **12. MISCELLANEOUS ITEMS**

### **12.1 2013 City Council Meeting Dates (City Clerk Pamela L. Latimore)**

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

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

## **15. DISCUSSION ITEMS - *None***

## **16. LEGISLATION**

**16.1 Ordinance No. 2012-34 - First Reading by Title Only (City Planner Christopher Heid)**

AN ORDINANCE AMENDING SECTION 24-22 AND ARTICLE VIII OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA CREATING STANDARDS FOR EXTERIOR PAINT COLORS FOR COMMERCIAL ZONING DISTRICTS (B-1, B-2, B-3, B-4, B-5, AND FCC) BY ADDING DEFINITIONS FOR LIGHT REFLECTANCE VALUE, PAINT BASE, AND PAINT TRIM; CREATING SECTION 24-79 PAINT COLORS UNDER ARTICLE VIII, SUPPLEMENTAL REGULATIONS; 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.

**16.2 Ordinance No. 2012-35 - 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 2-44, ENTITLED "CHARTER REVIEW BOARD" BY CHANGING THE NAME OF THE BOARD, THE TERMS OF THE APPOINTMENT, AND THE COMPOSITION OF THE BOARD TO BE CONSISTENT WITH THE CITY'S CHARTER SECTIONS 119-121; 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. 2012-36 - First Reading by Title Only (City Attorney Darcee S. Siegel)**

AN ORDINANCE AMENDING CHAPTER XXIV OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "ZONING AND LAND DEVELOPMENT CODE" BY AMENDING SECTION 24-147.2, ENTITLED "TEMPORARY SIGNS ALLOWED"; 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. 2012-37- First Reading by Title Only (City Attorney Darcee S. Siegel)**

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING ORDINANCE NO. 2002-30, WHICH ESTABLISHED THE RETIREMENT PLAN AND TRUST FOR THE GENERAL MANAGEMENT EMPLOYEES OF THE CITY, ADMINISTERED BY THE FLORIDA LEAGUE OF CITIES; BY AMENDING SECTION 6 CONCERNING AMENDMENTS TO THE PLAN AND TRUST; PROVIDING FOR SEVERABILITY, PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR THE CODIFICATION OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

**17. CITY COUNCIL REPORTS**

**18. NEXT REGULAR CITY COUNCIL MEETING - Wednesday, January 2, 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, December 18, 2012

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**RE:** Redevelopment Advisory Board - Councilwoman Phyllis S. Smith

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

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**ATTACHMENTS:**

 [Application - Brent D. Carraway](#)



# City of North Miami Beach, Florida

## APPLICATION FOR MUNICIPAL APPOINTMENT TO A BOARD, COMMITTEE, COMMISSION

RECEIVED  
12 DEC -5 PM 12:19  
CMB CITY CLERK'S OFFICE

CHAPTER 2, SECTION 2-32.1 OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH PROVIDES "RESIDENCY REQUIREMENT: MEMBERS OF ALL BOARDS, COMMITTEES AND COMMISSIONS SHALL BE RESIDENTS OF THE CITY OF NORTH MIAMI BEACH, EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED. SHOULD ANY BOARD, COMMITTEE OR COMMISSION MEMBER MOVE OUTSIDE THE CITY LIMITS DURING THE TERM OF HIS/HER APPOINTMENT, HE/SHE SHALL AUTOMATICALLY BE REMOVED FROM THE POSITION HE/SHE HOLDS." MEMBERS ARE ALSO SUBJECT TO CHAPTER 2, SECTION 2-32.4.

I HEREBY FILE AN APPLICATION FOR APPOINTMENT TO THE FOLLOWING BOARD, COMMISSION OR COMMITTEE:

Redevelopment Advisory Board

(PLEASE PRINT CLEARLY)

1. NAME: Carraway, Brent D
2. HOME ADDRESS: 1530 NE 159 St.  
CITY: N. Miami Beach STATE: FL ZIP: 33162
3. BUSINESS NAME: MMA Fit  
BUSINESS ADDRESS: 1544 NE 165 St  
CITY: N. Miami Beach STATE: FL ZIP: 33162
4. HOME PHONE: N/A BUSINESS PHONE: 786-252-8598  
CELL PHONE: 786-252-8598 FAX: N/A  
EMAIL ADDRESS: brentcarraway@gmail.com
5. DO YOU RESIDE IN NORTH MIAMI BEACH DURING ALL TWELVE MONTHS OF THE YEAR?  
YES:  NO:
6. HAVE YOU EVER BEEN CONVICTED OF A FELONY? YES:  NO:
7. HIGHEST LEVEL OF EDUCATION: (Youth Advisory Board Applicants: Please indicate current grade level as well as the name and telephone number of the school you are currently attending.)  
High School with some College

8. ARE YOU RELATED TO A CITY EMPLOYEE? YES \_\_\_\_\_ NO ✓  
(If yes, please state the name of the employee and the department in which he/she works:  
\_\_\_\_\_ )

9. EMPLOYMENT HISTORY (Please include employer, position, years served):

PRESENT STATUS: MGRM MMA F.t  
2007 to 2008 Rosenhaus Sports  
2003 to 2007 South Florida Boxing  
19\_\_\_\_ to 19\_\_\_\_

10. HAVE YOU EVER SERVED ON AN ADVISORY COMMITTEE IN THE PAST? (If yes, please describe: NO)

11. IF NOT SELECTED FOR THE BOARD/COMMITTEE/COMMISSION INDICATED ABOVE, PLEASE LIST ANY ADDITIONAL BOARDS/COMMITTEE/COMMISSIONS FOR WHICH YOU WOULD LIKE YOUR APPLICATION SUBMITTED (Please rank in order of preference):

(1) Redevelopment Advisory Board (2) \_\_\_\_\_  
(3) \_\_\_\_\_ (4) \_\_\_\_\_

12. DESCRIBE YOUR PROFESSIONAL AND/OR VOLUNTEER EXPERIENCE OR BACKGROUND THAT WOULD BEST QUALIFY YOU FOR AN APPOINTMENT TO THE BOARD/COMMITTEE/COMMISSION YOU HAVE SELECTED: Business owner / Resident of N. Miami  
Beach for over 10 years

13. IF YOU ARE APPLYING FOR A BOARD/COMMITTEE/COMMISSION THAT HAS SPECIFIC REQUIREMENTS, PLEASE DETAIL HOW YOUR BACKGROUND AND/OR EXPERIENCE MEETS THE REQUIRED CRITERIA:  
\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATION**

**I CERTIFY UNDER OATH, AND PENALTY OF PERJURY, THAT ALL INFORMATION SHOWN ABOVE IS TRUE AND CORRECT. I DO UNDERSTAND THAT ANY APPOINTMENT TO A BOARD, COMMITTEE, COMMISSION OBTAINED ON A MISREPRESENTATION OF A MATERIAL FACT SHALL BE NULL AND VOID.**

APPLICATION DATE: 12/5/12 APPLICANT'S SIGNATURE: [Signature]

LIAISON: \_\_\_\_\_ APPOINTMENT DATE: \_\_\_\_\_



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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, December 18, 2012

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**RE:** July 17, 2012 Regular Meeting Minutes (City Clerk Pamela L. Latimore)

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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 July 17, 2012](#)



## CITY OF NORTH MIAMI BEACH

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

**Tuesday, July 17, 2012**

**7:30 PM**

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

City Manager Lyndon L. Bonner  
City Attorney Darcee S. Siegel  
City Clerk Pamela L. Latimore, CMC

### MEETING MINUTES

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#### 1. ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 7:43 p.m. Present at the meeting were Vice Mayor Frantz Pierre, and Council Members Philippe Derosé, Barbara Kramer, Marlen Martell, and Beth E. Spiegel. Also present were City Manager Lyndon L. Bonner, City Attorney Darcee S. Siegel and City Clerk Pamela L. Latimore. Mayor George Vallejo absent.

#### 2. INVOCATION

*Moment of Reflection* in honor of Robert Helton, son of Lori Helton, Assistant Director of Information Technology Department. Presented by Information Technology Manager Patrick Rosiak and City Manager Lyndon L. Bonner.

#### 3. PLEDGE OF ALLEGIANCE

Presentation of Colors by North Miami Beach Senior High JROTC.

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

**Withdrawal** - Item 5.2 Proclamation to North Miami Beach Senior High School Principal Raymond L. Fontana

Item 16.5 will be moved to the top of Legislation on the agenda.

#### 5. PRESENTATIONS/DISCUSSIONS

##### 5.1 Presentation of Certificate of Recognition to North Miami Beach Police Explorers

Presentation made by Councilwoman Smith. Introduction of Explorers.



5.2 Proclamation Presentation to North Miami Beach Senior High School Principal Raymond L. Fontana (**Withdrawn**)

6. **PUBLIC COMMENT**

City Clerk Latimore read the Public Comment Statement into the record.

1. Judicial Candidate Yvonne Cuesta - Candidate for County Court Judge
2. Judge Don Cohen - County Court Judge
3. Charles R. Loeb - 16800 N.E. 15<sup>th</sup> Avenue, North Miami Beach, FL
4. Bert Kehren - 3302 N.E. 171<sup>st</sup> Street, North Miami Beach, FL
5. Marilyn Baumoehl - 18635 N.E. 20<sup>th</sup> Court, North Miami Beach, FL
6. Chuck Cook - 1980 N.E. 175<sup>th</sup> Street, North Miami Beach, FL
7. Michelet Paul - 46 N.E. 172<sup>nd</sup> Street, North Miami Beach, FL
8. Margie Love 1579 N.E. 169<sup>th</sup> Street, North Miami Beach, FL
9. Actions For A Better Future Inc. - 1733 N.E. 162<sup>nd</sup> Street, North Miami Beach, FL
10. Richard Riess - 23 N.W. 169<sup>th</sup> Street, North Miami Beach, FL
11. Mubarak Kazan - 15564 NE 12<sup>th</sup> Avenue, North Miami Beach, FL
12. Daniel Pierre - 15240 NE 10 Court, North Miami Beach FL
13. Myron Rosner - 1121 N.E. 178<sup>th</sup> Terrace, North Miami Beach, FL

Public Comment Closed

7. **APPOINTMENTS** - *None*

8. **CONSENT AGENDA**

8.1 March 6, 2012 Regular Meeting Minutes (City Clerk Pamela L. Latimore)

**MOTION** by Councilman Derose, seconded by Councilwoman Smith, to approve the consent agenda. (**Passed 5-0 - Councilwoman Kramer absent from dais, Mayor Vallejo absent**)

9. **CITY MANAGER'S REPORT**

- City Manager Bonner presented a brief update to Council on the Annexation Process.
- City Manager Bonner read to Council a letter of achievement from the National Institute of Governmental Purchasing (NIGP) in reference to the Chapter President Brian O'Connor, Procurement Manager.
- City Manager Bonner informed Council that he will be contacting them for dates for an Executive Session.

