



CITY OF NORTH MIAMI BEACH
City Council Meeting
City Hall, Council Chambers, 2nd Floor
17011 NE 19th Avenue
North Miami Beach, FL 33162
Tuesday, October 4, 2016
7:30 PM

Mayor George Vallejo
Vice Mayor Barbara Kramer
Councilman Frantz Pierre
Councilman Anthony F. DeFillipo
Councilwoman Marlen Martell
Councilwoman Phyllis Smith
Councilwoman Beth E. Spiegel

City Manager Ana M. Garcia, ICMA-CM
City Attorney Jose Smith
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.

City Council Meeting Agenda

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- 1. ROLL CALL OF CITY OFFICIALS**
 - 2. INVOCATION**
Pastor Nathan Adams, Fulford United Methodist Church
 - 3. PLEDGE OF ALLEGIANCE**
 - 4. REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO THE AGENDA**
 - 5. PRESENTATIONS / DISCUSSIONS**
 - 5.1. Quarterly Financial Analysis - Fiscal Year 2016, Third Quarter (Janette Smith, Finance Director)**
 - 5.2. NMB Water Customer Portal Update (Mark Perkins, NMB Water PIO)**
 - 6. PUBLIC COMMENT**

To All Citizens Appearing Under Public Comment

The Council has a rule which does not allow discussion on any matter which is brought up under Public Comment. We are, however, very happy to listen to you. The reason for this is that the Council must have Staff input and prior knowledge as to the facts and

figures, so that they can intelligently discuss a matter. The Council may wish to ask questions regarding this matter, but will not be required to do so. At the next or subsequent Council meeting you may have one of the Councilpersons introduce your matter as his or her recommendation. We wish to thank you for taking the time to bring this matter to our attention. Under no circumstances will personal attacks, either from the public or from the dais, be tolerated.

Speaking Before the City Council

There is a three (3) minute time limit for each speaker during public comment and a three (3) minute time limit for each speaker during all public hearings. Your cooperation is appreciated in observing the three (3) minute time limit policy. If you have a matter you would like to discuss which requires more than three (3) minutes, please feel free to arrange a meeting with the appropriate administrative or elected official. In the Council Chambers, citizen participants are asked to come forward to the podium, give your name and address, and the name and address of the organization you are representing, if any. If you are speaking on a public hearing item, please speak only on the subject for discussion. Thank you very much, in advance, for your cooperation.

Pledge of Civility

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

7. APPOINTMENTS - None

8. CONSENT AGENDA

8.1. Special Meeting Minutes of July 26, 2016 (Pamela L. Latimore, CMC, City Clerk)

8.2. Special Meeting Minutes of August 25, 2016 (Pamela L. Latimore, CMC, City Clerk)

8.3. Budget Hearing Minutes of September 20, 2016 (Pamela L. Latimore, CMC, City Clerk)

8.4. Regular Meeting Minutes of September 20, 2016 (Pamela L. Latimore, CMC, City Clerk)

8.5. Resolution R2016-83 (William Hernandez, Chief of Police)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER AND THE CITY CLERK TO EXECUTE A VOLUNTARY COOPERATION MUTUAL AID AGREEMENT WITH THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT AND PARTICIPATING AGENCIES FOR THE PURPOSE OF CREATING THE CHILD ABDUCTION RESPONSE TEAM (CART) AND FOR COOPERATION AND ASSISTANCE OF A ROUTINE LAW ENFORCEMENT NATURE

THAT CROSSES JURISDICTIONAL LINES.

- 8.6. Resolution R2016-84 Fulford Monument Restoration Grant (Esmond Scott & Richard Lorber)**

9. CITY MANAGER'S REPORT

- 9.1. Update on Medical Marijuana Legislation (Richard Lorber, Director of Community Development)**
- 9.2. Peoples Gas East Parcel Green Reuse Area Designation (Richard Lorber, Director of Community Development)**
- 9.3. Farm Share Free Food Distribution, October 8, 2016 from 10AM - 1PM (Paulette Murphy, Director of Parks & R.E.C.)**
- 9.4. NMB Magical History Tour, October 16, 2016 (Ana M. Garcia, City Manager)**
- 9.5. Monster Mash Bash, October 31, 2016 (Paulette Murphy, Director of Parks & R.E.C.)**

10. CITY ATTORNEY'S REPORT

- 10.1.Litigation List (Jose Smith, City Attorney)**

11. MAYOR'S DISCUSSION

- 11.1.Stephane Bolongaro Invitation to Monte Carlo March 2017**

12. MISCELLANEOUS ITEMS

- NMB Special Election Update (Pamela L. Latimore, CMC, City Clerk)**

13. BUSINESS TAX RECEIPTS - None

14. DISCUSSIONS

- 14.1.Discussion City Attorney (Councilman Frantz Pierre)**

15. LEGISLATION

- 15.1.Ordinance 2016-9 Second and Final Reading (Jose Smith, City Attorney)**

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CITY OF NORTH MIAMI BEACH CITY CODE CHAPTER II ENTITLED "STRUCTURE OF CITY GOVERNMENT", SECTION 2-1 ENTITLED "CITY COUNCIL", SUBSECTION 2-1.1 ENTITLED "MEETINGS OF THE CITY COUNCIL" AT SUBSECTION (a) THEREOF TO ESTABLISH AN ETHICAL DUTY OF CITY COUNCILMEMBERS TO REMAIN AT CITY COUNCIL MEETINGS DURING THE ENTIRETY OF ANY SUCH COUNCIL MEETING AND PROVIDING FOR JURISDICTION OF MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST TO ENFORCE THIS SUBSECTION;

PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION AND AN EFFECTIVE DATE.

15.2.Ordinance 2016-10 First Reading by Title Only (Richard Lorber Director of Community Development)

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE ENFORCEMENT OF FENCE HEIGHT REGULATIONS IN THE SINGLE-FAMILY RESIDENTIAL NEIGHBORHOODS; THE MORATORIUM SHALL AUTOMATICALLY DISSOLVE UPON THE EARLIER OF APRIL 4, 2017, OR UPON THE ADOPTION OF AMENDMENTS TO THE NORTH MIAMI BEACH ZONING AND LAND DEVELOPMENT CODE RELATING TO FENCE HEIGHT REGULATIONS.

16. CITY COUNCIL REPORTS

17. NEXT REGULAR CITY COUNCIL MEETING

Tuesday, October 18, 2016

18. ADJOURNMENT



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

MEMORANDUM

 [Print](#)

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA: Janette Smith, Finance Director

DATE: Tuesday, October 4, 2016

RE: Quarterly Financial Analysis - Fiscal Year 2016, Third Quarter
(Janette Smith, Finance Director)

**BACKGROUND
ANALYSIS:**

For the nine months ended, June 30, 2016 the City had an overall net favorable variance largely due to the timing of revenues and expenditures of \$22.5 million, which a portion of is restricted for specific purposes. The primary contributors of the net positive variance are the General Fund, Water Fund, and Enterprise Impact Fees Funds. A significant portion of the positive variance is simply due to the timing of payments for operating costs. Further, payments for capital outlays tend to begin in the 3rd quarter and become significant during the 4th quarter of the year.

It is important to note that this analysis was performed based on the *unaudited* results of operations as compared to the expected budget for the first nine months of Fiscal Year (FY) 2016. For the most part, the report has been prepared on a cash basis of accounting and, as a result, excludes encumbrances (e.g. the commitment of future purchases).

**RECOMMENDATION:
FISCAL/BUDGETARY
IMPACT:**

ATTACHMENTS:

- ☐ [Presentation](#)
- ☐ [Quarterly Financial Analysis](#)



**City of North Miami Beach
Quarterly Financial Analysis
FY 2016
Nine Months Ended, June 30, 2016**

City of North Miami Beach Quarterly Financial Analysis Third Quarter – Fiscal Year (FY) 2016 Agenda

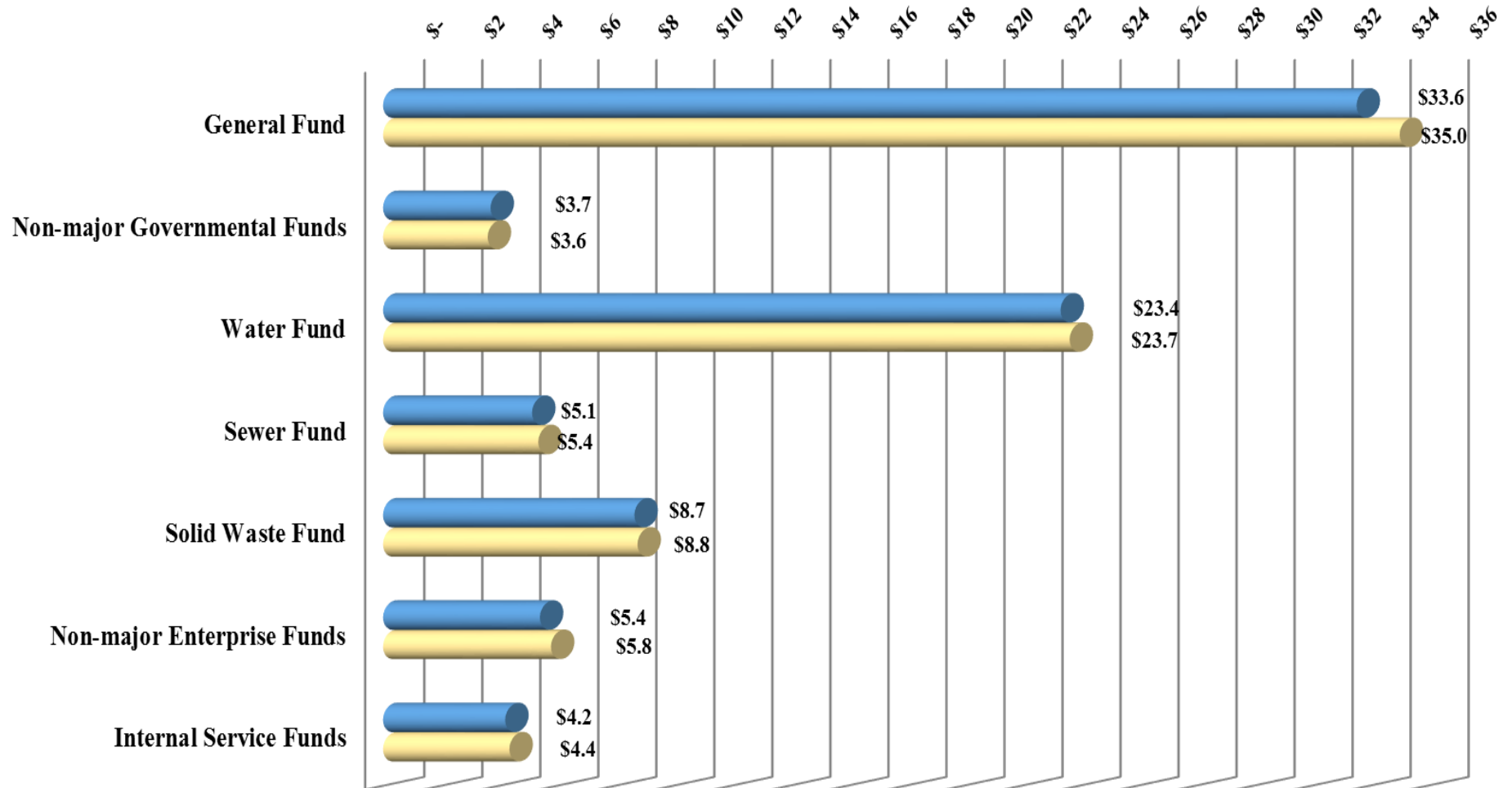
- ▶ **Disclaimer**
- ▶ **Methodology**
- ▶ **Overview**
- ▶ **Discussion Points**

City of North Miami Beach Quarterly Financial Analysis Third Quarter – FY 2016 Highlights

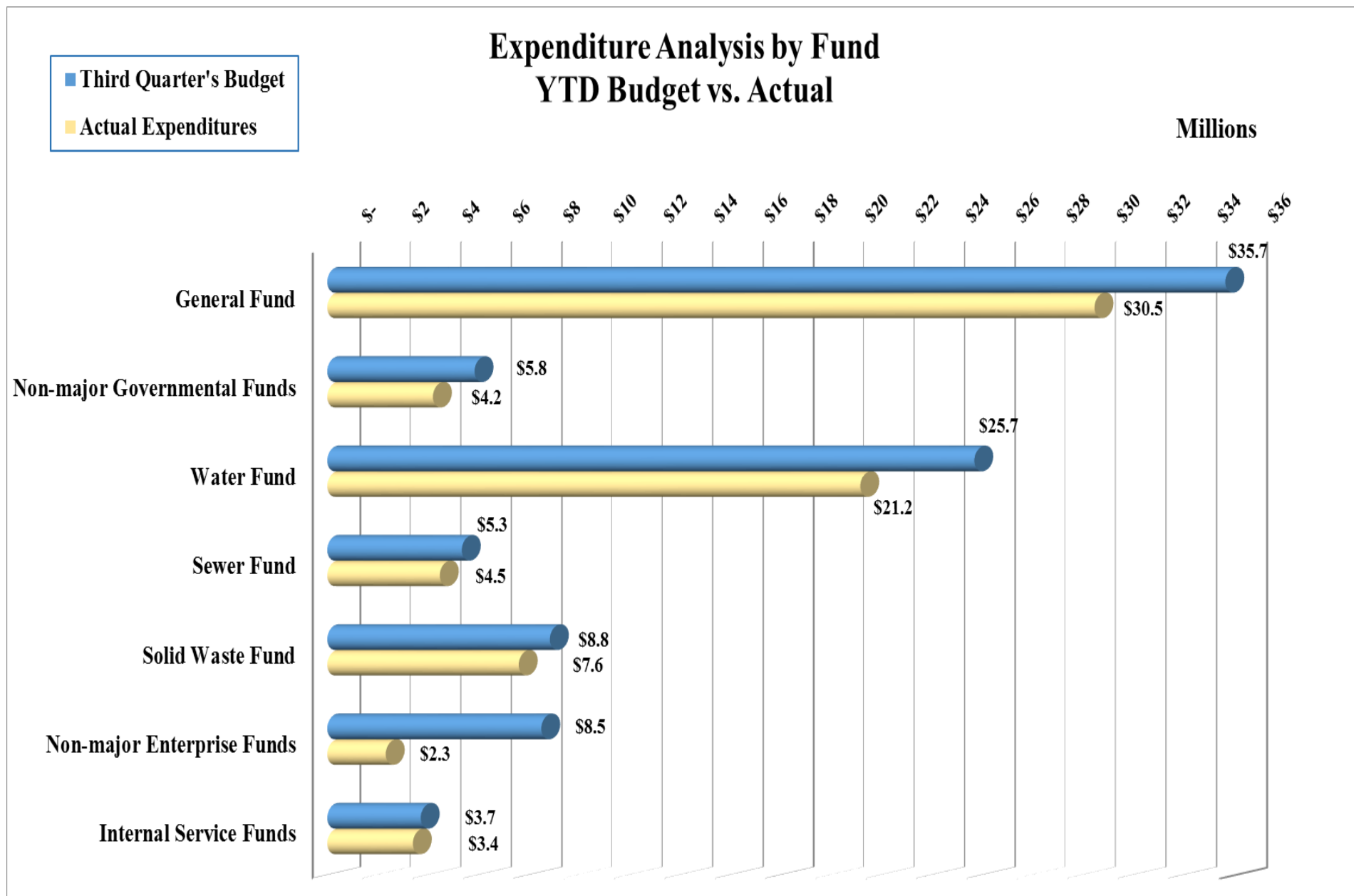
- ▶ Overall net favorable position driven by the timing of revenues and expenditures of \$22.5 million
- ▶ Pension Savings of over \$300,000 generated from prepaying pension obligations which totaled \$9.2 million
- ▶ Strong investment/available cash balances of over \$94.2 million at June 30, 2016

Revenue Analysis by Fund YTD Budget vs. Actual

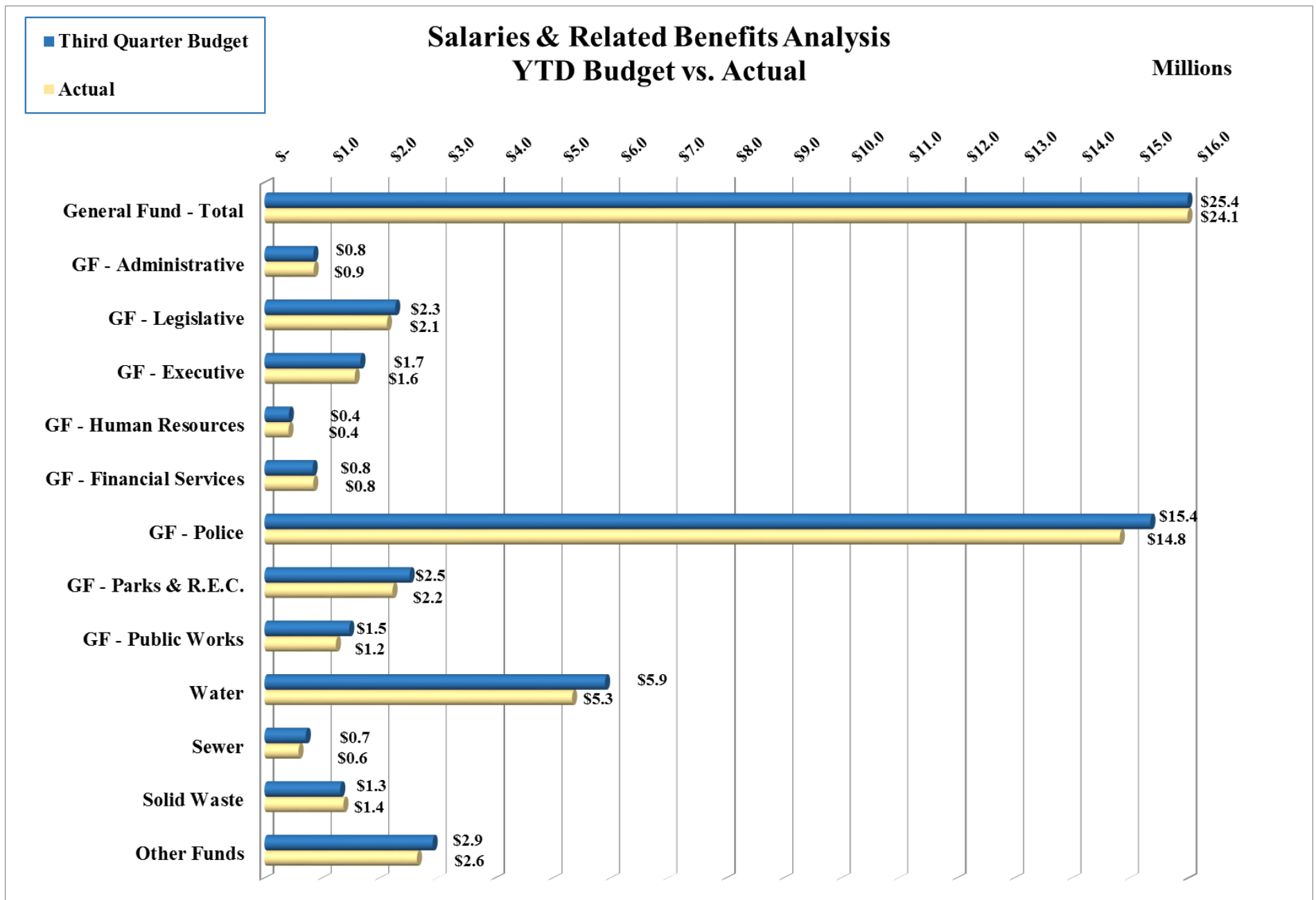
Millions



Property taxes, red light camera fines, and code enforcement fine revenue have exceeded expectations in the General Fund.



The cause of the General Fund variance is equally attributable to less than expected expenditures on salaries and benefits, operating expenses and capital outlay. The non-major governmental funds have expended less than budgeted for operations and for capital outlay. The enterprise funds are all under budget for salaries and benefits, operating costs and capital outlay, except the Solid Waste Fund is over budget in salaries and related costs.



Legal and Clerk salaries are slightly over budget, (\$4,584, or 1.6% & \$3,704 or 1.2%, respectively)
Solid Waste salaries exceed third quarter estimates by \$68,813 which is 5.5%.

City of North Miami Beach Quarterly Financial Analysis Third Quarter – FY 2016 Review & Analysis - Overall

- ▶ Overall net favorable position driven by the timing of revenues and expenditures primarily from the following funds:
 - ▶ General Fund = \$6.7 million
 - ▶ Water Fund = \$4.8 million
 - ▶ Enterprise Impact Fees Funds = \$5.0 million

**City of North Miami Beach
Quarterly Financial Analysis
Third Quarter – FY 2016
Review & Analysis – General Fund**

- ▶ General Fund \$6.7 million net favorable position is primarily due to:
 - ▶ Less than anticipated expenditures -
 - ▶ Timing of payments (operating and capital)
 - ▶ Lower than planned salaries and related benefits including savings from police vacancies and pension
 - ▶ Higher than planned revenues from property taxes, red light cameras and code enforcement fines

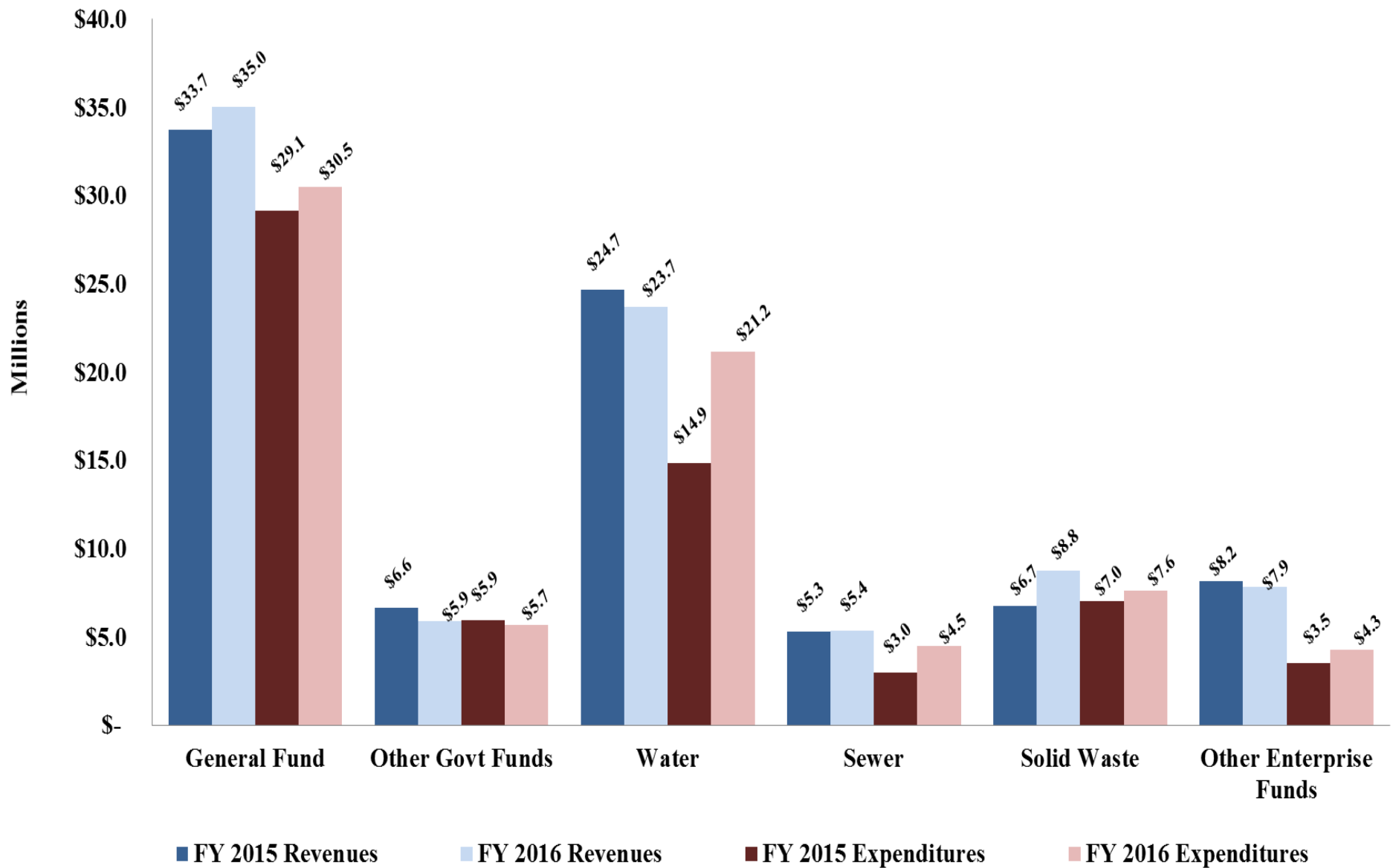
**City of North Miami Beach
Quarterly Financial Analysis
Third Quarter – FY 2016
Review & Analysis – Water Fund**

- ▶ Water Fund \$4.8 million net favorable position:
 - ▶ \$4.5 million less than anticipated expenditures, due to timing of payments (operating and capital)

**City of North Miami Beach
Quarterly Financial Analysis
Third Quarter – FY 2016
Review & Analysis – Enterprise Impact**

- ▶ Enterprise Impact/Inplant fees \$5.0 million net positive variance due the collection of revenue for which no expenditures have been incurred yet. Any unused amounts will roll into fund balance.

Year over Year Comparison



Thank you !



**City of North Miami Beach
Quarterly Financial Analysis
FY 2016
Nine Months Ended, June 30, 2016**

City of North Miami Beach
Quarterly Financial Analysis
Third Quarter – FY 2016
Overview

The attached schedules represent the ***unaudited*** results of operations as compared to the amended budget through June 30, 2016 for all budgeted funds. This document has, for the most part, been prepared on the cash basis of accounting utilizing information that was available at the time of this report.

For purposes of this presentation, the City's five Debt Service Funds have been combined, as well as the three proprietary Impact Fees Funds. Fund balance carryforwards have been eliminated to improve transparency.

It should be noted that the annual budget has generally been divided equally into four quarters. Actual cash flows do not necessarily follow this pattern of receipt or expenditure. Certain exceptions have been made to this formula when cash flows can reasonably be expected to occur at a particular time. For example, business tax receipts are due on October 1st. Therefore, at the end of the first quarter, 100% of the budget would be expected to be received. Likewise, debt service payments are scheduled and can be included in the quarterly budget column when due. Ad valorem taxes are presented based on historical collection patterns in both the general fund and the debt service funds.

This analysis will detail the major variances, the unfavorable variances and the causes thereof. A major variance is considered to be any variance over \$500,000 or 10% of the total budget.

Overall, the City is in a favorable position of approximately \$22.5 million as compared to budget at June 30, 2016. The use of a portion of this amount is restricted for specific purposes. Excess proceeds of the general fund are generally unrestricted as to purpose. Virtually every fund is contributing to the favorable position.

**City of North Miami Beach
Budgetary Comparison Summary
Cash Basis
For the Quarter Ending June 30, 2016**

REVENUES

	Current Year Budget	Third Quarter's Budget	Actual	Over / (Under) Budget
Governmental Funds:				
General Fund	\$ 44,031,023	\$ 33,558,437	\$ 35,044,273	\$ 1,485,836
Community Redevelopment Agency	\$ 703,508	\$ 701,008	\$ 702,073	\$ 1,065
Transit Surtax Fund	\$ 1,535,000	\$ 639,583	\$ 711,897	\$ 72,314
Governmental Impact Fee Fund	\$ 248,300	\$ 186,225	\$ 13,448	\$ (172,777)
Alley Restoration Fund	\$ 300,000	\$ 225,000	\$ 225,000	\$ -
Debt Service Funds	\$ 2,710,450	\$ 1,954,369	\$ 1,954,369	\$ -
Liability Self Insurance	\$ 1,301,988	\$ 1,301,988	\$ 1,380,315	\$ 78,327
Worker's Comp Self Insurance	\$ 843,106	\$ 843,106	\$ 913,232	\$ 70,126
TOTAL GOVT'L FUNDS REVENUE	\$ 51,673,375	\$ 39,409,716	\$ 40,944,607	\$ 1,534,891

**City of North Miami Beach
Budgetary Comparison Summary
Cash Basis
For the Quarter Ending June 30, 2016
(continued)**

EXPENDITURES

	Current Year Budget	Third Quarter's Budget	Actual	(Over) / Under Budget
Governmental Funds:				
General Fund	\$ 45,098,299	\$ 35,662,618	\$ 30,466,830	\$ 5,195,788
Community Redevelopment Agency	\$ 1,410,453	\$ 1,062,972	\$ 369,044	\$ 693,928
Transit Surtax Fund	\$ 2,077,280	\$ 1,715,062	\$ 952,396	\$ 762,666
Governmental Impact Fee Fund	\$ 428,759	\$ 321,569	\$ 185,552	\$ 136,017
Alley Restoration Fund	\$ 300,000	\$ 225,000	\$ 163,893	\$ 61,107
Debt Service Funds	\$ 2,710,450	\$ 2,524,181	\$ 2,524,181	\$ -
Liability Self Insurance	\$ 1,402,395	\$ 1,051,796	\$ 598,148	\$ 453,648
Worker's Comp Self Insurance	\$ 843,106	\$ 632,330	\$ 871,786	\$ (239,456)
TOTAL GOVT'L FUNDS EXPENSE	\$ 54,270,742	\$ 43,195,528	\$ 36,131,830	\$ 7,063,698

**City of North Miami Beach
Budgetary Comparison Summary
Cash Basis
For the Quarter Ending June 30, 2016
(continued)**

	Revenue Variance	Expenditure Variance	Net Variance Favorable / (Unfavorable)
Governmental Funds:			
General Fund	\$ 1,485,836	\$ 5,195,788	\$ 6,681,624
Community Redevelopment Agency	\$ 1,065	\$ 693,928	\$ 694,993
Transit Surtax Fund	\$ 72,314	\$ 762,666	\$ 834,980
Governmental Impact Fee Fund	\$ (172,777)	\$ 136,017	\$ (36,760)
Alley Restoration Fund	\$ -	\$ 61,107	\$ 61,107
Debt Service Funds	\$ -	\$ -	\$ -
Liability Self Insurance	\$ 78,327	\$ 453,648	\$ 531,975
Worker's Comp Self Insurance	\$ 70,126	\$ (239,456)	\$ (169,330)
TOTAL GOVERNMENTAL FUNDS	\$ 1,534,891	\$ 7,063,698	\$ 8,598,589

**City of North Miami Beach
Budgetary Comparison Summary
Cash Basis
For the Quarter Ending June 30, 2016
(continued)**

REVENUES

	Current Year Budget	Third Quarter's Budget	Actual	Over / (Under) Budget
Enterprise Funds:				
Stormwater Fund	\$ 1,309,200	\$ 981,900	\$ 976,991	\$ (4,909)
Water Fund	\$ 31,139,326	\$ 23,354,495	\$ 23,667,613	\$ 313,118
Sewer Fund	\$ 6,849,232	\$ 5,136,923	\$ 5,350,979	\$ 214,056
Building Permit Fund	\$ 2,389,761	\$ 1,792,321	\$ 2,693,075	\$ 900,754
Solid Waste Fund	\$ 11,148,675	\$ 8,664,200	\$ 8,770,903	\$ 106,703
Impact Fees Funds	\$ 3,510,000	\$ 2,632,500	\$ 2,117,971	\$ (514,529)
Internal Service Fund	\$ 2,753,547	\$ 2,065,160	\$ 2,062,905	\$ (2,255)
TOTAL ENTERPRISE FUNDS REVENUE	\$ 59,099,741	\$ 44,627,499	\$ 45,640,437	\$ 1,012,938

**City of North Miami Beach
Budgetary Comparison Summary
Cash Basis
For the Quarter Ending June 30, 2016
(continued)**

EXPENDITURES

	Current Year Budget	Third Quarter's Budget	Actual	(Over) / Under Budget
Enterprise Funds:				
Stormwater Fund	\$ 1,309,200	\$ 1,132,675	\$ 737,772	\$ 394,903
Water Fund	\$ 31,139,326	\$ 25,694,063	\$ 21,166,365	\$ 4,527,698
Sewer Fund	\$ 6,849,232	\$ 5,343,655	\$ 4,467,698	\$ 875,957
Building Permit Fund	\$ 2,389,761	\$ 1,883,105	\$ 1,584,474	\$ 298,631
Solid Waste Fund	\$ 11,148,675	\$ 8,839,710	\$ 7,604,345	\$ 1,235,365
Impact Fees Funds	\$ 7,310,000	\$ 5,482,500	\$ -	\$ 5,482,500
Internal Service Fund	\$ 2,753,547	\$ 2,026,246	\$ 1,928,461	\$ 97,785
TOTAL ENTERPRISE FUNDS EXPENSE	\$ 62,899,741	\$ 50,401,954	\$ 37,489,115	\$ 12,912,839

**City of North Miami Beach
Budgetary Comparison Summary
Cash Basis
For the Quarter Ending June 30, 2016
(continued)**

	Revenue Variance	Expenditure Variance	Net Variance Favorable / (Unfavorable)
Enterprise Funds:			
Stormwater Fund	\$ (4,909)	\$ 394,903	\$ 389,994
Water Fund	\$ 313,118	\$ 4,527,698	\$ 4,840,816
Sewer Fund	\$ 214,056	\$ 875,957	\$ 1,090,013
Building Permit Fund	\$ 900,754	\$ 298,631	\$ 1,199,385
Solid Waste Fund	\$ 106,703	\$ 1,235,365	\$ 1,342,068
Impact Fees Funds	\$ (514,529)	\$ 5,482,500	\$ 4,967,971
Internal Service Funds	\$ (2,255)	\$ 97,785	\$ 95,530
TOTAL ENTERPRISE FUNDS	\$ 1,012,938	\$ 12,912,839	\$ 13,925,777
TOTAL ALL FUNDS	\$ 2,547,829	\$ 19,976,537	\$ 22,524,366

**City of North Miami Beach
General Fund Revenues
Budgetary Comparison Schedule
For the Quarter Ending June 30, 2016**

	Current Year Budget	Third Quarter's Budget	Actual	Favorable / (Unfavorable) Variance	Percentage of Budget Collected
Revenues ^(Note A)					
Property taxes ^(Note 1)	\$ 12,550,521	\$ 11,586,641	\$ 12,195,410	\$ 608,769	97%
Franchise fees	1,907,726	1,125,611	1,126,944	1,333	59%
Utility taxes	2,937,810	2,008,098	2,115,463	107,365	72%
Communication service tax	1,793,241	1,046,057	1,099,412	53,355	61%
Other taxes	650,000	-	-	-	0%
Licenses and permits	869,400	843,800	814,748	(29,052)	94%
Intergovernmental	5,734,527	3,619,654	3,721,113	101,459	65%
Charges for services	8,439,602	6,322,205	6,430,074	107,869	76%
Fines and forfeitures	608,000	456,000	953,182	497,182	157%
Interest	203,500	152,625	97,661	(54,964)	48%
Other Miscellaneous	913,300	809,975	902,495	92,520	99%
Transfers in	7,423,396	5,587,771	5,587,771	-	75%
Total revenues	<u>\$ 44,031,023</u>	<u>\$ 33,558,437</u>	<u>\$ 35,044,273</u>	<u>\$ 1,485,836</u>	<u>80%</u>

(1) 92.3% of budgeted amount expected to be collected as of June 30th based on historical collection patterns.