Councilwoman Smith asked that the Sanitation Item be placed on the City Council Meeting Agenda for August 7, 2012.

City Manager Bonner stated that he would try to have the Executive Session scheduled on either August 7, 8, and 9<sup>th</sup>; he will be polling Council for a concrete date.

**10. CITY ATTORNEY'S REPORT**

**10.1** Litigation List (As of 7/17/12)

City Attorney Siegel reported to Council that for the next meeting she has drafted and will be bringing forth an Ordinance for First Reading prohibiting the use of the City Seal by outside entities without the express permission of the City. It has come to the attention of the City that a local company has been using the City Seal on its advertisements.

City Attorney Siegel also reported to Council that during public comment a citizen made reference to a website that included the City of North Miami Beach in its web address. The City Attorney will be looking into any possible violation of this use; she wanted the Council and the Public to know that this organization was not affiliated with the City.

City Attorney Siegel reported that the mortgage foreclosures are beginning to move rapidly through the court system. The banks and the Courts seemingly were no longer delaying the process.

- City Clerk Latimore asked for a point of privilege. City Clerk Latimore reported that members from the Miami-Dade Supervisor of Elections Office would be available Thursday, August 19, 2012, from 10:30 p.m. to 12:30 p.m. to assist the public with voters registration, address updates, signature updates, and any other registration services that they may be in need of. The location will be right outside the City Clerk's Office.

**11. MAYOR'S DISCUSSION - None**

**12. MISCELLANEOUS ITEMS - None**

**13. WAIVER OF FEE – None**

**14. BUSINESS TAX RECEIPTS - None**

**15. DISCUSSION ITEMS - None**

**16. LEGISLATION**

**16.5 Ordinance No. 2012-14 – First Reading by Title Only**

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, CREATING AND ADOPTING AN ORDINANCE PROHIBITING CAMPAIGN CONTRIBUTIONS IN CITY ELECTIONS BY CITY VENDORS AND LOBBYISTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR A WAIVER OF THE PROHIBITION BY CITY COUNCIL; PROVIDING FOR PENALTIES; 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 Councilwoman Kramer, seconded by Councilman Derose, to amend Ordinance No. 2012-14 on First Reading by Title Only to include a definition of a relative, and to include a recipient of a grant from the City or the CRA, and the penalty for such.

**(Failed 3-3; Derose-Yes, Kramer-Yes, Martell-Yes, Pierre-No, Smith-No, Spiegel-No)**

**MOTION** by Councilwoman Martell, seconded by Councilman Derose, to adopt Ordinance No 2012-14 on First Reading by Title Only. **(Withdrawn)**

**MOTION** by Councilwoman Kramer, seconded by Councilman Derose, to Table Ordinance No 2012-14 on First Reading by Title Only.

**(Failed 3-3; Yes Derose-Yes, Kramer-Yes, Martell-Yes, Pierre-No, Smith-No, Spiegel-No)**

**Ordinance Withdrawn by Sponsor Councilwoman Kramer.**

**Public Hearing Open-** The Following person(s) made comments on the record:

1. Bruce Lomberto - 3420 N.E. 165<sup>th</sup> Street, North Miami Beach, FL
2. Richard Riess – 23 N.W. 169<sup>th</sup> Street, North Miami Beach, FL

**Public Hearing Closed.** Item moved back to Council for discussion.

#### **16.1 Resolution No. 2012-54**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL FOR THE CONSTRUCTION OF A ONE HUNDRED NINETY-THREE (193) SQUARE FOOT GAZEBO, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-81(A)(8) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO EXCEED BY FORTY-NINE (49) SQUARE FEET THE MAXIMUM ALLOWED FLOOR AREA FOR A GAZEBO OF ONE HUNDRED FORTY-FOUR (144) SQUARE FEET, WHERE GAZEBO FLOOR AREA OF ONE HUNDRED NINETY-THREE (193) SQUARE FEET IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: Lot 14, Block 12, of Eastern Shores First Addition, According to the Plat Thereof, as Recorded in Plat Book 65, Page 39, of the Public Records of Miami-Dade County, Florida A/K/A 3323 N.E. 171 Street, North Miami Beach, Florida (P&Z Item No. 12-528 of June 11, 2012).

**MOTION** by Councilman Derose, seconded by Councilwoman Smith, to adopt **Resolution R2012-54. (Adopted 6-0 Mayor Vallejo absent)**

**Jennings Disclosure:** Derose-No, Kramer-No, Martell-No, Smith-No, Spiegel-No, Pierre-No (Mayor Vallejo absent).

**ROLL CALL VOTE:** Derose-Yes, Kramer-Yes, Martell-Yes, Smith-Yes, Spiegel-Yes, Pierre-Yes (Mayor Vallejo absent).

City Clerk Latimore swore in all persons who were giving testimony on this item.

City Planner Chris Heid gave a brief Presentation on this item.

Lois Arosa - 6500 Cow Penn Road, Miami Lakes, FL., the architect for the project gave a brief presentation.

## 16.2 Resolution No. 2012-55

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL, IN ORDER TO CONSTRUCT A TWO HUNDRED AND EIGHT (208) SQUARE FOOT ADDITION TO AN EXISTING SINGLE-FAMILY HOME, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-44(D)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE THREE (3) FEET SIX (6) INCHES OF THE REQUIRED CORNER SIDE YARD SETBACK OF FIFTEEN (15) FEET, WHERE CORNER SIDE YARD SETBACK OF ELEVEN (11) FEET SIX (6) INCHES IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: Lot 1, Block 159, of Fulford by the Sea, According to the Plat thereof, as Recorded in Plat Book 10, Page 29, of the Public Records of Miami-Dade County, FL. A/K/A 2100 N.E. 180 Street, North Miami Beach, Florida. (P&Z Item No. 12-527 of June 11, 2012).

**MOTION** by Councilwoman Smith, seconded by Councilwoman Kramer, to adopt **Resolution 2012-55. (Adopted 6-0 - Mayor Vallejo absent)**

**Jennings Disclosure:** There were no disclosures by Council of having spoken to applicant on this item. (Mayor Vallejo absent)

**ROLL CALL VOTE:** **Derose-Yes, Kramer-Yes, Martell-Yes, Smith-Yes, Spiegel-Yes, Pierre-Yes** (Mayor Vallejo absent).

City Planner Chris Heid gave a brief explanation of item.

Applicant Carlos Rivero, City of North Miami Beach City Forester, 2100 N.E. 180<sup>th</sup> Street, North Miami Beach FL.

## 16.3 Resolution No. 2012-56

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL, IN ORDER TO CONSTRUCT A 575 SQUARE FOOT CANOPY OVER AN EXISTING WOOD DECK, AS PROPOSED; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-81(2) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE FOUR (4) FEET OF THE MINIMUM REQUIRED CORNER SIDE YARD SETBACK FOR A FIFTEEN (15) FEET CANOPY, WHERE CORNER SIDE YARD CANOPY SETBACK OF ELEVEN (11) 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 24-81(2) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE ELEVEN (11) FEET OF THE MINIMUM REQUIRED REAR YARD SETBACK FOR A FIFTEEN (15) FEET CANOPY, WHERE YARD CANOPY SETBACK OF FOUR (4) FEET IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: Lot 14 & 15 in Block 11, "Unit 1, Monticello Park", According to the Plat Thereof, as Recorded in Plat book 40, at Page 65, of the Public Records of Miami-Dade County, Florida. A/K/A 1101 North Miami Beach Boulevard, North Miami Beach, Florida (P&Z Item No. 12-525 of June 11, 2012).

**MOTION** by Councilwoman Smith, seconded by Councilman Derose, to adopt **Resolution 2012-56. (Adopted 6-0 - Mayor Vallejo absent)**

**Jennings Disclosure:** There were no disclosures by Council of having spoken to applicant on this item (Mayor Vallejo absent).

**ROLL CALL VOTE:** Derose - Yes, Kramer - Yes, Martell - Yes, Smith - Yes, Spiegel - Yes, Pierre – Yes (Mayor Vallejo absent).

City Planner Chris Heid gave a brief explanation of the item.

Andy Portal, Director of Design and Construction for the Southeast Region International House of Pancakes, announced that the North Miami Beach IHOP was the oldest IHOP restaurant in the State of Florida and the second oldest in the United States.

#### **16.4 Resolution No. 2012-57**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING SITE PLAN APPROVAL, IN ORDER TO CONSTRUCT A 2,324 SQUARE FOOT ONE-STORY ADDITION TO AN EXISTING TWO-STORY FIRE RESCUE STATION, WHERE AN EXISTING 1,002 SQUARE FOOT ONE-STORY PORTION OF THE BUILDING WILL BE DEMOLISHED TO ACCOMMODATE THE PROPOSED ADDITION; AND A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, GRANTING A VARIANCE FROM SECTION 24-55(D)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE FOUR (4) FEET OF THE MINIMUM REQUIRED FRONT YARD SETBACK OF THIRTY (30) FEET, WHERE FRONT YARD SETBACK OF TWENTY-SIX (26) 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 24-55(D)(3) OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH TO WAIVE ELEVEN (11) FEET OF THE MINIMUM REQUIRED (NORTH) CORNER SIDE YARD SETBACK OF TWENTY-FIVE (25) FEET, WHERE (NORTH) CORNER SIDE YARD SETBACK OF FOURTEEN (14) FEET IS PROPOSED, ON PROPERTY LEGALLY DESCRIBED AS: Lots 17 through 28, Lots A, B, C & D, and the 20 foot Alleys adjacent to said Lots, Block 41 as shown on the Plat of "Fulford by the Sea Section "D", According to the Plat Thereof, as Recorded in Plat Book 8 at Page 58, of the Public Records of Miami-Dade County, Florida. A/K/A 17050 N.E. 19th Avenue, North Miami Beach, Florida. (P&Z Item No. 12-526 of June 11, 2012).

**MOTION** by Councilwoman Smith, seconded by Councilwoman Kramer, to adopt Resolution 2012-57. (**Adopted 6-0** - Mayor Vallejo absent).

**Jennings Disclosure:** Derose - Yes, Kramer - Yes, Martell - Yes, Smith - Yes, Spiegel - Yes, Pierre - Yes, - Mayor Vallejo absent).

**ROLL CALL VOTE:** Derose - Yes, Kramer - Yes, Martell - Yes, Smith - Yes, Spiegel - Yes, Pierre - Yes, - Mayor Vallejo absent).