(A) Certain exceptions have been made to this formula when cash flows can reasonably be expected to occur at a particular time.

**City of North Miami Beach
General Fund Expenditures
Budgetary Comparison Schedule
For the Quarter Ending June 30, 2016**

	Current Year Budget	Third Quarter's Budget(1)	Actual	Favorable / (Unfavorable) Variance	Percentage of Budget Spent
Expenditures by Function					
Administrative	\$ 1,525,654	\$ 1,163,840	\$ 1,082,873	\$ 80,967	71%
Legislative	4,010,318	2,889,653	2,438,693	450,960	61%
Executive	2,955,820	2,257,904	2,023,171	234,733	68%
Human Resources	613,079	469,938	454,220	15,718	74%
Finance	1,206,609	926,902	918,310	8,592	76%
Police Services	20,422,680	16,792,519	16,040,871	751,648	79%
Parks & R.E.C.	4,944,673	3,746,141	3,100,651	645,490	63%
Public Works	4,356,453	3,313,016	2,634,950	678,066	60%
Capital outlay	3,058,175	2,293,634	329,908	1,963,726	11%
Debt service	421,522	410,217	410,217	-	97%
Transfers out	1,583,316	1,398,854	1,032,966	365,888	65%
Total expenditures	\$ 45,098,299	\$ 35,662,618	\$ 30,466,830	\$ 5,195,788	68%
Expenditures by Class					
Salaries & related costs	\$ 22,760,346	\$ 17,200,135	\$ 16,222,665	\$ 977,470	71%
Pension	9,039,524	8,183,191	7,870,628	312,563	87%
Operating expenses	8,235,416	6,176,587	4,600,446	1,576,141	56%
Capital outlay	3,058,175	2,293,634	329,908	1,963,726	11%
Non-operating expenses	2,004,838	1,809,071	1,443,183	365,888	72%
Total expenditures	\$ 45,098,299	\$ 35,662,618	\$ 30,466,830	\$ 5,195,788	68%

(1) Budget includes 100% of pension payments paid in beginning of year which resulted in interest savings.

**City of North Miami Beach
Enterprise Funds
Budgetary Comparison Schedule
For the Quarter Ending June 30, 2016**

	Current Year Budget	Third Quarter's Budget	Actual	Favorable / (Unfavorable) Variance	% of Current Year Budget
Stormwater Fund					
Revenue:					
Operating revenue	\$ 1,273,000	\$ 954,750	\$ 954,759	\$ 9	75%
Non-operating revenue	36,200	27,150	22,232	(4,918)	61%
Total Revenues:	1,309,200	981,900	976,991	(4,909)	75%
Expenses:					
Salaries & related costs	231,222	173,417	159,262	14,155	69%
Pension	61,138	61,138	58,911	2,227	96%
Operating costs	449,137	336,853	98,400	238,453	22%
Capital outlay	211,413	158,560	-	158,560	0%
Non-operating expenses	470,745	402,707	421,199	(18,492)	89%
Total Expenses:	1,423,655	1,132,675	737,772	394,903	52%
Change in net assets	\$ (114,455)	\$ (150,775)	\$ 239,219	\$ 389,994	

**City of North Miami Beach
Enterprise Funds
Budgetary Comparison Schedule
For the Quarter Ending June 30, 2016
(continued)**

Current Year Budget	Third Quarter's Budget	Actual	Favorable / (Unfavorable) Variance	% of Current Year Budget
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Water Fund

Revenue:

Operating revenue	\$ 30,463,026	\$ 22,847,270	\$ 23,121,980	\$ 274,710	76%
Non-operating revenue	676,300	507,225	545,633	38,408	81%
Total Revenues:	31,139,326	23,354,495	23,667,613	313,118	76%

Expenses:

Salaries & related costs	6,175,466	4,680,810	4,154,675	526,135	67%
Pension	1,223,370	1,223,370	1,178,461	44,909	96%
Operating costs	11,200,250	8,400,193	7,259,707	1,140,486	65%
Capital outlay	4,076,772	3,057,580	363,334	2,694,246	9%
Non-operating expenses	10,163,468	8,332,110	8,210,188	121,922	81%
Total Expenses:	32,839,326	25,694,063	21,166,365	4,527,698	64%

Change in net assets \$ (1,700,000) \$ (2,339,568) \$ 2,501,248 \$ 4,840,816

**City of North Miami Beach
Enterprise Funds
Budgetary Comparison Schedule
For the Quarter Ending June 30, 2016
(continued)**

	Current Year Budget	Third Quarter's Budget	Actual	Favorable / (Unfavorable) Variance	% of Current Year Budget
Sewer Fund					
Revenue:					
Operating revenue	\$ 6,786,232	\$ 5,089,673	\$ 5,267,376	\$ 177,703	78%
Non-operating revenue	<u>63,000</u>	<u>47,250</u>	<u>83,603</u>	<u>36,353</u>	133%
Total Revenues:	6,849,232	5,136,923	5,350,979	214,056	78%
Expenses:					
Salaries & related costs	757,876	572,816	451,552	121,264	60%
Pension	144,534	144,534	139,336	5,198	96%
Operating costs	3,427,025	2,570,270	2,373,006	197,264	69%
Capital outlay	930,882	698,161	145,275	552,886	16%
Non-operating expenses	<u>1,588,915</u>	<u>1,357,874</u>	<u>1,358,529</u>	<u>(655)</u>	86%
Total Expenses:	6,849,232	5,343,655	4,467,698	875,957	65%
Change in net assets	\$ -	\$ (206,732)	\$ 883,281	\$ 1,090,013	

**City of North Miami Beach
Enterprise Funds
Budgetary Comparison Schedule
For the Quarter Ending June 30, 2016
(continued)**

	Current Year Budget	Third Quarter's Budget	Actual	Favorable / (Unfavorable) Variance	% of Current Year Budget
Building Permit Fund					
Revenue:					
Operating revenue	\$ 2,126,061	1,594,546	\$ 2,463,737	\$ 869,191	116%
Non-operating revenue	<u>263,700</u>	<u>197,775</u>	<u>229,338</u>	<u>31,563</u>	87%
Total Revenues:	2,389,761	1,792,321	2,693,075	900,754	113%
Expenses:					
Salaries & related costs	1,240,681	933,411	860,646	72,765	69%
Pension	144,029	144,029	138,407	5,622	96%
Operating costs	389,295	291,971	154,790	137,181	40%
Capital outlay	110,750	83,063	-	83,063	0%
Non-operating expenses	<u>521,021</u>	<u>430,631</u>	<u>430,631</u>	<u>-</u>	83%
Total Expenses:	2,405,776	1,883,105	1,584,474	298,631	66%
Change in net assets	\$ <u>(16,015)</u>	\$ <u>(90,784)</u>	\$ <u>1,108,601</u>	\$ <u>1,199,385</u>	

**City of North Miami Beach
Enterprise Funds
Budgetary Comparison Schedule
For the Quarter Ending June 30, 2016
(continued)**

	Current Year Budget	Third Quarter's Budget	Actual	Favorable / (Unfavorable) Variance	% of Current Year Budget
Solid Waste Fund					
Revenue:					
Operating revenue	\$ 8,879,383	\$ 6,659,537	\$ 6,616,562	\$ (42,975)	75%
Non-operating revenue	<u>2,269,292</u>	<u>2,004,663</u>	<u>2,154,341</u>	<u>149,678</u>	95%
Total Revenues:	11,148,675	8,664,200	8,770,903	106,703	79%
Expenses:					
Salaries & related costs	1,246,536	949,173	1,017,986	(68,813)	82%
Pension	364,403	364,403	351,207	13,196	96%
Operating costs	6,941,415	5,206,063	4,085,250	1,120,813	59%
Capital outlay	330,200	247,650	77,481	170,169	23%
Non-operating expenses	<u>2,566,121</u>	<u>2,072,421</u>	<u>2,072,421</u>	<u>-</u>	81%
Total Expenses:	11,448,675	8,839,710	7,604,345	1,235,365	66%
Change in net assets	\$ <u>(300,000)</u>	\$ <u>(175,510)</u>	\$ <u>1,166,558</u>	\$ <u>1,342,068</u>	

**City of North Miami Beach
Enterprise Funds
Budgetary Comparison Schedule
For the Quarter Ending June 30, 2016
(continued)**

	Current Year Budget	Third Quarter's Budget	Actual	Favorable / (Unfavorable) Variance	% of Current Year Budget
--	---------------------	------------------------	--------	------------------------------------	--------------------------

Impact Fees Funds

Revenue:

Operating revenue	\$ 3,510,000	\$ 2,632,500	\$ 2,117,971	\$ (514,529)	60%
Total Revenues:	3,510,000	2,632,500	2,117,971	(514,529)	60%

Expenses:

Capital outlay	7,310,000	5,482,500	-	5,482,500	0%
Total Expenses:	7,310,000	5,482,500	-	5,482,500	0%

Change in net assets	\$ (3,800,000)	\$ (2,850,000)	\$ 2,117,971	\$ 4,967,971	
-----------------------------	-----------------------	-----------------------	---------------------	---------------------	--

**City of North Miami Beach
Enterprise Funds
Budgetary Comparison Schedule
For the Quarter Ending June 30, 2016
(continued)**

	Current Year Budget	Third Quarter's Budget	Actual	Favorable / (Unfavorable) Variance	% of Current Year Budget
--	---------------------	------------------------	--------	------------------------------------	--------------------------

Customer Service Fund

Revenue:

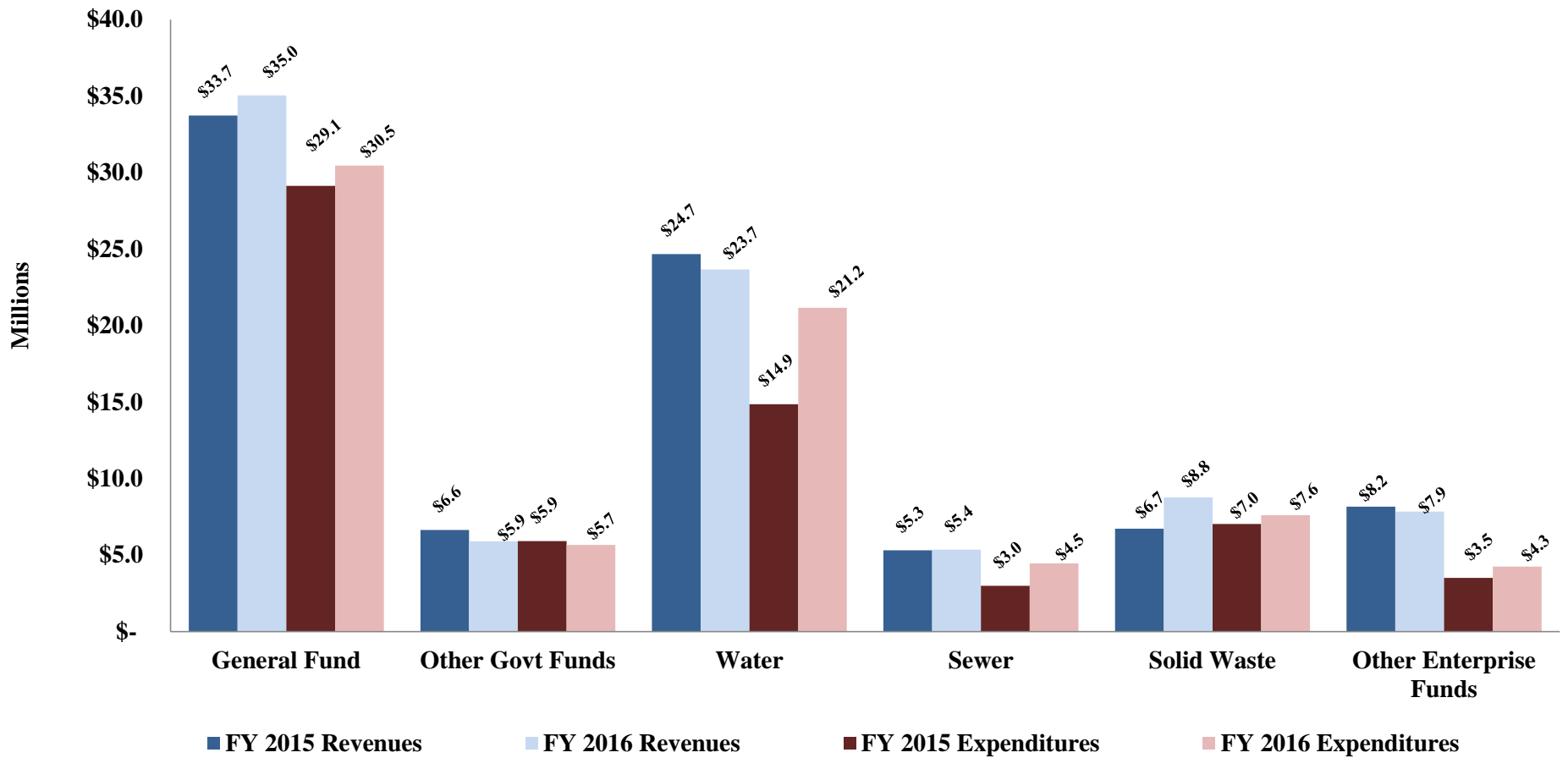
Operating revenue	\$ 2,723,547	\$ 2,042,660	\$ 2,042,660	\$ -	75%
Non-operating revenue	<u>30,000</u>	<u>22,500</u>	<u>20,245</u>	<u>(2,255)</u>	67%
Total Revenues:	2,753,547	2,065,160	2,062,905	(2,255)	75%

Expenses:

Salaries & related costs	1,677,470	1,264,386	1,113,351	151,035	66%
Pension	240,113	240,113	231,315	8,798	96%
Operating costs	625,511	469,134	371,637	97,497	59%
Capital outlay	-	-	2,995	(2,995)	100%
Non-operating expenses	<u>210,453</u>	<u>52,613</u>	<u>209,163</u>	<u>(156,550)</u>	99%
Total Expenses:	2,753,547	2,026,246	1,928,461	97,785	70%

Change in net assets	\$ -	\$ 38,914	\$ 134,444	\$ 95,530
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Year over Year Comparison



**City of North Miami Beach
Quarterly Financial Analysis
Third Quarter – FY 2016
Review and Analysis**

The General Fund favorable variance of approximately \$6.7 million consists of an increase in property taxes, red light camera fines, and code enforcement fine revenue of \$1.5 million and about \$5.2 million in lower than expected expenditures. Salary expenses are almost \$1 million less than budget. Operating expenses are \$1.6 million less than budget. Capital outlay is almost \$2.0 million less than budget. The expenditure variances can be attributed to fewer than expected operating expenditures mostly in Legislative, Police, Parks and Public Works departments and savings in salary and related costs in the Executive, Police, Parks and Public Works departments.

The favorable variance in the CRA is due to lower than expected operating expenses and capital outlay.