#### **17. CITY COUNCIL REPORTS**

**Councilman Derose** expressed his sympathy to the Helton Family. He gave his appreciation to Acting Police Chief Larry Gomer for all his hard work on July 5<sup>th</sup> as he drove around making sure the community was safe.

**Councilwoman Kramer** expressed her heartfelt sympathy to the Helton Family. Congratulations and she is very excited as one of her colleagues just became a Grandmother (Councilwoman Martell). She announced that the Multi-Cultural Committee will be taking a break for the month of August.

**Councilwoman Martell** expressed condolences to the Drake Family of Washington Park, Norman Edwards and his Family and to the Helton Family. She announced that the Economic Development Board will be meeting July 18, 2012 at 5:30 p.m. She wished Councilwoman Smith an early Happy Birthday. Councilwoman Martell sent congratulations to her son and his wife on the birth of their new baby.

**Councilwoman Smith** expressed her condolences to the Helton Family. She congratulated acting Chief Gomer on bringing a positive attitude to the police department. Councilwoman Smith stated that the city needed to move forward and there was a need for a vision. She thanked Judge Cohen and wished him luck.

**Councilwoman Spiegel** expressed condolences to Norman Edwards and to the Helton Family. She announced that an incredible house has come before the Planning and Zoning Board and will soon come before Council. Councilwoman Spiegel announced that next week was recycling and anyone needing a new bin should call 311.

**Vice Mayor Pierre** expressed condolences to the families on their loss. He expressed congratulations to Councilwoman Martell on the new grandbaby. Vice Mayor Pierre announced that summertime was family time and the library was open. He stated he loved all.

**18. NEXT REGULAR CITY COUNCIL MEETING**

Vice Mayor Pierre announced that the next regular meeting will be Tuesday, August 7, 2012.

City Manager Lyndon Bonner asked Council for a consensus on a time and place for the next agenda review. The next agenda review will be held Thursday, August 2, 2012 at 9:00 am.

**19. ADJOURNMENT**

There being no further business to come before the City Council, the meeting was adjourned at 10:11 p.m.

ATTEST:

(S E A L)

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**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:** Pamela L. Latimore, City Clerk  
**DATE:** Tuesday, December 18, 2012

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**RE:** August 7, 2012 Regular Meeting Minutes (City Clerk Pamela L. Latimore)

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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 August 7, 2012](#)



**CITY OF NORTH MIAMI BEACH**  
City Council Meeting  
Council Chambers, 2nd Floor  
City Hall, 17011 NE 19th Avenue  
North Miami Beach, FL 33162  
**Tuesday, August 7, 2012**  
**7:30 PM**

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

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 8:01 p.m. Present at the meeting were Mayor George Vallejo, Vice Mayor Frantz Pierre and Council Members Philippe Derosé, Barbara Kramer, Marlen Martell, Phyllis S. Smith, and Beth E. Spiegel. Also, present were City Manager Lyndon L. Bonner, City Attorney Darcee S. Siegel and City Clerk Pamela L. Latimore.

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

**3. PLEDGE OF ALLEGIANCE**

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

**4.1 Withdrawal** of Item 5.2 Quarterly Financial Analysis - 3rd Quarter of Fiscal Year 2012, as it was presented at the Council Conference Meeting.

**4.2 Withdrawal**, on the floor, by City Manager Bonner of Item 9.3 Forfeiture (LETF) Appropriation Request.

**4.3** North Miami Beach Amateur Athletic Union (AAU) Basketball Team was moved, on the floor, by City Manager Bonner to Presentations/Discussions (Previously Item 9.2).

**5. PRESENTATIONS/DISCUSSIONS**

**5.1** Certificate of Recognition presentation to the North Miami Beach High School JROTC Unit (Mayor George Vallejo)



**5.2** Quarterly Financial Analysis - 3rd Quarter of Fiscal Year 2012 (Finance Director Janette Smith)  
**WITHDRAWN** (See Item 4.1)

**5.3** North Miami Beach Amateur Athletic Union (AAU) Basketball Team (Moved from City Manager's Report - Item 9.2)

**MOTION** by Councilman Derose seconded by Councilwoman Martell to award \$3,000 out of Council's Incidental Contingency Fund for North Miami Beach Amateur Athletic Union (AAU) Basketball Team. (Approved 7-0)

## **6. PUBLIC COMMENT**

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

1. Commissioner Sally Heyman, 111 N.W. 1<sup>st</sup> Street, Miami, FL
2. Levingston Richie, 5901 N.W. 19<sup>th</sup> Street, Pembroke Pines, FL
3. Ken DeFillipo, 17830 N.E. 10<sup>th</sup> Avenue, North Miami Beach, FL
4. Tricia Harris, 2231 N.E. 136<sup>th</sup> Street, North Miami Beach, FL
5. Pam Simms Campbell, 2496 N.E. 136<sup>th</sup> Terrace, North Miami Beach, FL
6. Anthony DeFillipo, 1458 N.E. 177<sup>th</sup> Street, North Miami Beach, FL
7. Regina Knight, 16121 N.E. 18<sup>th</sup> Place, North Miami Beach, FL
8. Saundra Douglas, 1523 N.E. 152<sup>nd</sup> Street, North Miami Beach, FL
9. Bert Kehren, 3302 N.E. 171<sup>st</sup> Street, North Miami Beach, FL
10. Carol Hamilton, 991 N.E. 181<sup>st</sup> Street, North Miami Beach, FL
11. Amado Gonzalez, 920 N.E. Miami Gardens Drive, North Miami Beach, FL
12. Janice Coakley, PO Box 60095, Miami, FL
13. Actions for Better Future, Inc. 1733 N.E. 162<sup>nd</sup> Street, North Miami Beach, FL
14. Marilyn Baumohl, 18635 N.E. 20<sup>th</sup> Court, North Miami Beach, FL
15. Percival Davis, N/A
16. Lucy Voltaire, 1844 N.E. 170<sup>th</sup> Street, North Miami Beach, FL
17. Allison Robie, 2131 N.E. 179<sup>th</sup> Street, North Miami Beach, FL
18. Richard Riess, 23 N.W. 169<sup>th</sup> Street, North Miami Beach, FL
19. Mubarak Kazan, 15564 N.E. 12<sup>th</sup> Avenue, North Miami Beach, FL
20. Joe Simmons Jr., 99 N.W. 183<sup>rd</sup> Street, Miami, FL
21. Volney Nerette, 16121 N.E. 19<sup>th</sup> Place, North Miami Beach, FL

## **7. APPOINTMENTS**

### **7.1** Redevelopment Advisory Board

Jarret Gross

**MOTION** by Councilwoman Spiegel, seconded by Councilman Derose, to appoint Jarret Gross to the Redevelopment Advisory Board. (Approved 6-0 - Councilwoman Kramer absent from the dais)

## **8. CONSENT AGENDA**

### **8.1** March 20, 2012 Regular Meeting Minutes

**8.2 April 17, 2012 Regular Meeting Minutes**

**8.3 Resolution No. R2012-59**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO THE 2012 NATIONAL URBAN AND COMMUNITY FORESTRY GRANT MEMORANDUM OF AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF FORESTRY, TO PROVIDE TREES THROUGHOUT MARTIN LUTHER KING PARK.

**8.4 Resolution No. R2012-60**

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 ODYSSEY MANUFACTURING COMPANY FOR SODIUM HYPOCHLORITE.

**8.5 Resolution No. R2012-61**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, SEEKING FUNDS FROM THE STATE OF FLORIDA'S DEPARTMENT OF ENVIRONMENTAL PROTECTION TO REMEDIATE GROUND CONTAMINATION AND CLEAN UP EFFORTS AT THE CITY'S TAYLOR PARK.

**MOTION** by Councilman Derose, seconded by Councilwoman Spiegel, to adopt the Consent Agenda. (**Approved 6-0**, Councilwoman Kramer absent from the dais)

Mayor Vallejo announced a five minute recess at 9:33 p.m. Meeting reconvened at 9:42 p.m.

**9. CITY MANAGER'S REPORT**

**9.1 Administrative Investigation Complaint #IA0510.12**

City Manager Bonner gave an update on the investigation into the irregularities in the process of the Sanitation Committee Review brought forward by Councilman Pierre. The City of North Miami Beach's Police Internal Affairs Division performed an investigation into the allegations and the conclusion is that the allegations are unfounded.

**9.2 North Miami Beach Amateur Athletic Union (AAU) Basketball Team (See Presentations Item 4.3, Page 2)**

**9.3 Forfeiture (LETF) Appropriation Request WITHDRAWN (See page 1)**

The LETF request that wasn't processed related to the Back to School Bash project initiated by Councilman Pierre. The project did not meet the guidelines to use the LETF funding so City Manager Bonner is bringing it to Council for the additional sponsorship needed for the event to be held at the Gwen Margolis Amphitheatre. Thus far, we have about \$3,500.00 in contributions from Council members Vallejo, Pierre, Derose, and Martell. However, they will need an additional \$1,000.00 to cover the costs for the venue, and staffing at the event. We are not providing the supplies for the event we are just providing the venue and staffing for the event.

Councilwoman Spiegel stated that she had some concerns about the lack of information on the event and the short notice.

**MOTION** by Councilman Derose, seconded by Councilman Pierre, to approve Council giving \$1,000.00 to the Back to School Bash.

Council discussed the item.

**DONATION** of \$1,000.00 was made by Mr. Ron Book, 18851 N.E. 29 Avenue, Aventura, FL to the Back-to-School Event.

**MOTION** was withdrawn by Councilman Derose and Councilman Pierre for Council to give \$1,000.00 to the Back-to-School Bash.

City Manager Bonner requested that Council adhere to the same deadlines for submitting agenda items as staff. He stated that this will give Council and staff the time to work on any issues that arises before the Council meeting.

## **10. CITY ATTORNEY'S REPORT**

### **10.1** Litigation List (As of 8/7/12)

City Attorney Siegel informed Council that Assistant City Attorney Bart Armstrong has tendered his resignation. He has a great opportunity to work with the Florida Department of Children and Family Services as the Southern Regional Director. It was a pleasure working with him and she wishes him the best of luck.

## **11. MAYOR'S DISCUSSION**

The issue of privatization has a brought a lot of residents out tonight and he wants to reiterate the statement made by Councilwoman Smith earlier. He is taking notes on the comments made by everyone that comes to speak before the Council. He is paying attention to what is being said. There has been a lot of misinformation in relation to this topic. He has spoken to many residents on this topic and some agree with it and others don't. As the Council for the City they have to do what is in the best interest of all the residents. All of the council members have been reviewing all the facts, so we can make the best decision for everyone. He wants to clear up some of the misconceptions he heard tonight.