The Transit Surtax Fund has a favorable variance of approximately \$835,000 primarily resulting from lower than budgeted operating expenses in the NMB Bus Line and lower than budgeted capital outlay in the Special Projects and the NMB Bus Line Departments.

The Governmental Impact Fees revenues are under budget in the Parks and Police Departments by \$172,777. The shortfall in revenues is partially offset by lower than expected capital outlays in the Parks and Beautification Departments,

The Alley Restoration Fund has a positive variance of \$61,107 because of fewer than expected capital outlays.

The favorable variance in the Liability Self-Insurance Fund is the result of lower than expected expenditures for claims, premiums and outside legal advice.

The Worker's Compensation Fund has a negative variance because claims expenditures are higher than budgeted.

All of the enterprise funds are experiencing favorable variances because expenditures are lower than expected. The only significant revenue variance is in the Building Permit Fund where permit revenues are exceeding expectations by about \$900,000.



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

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA:

DATE: Tuesday, October 4, 2016

RE: NMB Water Customer Portal Update (Mark Perkins, NMB Water PIO)

BACKGROUND

ANALYSIS:

RECOMMENDATION:

FISCAL/BUDGETARY

IMPACT:

ATTACHMENTS:

 [NMB Water Customer Portal Update](#)



CUSTOMER WEB PORTAL

CITY COUNCIL MEETING

TUESDAY, OCTOBER 4, 2016

CUSTOMER WEB PORTAL

- **CUSTOMER BENEFITS**
 - **VIEW USAGE IN NEAR REAL TIME**
 - **COMPARE WATER USE TO OTHER USERS**
 - **SET WATER USE ALERTS**
 - **MODIFY CONSUMPTION HABITS**
- **REGISTER ONLINE WITH ACCOUNT AND METER NUMBER**

Account:

Meter:

Water -

3

Goals

[Goal settings ...](#)

Goal this month: 4,961.470 Gallons

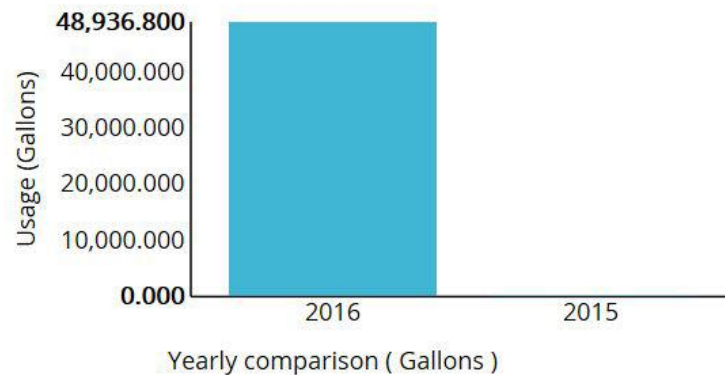
Usage as of September 19 2016: 2,477.400 Gallons

50 %

Meter reading as of: September 18 2016

114

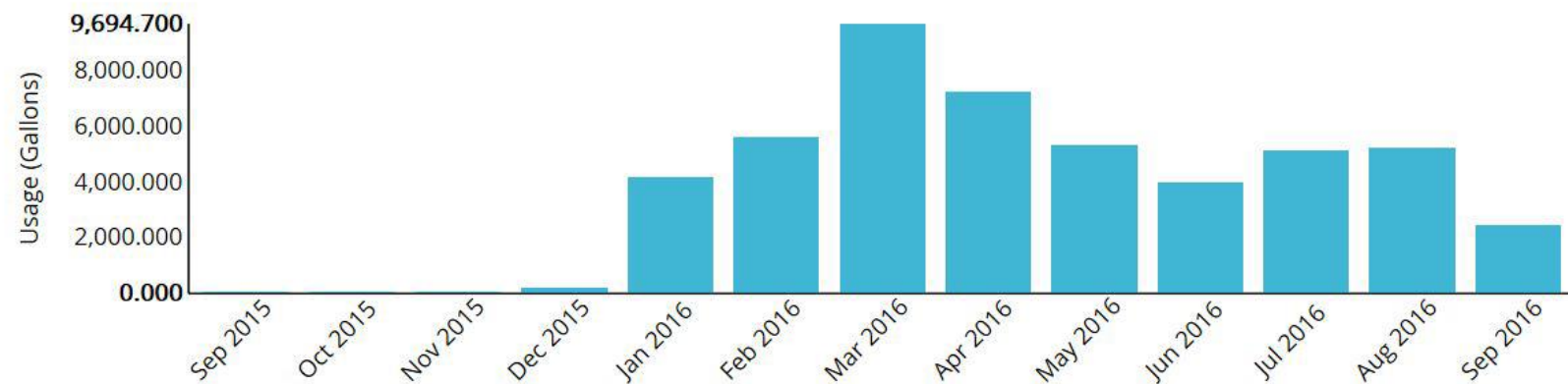
Comparison



Daily

30 day average: 145.317 Gallons [More info...](#) [Daily alerts...](#)

Monthly

12 month average: 3,889.283 Gallons [More info...](#)

Account:

Meter:

Water -

4

Goals

[Goal settings...](#)

Goal this month:

4,961.470 Gallons

Usage as of September 19 2016:

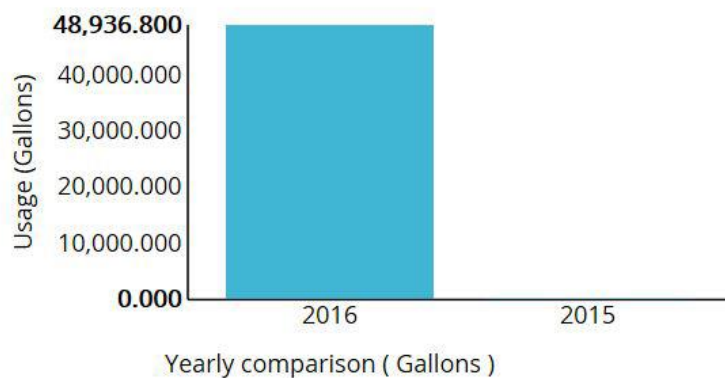
2,477.400 Gallons

50 %

Meter reading as of: September 18 2016

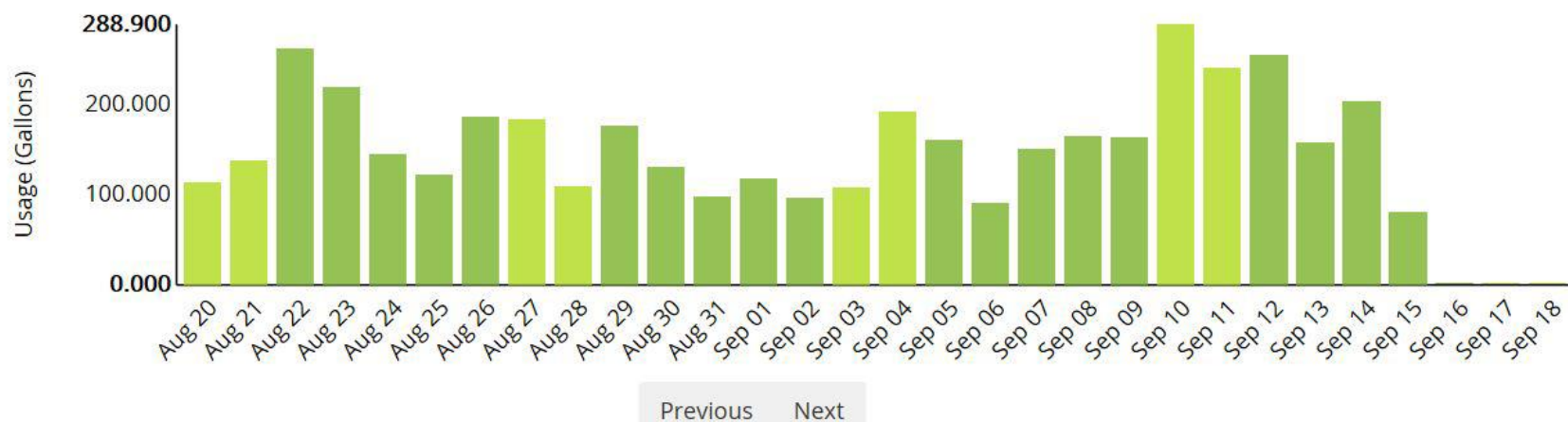
114

Comparison



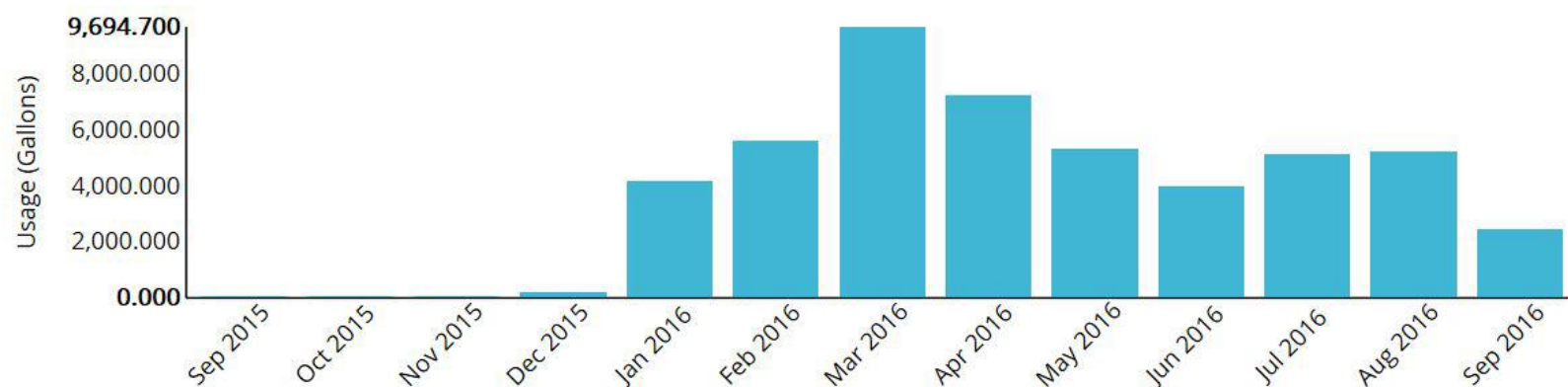
Daily

30 day average: 145.317 Gallons

[More info...](#)[Daily alerts...](#)

Monthly

12 month average: 3,889.283 Gallons

[More info...](#)

Goals

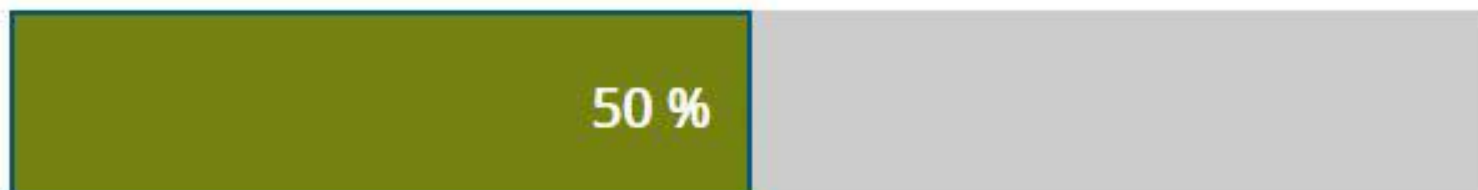
[Goal settings ...](#)

Goal this month:

4,961.470 Gallons

Usage as of September 19 2016:

2,477.400 Gallons



Meter reading as of: September 18 2016

1	1	4
---	---	---

Goals

[Goal settings ...](#)

Goal this month:

4,961.470 Gallons

Usage as of September 19 2016:

2,477.400 Gallons

A horizontal progress bar is shown. The left half of the bar is filled with a solid olive green color, while the right half is a light gray. The text "50 %" is centered within the green portion of the bar.

50 %

Meter reading as of: September 18 2016

1	1	4
---	---	---

Account:

Meter:

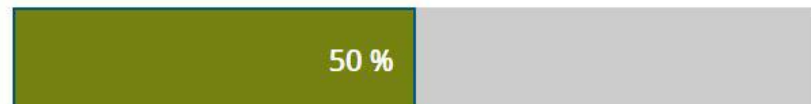
Water:

8

Goals

[Goal settings ...](#)

Goal this month: **4,961.470 Gallons**

Usage as of September 19 2016: **2,477.400 Gallons**


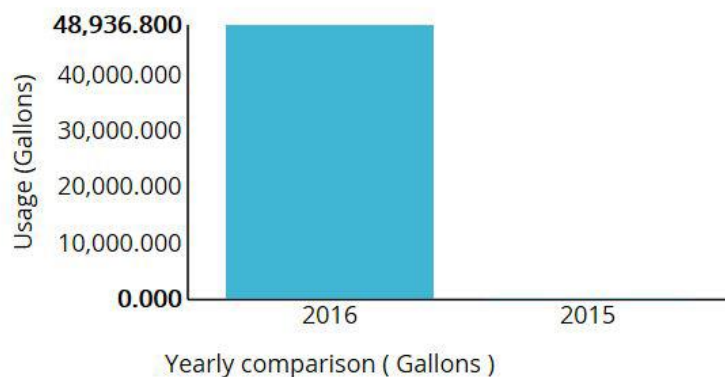
Meter reading as of: September 18 2016

1

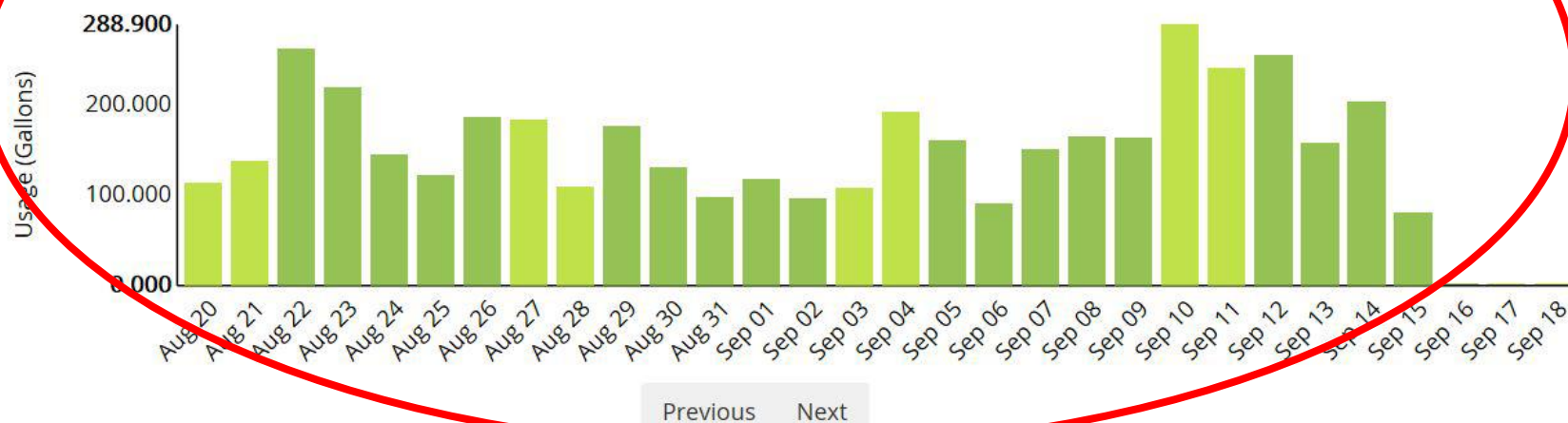
1

4

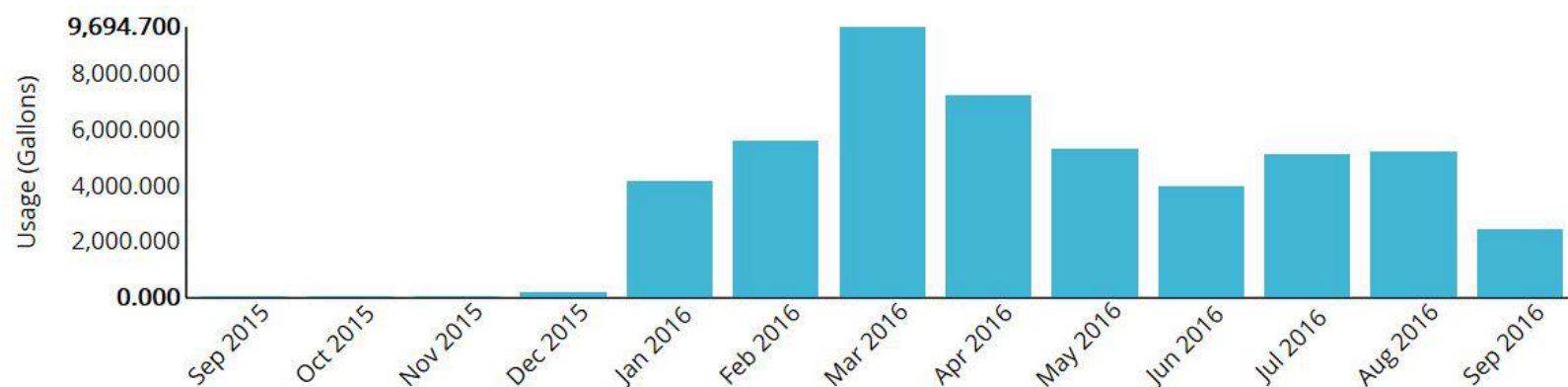
Comparison



Daily

30 day average: 145.317 Gallons [More info...](#) [Daily alerts...](#)