- Elimination of Sanitation – No one is eliminating anything, regardless of what happens the garbage will be picked up
- The new vendor will not move out the garbage cans for elderly resident – that was addressed in the bid specifications
- Price changes – have also been addressed

In the end the City Council will make a decision based on what is best for the City and all the residents.

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

13. **WAIVER OF FEE – None**

14. **BUSINESS TAX RECEIPTS - None**

15. **DISCUSSION ITEMS**

15.1 Cancellation of December 18, 2012 City Council Meeting

Councilwoman Spiegel announced that she will not be attending the meeting scheduled for that day.

15.2 Review of Charter Employees' Contracts

Councilwoman Smith posed a question to Mayor Vallejo based on the conversation she had with the City Manager today. She proposed that they extend the Charter employees' contract for ninety (90) days, the pension issue for the City Manager alone needs some time to digest and understand.

Councilwoman Spiegel suggested that they move this to the next agenda.

**MOTION** by Councilwoman Smith, seconded by Councilwoman Martell, to table the Review of Charter Employees' Contracts to the next Council Meeting. (**Approved 7-0**)

16. **LEGISLATION**

16.1 **Resolution No. 2012-28**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO NEGOTIATE WITH WASTE PRO OF FLORIDA, INC, THE FIRST-RANKED FIRM, FOR WASTE COLLECTION, DISPOSAL, AND RECYCLING SERVICES FOR THE CITY OF NORTH MIAMI BEACH.

**Public Comment:**

1. Robert Taylor, 1951 N.E. 157<sup>th</sup> Terrace, North Miami Beach, FL - **Against**
2. Maria Aquino, 1859 N.E. 176<sup>th</sup> Street, North Miami Beach, FL - **Against**
3. Bert Kehren, 3302 N.E. 171<sup>st</sup> Street, North Miami Beach, FL - **For**
4. Saundra Douglas, 1523 N.E. 152<sup>nd</sup> Street, North Miami Beach, FL - **Against**
5. Daniel Pierre, 15240 N.E. 10<sup>th</sup> Court, North Miami Beach, FL - **Against**
6. Melvin Perrin, 2128 N.E. 167<sup>th</sup> Street, North Miami Beach, FL - **Against**
7. Levingston Ritchie, 5901 N.W. 19<sup>th</sup> Street, Lauderhill, FL - **Against**
8. Ronald Hayes, 5212 S.W. 32<sup>nd</sup> Street, Hollywood, FL - **Against**
9. Marilyn Baumohl, 18635 N.E. 20<sup>th</sup> Court, North Miami Beach, FL - **Against**
10. Muriel Kemp, 1479 N.E. 178<sup>th</sup> Street, North Miami Beach, FL - **Against**
11. Mitch Bierman, Waste Service Inc., 2525 Ponce De Leon Boulevard, Miami, FL
12. Russell Mackie, 4701 N.W. 35<sup>th</sup> Avenue, Waste Pro of Florida, Miami, FL
13. Allison Robie, 2131 N.E. 179<sup>th</sup> Street, North Miami Beach, FL - **Against**
14. Jason Neal, Waste Management Inc. of Florida, 2125 N.W. 10<sup>th</sup> Court, Miami, FL
15. Volney Nerette, 16121 N.E. 19<sup>th</sup> Place, North Miami Beach, FL - **Against**
16. Mubarak Kazan, 15564 N.E. 12<sup>th</sup> Avenue, North Miami Beach, FL - **Against**
17. Janice Coakley, AFSCME, PO Box 600951, North Miami Beach, FL - **Against**
18. Damian Ribar, Waste Service Inc., 92 S.W. 3<sup>rd</sup> Street, Miami, FL

Council discussed the item.

**MOTION** by Councilman Derose, seconded by Councilwoman Martell, to adopt **Resolution No. R2012-28**. **(Failed 1-6)** (Nay Vote - Derose, Kramer, Martell, Pierre, Smith, and Spiegel)

**MOTION** by Councilman Pierre, seconded by Councilwoman Smith, to extend the meeting past midnight. **(Approved 7-0)**

Councilwoman Spiegel asked staff to come back with a better analysis of the cost savings and asked AFSCME to come back with staff efficiencies if the service were to be kept in house.

### **16.2 Resolution No. R2012-58**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ACKNOWLEDGING A CRITICAL PATH SCHEDULE FOR THE DEVELOPMENT KNOWN AS MARINA GRANDE LOCATED AT 17201 BISCAYNE BOULEVARD, NORTH MIAMI BEACH, FLORIDA.

**JENNINGS DISCLOSURE:** Councilman Derose – Yes, Councilwoman Kramer – Yes, Councilwoman Martell – Yes, Councilwoman Smith – Yes, Councilwoman Spiegel – Yes, Vice Mayor Pierre – Yes, Mayor Vallejo – Yes

#### **Public Comment: Open**

1. Niesen Kasdin, Akerman Senterfitt, representing Marina Grande, 1 S.E. 3<sup>rd</sup> Avenue, Miami, FL
2. Allison Robie, 2131 NE 179<sup>th</sup> Street, North Miami Beach, FL – **For**
3. Jeffrey Bass, Shubin & Bass, representing ADR Partners, Inc., 46 S.W. 1<sup>st</sup> Street, Miami, FL
4. Neil Fairman, 180 Palm Avenue, Miami Beach, FL

Council discussed the item with Mr. Niesen Kasdin.

**MOTION** by Councilman Derose, seconded by Councilwoman Smith, to adopt **Resolution No. R2012-58** as amended on the record. **(Adopted 6-1)** (Nay Vote – Councilwoman Spiegel)

**DONATION** of \$2,500.00 was made by Mr. Neil Fairman, 180 Palm Avenue, Miami Beach, FL to the Back-to-School Event.

Mayor Vallejo called for a 5 minute recess at 1:16 a.m. Meeting reconvened at 1:22 a.m.

### **16.3 Ordinance No. 2012-15 – First Reading by Title Only**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, DESIGNATING THE OFFICIAL MUNICIPAL SEAL AND ADOPTING THE PROVISIONS OF SECTION 165.043 OF THE FLORIDA STATUTES; 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.

**MOTION** by Councilman Derose, seconded by Councilwoman Smith, to adopt **Ordinance No. 2012-15** on First Reading by Title Only.

**Public Comment:** None

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

#### **16.4 Ordinance No. 2012-16 – First Reading by Title Only**

AN ORDINANCE AMENDING CHAPTER XII OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ENTITLED "LOCAL BUSINESS TAX RECEIPTS AND REGULATIONS" BY AMENDING SECTION 12-2.12 ENTITLED "NUDITY; SEXUAL CONDUCT PROHIBITED"; AND AMENDING CHAPTER XIII OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ENTITLED "ADULT ENTERTAINMENT CODE" BY AMENDING SECTIONS 13-43 AND 13-49(D) ENTITLED "PROSCRIPTIONS WHERE ALCOHOLIC BEVERAGES ARE SOLD, DISPENSED OR PERMITTED AND WHERE FOOD OR BEVERAGES ARE SOLD OR DISPENSED" AND "ENGAGED IN PROHIBITED ACTIVITY", RESPECTIVELY, BY PROVIDING FOR THE CONTINUATION AND EXEMPTION OF ESTABLISHMENTS EXISTING ON OR BEFORE JULY 1, 2012; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OR ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

**Public Comment:** Open

1. Garry S. Edinger, Garry S. Edinger & Associates P.A., representing SMG Entertainment, 305 N.E. 1<sup>st</sup> Street, Gainesville, FL
2. Alan Rosenthal, Rosenthal Rosenthal Rasco Kaplan, LLC, representing Dean's Gold, 20900 N.E. 30<sup>th</sup> Avenue, Aventura, FL
3. Richard Riess, 23 N.W. 169<sup>th</sup> Street, North Miami Beach, FL – **Against**
4. Mubarak Kazan, 15564 N.E. 12<sup>th</sup> Avenue, North Miami Beach, FL – **Against**

**MOTION** by Councilman Derose, seconded by Councilwoman Martell, to adopt **Ordinance No. 2012-16** on First Reading by Title Only. (**Failed 3-4**) (Nay Vote – Derose, Pierre, Smith, and Spiegel)

#### **16.5 Ordinance No. 2012-17 – First Reading by Title Only**

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE II, OF THE CODE OF THE ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "ALCOHOLIC BEVERAGES" BY AMENDING SECTION 12-2.2, SUBSECTION c.1-5, TO REQUIRE A TWELVE-MONTH WAITING PERIOD AFTER THE DENIAL OF A 4:00 A.M. TO 6:00 A.M. EXTENDED LICENSE PRIOR TO A SUBSEQUENT APPLICATION FOR THE EXTENDED LICENSE; 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.

**MOTION** by Councilman Derose, seconded by Councilwoman Smith, to adopt **Ordinance No. 2012-17** on First Reading by Title Only.

**Public Comment:** None

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

**16.6 Ordinance No. 2012-11 – Second and Final Reading**

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER 24, ARTICLE 15 OF THE CITY’S CODE OF ORDINANCES, ENTITLED “OTHER DEVELOPMENT REVIEW PROCEDURES” BY EXTENDING THE EXPIRATION DATE FOR SITE PLAN REVIEW; ADDING AN EXPIRATION DATE FOR CONDITIONAL USE APPROVALS; EXTENDING THE EXPIRATION TIME FOR VARIANCES; 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.

**MOTION** by Councilman Derose, seconded by Councilwoman Kramer, to adopt **Ordinance No. 2012-11** on Second and Final Reading.

**Public Comment:** None

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

**16.7 Ordinance No. 2012-12 – Second and Final Reading**

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, AMENDING CHAPTER 24, ARTICLE V, SECTION 24-52, ENTITLED “B-2 GENERAL BUSINESS DISTRICT” BY MODIFYING THE LIST OF PERMITTED AND CONDITIONALLY PERMITTED USES; 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.

**Public Comment:** None

**MOTION** by Councilwoman Martell, seconded by Councilwoman Kramer, to adopt **Ordinance No. 2012-12** on Second and Final Reading, amended back to the original wording at the first reading.