Monthly

12 month average: 3,889.283 Gallons [More info...](#)




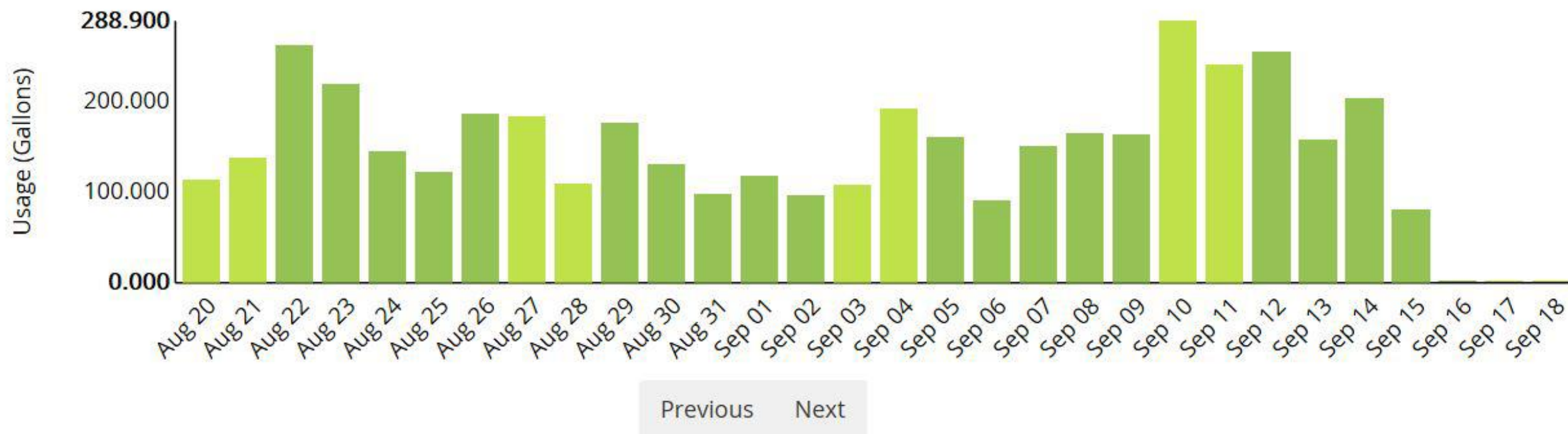
Account:

Meter:

Water -

Daily

30 day average: 145.317 Gallons

[More info...](#)[Daily alerts...](#)

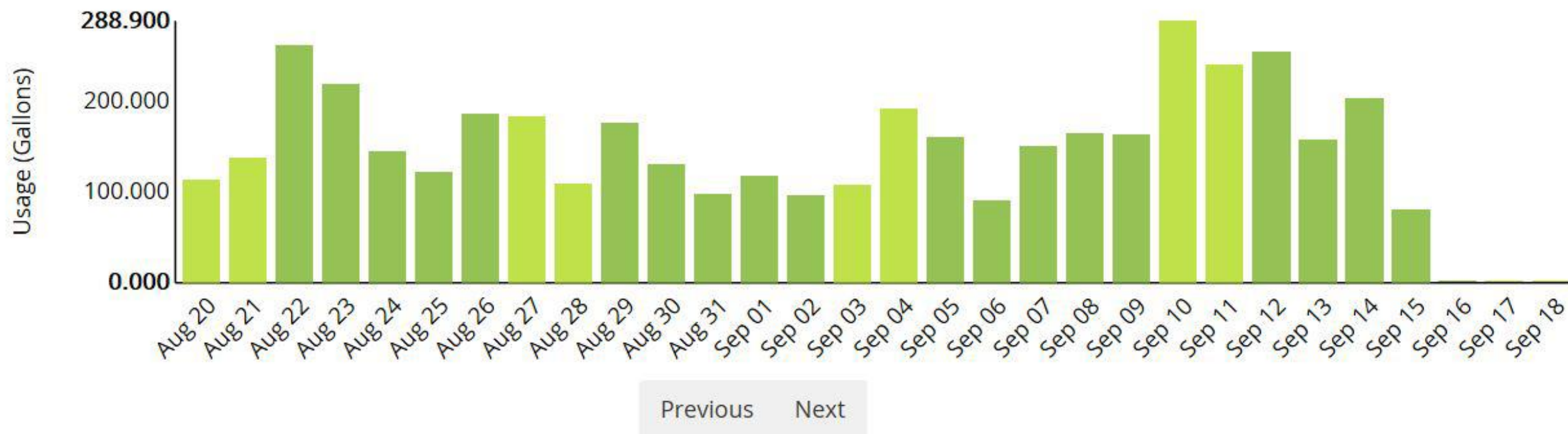


Account:

Meter:

Water -

Daily

30 day average: 145.317 Gallons [More info...](#) [Daily alerts...](#)



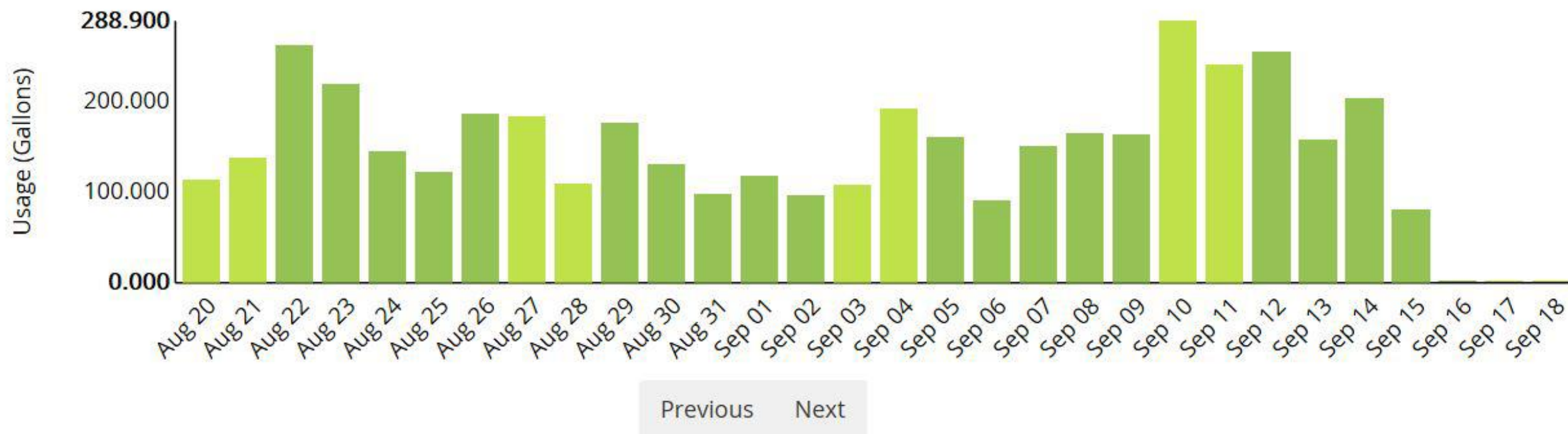
Account:

Meter:

Water -

Daily

30 day average: 145.317 Gallons

[More info...](#)[Daily alerts...](#)



Account:

Meter:

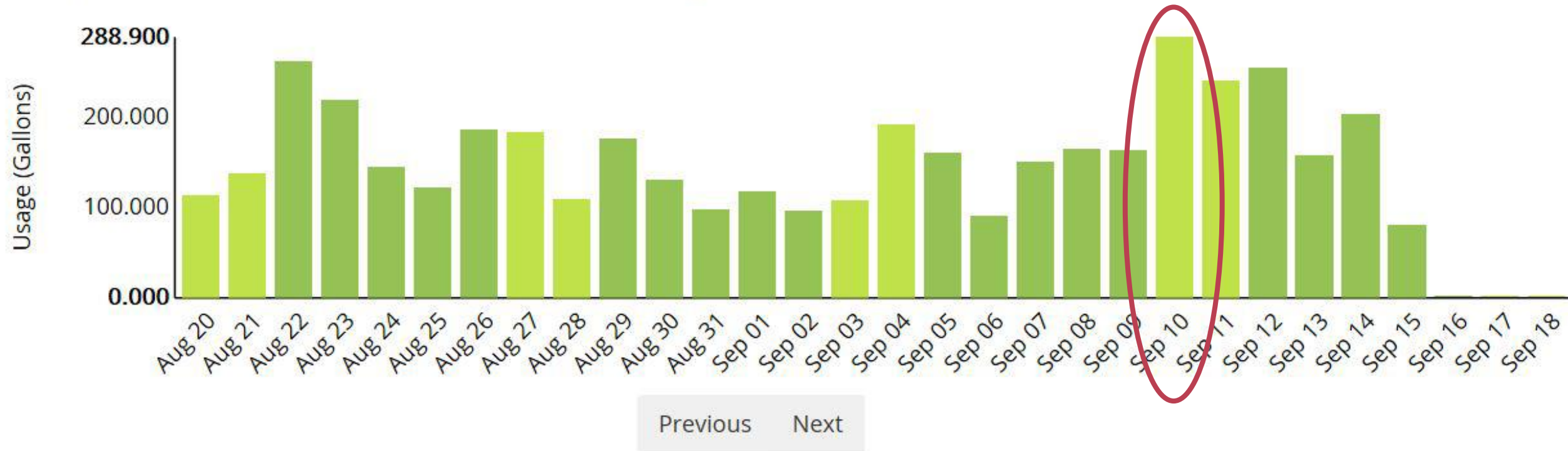
Water -

Daily

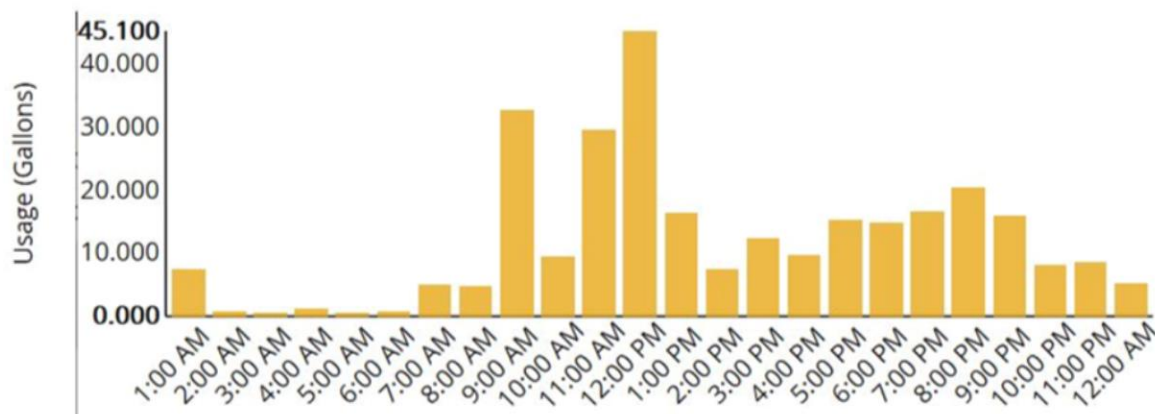
30 day average: 145.317 Gallons

[More info...](#)

[Daily alerts...](#)



Sep 10 Usage (Gallons)

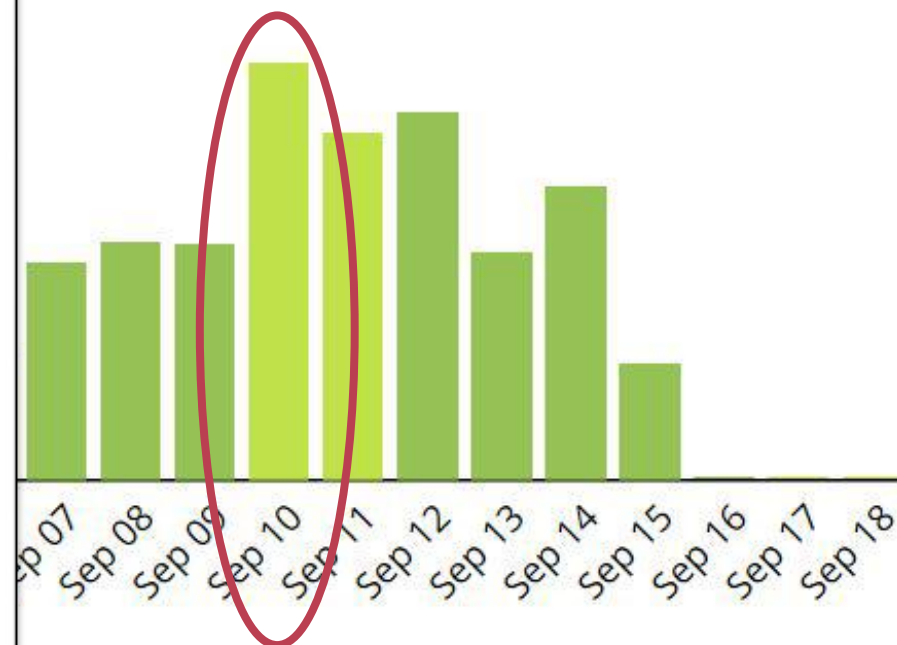


Usage	Degrees (F)
6:00 AM	0.700
7:00 AM	5.100
8:00 AM	4.900
9:00 AM	32.700
10:00 AM	9.500
11:00 AM	29.600
12:00 PM	45.100
1:00 PM	16.300

Close

Meter:

Water -



Account:

Meter:

Water -

16

Goals

[Goal settings ...](#)

Goal this month: 4,961.470 Gallons

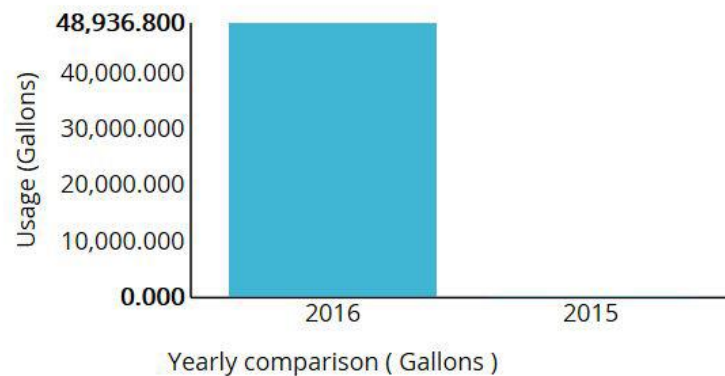
Usage as of September 19 2016: 2,477.400 Gallons