**ROLL CALL:** Councilman Derose – **Yes**, Councilwoman Kramer – **Yes**, Councilwoman Martell – **Yes**, Councilwoman Smith – **Yes**, Councilwoman Spiegel – **No**, Vice Mayor Pierre – **Yes**, Mayor Vallejo – **Yes** (**Adopted 6-1**, as amended on Second and Final Reading) (Nay vote – Councilwoman Spiegel)

## 16.8 Ordinance No. 2012-13 – Second and Final Reading

AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA AMENDING CHAPTER 24, SECTION 24-41 (D)(9)(m), ENTITLED “RS-1 RESIDENTIAL SINGLE-FAMILY DISTRICT” BY DECREASING THE HEIGHT OF WALLS AND FENCES IN THE FRONT YARD AND INCREASING THE HEIGHT OF WALLS AND FENCES IN THE REAR, CORNER SIDE, AND INTERIOR SIDE YARD; AMENDING CHAPTER 24, SECTION 24-47 (D) (9) (e), ENTITLED “RM-19 RESIDENTIAL LOW-RISE MULTI-FAMILY (MEDIUM DENSITY) DISTRICT” BY INCREASING THE HEIGHT OF WALLS AND FENCES IN THE FRONT, REAR, CORNER SIDE, AND INTERIOR SIDE YARD; AMENDING CHAPTER 24, SECTION 24-80 (C) (3) OF THE CITY’S CODE OF ORDINANCES, ENTITLED “FENCES, WALLS AND HEDGES” BY INCREASING THE ALLOWABLE HEIGHT OF WALLS AND FENCES IN THE FRONT AND CORNER SIDE YARD OF MULTI-FAMILY ZONED PROPERTIES; 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.

**MOTION** by Councilman Derose, seconded by Councilwoman Martell, to adopt **Ordinance No. 2012-13** on Second and Final Reading.

**Public Comment:** None

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

## 17. CITY COUNCIL REPORTS

**Councilman Derose** – None

**Councilwoman Kramer** – Congratulated City Attorney Darcee Siegel for receiving the American Bar Association’s Nelson Award. She encouraged the residents to go out and vote on August 14<sup>th</sup>.

**Councilwoman Martell** – None

**Councilman Smith** – Congratulated City Attorney Darcee Siegel for receiving the American Bar Association’s Nelson Award. She stated the importance of the residents going out to vote on August 14<sup>th</sup>. She also encouraged the residents to attend the rededication of the Fire Rescue Station in Eastern Shores on Thursday at 4:00 p.m.

**Councilwoman Spiegel** – Recycling will be picked up today. She also encouraged the resident to attend the rededication of the Fire Rescue Station in Eastern Shores. She also encouraged everyone to get out and vote.

**Vice Mayor Pierre** – Reminded parents that school will be starting soon and encouraged them to help the children to get back into their routine. He also encouraged the residents to go out and vote.

**Mayor Vallejo** – None



**18. NEXT REGULAR CITY COUNCIL MEETING**

Tuesday, August 21, 2012

**19. ADJOURNMENT**

There being no further business to come before the City Council, Meeting was adjourned at 2:17 a.m.

ATTEST:

(S E A L)

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**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:** Paulette Murphy, Director of Leisure Services

**DATE:** Tuesday, December 18, 2012

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**RE:** Resolution No. R2012-94 (Director of Leisure Services Paulette Murphy)

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**BACKGROUND:** Annual update of plan. Plan must be approved by City Council; must be transmitted to State Library; plan guides Library's activities.

**RECOMMENDATION:** Approval.

**FISCAL IMPACT:**

**CONTACT PERSON(S):** Paulette Murphy, Director of Leisure Services  
Susan Sandness, Library Manager

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### ATTACHMENTS:

- ▣ [Resolution No. R2012-94](#)
- ▣ [NMB Library Annual Plan FY 2013](#)

**RESOLUTION NO. R2012-94**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL  
OF THE CITY OF NORTH MIAMI BEACH, FLORIDA,  
APPROVING AN ANNUAL PLAN OF SERVICE FOR THE  
LIBRARY AND FORWARDING THE PLAN TO THE  
FLORIDA DEPARTMENT OF STATE, DIVISION OF  
LIBRARY AND INFORMATION SERVICES.**

**WHEREAS**, the Florida Department of State, Division of Library and Information Services, provides operating grants to public libraries under the provisions of Chapter 257, Florida Statutes; and

**WHEREAS**, the North Miami Beach Public Library uses State aid revenues to purchase library materials to enhance its collection and services; and

**WHEREAS**, this grant is based solely on the State's availability of funds and the library's overall budget; and

**WHEREAS**, these State funds will allow the community to have a library that is attractive, accessible, safe and convenient to enhance the use of the library; and

**WHEREAS**, the Mayor and City Council recognize that the grant funding will allow the community to have access to materials, programs and services for formal and informal educational development of many individuals.

**NOW, THEREFORE,**

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

**Section 1.** The Annual Plan of Service, attached hereto and incorporated herein as Exhibit A, is hereby approved by the City of North Miami Beach.

**RESOLUTION R2012-94**

**Section 2.** The City Council hereby authorizes the City Manager to submit the Annual Plan of Service to the Florida Department of State, Division of Library and Information Services.

**Section 3.** All funds received as a result of the grant agreement referenced herein will be centrally expended as a part of the library's budget.

**Section 4.** This resolution shall become effective upon its passage and adoption.

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

**ATTEST:**

\_\_\_\_\_  
PAMELA LATIMORE  
CITY CLERK

(CITY SEAL)

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

APPROVED AS TO FORM:

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

SPONSORED BY: Mayor and City Council

**North Miami Beach Public Library**  
**ANNUAL PLAN**  
**FY 2013**

**GOAL #1**—Residents of all ages and skill levels will have access to print and digital media and computers providing a wide variety of popular and in-depth information and recreational reading and activities with knowledgeable assistance from staff.

Objective A—Maintain print and media collections and computer access based on demand and service priorities.

Objective B—Provide high-demand titles at a level to ensure requests are met in a timely manner.

Objective C—Provide access to expanded online research sites and links to community resources on NMBPL's website (Florida Electronic Library and additional sites).

Objective D—Develop a high-demand young adult collection.

Objective E—Market our materials and services to reach more residents.

Objective F—Research website and online catalog revision options to provide more user-friendly access to collections and research databases.

Objective G—Continue in-house staff training and cross-training and utilize more online training materials and programming.

**GOAL #2**—Residents of all ages will have the opportunity for self-directed personal and intellectual development.

Objective A—Maintain a varied collection, from simple to challenging, of current and classic materials.

Objective B—Provide assistance in locating information, materials and resources; in-house, online and in other libraries.

Objective C—Locate and develop digital and print subject guides and other resources for which there are demonstrated interests, as staffing permits.

Objective D—Create topical displays promoting specific subject areas, as staffing permits.

Objective E— Present programs creating awareness of these materials and community resources as time, staff and grants permit.

**GOAL #3**—Residents will have literacy support and practical life skills materials (health, family relations, communication, housing, work and study skills, legal issues, personal finance, pregnancy and parenting, safety and careers) to assist them in performing essential daily tasks and becoming more self-sufficient.

Objective A—Provide collection of ESL and life skills materials at all levels to support residents' efforts to improve their lives.

Objective B—Promote availability of these materials through displays, press releases, government access cable, and contacts with adult education/ESL teachers and community organizations, as staffing permits.

Objective C—Continue providing tutoring spaces and encourage the expansion of literacy tutoring programs.

Objective D—Create a language learning computer station providing English language skills software and audio equipment allowing oral practice, as staffing permits.

**GOAL #4**—Residents will have wide access to education, career, small business and job search information.

Objective A—Provide a wide variety of exam preparation guides for G.E.D. and college admittance, scholarships, careers/promotional opportunities and job-skills guides.

Objective B—Create guides to information on a variety of job-search skills such as creating resumes, filling out applications, interviewing, etc.

Objective C—Provide variety of information about/for small businesses as well as career alternatives, e.g. working at home, doing business on the Internet, etc., as staffing permits.

**GOAL #5**—Residents will have information about community agencies and organizations that provide essential services.

Objective—Stock their free literature for the public and refer residents to them as needed.

**GOAL #6**—Residents will have the opportunity to celebrate their own heritage as well as gain an understanding of those of others.

Objective A—Provide an in-depth collection of materials for all age groups in a variety of formats relating to the various cultures and ethnic groups in the community.

Objective B—Provide programs and special displays reflecting the cultural heritages of the community, as time and staff permit.

Objective C—Develop and maintain partnerships with local multicultural organizations to enhance the library's relevance to community needs, as time and staff permit.

**GOAL #7**—Children and young people will have the opportunity to experience the pleasure of reading and its importance to many aspects of genuine success.

Objective A—Provide attractive materials, computers and software, and guidance to assist children in becoming life-long readers.

Objective B—Provide literature-based activities for all ages, as time and staff permit.

Objective C—Create and send library promotional materials to nursery schools, day care centers, elementary and secondary schools to promote reading for enjoyment, as time and staff permit.

Objective D—Increase participation in the Summer Reading Program.

Objective E—Promote reading among teenagers in a variety of ways, including developing and implementing a Teen Summer Reading Program, as time and staff permit.

**Goal #8**—Residents will have access to an attractive, safe, convenient and affordable facility and services - to encourage wide-spread use of the library and its resources.

Objective A—Ensure that the library is clean, comfortable and secure.

Objective B—Provide inviting and neutral public meeting spaces and offer a range of media technologies for program providers.

Objective C—Expand efforts to create a more colorful, up-to-date and inviting Children's Room - build on our successes.

11/30/12





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, December 18, 2012

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**RE:** Litigation List

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**BACKGROUND:** As of December 18, 2012  
**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: December 18, 2012**

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**LITIGATION LIST**

**I. Civil Rights:**

**II. Personal Injury:**

**III. Other Litigation:**

Alvey/Baron/clay/Taylor v. CNMB  
Motion to Intervene

**PLAINTIFFS GIVEN EXTENSION  
OF TIME BY COURT UNTIL  
DECEMBER 2012 TO FILE INITIAL  
BRIEF.**

**IV. Forfeitures:**

McCray/Sims/Nealy

**SETTLED**

Vidaurre

**SETTLED**

**V. Mortgage Foreclosures:**

- \* Bank of America v. CNMB (Freeman)
- \* Bank of America v. CNMB (Sanchez)
- \* Wells Fargo Bank v CNMB (McCarthy)

**VI. Bankruptcies:**

- \* Dennis, Robert
- Coles, Steven
- \* Ordonez, Julian

**DISCHARGED**



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## MEMORANDUM

 Print

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**TO:** Mayor and City Council  
**FROM:** Pamela L. Latimore, City Clerk  
**DATE:** Tuesday, December 18, 2012

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**RE:** 2013 City Council Meeting Dates (City Clerk Pamela L. Latimore)

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**BACKGROUND:** None.

**RECOMMENDATION:**

**FISCAL IMPACT:**

**CONTACT PERSON(S):** Pamela L. Latimore, City Clerk

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**ATTACHMENTS:**

[2013 City Council Meeting Dates](#)



## City of North Miami Beach Interoffice Memorandum

*Office of the City Clerk*

**TO:** Mayor and City Council  
**FROM:** Pamela L. Latimore, CMC, City Clerk  
**DATE:** December 18, 2012

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**RE: YEAR 2013 - CITY COUNCIL MEETING SCHEDULE**

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Below are the 2013 City Council Meeting dates for your information and convenience:

### **CITY COUNCIL MEETINGS - 2013**

<b>JANUARY</b>	<b>2<sup>nd</sup> &amp; 15<sup>th</sup></b>	<b>JULY</b>	<b>2<sup>nd</sup> &amp; 16<sup>th</sup></b>
<b>FEBRUARY</b>	<b>5<sup>th</sup> &amp; 19<sup>th</sup></b>	<b>AUGUST</b>	<b>6<sup>th</sup> &amp; 20<sup>th</sup></b>
<b>MARCH</b>	<b>5<sup>th</sup> &amp; 19<sup>th</sup></b>	<b>SEPTEMBER</b>	<b>3<sup>rd</sup> &amp; 17<sup>th</sup></b>
<b>APRIL</b>	<b>2<sup>nd</sup> &amp; 16<sup>th</sup></b>	<b>OCTOBER</b>	<b>1<sup>st</sup> &amp; 15<sup>th</sup></b>
<b>MAY</b>	<b>7<sup>th</sup> &amp; 21<sup>st</sup></b>	<b>NOVEMBER</b>	<b>5<sup>th</sup> &amp; 19<sup>th</sup></b>
<b>JUNE</b>	<b>4<sup>th</sup> &amp; 18<sup>th</sup></b>	<b>DECEMBER</b>	<b>3<sup>rd</sup> &amp; 17<sup>th</sup></b>

Any decision to cancel, reschedule, or recess will be made by the Council, as needed, during the course of the year.



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## MEMORANDUM

 Print

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**TO:** Mayor and City Council

**FROM:** Shari Kamali, Director of Public Services

**DATE:** Tuesday, December 18, 2012

---

**RE:** Ordinance No. 2012-34 - First Reading by Title Only (City Planner Christopher Heid)

---

**BACKGROUND:** The City of North Miami Beach recognizes a pattern of unsightly exterior paint colors being used and maintained in commercial zoning districts. The City wishes objectively to control exterior paint colors in commercial zoning districts.

**RECOMMENDATION:** Approval is recommended.

**FISCAL IMPACT:**

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

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### ATTACHMENTS:

- ❑ [Staff Report](#)
- ❑ [Ordinance No. 2012-34](#)



## CITY OF NORTH MIAMI BEACH INTEROFFICE MEMORANDUM

**TO: MAYOR AND CITY COUNCIL**

**FROM: ROSLYN WEISBLUM, CITY MANAGER**

**DATE: DECEMBER 18, 2012**

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**RE: ORDINANCE NO. 2012-34; EXTERIOR COMMERCIAL PAINT  
COLORS**

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Staff is recommending the addition of regulations for exterior paint colors in commercial zoning districts, applicable to the B-1, B-2, B-3, B-4, B-5, and FCC Zoning Districts. Although commercial properties are required to obtain a permit to paint their exteriors, currently the Land Development Regulations do not address the selection of paint colors. The intention is to create objective regulations for the base color of commercial properties. Trim colors would not be regulated.

The proposed paint requirements are based on light reflectance value (LRV). The light reflectance value is a measure of the proportion of useful light reflected by a color. This is generally measured in daylight conditions. The range of values for LRV is from 0% (the darkest) to 100% (the lightest). The lighter the color, the higher the LRV will be. White and very bright yellows have the highest LRV's, while bright blues on the other hand have comparatively low LRV's.

The use of a LRV methodology for exterior paint requirements has numerous advantages, the first being that it eliminates the subjectivity of reviewing numerous colors on a color chart. The review of the color would be completely objective. The proposed color has a LRV assigned by the paint manufacturer, which would be compared to the color requirement regulations. If it meets the LRV requirements it would be allowed. Paint colors that do not meet the LRV requirements would be denied. In addition, most major paint manufacturers and paint retailers can readily identify the LRV of any paint color chip or the comparison can be readily done with existing color palettes. A byproduct of using lighter

shades of colors is that the higher the reflective value of a color, the greater the energy efficiency for cooling costs.



The standards proposed are as follows for all commercial zoning districts:

- Allowable Base Colors: Solid color of LRV of 35 or greater
- Allowable Trim Color: any solid color
- Base: Any single surface area constituting 20% or more of the total surface area.
- Trim: Any single color surface area constituting less than 20% of total surface area.
  - Trim includes, but is not limited to, fascia, window frames, doorframes, doors, and eaves etc.

### History

- This item previously received a favorable recommendation from the Planning & Zoning Board on May 10, 2010 and was denied on first reading by the City Council on June 1, 2010.
- This item was heard by the Planning & Zoning Board at the meeting of Monday, December 10, 2012 and received a favorable recommendation with a vote of 6-0.

**ORDINANCE NO. 2012-34**

**AN ORDINANCE AMENDING SECTION 24-22 AND ARTICLE VIII OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA CREATING STANDARDS FOR EXTERIOR PAINT COLORS FOR COMMERCIAL ZONING DISTRICTS (B-1, B-2, B-3, B-4, B-5, AND FCC) BY ADDING DEFINITIONS FOR LIGHT REFLECTANCE VALUE, PAINT BASE, AND PAINT TRIM; CREATING SECTION 24-79 PAINT COLORS UNDER ARTICLE VIII, SUPPLEMENTAL REGULATIONS; 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.**

**WHEREAS**, the City of North Miami Beach recognizes a pattern of unsightly exterior paint colors being used and maintained in commercial zoning districts; and

**WHEREAS**, the City of North Miami Beach wishes objectively to control exterior paint colors in commercial zoning districts; and

**WHEREAS**, the creation of objective standards for exterior paint colors in commercial zoning districts will encourage responsible development within the City's commercial zoning districts; and

**WHEREAS**, this item was heard and unanimously recommended by the City's Planning and Zoning Board by a vote of 6-0 on December 10, 2012.

**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 24-22 of the Land Development Regulations of the City of North Miami Beach is hereby amended as follows:



**Sec. 24-22 Definitions**

**Light Reflectance Value (LRV): The total quantity of useable and visible light reflected by a surface in all directions and at all wavelengths when illuminated by a light source.**

**Paint, base: Any single color surface area constituting 20% or more of the total surface area.**

**Paint, Trim: any single color surface area constituting less than 20% of total surface area. Trim includes, but is not limited to, fascia, window frames, door frames, doors, and eaves.**

**Section 3.** Article VIII, Supplemental Regulations, of the Land Development Regulations of the City of North Miami Beach is hereby amended as follows:

**Sec. 24-73 - ~~24-7978~~ Reserved**

**ARTICLE VIII SUPPLEMENTAL REGULATIONS**

**Sec. 24-79 Paint Colors**

**(A) All buildings located in commercial Zoning Districts (B-1, B-2, B-3, B-4, B-5, and FCC) are required to obtain a permit to paint building exteriors. Allowable paint colors are as follows:**

- (1) Base: Must have a light reflectance value (LRV) of 35 or greater.**
- (2) Trim: May be any solid color.**

**Section 4.** All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**Section 5.** If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

**Section 6.** 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 December, 2012

**APPROVED AND ADOPTED** on second reading this \_\_\_\_ day of \_\_\_\_\_, 2013

**ATTEST:**

\_\_\_\_\_  
PAMELA LATIMORE  
CITY CLERK

(CITY SEAL)

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

APPROVED AS TO FORM:

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

**Sponsored by: Mayor and City Council**



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## MEMORANDUM

 Print

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**TO:** Mayor and City Council  
**FROM:** Darcee S. Siegel, City Attorney  
**DATE:** Tuesday, December 18, 2012

---

**RE:** Ordinance No. 2012-35 - First Reading by Title Only (City Attorney Darcee S. Siegel)

---

**BACKGROUND:** Charter review committees provide a more efficient government by conducting a comprehensive study of any and all phases of city government and proposing amendments or revisions to the City Charter. The City of North Miami Beach's electorate approved Resolution No. R2009-12, Sec. 2 at the City election on May 5, 2009. That Charter provision requires that Charter Review Committee members be residents of the City of North Miami Beach and that the Committee meet no less than once every ten (10) years. While the City's Code established a Charter Review Board, the City's Charter is silent in that regard. The Mayor and City Council recognize the need for clarity and continuity between the City Code and City Charter, thus mandating an amendment to the City Code.

**RECOMMENDATION:** Approval is recommended.

**FISCAL IMPACT:**

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

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**ATTACHMENTS:**

[Ordinance No. 2012-35](#)

**ORDINANCE NO. 2012-35**

**AN ORDINANCE AMENDING CHAPTER II OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "STRUCTURE OF CITY GOVERNMENT"; AMENDING SECTION 2-44, ENTITLED "CHARTER REVIEW BOARD" BY CHANGING THE NAME OF THE BOARD, THE TERMS OF THE APPOINTMENT, AND THE COMPOSITION OF THE BOARD TO BE CONSISTENT WITH THE CITY'S CHARTER SECTIONS 119-121; 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**, charter review committees provide a more efficient government by conducting a comprehensive study of any and all phases of city government and proposing amendments or revisions to the City Charter; and

**WHEREAS**, the City of North Miami Beach's electorate approved Resolution No. R2009-12, §2 at the City election on May 5, 2009; and

**WHEREAS**, that Charter provision requires that Charter Review Committee members be residents of the City of North Miami Beach and that the Committee meet no less than once every ten (10) years; and

**WHEREAS**, while the City's Code established a Charter Review Board, the City's Charter is silent in that regard; and

**WHEREAS**, the Mayor and City Council recognize the need for clarity and continuity between the City Code and City Charter, thus mandating an amendment to the City Code.

**NOW, THEREFORE,**

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

**ORDINANCE NO. 2012-35**

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

**Section 2.** Section 2-44 of Chapter II of the Code of Ordinances of the City of North Miami

Beach entitled "Charter Review Board" is hereby amended as follows:

**Section 22-4 CHARTER REVIEW ~~BOARD~~COMMITTEE**

**2-44.1 Established.**

There is hereby created and established a Charter Review ~~Board~~ Committee, which ~~Board~~ Committee shall consist of seven (7) members appointed by the Mayor and City Council. All members of the Committee shall be residents of the City of North Miami Beach. All terms shall commence on November 15 and all appointments shall be for two (2)-year terms, except for appointments to fill unexpired terms, which appointments shall be for the remainder of the unexpired term. A Charter Review Committee shall be appointed no less than once every ten (10) years (1957 Code §2-77; Ord. No. 79-20 §3 (G), 9-4-79).