50 %

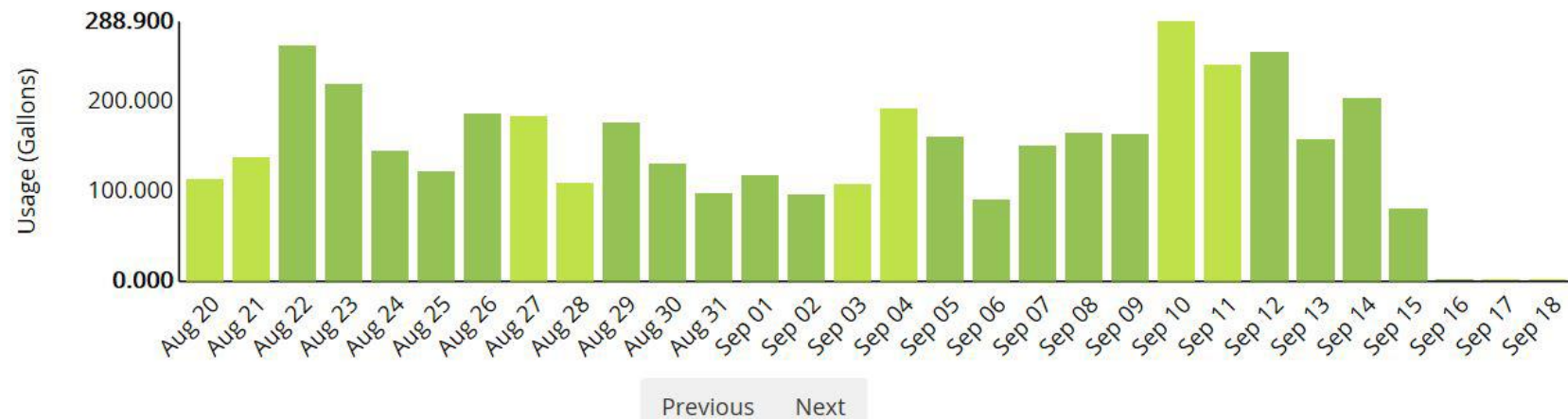
Meter reading as of: September 18 2016

114

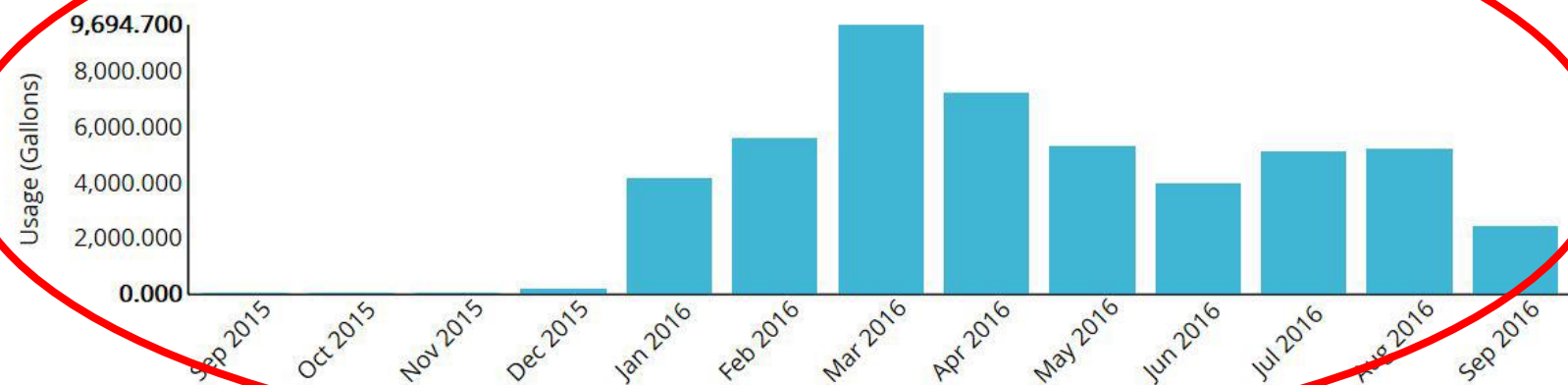
Comparison



Daily

30 day average: 145.317 Gallons [More info...](#) [Daily alerts...](#)

Monthly

12 month average: 3,889.283 Gallons [More info...](#)

Monthly

12 month average: 3,889.283 Gallons [More info...](#)



Account:

Meter:

Water -

18

Goals

[Goal settings ...](#)

Goal this month: 4,961.470 Gallons

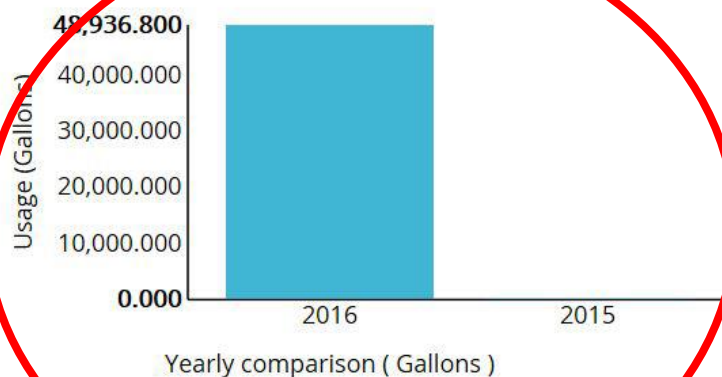
Usage as of September 19 2016: 2,477.400 Gallons

50 %

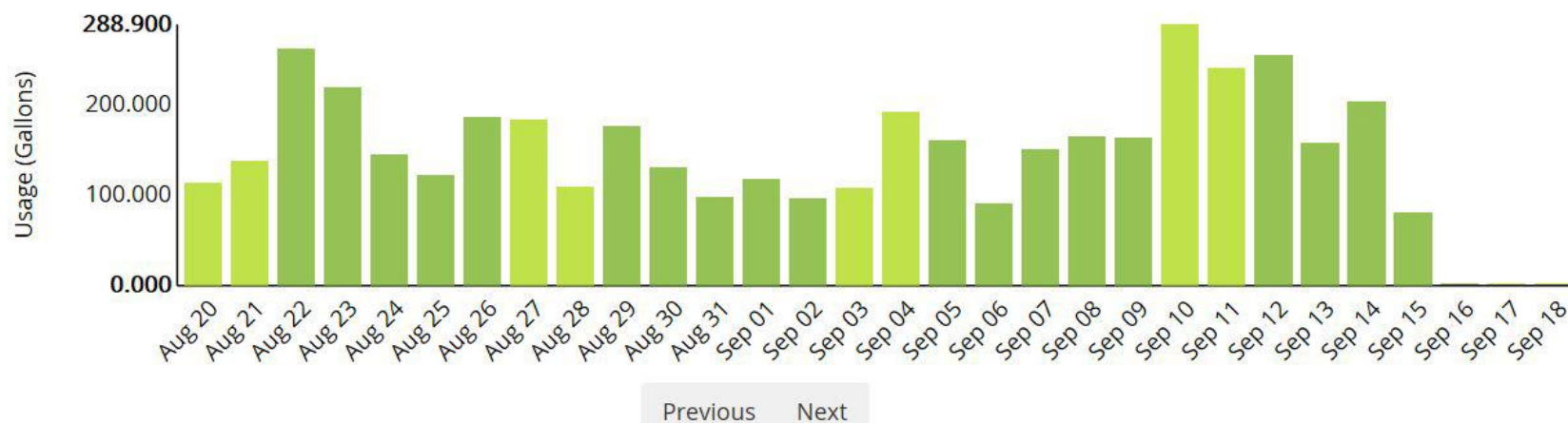
Meter reading as of: September 18 2016

114

Comparison



Daily

30 day average: 145.317 Gallons [More info...](#) [Daily alerts...](#)

Monthly

12 month average: 3,889.283 Gallons [More info...](#)

Comparison



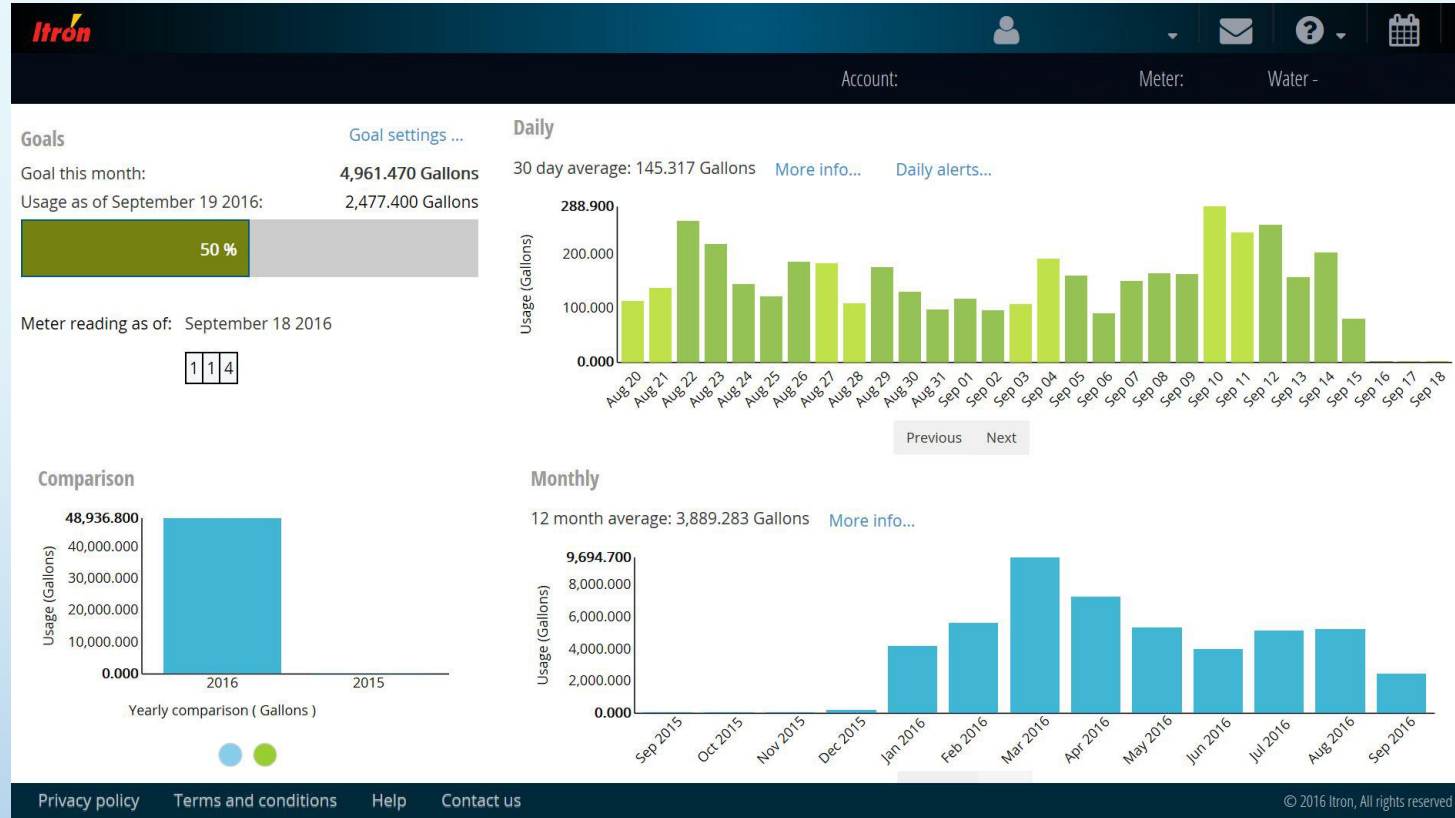
CUSTOMER WEB PORTAL

- **ROLLING OUT TO CUSTOMER AREAS**
 - **NOVEMBER BILLS**
 - **DECEMBER BILLS**
 - **JANUARY BILLS**

CUSTOMER WEB PORTAL

22

- **COMMUNICATION**
 - **NOTIFICATIONS & INSERTS IN WATER BILL**
 - **WEBSITE AND SOCIAL MEDIA SITES**
 - **CHANNEL 77**
 - **CITYLINE**
 - **NOTICES TO MUNICIPAL PARTNERS**



QUESTIONS



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

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA:

DATE: Tuesday, October 4, 2016

RE: Special Meeting Minutes of July 26, 2016 (Pamela L. Latimore,CMC, City Clerk)

BACKGROUND

ANALYSIS:

RECOMMENDATION:

FISCAL/BUDGETARY

IMPACT:

ATTACHMENTS:

▢ [Special Meeting Minutes of July 26, 2016](#)



CITY OF NORTH MIAMI BEACH
Special City Council Meeting
City Hall, Council Chambers, 2nd Floor
17011 NE 19th Avenue
North Miami Beach, FL 33162
Tuesday, July 26, 2016
6:30 PM

Mayor George Vallejo
Vice Mayor Frantz Pierre
Councilman Anthony F. DeFillipo
Councilwoman Barbara Kramer
Councilwoman Marlen Martell
Councilwoman Phyllis S. Smith
Councilwoman Beth E. Spiegel

City Manager Ana M. Garcia, ICMA-CM
City Attorney Jose Smith
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.

Special City Council Meeting Minutes

ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 6:38pm. Present at the meeting were Mayor George Vallejo, Vice Mayor Frantz Pierre, Council Members Anthony F. DeFillipo, Barbara Kramer, Marlen Martell, Phyllis S. Smith (arrived after roll call), and Beth E. Spiegel. City Attorney Jose Smith and City Clerk Pamela L. Latimore were also present. City Manager Ana M. Garcia was absent.

PLEDGE OF ALLEGIANCE was led by Mayor and Council.

There were no requests for withdrawals, deferments, or additions to the agenda.

Mayor Vallejo opened the meeting for **PUBLIC COMMENT**.

There were no speakers.

The meeting was closed for **PUBLIC COMMENT**.

LEGISLATION

Resolution R2016-54 Resolution Calling For Special Election (Jose Smith, City Attorney)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI

BEACH, FLORIDA CALLING FOR A NOVEMBER 8, 2016 SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF NORTH MIAMI BEACH, FLORIDA TEN (10) BALLOT QUESTIONS THAT PROPOSE A SERIES OF AMENDMENTS TO THE CITY CHARTER FOR THE PURPOSE OF REPEALING THE EXISTING CITY CHARTER AND REPLACING SAME WITH A NEW CITY CHARTER.

Motion to approve Resolution 2016-54 made by Councilwoman Martell, seconded by Councilwoman Kramer.

City Attorney Smith provided a detailed explanation of the resolution and Outside Counsel Jean Olin and Outside Labor Counsel David Miller discussed the specific wording of the ballot question dealing with the Civil Service.

Voice Vote: MOTION PASSED 4-3 with Vice Mayor Pierre, Councilwoman Smith, and Councilwoman Spiegel opposed.

City Attorney Smith informed the Mayor and Council that Ordinance 2016-7, which involves changing the date of runoff elections from one week to two weeks after the city's regular (general) election, passed on First Reading at a previous meeting, but if it does not pass on Second and Final Reading at a future meeting, he would need authorization to change the language in the proposed revised charter to reflect that.

Motion to approve the authorization for the City Attorney to change the language in the charter involving runoff elections in the event that Ordinance 2016-7 does not pass on Second and Final Reading made by Councilwoman Martell, seconded by Councilwoman Kramer.

Voice Vote: MOTION PASSED 5-2 with Councilwoman Smith and Councilwoman Spiegel opposed.

Resolution R2016-55 Funding For Voters Guide (Jose Smith, City Attorney)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING FUNDING AND AN EXPENDITURE IN AN AMOUNT NOT TO EXCEED \$ _____ FOR THE PUBLIC PURPOSE OF INFORMING AND EDUCATING THE CITY'S VOTERS REGARDING THE CITY'S TEN (10) BALLOT QUESTIONS ON THE CITY OF NORTH MIAMI BEACH'S NOVEMBER 8, 2016 SPECIAL ELECTION BALLOT.

Motion to approve Resolution 2016-55 made by Councilman DeFillipo, seconded by Councilwoman Kramer.

Outside Counsel Jean Olin provided a detailed explanation of the resolution and informed the Mayor and Council that pursuant to state law, the restrictions on voter education express that the expenditure of public funds and resources may not be used by a governmental entity for the purpose of expressly advocating in a non-factual manner.

City Clerk Latimore recommended that \$12,000-\$20,000 would be needed to advertise and educate the voting public and translate the voters guide into three languages.

Motion to amend Resolution 2016-55 to include the figure of \$20,000 made by Councilman DeFillipo, seconded by Councilwoman Kramer.

Councilwoman Smith asked if there was a voters guide the last time proposed charter amendments were on a ballot and it was confirmed that there was no voters guide for that previous election.

Motion to amend Resolution 2016-55 to allow the Mayor and Council the opportunity to review and accept the voters guide made by Councilwoman Smith, seconded by Councilwoman Spiegel.

MOTION PASSED 7-0.

Voice Vote: MOTION PASSED 6-1 as amended with Councilwoman Spiegel opposed.

Resolution R2016-57 Proposed Millage Rate (Mac Serda, Assistant City Manager)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, DETERMINING THE PROPOSED MILLAGE RATE FOR FISCAL YEAR 2016-17, THE CALCULATED "ROLLED-BACK" RATE, AND THE DATE, TIME AND PLACE FOR THE FIRST AND SECOND PUBLIC BUDGET HEARINGS AS REQUIRED BY LAW; DIRECTING THE CITY CLERK AND CITY MANAGER TO FILE THIS RESOLUTION WITH THE PROPERTY APPRAISER OF MIAMI-DADE COUNTY PURSUANT TO THE REQUIREMENTS OF SECTION 200.065, FLORIDA STATUTES, AND THE RULES AND REGULATIONS OF THE DEPARTMENT OF REVENUE FOR THE STATE OF FLORIDA.

Motion to approve Resolution 2016-57 made by Councilwoman Martell, seconded by Councilman DeFillipo.

Deputy City Manager Candido Sosa-Cruz provided a detailed explanation of the resolution and announced the date for the first budget workshop is August 16, 2016, the second budget workshop is August 23, 2016, the first budget hearing is September 6, 2016, and the second budget hearing is September 20, 2016. He also stated the proposed millage rate for fiscal year 2016-2017 is 6.5036, the debt millage rate of 0.8360, and the calculated rolled-back rate is 6.0976.

Mayor Vallejo stated that he would prefer the millage rate not to extend to a 3rd or 4th decimal place and was informed that the proposed rate could be adjusted during the budget process.

Voice Vote: MOTION PASSED 7-0.

The meeting was adjourned at 7:12pm.