**2-44.2 Duties.**

The ~~Board~~ Committee shall make a study of such portions of the City Charter as shall be brought to its attention by the Council, the City Manager, or the City Attorney as being ambiguous, unclear or not in the best interests of efficient economical operation of the City, and shall make recommendations for revisions of or amendments to the Charter as may appear necessary to assure the people of North Miami Beach that the Charter will be responsive to their interests. (1957 Code §2-77; Ord. No. 79-20 §3(G), 9-4-79)

**2-44.3 Annual Report to the City Council.**

The ~~Board~~ Committee shall report at least once each year to the City Council on the subject of the City Charter. (1957 Code §2-77; Ord. No. 79-20 §3(G), 9-4-79)

**2-44.4 Compensation; Secretarial Service.**

The ~~Board~~ Committee shall serve without compensation, but the City Manager shall make available to it such secretarial services as may be budgeted for that purpose and essential to the

performance of its functions. (1957 Code Ord. No. 79-20 §3(G), 9-4-79)

**2-44.5 Interpretation.**

**Nothing in this section shall be construed as interfering with the right of the people to initiate Charter changes as provided in the Home Rule Charter, and nothing in this section shall be construed as requiring mandatory adoption by the Council of recommendations of the Charter Review Board Committee. (1957 Code §2-77; Ord. No. 79-20 §3(G), 9-4-79)**

**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 December, 2012.

**APPROVED AND ADOPTED** on second reading this \_\_\_ day of \_\_\_\_\_, 2013.

**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**



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## MEMORANDUM

 [Print](#)

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**TO:** Mayor and City Council  
**FROM:** Councilwoman Barbara Kramer  
**DATE:** Tuesday, December 18, 2012

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**RE:** Ordinance No. 2012-36 - First Reading by Title Only (City Attorney Darcee S. Siegel)

---

**BACKGROUND:** The Code of Ordinances of the City of North Miami Beach regulates all signage allowed in the City to promote the health, safety and welfare of its citizens and residents. Temporary signs advertising a candidate for public office or a political campaign, measure or issue scheduled for an election, i.e., political signs, are subject to limited regulation. Political signs are afforded a higher level of constitutional protection than other temporary signs arising from First Amendment considerations. The Mayor and City Council of the City of North Miami Beach desire better to conform the City's regulations of political signage with the currently applicable body of law regarding these constitutional protections, while maintaining all necessary and allowable regulations providing for the health, safety and welfare of the citizens and residents of the City.

**RECOMMENDATION:** Approval is recommended.

**FISCAL IMPACT:**

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

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**ATTACHMENTS:**

- ❑ [Staff Report](#)
- ❑ [Ordinance No. 2012-36](#)



## CITY OF NORTH MIAMI BEACH INTEROFFICE MEMORANDUM

**TO: MAYOR AND CITY COUNCIL**

**FROM: ROSLYN WEISBLUM, CITY MANAGER**

**DATE: DECEMBER 18, 2012**

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**RE: Ordinance No. 2012-36; POLITICAL SIGNS**

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Attached is an ordinance prepared by the City Attorney's Office amending Section 24-147.2 of the City's Land Development Regulations, pertaining to Political Signs.

Highlighted changes include:

- The addition of height limitations.
- Prohibiting the placement of signs on structures previously unaddressed.
- Prohibiting illuminated signs.
- Sign installation date.

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**HISTORY**

This item was heard by the Planning & Zoning Board at the meeting of Monday, December 10, 2012 and received a favorable recommendation with a vote of 6-0.



**ORDINANCE NO. 2012-36**

**AN ORDINANCE AMENDING CHAPTER XXIV OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH ENTITLED "ZONING AND LAND DEVELOPMENT CODE" BY AMENDING SECTION 24-147.2, ENTITLED "TEMPORARY SIGNS ALLOWED"; 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 Code of Ordinances of the City of North Miami Beach, Florida, regulates all signage allowed in the City to promote the health, safety and welfare of its citizens and residents; and

**WHEREAS**, temporary signs advertising a candidate for public office or a political campaign, measure or issue scheduled for an election, i.e. political signs, are subject to limited regulation; and

**WHEREAS**, the City of North Miami Beach recognizes the First Amendment rights of those wishing to express their views on certain issues and candidates; and

**WHEREAS**, political signs are afforded a higher level of constitutional protection than other temporary signs arising from First Amendment considerations; and

**WHEREAS**, the Mayor and City Council of the City of North Miami Beach desire better to conform the City's regulations of political signage with the currently applicable body of law regarding these constitutional protections, while maintaining all necessary and allowable regulations providing for the health, safety and welfare of the citizens and residents of the City; and

**WHEREAS**, courts have recognized the right of jurisdictions to enact reasonable time, place and manner restrictions related to signs while not restricting the First Amendment rights of

groups and individuals wishing to express their views by placing political or campaign signs in their yards, *City of Ladue v. Gilleo*, 512 U.S. 43, 114 S. Ct. 2038 (1994); and

**WHEREAS**, the Mayor and City Council of North Miami Beach believe that the manner of erection, location and maintenance of signs affect the public health, safety, morals and welfare of the citizens of North Miami Beach; and

**WHEREAS**, the Mayor and City Council of North Miami Beach recognize that the safety of motorists, cyclists, pedestrians, and other users of public streets is affected by the number, size, location, lighting and movement of signs that divert the attention of drivers; and

**WHEREAS**, the City of North Miami Beach wants to promote public safety by avoiding visual clutter, reducing conflicts between and among signs, and requiring removal of signs in a timely manner; and

**WHEREAS**, this item was heard and unanimously recommended by the City's Planning & Zoning Board by a vote of 6-0 on December 10, 2012.

**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 24-147.2 of the Code of Ordinances of the City of North Miami Beach entitled "Temporary Signs Allowed" is hereby amended as follows:

Sec. 24-147.2 Temporary Signs Allowed

(D) *Political Signs.*

(1) Temporary signs advertising a candidate for public office, a political campaign, measure or issue scheduled for an election are only permitted subject to the following ~~restrictions~~ requirements:

(a) ~~Standards. No sign, poster, banner or placard of any type shall be permitted in the City of North Miami Beach advertising any political campaign, issue or candidate for public office with the following exceptions:~~

1. *Residential Zoning Districts.* Temporary Political Signs ~~of a size shall not~~ shall not exceed six hundred sixteen (616) square inches per sign ~~may be displayed~~ shall only be displayed on any residential property. Furthermore, signs shall only be displayed with the consent of the owner or tenant. No more than one (1) sign per candidate per residential property shall be allowed, unless the property is on a corner, then property may have up to two (2) signs per candidate. Double-sided signs shall be considered as one (1) sign. No sign shall exceed three (3) feet from the ground. The maximum height to the top of the sign, including posts, other sign membranes or appendages shall not be more than three (3) feet above the ground in residential areas.

2. *Nonresidential Districts.* A candidate for public office may display signs of a size not to exceed sixteen (16) square feet per sign on nonresidential private property with the consent of the owner or tenant. No more than one (1) sign per candidate per non-residential private property shall be allowed, unless the property is on a corner. Corner properties may have up to two (2) signs per candidate. No more than ~~twenty-five (25)~~ twenty (20) such signs exceeding six hundred sixteen (616) square inches per sign ~~foot signs~~ per candidate shall be allowed citywide. Double-sided signs shall be considered as one (1) sign. No sign shall exceed six (6) feet from the ground. The maximum height to the top of the sign, including posts, other sign membranes or appendages shall not be more than six (6) feet above the ground in commercial areas.

3. *Placement on Utility Poles, Trees, Fences, Buildings, Bus Benches, Bus Shelters or in Public Right-of-Way.* No sign, poster, banner or placard of any type shall be affixed, painted, tacked, or nailed to any utility poles, trees, fences, buildings, bus benches, bus shelters or structures or otherwise displayed, placed or located on any state, County or City rights-of-way and/or median strips within the City limits.

4. *Signs on Vehicles.* Bumper strips or stickers affixed to vehicles shall be safely and securely attached.

5. *Prohibited Signs.* Except for pole signs, which are permitted as provided in this section, all signs prohibited by Section 24-143 of the Code of Ordinances of the City of North Miami Beach remain prohibited for all purposes.

6. *Illumination Prohibited.* Signs or sign posts shall not be illuminated or constructed of a reflective material and shall not contain any signs, streamers, movable items, fluttering, spinning, totaling or similar attention attractors or advertising devices.

(b) *Location of Signs.* No sign shall be placed within five (5) feet from the property line, and no sign shall block corner visibility or be located in a required sight visibility triangle. All signs shall be placed and erected in a safe and appropriate manner. No temporary political sign shall be placed upon any unimproved lot without the written consent of the property owner filed with the City Clerk prior to posting of the sign.

~~(b)(c)~~ *Procedures.*

1. *Removal of Illegal and/or Improper Political Signs.* ~~Any signs found to be in violation of the above subsections shall be removed immediately and without discretion by the City Manager and/or designee.~~ Political campaign signs not

posted in accordance with these regulations shall be subject to removal by the candidate, the property owner or the City. If the City removes the sign, the City shall deduct the cost and expense of removal from the posted cash bond.

2. *Bond.* Every candidate for public office, except those who qualify to run by the alternative method, who wishes to display signs on real property located in the City of North Miami Beach must post a cash bond or a performance bond in the amount of ~~two hundred fifty~~ five hundred (~~\$250.00~~) (\$500.00) dollars with the City of North Miami Beach before posting any such sign in the City. Failure to post a bond shall result in a citation being issued for fifty (\$50.00) per day against the candidate. This requirement is not applicable to signs and bumper stickers affixed to or located in or on automobiles.

3. *Date of Installation.* No political sign shall be displayed, erected or installed prior to the ~~February~~ March 1 immediately preceding any election which is the subject matter of such sign.

4. *Date of Removal.* Each and every sign posted by said candidate or his supporters must be removed within ten (10) days from the day of the election in which said candidate's victory or defeat is actually determined.

5. *Responsibility for Removal.* For purposes of this chapter, each political candidate is responsible for each sign advertising his or her candidacy, regardless of who posted the sign or whether the sign is posted with authorization from the political candidate. The person or persons posting a political candidate's campaign sign shall be regarded as an agent of said candidate.

6. *Forfeiture of Bond.* Any violation of this section will result in the forfeiture of the bond posted, regardless of the number or size of signs remaining. Said forfeiture shall be automatic, without notice, on the eleventh day following the election in which the political candidate's victory or defeat is actually and finally determined for that election.