ATTEST:

(SEAL)

Pamela L. Latimore, CMC



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

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA:

DATE: Tuesday, October 4, 2016

RE: Special Meeting Minutes of August 25, 2016 (Pamela L. Latimore, CMC, City Clerk)

BACKGROUND

ANALYSIS:

RECOMMENDATION:

FISCAL/BUDGETARY

IMPACT:

ATTACHMENTS:

▢ [Special Meeting Minutes of August 25, 2016](#)



CITY OF NORTH MIAMI BEACH
Special City Council Meeting
City Hall, Council Chambers, 2nd Floor
17011 NE 19th Avenue
North Miami Beach, FL 33162
Thursday, August 25, 2016
7:00 PM

Mayor George Vallejo
Vice Mayor Frantz Pierre
Councilman Anthony F. DeFillipo
Councilwoman Barbara Kramer
Councilwoman Marlen Martell
Councilwoman Phyllis S. Smith
Councilwoman Beth E. Spiegel

City Manager Ana M. Garcia, ICMA-CM
City Attorney Jose Smith
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.

Special City Council Meeting Minutes

ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 7:13pm. Present at the meeting were Mayor George Vallejo, Vice Mayor Frantz Pierre, Councilman Anthony F. DeFillipo (arrived after roll call), Councilwoman Barbara Kramer, Councilwoman Marlen Martell, and Councilwoman Phyllis S. Smith. City Manager Ana M. Garcia and City Clerk Pamela L. Latimore were also present. Councilwoman Beth E. Spiegel and City Attorney Smith were absent.

PLEDGE OF ALLEGIANCE was led by Mayor and Council.

Mayor Vallejo opened the meeting for **PUBLIC COMMENT**.

There were no speakers.

The meeting was closed for **PUBLIC COMMENT**.

LEGISLATION

Resolution 2016-67 Health Insurance (Nadine Lewis-Sevilla, Director of Human Resources)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA APPROVING THE SELECTION OF CIGNA HEALTHCARE OF FLORIDA, INC.

AS THE PROVIDER FOR HEALTH INSURANCE COVERAGE AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR HEALTH INSURANCE COVERAGE, IN THE ESTIMATED ANNUAL AMOUNT OF \$4,246,906.00, AS RECOMMENDED BY THE CITY'S INSURANCE BROKER OF RECORD, BROWN & BROWN OF FLORIDA, INC.

Motion to approve Resolution 2016-67 made by Councilwoman Martell, seconded by Councilwoman Kramer.

City Manager Garcia stated that the city has an opportunity to create stability and a solid foundation for recruitment and retaining personnel by providing a quality insurance that allows for coverage beyond the state of Florida.

Director of Human Resources Nadine Lewis-Sevilla provided a detailed explanation of the resolution and described the features and benefits of Cigna Healthcare.

Evelyn Alvarez of Brown and Brown of Florida discussed the process of selecting and recommending Cigna as the provider for health insurance coverage for the city. She stated that the current carrier Neighborhood Health (owned by United Healthcare), Aetna, Blue Cross Blue Shield, and Cigna were all considered and Cigna offered the most competitive and best package.

Councilwoman Smith left the meeting at 7:26pm.

Quorum was lost and a recess was taken.

At 7:51pm, Councilman DeFillipo arrived.

Quorum was regained and the meeting was called back to order.

Voice Vote: MOTION PASSED 5-0 with Councilwoman Smith off the dais and Councilwoman Spiegel absent.

The meeting was adjourned at 7:58pm.

ATTEST:

(SEAL)

Pamela L. Latimore, CMC



CITY OF NORTH MIAMI BEACH

Public Budget Hearing Meeting
City Hall, Council Chambers, 2nd Floor
17011 NE 19th Avenue
North Miami Beach, FL 33162
Tuesday, September 20, 2016
6:00 PM

Mayor George Vallejo
Vice Mayor Frantz Pierre
Councilman Anthony F. DeFillipo
Councilwoman Barbara Kramer
Councilwoman Marlen Martell
Councilwoman Phyllis S. Smith
Councilwoman Beth E. Spiegel

City Manager Ana M. Garcia, ICMA-CM
City Attorney Jose Smith
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.

Public Budget Hearing Meeting Minutes

ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 6:00pm. Present at the meeting were Mayor George Vallejo, Vice Mayor Frantz Pierre, Councilman Anthony F. DeFillipo, Councilwoman Barbara Kramer, Councilwoman Marlen Martell, Councilwoman Phyllis S. Smith (arrived roll call), and Councilwoman Beth E. Spiegel (arrived after roll call). City Manager Ana M. Garcia, City Attorney Jose Smith, and City Clerk Pamela L. Latimore were also present.

LEGISLATION

Resolution 2016-79 Final Millage Rate Adoption

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ADOPTING THE FINAL MILLAGE RATE OF 6.5000 FOR FISCAL YEAR 2016-17, THE CALCULATED "ROLLED-BACK" RATE IS 6.0976 MILLS, WHICH IS A DIFFERENCE OF 0.4024 MILLS OR 6.19% HIGHER THAN THE "ROLLED-BACK" RATE FOR FY 2016-17; AND ADOPTING THE FINAL DEBT SERVICE MILLAGE OF .8360 MILLS.

City Attorney Smith read the resolution into the record.

Motion to approve Resolution 2016-79 made by Councilwoman Kramer, seconded by Councilwoman Martell.

Mayor Vallejo opened the meeting for **PUBLIC COMMENT**.

There were no speakers.

The meeting was closed for **PUBLIC COMMENT**.

Voice Vote: MOTION PASSED 6-0 with Councilwoman Spiegel absent.

Ordinance 2016-8 Second and Final Reading (Janette Smith, Finance Director)

AN ORDINANCE ADOPTING THE ANNUAL BUDGET OF THE CITY OF NORTH MIAMI BEACH, FLORIDA FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2016.

City Attorney Smith read the ordinance into the record.

Motion to approve Ordinance 2016-8 made by Councilman DeFillipo, seconded by Councilwoman Martell.

Mayor Vallejo opened the meeting for **PUBLIC COMMENT**.

There were no speakers.

The meeting was closed for **PUBLIC COMMENT**.

City Attorney Smith stated that in regards to the budget item pertaining to the North Miami Beach Chamber of Commerce, a separate vote needs to be taken because based on ethics opinions, Councilman DeFillipo is not allowed to vote on that item.

Councilman DeFillipo recused himself from voting on the item and left the dais.

Motion to approve the line item in the budget of \$12,000 for the North Miami Beach Chamber of Commerce made by Councilwoman Martell, seconded by Councilwoman Kramer.

Councilwoman Smith asked whether or not the Chamber of Commerce has a lease or agreement to the use the City facility. City Manager Garcia replied that there has been no change since the current administration began and Councilwoman Smith requested a copy of the agreement in regards to the Chamber of Commerce using the City facility.

Councilwoman Smith stated that the cleaning of the Chamber of Commerce was done by an outside source that may be owned by a councilperson and requested city staff to inquire about a possible conflict of interest.

Voice Vote: MOTION PASSED 4-1 with Councilwoman Smith opposed, Councilman DeFillipo recused and off the dais, and Councilwoman Spiegel absent.

Councilman DeFillipo rejoined the meeting and City Clerk Latimore announced that he will be receiving Form 8B for his recusal.

Roll Call Vote

DeFillipo - **Yes**, Kramer - **Yes**, Martell - **Yes**, Pierre - **Yes**, Smith - **No**, Spiegel - **No**, Vallejo - **Yes**.

MOTION PASSED 5-2 on Second and Final Reading with Councilwoman Smith and Councilwoman Spiegel opposed.

The meeting was adjourned at 6:08pm.

ATTEST:

(SEAL)

Pamela L. Latimore, CMC

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME DeFillipo Anthony		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE C: 2016 SEP 26 PM 12:40	
MAILING ADDRESS 1458 NE 177 St.		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY CITY CLERK'S OFFICE	
CITY North Miami Beach	COUNTY DADE	NAME OF POLITICAL SUBDIVISION: Councilman	
DATE ON WHICH VOTE OCCURRED 9/20/2016		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Anthony DeFillipo, hereby disclose that on September 20, 20 16

(a) A measure came or will come before my agency which (check one)

- ☐ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of NMB Chamber of Commerce, which ~~is the parent organization or subsidiary of a principal which has retained me.~~ I am President of.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

I am the president for the Chamber of Commerce of NMB, with NO monetary or personal gain. Vote taken was in reference to chamber budget so I recused myself.

Date Filed

9/26/16

Signature



NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.



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

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA:

DATE: Tuesday, October 4, 2016

RE: Regular Meeting Minutes of September 20, 2016 (Pamela L. Latimore, CMC, City Clerk)

BACKGROUND

ANALYSIS:

RECOMMENDATION:

FISCAL/BUDGETARY

IMPACT:

ATTACHMENTS:

 [Regular Meeting Minutes of September 20, 2016](#)



CITY OF NORTH MIAMI BEACH
City Council Meeting
City Hall, Council Chambers, 2nd Floor
17011 NE 19th Avenue
North Miami Beach, FL 33162
Tuesday, September 20, 2016
7:30 PM

Mayor George Vallejo
Vice Mayor Frantz Pierre
Councilman Anthony F. DeFillipo
Councilwoman Barbara Kramer
Councilwoman Marlen Martell
Councilwoman Phyllis S. Smith
Councilwoman Beth E. Spiegel

City Manager Ana M. Garcia, ICMA-CM
City Attorney Jose Smith
City Clerk Pamela L. Latimore, CMC

<p>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.</p>
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City Council Regular Meeting Minutes

ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 7:31pm. Present at the meeting were Mayor George Vallejo, Vice Mayor Frantz Pierre, Council Members Anthony F. DeFillipo, Barbara Kramer, Marlen Martell, Phyllis S. Smith, and Beth E. Spiegel. City Manager Ana M. Garcia, City Attorney Jose Smith, and City Clerk Pamela L. Latimore were also present.

INVOCATION by City Clerk Pamela L. Latimore.

PLEDGE OF ALLEGIANCE was led by Mayor and Council.

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA

At the request of Councilwoman Spiegel, additional language was added to the Minutes and a copy was provided to each councilperson.

Mayor Vallejo clarified that the Council was notified of the Procurement Workshop that was held on September 14, 2016 via email, calendar invitation, and phone calls prior to the meeting. Councilwoman Smith stated that she was out of town at the time.

PRESENTATIONS/DISCUSSIONS

Chief of Police William Hernandez provided an update on new police initiatives that led to a decrease in armed robberies, residential burglaries, and auto thefts, seized over \$30,000 in cash, recovered 5 stolen vehicles, distributed over 400 crime flyers to the community, and performed 12 probation sweeps. He discussed the success of the Police Athletic League program and PAL Coordinator Linda Roberts described recent achievements and accomplishments of the program.

Director of Public Works Esmond Scott discussed the results of a recent audit conducted by Waste Management that revealed a high rate of contamination in recycling in North Miami Beach. He stated that flyers will be mailed to residents in English, Spanish, and Creole explaining proper practices as part of the Recycle Often Recycle Right program.

Director of Parks and REC Paulette Murphy and Youth Enrichment Services (YES) Center Supervisor Naomi Legagneur recognized the students and teachers who participated in the Future Leaders In Our Youth (FLY) program. Each student introduced themselves and spoke about the benefits of the program and received an iPad mini for completing the course.

Allen Park Youth Center Supervisor Dwight Jackson recognized the students who participated in the Midnight Basketball program and presented Police Chief Hernandez a trophy for his support.

Mayor Vallejo opened the meeting for **PUBLIC COMMENT**.

City Clerk Latimore read the rules of public comment into the record and the following person(s) made comments on the record:

1. Rolland Veilleux - 13730 Highland Dr., North Miami Beach, FL.
2. Terrence Camenzuli - 17151 N.E. 17th Ave., North Miami Beach, FL.
3. Mubarak Kazan - 15564 N.E. 12th Ave., North Miami Beach, FL.

The meeting was closed for **PUBLIC COMMENT**.

Mayor Vallejo asked whether or not Public Comment was allowed during the Budget Hearing meeting earlier in the evening and City Clerk Latimore confirmed that Public Comment was called for both Resolution 2016-79 and Ordinance 2016-8.

APPOINTMENTS

Appointing Councilwoman Barbara Kramer as Vice Mayor beginning October 1, 2016 (Pamela L. Latimore, City Clerk)

Motion to **approve** the appointment of Councilwoman Barbara Kramer as Vice Mayor effective October 1, 2016 made by Vice Mayor Pierre, seconded by Councilwoman Martell.

MOTION PASSED 7-0.

CONSENT AGENDA

Resolution R2016-76 (William Hernandez, Chief of Police)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, STANDARDIZING VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE MUTUAL AID AGREEMENTS, IN SUBSTANTIALLY THE ATTACHED FORM, FOR THE PURPOSE OF COORDINATING LAW ENFORCEMENT PLANNING, OPERATIONS,

AND MUTUAL AID BENEFIT BETWEEN THE CITY OF NORTH MIAMI BEACH AND GOVERNMENTAL AGENCIES AND AUTHORIZING THE CITY MANAGER AND THE CITY CLERK TO EXECUTE THE AFOREMENTIONED AGREEMENTS.

Regular Meeting Minutes of September 6, 2016 (Pamela L. Latimore, City Clerk)

Motion to approve the Consent Agenda as amended to reflect the additional language to the Minutes made by Councilwoman Martell, seconded by Vice Mayor Pierre.

MOTION PASSED 7-0.

CITY MANAGER'S REPORT

Community Redevelopment Agency (CRA) Administrator Patrick Brett announced that North Miami Beach was the first city in Miami-Dade County to adopt the CRA FY17 budget.

Director of Public Works Public Works Esmond Scott discussed his recent trip to the American Public Works Association (APWA) Expo event and stated that North Miami Beach will begin the process to obtain APWA Accreditation.

Assistant to the City Manager Lynnetta Jackson discussed the VIP Taste of NMB event at NMB's 90th anniversary celebration on October 1, 2016 and Chief of Staff Nicole Gomez described the marketing and advertising campaign involved in promoting the event.

Councilwoman Kramer discussed the details and highlights of the upcoming NMB Magical History Tour on October 16, 2016.

Director of Public Utilities Jeffrey Thompson provided an update on the NMB Water department and discussed the following issues:

1. The City does not want to privatize or sell NMB Water.
2. NMB Water will not be managed by the Public Service Commission.
3. The operational objective is to manage the utility at the same or lower costs.
4. All current hourly employees will retain their positions provided they pass certain screenings.
5. The Public Utilities Commission, the City Manager's Office, the City Attorney, and the Mayor and Council will continue to provide oversight to NMB Water.

Councilwoman Spiegel asked if the upcoming changes with the NMB Water department will have any effect on bonds already issued or the bond rates and Director Thompson said that the law firm of Bryant Miller Olive is working with the City to ensure there will be no impact on the bonds.

Councilwoman Spiegel asked if the upcoming changes with the NMB Water department will have any effect on the City's ability to set water rates or call into play any state regulation on the City's ability to set water rates or require state approval and Director Thompson said it will not.

Councilwoman Spiegel asked how long the City has owned the water plant and Director Thompson replied that the main Norwood location was purchased in 1957.

Councilwoman Smith asked if the Eisenhardt Group is still involved with the City and Director Thompson said they are not. Councilwoman Spiegel asked if the City needs to amend the resolution with the Eisenhardt Group and City Attorney Smith said the City needs to formally end the relationship by amending the resolution or terminating the agreement.

CITY ATTORNEY'S REPORT

City Attorney Smith reported that the City recently was able to settle a wrongful death case through mediation, which included the participation of attorney H.T. Smith. Deputy City Attorney Dotie Joseph stated that the City resolved the claim for \$30,000 while maintaining the defendant officers acted lawfully and reasonably in the situation.

MAYOR'S DISCUSSION

Mayor Vallejo discussed the proper purpose for the point of privilege and its usage at the previous City Council meeting and apologized to City Attorney Smith and Joseph Centorino from the Miami-Dade Commission on Ethics.

BUSINESS TAX RECEIPTS

G5ive, LLC D/B/A G5ive

Location of Applicant Requesting the 4am-6am Extension of Hours is 337 N.W. 170th St., North Miami Beach, FL. 33169

Motion to approve the renewal of the 4am-6am extension of hours license for G5ive, LLC D/B/A G5ive made by Councilwoman Martell, seconded by Councilwoman Kramer.

Camille Miller represented the applicant and thanked the off-duty police officers who have worked at the establishment. Deputy City Manager Candido Sosa-Cruz stated that staff recommended approval and Chief William Hernandez confirmed that police coverage is until 6am.

Voice Vote: MOTION PASSED 4-3 with Vice Mayor Pierre, Councilman DeFillipo, and Councilwoman Smith opposed.

Platinum South Inc. D/B/A Dean's Gold

Location of Applicant Requesting the 4am-6am Extension of Hours is 2355 N.E. 163rd St., North Miami Beach, FL. 33160

Motion to approve the renewal of the 4am-6am extension of hours license for Platinum South Inc. D/B/A Dean's Gold made by Councilwoman Martell, seconded by Councilwoman Kramer.