Additionally, each candidate shall be liable to the City for the actual cost of sign removals.

(2) *Violation; Penalty.* For signs on commercial property only.

(a) The person(s) to be charged with violation of Section 24-147.2(D) shall be the candidate(s) whose name(s) appears and is advertised on the prohibited sign, poster, banner or placard or the campaign treasurer and sponsors of any other type of political campaign or issue which campaign or issue appears and is advertised on the prohibited sign, poster, banner or placard. Notice shall be given to the person(s) described herein of violation of Section 24-147.2(D). After notice is given, unless access to the sign is restricted, compliance must be achieved within forty-eight (48) hours. If compliance is not achieved within forty-eight (48) hours, a civil citation may be issued by a Code Enforcement Officer pursuant to Section 14-8.22 of this Code.

(b) In addition to the bond forfeiture specified in Section 24-147(D)(b)(6) above, violation of any of the provisions of Section 24-147.2(D) shall be punishable by a fine of fifty dollars (\$50.00) per violation. Each prohibited sign shall constitute a separate offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(c) Any and all outstanding fines for violating this section assessed against a candidate must be satisfied prior to his or her qualification to run in any future city election. (Ord. No. 2005-2, 3/15/05; Ord. No. 2009-15 § 2, 7/21/09)

**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 \_\_\_\_\_, 2013.

**ATTEST:**

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

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

**APPROVED AS TO FORM**

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

**Sponsored by: Councilwoman Barbara Kramer**  
**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:** Darcee S. Siegel, City Attorney  
**DATE:** Tuesday, December 18, 2012

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**RE:** Ordinance No. 2012-37- First Reading by Title Only (City Attorney Darcee S. Siegel)

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**BACKGROUND:** The City of North Miami Beach has established and maintains a Retirement Plan and Trust for the General Management Employees of the City of North Miami Beach. Section 6 of the Retirement Plan provides that the Plan may be amended by the City Council, subject to approval of 60 percent of the active participants of the Plan and the recommendation of the Plan Retirement Committee. The City has received a legal opinion that the requirement that any amendment to the Retirement Plan be approved by 60 percent of the active participants of the Plan and the recommendation of the Plan Retirement Committee is an improper and unconstitutional delegation of the City Council's legislative authority. The Mayor and City Council have determined that it is in the best interest of the City and its citizens to eliminate the unconstitutional provision in the Retirement Plan.

**RECOMMENDATION:** Approval is recommended.

**FISCAL IMPACT:**

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

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**ATTACHMENTS:**

- [Legal Opinion](#)
- [Ordinance No. 2012-37](#)



REPLY TO: TALLAHASSEE

December 12, 2012

Ms. Darcee S. Siegel  
City Attorney  
City of North Miami Beach  
City Hall, 4th floor  
17011 N.E. 19 Avenue  
North Miami Beach, FL 33162-3100

Re: Retirement Plan and Trust for the General Management Employees – Amendment Approval Process

Dear Ms. Siegel:

As requested, we have reviewed the process for approval of amendments contained in the City of North Miami Beach Retirement Plan for General Management Employees (“Management Plan”). The Management Plan is a defined benefit pension plan for general management employees of the City that was created by City ordinance in 2003. Section 6 of the Management Plan contains a procedure for amending the plan:

Section 6. The City Council of the City of North Miami Beach shall have the power to amend said Plan and Trust at such time or times as considered in the best interest of the Agency and its management employees, *upon approval of sixty percent (60%) of the active plan participants, and the recommendation of the Plan Retirement Committee* which shall consist of the City Manager, the Director of Finance and the City Attorney, or their designees, who shall all be plan participants, and two plan retirees chosen by the other three board members.

In our judgment, the requirement that any amendment to the Management Plan be approved by sixty percent of the active plan participants and be recommended by the plan retirement

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*See Things Differently*

BRADENTON  
101 Riverfront Boulevard  
Suite 620  
Bradenton, Florida 34205

p | 941-708-4040 • f | 941-708-4024

JACKSONVILLE  
245 Riverside Avenue  
Suite 150  
Jacksonville, Florida 32202

p | 904-353-6410 • f | 904-353-7619

TALLAHASSEE  
315 South Calhoun Street  
Suite 830  
Tallahassee, Florida 32301

p | 850-222-5702 • f | 850-224-9242

WEST PALM BEACH  
515 North Flagler Drive  
Suite 1500  
West Palm Beach, Florida 33401

p | 561-640-0820 • f | 561-640-8202

committee is an improper and unconstitutional delegation of the City Council's legislative authority. In practical effect, the requirement that plan members and the retirement committee approve amendments to the plan gives the members and the board veto power over any changes to the plan. As more fully explained below, the power to amend the plan properly belongs to the City Council – the legislative body for the City of North Miami Beach – and any provision that limits or restricts the City Council's legislative power is unconstitutional, and should be removed. Simply put: the Management Retirement Plan was created by an ordinance adopted by the City Council, and may only be amended by an ordinance of the City Council.

A legislative body is not permitted to improperly delegate its authority to legislate to another governmental body or private person or entity. *Vodshalk v. City of Lincoln Park*, 95 So. 2d 9 (Fla. 1957); *Watson v. City of St. Petersburg*, 489 So. 2d 138 (Fla. 2d DCA 1986). Moreover, the Florida Constitution's separation of powers clause prohibits the unlawful delegation of constitutional powers. See Arts. II-III, Fla. Const. The legislature may not parcel out this constitutional duty. *Chiles v. Children A, B, C, D, E and F*, 589 So. 2d 260 (Fla. 1991). A city council is not permitted to delegate its legislative duties to another person. *County of Volusia v. City of Deltona*, 925 So. 2d 340 (Fla. 5th DCA 2006)(holding that the city was not permitted to delegate its legislative functions to a private property owner or administrative agency); See also *Amara v. Daytona Beach Shores*, 181 So. 2d 722 (Fla. 1st DCA 1966)(holding that an ordinance requiring permission from private property owners prior to the issuance of any license or permit was an unlawful delegation of legislative power). However, ordinances have been upheld when certain guidelines must be applied and there is no unbridled discretion. *St. Johns County v. Northeast Florida Builder's Association, Inc.*, 583 So. 2d 635 (Fla. 1991).

In our opinion Section 6 of the Management Plan is an unlawful delegation of the City's legislative power because it gives a group of non-elected City employees unbridled discretion to engage in legislative duties. In essence, 41% of the active participants of the Management Plan have effective veto power over any plan amendment adopted by the City Council, and the employees may exercise this veto power for any reason whatsoever. Likewise, the requirement that all plan amendments be recommended by the retirement committee – made up of three current and two retired plan members, grants veto authority over any amendment to the committee, with no guidelines or criteria for approval or disapproval of amendments. Employees who are active participants of the Management Plan, and the members of the retirement committee, have unbridled discretion on when, how and whether to amend the plan. As such, the amendment approval requirement in the Management Retirement Plan is distinguishable from cases such as *St. Johns County v. Northeast Florida Builder's Association, Inc.*, which have allowed limited delegation of legislative authority.

Based on the foregoing cases, the requirement in the Management Retirement Plan that plan amendments be approved by sixty percent of active plan participants and recommended by the retirement committee is an unconstitutional and improper delegation of the City Council's legislative powers. For this reason, we recommend that the amendment approval process in

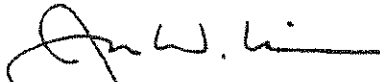


Ms. Darcee S. Siegel  
December 12, 2012  
Page 3

Section 6 of the plan be amended to remove the plan participant and retirement committee approval provisions.

If you have questions concerning any of the matters discussed in this letter, please call.

Sincerely,



James W. Linn

JWL/es

**ORDINANCE NO. 2012-37**

**AN ORDINANCE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING ORDINANCE NO. 2002-30, WHICH ESTABLISHED THE RETIREMENT PLAN AND TRUST FOR THE GENERAL MANAGEMENT EMPLOYEES OF THE CITY, ADMINISTERED BY THE FLORIDA LEAGUE OF CITIES; BY AMENDING SECTION 6 CONCERNING AMENDMENTS TO THE PLAN AND TRUST; PROVIDING FOR SEVERABILITY, PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR THE CODIFICATION OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of North Miami Beach has established and maintains a Retirement Plan and Trust for the General Management Employees of the City of North Miami Beach; and

**WHEREAS**, Section 6 of the Retirement Plan provides that the Plan may be amended by the City Council, subject to approval of 60 percent of the active participants of the Plan and the recommendation of the Plan Retirement Committee; and

**WHEREAS**, the City has received a legal opinion that the requirement that any amendment to the Retirement Plan be approved by 60 percent of the active participants of the Plan and the recommendation of the Plan Retirement Committee is an improper and unconstitutional delegation of the City Council's legislative authority; and

**WHEREAS**, the Mayor and City Council have determined that it is in the best interest of the City and its citizens to eliminate the unconstitutional provision in the Retirement Plan.

**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 6, of Ordinance No. 2002-30 of the City of North Miami Beach,

**ORDINANCE NO. 2012-37**

Florida, Code of Ordinances is hereby amended as follows :

Section 6. The City Council of the City of North Miami Beach shall have the power to amend said Plan and Trust at such time or times as considered in the best interest of the Agency and its management employees, ~~upon approval of sixty percent (60%) of the active plan participants, and the recommendation of the~~ The Plan Retirement Committee which shall consist of the City Manager the Director of Finance and the City Attorney, or their designees, who shall all be plan participants, and two plan retirees chosen by the other three board members, may make recommendations to the City Council concerning any amendment or proposed amendment to the Plan.

**SECTION 3.** Should this ordinance or any part thereof be declared invalid by a Court of competent jurisdiction, the invalidity of any part of this ordinance shall not otherwise affect the validity of the remaining provisions of this ordinance, which shall be deemed to have been enacted without the invalid provision.

**SECTION 4.** It is the intention of the City Council of the City of North Miami Beach that the provisions of this ordinance shall become and be made a part of the Adoption Agreement, Administered by the Florida League of Cities and that the word “ordinance” may be changed to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intentions.

**SECTION 5.** All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 6.** This ordinance shall take effect immediately upon its passage and adoption.

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

**APPROVED AND ADOPTED** on second reading this \_\_\_\_ day of \_\_\_\_\_,  
2013.

**ATTEST:**

\_\_\_\_\_  
**PAMELA LATIMORE**  
**CITY CLERK**

**(CITY SEAL)**

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

**APPROVED AS TO FORM:**

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

**Sponsored by: Mayor & Council**

Note: Proposed additions to existing City Code text are indicated by underline; proposed deletions from existing City Code text are indicated by ~~strikethrough~~.