Deputy City Manager Candido Sosa-Cruz stated that staff recommended approval and Alan Rosenthal represented the applicant.

Voice Vote: MOTION PASSED 6-1 with Councilwoman Smith opposed.

LEGISLATION

Resolution R2016-82 (Jose Smith, City Attorney)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ESTABLISHING DUE PROCESS PROCEDURES TO REMOVE ANY CHARTER OFFICER.

Motion to approve Resolution 2016-82 made by Councilwoman Martell, seconded by Councilman DeFillipo.

Mayor Vallejo stated that he requested this resolution and City Attorney Smith provided a detailed explanation about the due process procedures established to remove any charter officer.

Motion to amend to add language stating that any request by a councilperson to terminate a charter officer must submit a notice to the City Clerk before the agenda is published and remove language referring to the 7 day provision made by Councilwoman Spiegel, seconded by Councilwoman Smith.

MOTION PASSED 6-0 with Councilwoman Smith off the dais.

Motion to amend to add language stating that any discussion and communication a charter officer has with one councilmember must be with all councilmembers made by Councilwoman Spiegel, seconded by Councilwoman Smith.

MOTION FAILED 2-5 with Mayor Vallejo, Councilman DeFillipo, Councilwoman Kramer, Councilwoman Martell, and Councilwoman Smith opposed.

Voice Vote: MOTION PASSED 4-3 as amended with Vice Mayor Pierre, Councilwoman Smith, and Councilwoman Spiegel opposed.

Vice Mayor Pierre announced and submitted a formal notice to terminate City Attorney Smith without cause at the next City Council meeting.

CITY COUNCIL REPORTS

Councilman DeFillipo thanked residents for attending and watching the meeting, invited everyone to the upcoming 90th Anniversary event, and is looking forward to a speedy recovery from a recent surgery and appreciated the well wishes he received.

Councilwoman Kramer announced the upcoming Beautification Committee meeting, thanked the Parks and REC department for hosting the recent Hispanic Heritage concert event, and wants the city to embrace diversity through more multicultural events. She wished everyone a happy upcoming Rosh Hashanah and is excited about the 90th Anniversary event.

Councilwoman Martell said good night.

Vice Mayor Pierre invited residents to visit the North Miami Beach library and announced the upcoming citizenship and voter registration event on September 30, 2016.

Councilwoman Smith mentioned her recent trip to visit family in Atlanta and apologized to the residents, city staff, and her colleagues for leaving the special council meeting on August 25, 2016. She discussed the decision the city made to change medical health insurance carriers and talked about the unpleasant and hostile environment that she has experienced on the dais. She said that she was going to return to the meeting, but was informed that Councilman DeFillipo was on the way. She stated that her duties have never been abandoned, she has been the most involved councilperson with city functions and events, her goal is putting the needs of the residents first, and she respects her responsibility.

Councilwoman Spiegel stated that the city staff worked hard completing the budget, but she had some issues and differences in policy. She thanked employees Barbara Trinko and Mac Serda for their service and dedication and asked for more support and respect from her colleagues. She wished everyone a happy

upcoming Jewish New Year and said she might be late or not able to attend the next City Council meeting due to the holiday.

Mayor Vallejo wished everyone who celebrates a happy Rosh Hashanah, commented that the Hispanic Heritage concert was a great event, and mentioned that the Spanish Monastery Gala on September 24, 2016 is sold out. He stated that his role as Mayor is to balance the needs of the entire council and the city staff has been innovative and producing outstanding results. He said that he will make sure to follow parliamentary rules to respect the rights of everyone on the dais and lead to more efficient and pleasant meetings.

NEXT REGULAR CITY COUNCIL MEETING is Tuesday, October 4, 2016.

ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:12pm.

ATTEST:

(SEAL)

Pamela L. Latimore, CMC



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

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA: William Hernandez, Chief of Police
Officer Harvette Smith, Accreditation Manager

DATE: Tuesday, October 4, 2016

RE: Resolution R2016-83 (William Hernandez, Chief of Police)

**BACKGROUND
ANALYSIS:**

Pursuant to City directives and policy, the Mutual Aid Agreements (MAA) between the North Miami Beach Police Department (NMBPD) and our partnering agencies will be presented to Council. Attached you will find an MAA renewing the ongoing relationship and agreements between the NMBPD and the Florida Department of Law Enforcement Child Abduction Response Team. This agreement follows Florida State Statutes Chapter 23.1225 and allows for the legal authority to render and/or receive aid to and from the concerned Departments. MAA's are written authority given from one agency to another to convey the statutory authorities to conduct law enforcement activities outside of one of the agency's jurisdiction. These agreements and arrangements are necessary for the day to day operations of the Departments.

RECOMMENDATION: Approval of the Mutual Aid Agreement with the FDLE is recommended.

**FISCAL/BUDGETARY
IMPACT:** There is no fiscal impact. Our existing Mutual Aid Agreement is longstanding and approval to renew the agreement will have no fiscal impact on our operation.

ATTACHMENTS:

- | |
|---|
| <input type="checkbox"/> Resolution 2016-83 |
| <input type="checkbox"/> Mutual Aid Agreement re-Cart Exhibit to Resolution 2016-83 |

RESOLUTION NO. R2016-83

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER AND THE CITY CLERK TO EXECUTE A VOLUNTARY COOPERATION MUTUAL AID AGREEMENT WITH THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT AND PARTICIPATING AGENCIES FOR THE PURPOSE OF CREATING THE CHILD ABDUCTION RESPONSE TEAM (CART) AND FOR COOPERATION AND ASSISTANCE OF A ROUTINE LAW ENFORCEMENT NATURE THAT CROSSES JURISDICTIONAL LINES.

WHEREAS, the City of North Miami Beach and other participating law enforcement agencies will join together in a multi-jurisdictional effort to rescue abducted children and under appropriate circumstances allocate their resources to missing or endangered children cases; and

WHEREAS, the City of North Miami Beach and other participating agencies are all participants in a multi-agency effort known collectively as the Child Abduction Response Team (CART); and

WHEREAS, the City of North Miami Beach and other participating agencies are so located in relation to each other that it is to the advantage of each to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to continuing, multi-jurisdictional criminal activity, so as to protect the public peace and safety, and preserve the lives and property of citizens; and

WHEREAS, the City of North Miami Beach and other participating agencies have the authority under Chapter 23 of the Florida Statutes, known as the “Florida Mutual Aid Act,” to enter into the attached Voluntary Cooperation Mutual Aid Agreement.

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

Section 1. The aforementioned recitals are true and correct.

Section 2. The Mayor and Council of the City of North Miami Beach hereby direct and authorize the City Manager and City Clerk to execute a Voluntary Cooperation Mutual Aid Agreement, in a form acceptable to the City Attorney, for the purpose of creating the Child Abduction Response Team (CART) and for cooperation and assistance of a routine law enforcement nature that crosses jurisdictional lines with the Florida Department of Law Enforcement and other participating agencies in substantially the attached form (Exhibit “A”);

APPROVED AND ADOPTED by the City of North Miami Beach City Council at the regular meeting assembled this **4th day of October, 2016.**

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

Sponsored by: Mayor and Council

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM, LANGUAGE
AND FOR EXECUTION

JOSÉ SMITH
CITY ATTORNEY



City of North Miami Beach, Florida
Police Department



Memorandum No. 16-262

Date: September 13, 2016
To: Jose Smith, City Attorney
From: William Hernandez, Chief of Police
Subject: Mutual Aid Agreement – Florida Department of Law Enforcement Child Abduction Response Team



The Florida Department of Law Enforcement (FDLE) Child Abduction Response Team (CART) Mutual Aid Agreement is up for renewal. I have reviewed the attached agreement, and would appreciate your assistance in reviewing the aforementioned document for legal sufficiency. Should you have any questions or need additional information, please do not hesitate to contact me.

WH/hss

Attachment (1)



Florida Department of
Law Enforcement

Richard L. Swearingen
Commissioner

Criminal Investigations and Forensic Science
Miami Regional Operations Center
1030 NW 111th Avenue
Miami, FL 33172
1-800-226-3023
www.fdle.state.fl.us

Rick Scott, *Governor*
Pam Bondi, *Attorney General*
Jeff Atwater, *Chief Financial Officer*
Adam Putnam, *Commissioner of Agriculture*

September 12, 2016

RE: "Child Abduction Response Team"

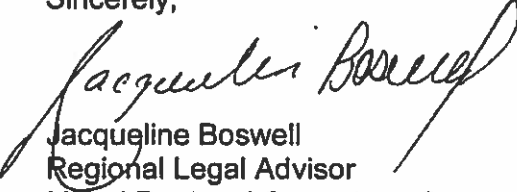
Dear Cart Participant:

Thank you for your continued interest in participating in the Child Abduction Response Team (CART). The program has been extended through December 31, 2020. Enclosed please find a copy of the signature page executed by the Florida Department of Law Enforcement which is considered as binding to the "Child Abduction Response Team" Mutual aid agreement.

Additionally, please find a signature page for your agency. If said Mutual Aid Agreement meets with your approval, please sign and return the original to me at the address listed above. Once all of the signatures have been received, a complete copy of the executed agreement will be forwarded to you.

Should you require any further information or assistance in this matter, please do not hesitate to contact me at 786 336-1050. Thank you in advance for your anticipated attention to this matter.

Sincerely,



Jacqueline Boswell
Regional Legal Advisor
Miami Regional Operations Center

Attachment:

**VOLUNTARY COOPERATION MUTUAL AID AGREEMENT BETWEEN THE
PARTICIPATING AGENCIES AND THE FLORIDA DEPARTMENT OF LAW
ENFORCEMENT TO FORM A SOUTH FLORIDA
CHILD ABDUCTION RESPONSE TEAM**

WHEREAS, the below subscribed law enforcement agencies have joined together in a multi-jurisdictional effort to rescue abducted children and under appropriate circumstances allocate their resources to missing/endangered children cases; and

WHEREAS, the undersigned agencies are all participants in a multi-agency effort known collectively as the **Child Abduction Response Team (CART)**; and

WHEREAS, the undersigned agencies agree to utilize applicable state and federal laws to prosecute criminal, civil, and forfeiture actions against identified violators, as appropriate; and

WHEREAS, the undersigned agencies have the authority under Part 1, Chapter 23, Florida Statutes, "the Florida Mutual Aid Act," to enter into a voluntary agreement for cooperation and assistance of a routine law enforcement nature that crosses jurisdictional lines; and

WHEREAS, the subscribing law enforcement agencies are so located in relation to each other that it is to the advantage of each to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to continuing, multi-jurisdictional criminal activity, so as to protect the public peace and safety, and preserve the lives and property of the citizens; and

WHEREAS, this agreement does not supersede or take the place of any other agreement entered into by the various members of the Child Abduction Response Team. Those agreements shall remain in full effect.

NOW THEREFORE, the Parties agree as follows:

As acknowledged by their execution of this Agreement, each of the undersigned law enforcement agencies approve, authorize and enter into this Agreement at the request of the member agencies of the Child Abduction Response Team (CART) and the Florida Department of Law Enforcement (FDLE), subject to the terms and conditions noted herein, for the purposes and goals indicated.

Additional Parties may, at the request and with the approval of FDLE and the other CART members, enter into this Agreement at a later date as evidenced by their signing of this Agreement. Any Party may cancel its participation in this Agreement upon delivery of written notice of cancellation to FDLE.

CART GOALS AND COOPERATION TO BE RENDERED:

The goal of the CART is to provide a pool of specialized investigators to focus dedicated and intensive investigative, preventative, and general law enforcement efforts primarily with regard to abducted children. To provide for voluntary cooperation, each of the CART agencies hereby

approve and enter into this agreement whereby each of the agencies may request and render law enforcement assistance to the other in dealing with any violations of Florida Statutes including, but not limited to, the arrest and criminal prosecution of those involved in child kidnapping, abduction, false imprisonment and similar or related crimes (utilizing state and federal prosecutions, as appropriate); the rescue of the abducted child or children and the seizure and forfeiture of assets of those engaged in child abduction or otherwise supporting such activity (utilizing state and federal forfeiture options, as appropriate).

Nothing herein shall otherwise limit the ability of participating CART members to provide, as provided by or allowed by law, such assistance in any enforcement action as may be lawfully requested by a law enforcement officer having jurisdiction over an incident, crime or matter under consideration.

The Parties to this Agreement are contributing personnel and resources in support of the CART efforts, with the operations of the CART being coordinated with FDLE and other agency members.

**JURISDICTION, PROCEDURES FOR REQUESTING ASSISTANCE,
COMMAND AND SUPERVISORY RESPONSIBILITY:**

The principal sites of CART activity shall be the following counties: Palm Beach, Broward, Dade and Monroe.

When engaged in CART operations that have been approved by FDLE, as contemplated by this Agreement, CART members that do not otherwise have jurisdictional authority shall enjoy full jurisdictional authority anywhere in the State of Florida, although principally focused within the principal sites of CART activity listed herein, with full power to enforce Florida laws and avail themselves of the provisions of this Agreement. Officers assigned to CART operations pursuant to this agreement shall be empowered to render enforcement assistance and take law enforcement action in accordance with the law and the terms of this Agreement. Execution of this agreement and continued participation by FDLE and one or more CART member agencies shall constitute a general reciprocal, continuing request for and granting of assistance between the members of the Team that shall be considered authorized in accordance with the provisions of this Agreement. No additional or specific formal request for assistance is required. CART members operating outside the jurisdiction of their respective Agencies shall not enjoy extra-jurisdictional authority as law enforcement officers unless engaged in approved CART activities as stated herein. Pursuant to Section 23.127(1), Florida Statutes, employees and agents of the undersigned Agencies participating in the CART, when engaging in authorized mutual cooperation and assistance pursuant to this Agreement, have the same powers, duties, rights, privileges and immunities as if the employees were performing duties inside the political subdivision in which the employee is normally employed.

Activities shall be considered authorized only when approved and directed as provided herein by an FDLE supervisor or command designee. The CART will normally function as a force multiplier for the requesting agency, and the requesting agency will remain as the lead agency in overall control of the investigation, unless the requesting agency has formally asked that the CART, under FDLE supervision or other FDLE approved supervision, assume control of the investigation. The Parties stipulate that in the event that a significant investigative or jurisdictional dispute should arise, the issue will immediately be forwarded to the relevant agency chief executives for resolution. If at any time an FDLE supervisor or FDLE Special

Agent designee(s) determines that an extra-territorial CART operation pursuant to this agreement should be terminated, said operation is to be promptly terminated in a manner assuring the safety of all involved law enforcement officers.

No CART employee or agent shall engage in activities outside the jurisdictional territory of the CART pursuant to the authority of this Agreement that are not approved, are unreported or otherwise unknown to the FDLE supervisor and which are not documented as provided herein. FDLE supervisor(s) shall maintain documentation that will demonstrate the daily involvement of specific employees or agents provided by the Parties to this Agreement, including each operation's supervisor or designated leader. Such documentation will assist in memorializing which individuals had mutual aid authority pursuant to this Agreement for particular time periods.

After consultation with other participating CART agencies, FDLE may request that a particular employee or agent of the CART no longer be allowed to participate in furtherance of this Agreement. Upon receiving the request, the employing Agency shall promptly terminate said person's participation in the activities contemplated by this provision of the Agreement. Upon the request of a participating agency that a sworn or support member of FDLE no longer participate in the CART, FDLE shall, if otherwise in FDLE's best interest to do so, terminate said member's participation in the CART. With the approval of FDLE, a Party to this Agreement may otherwise add, substitute, reinstate, or replace any of its sworn or support employees participating in the CART.

Whenever an operation occurs outside the territorial limits of the principal sites of CART activity as set forth herein, the Chief of Investigations for the FDLE office in the region affected shall be notified about the presence of CART personnel in his or her region. Local law enforcement in the area of operation will be notified, as appropriate.

Nothing herein shall otherwise limit the jurisdiction and powers normally possessed by an employee as a member of the employee's Agency.

FORFEITURE ACTIONS ARISING FROM THIS AGREEMENT:

Forfeiture actions based upon seizures made by the CART may be pursued in either state or federal court. Actions shall be based upon current statutory and case law. Distribution of the proceeds shall be shared equally among the participating agencies, or as otherwise specified by written agreement.

PROPERTY AND EVIDENCE:

All property and evidence, including currency, seized within Florida but outside the primary jurisdictional area for CART operations, in connection with state violations and pursuant to this Agreement, shall be taken into custody, processed and documented by an FDLE Special Agent in accordance with FDLE policy relating to the handling of property, evidence and currency.

When such items are seized within the primary jurisdictional area for CART operations, in connection with state violations and pursuant to this Agreement, the items may be taken into custody, processed, documented and maintained by the lead agency, the agency with primary jurisdiction or as otherwise agreed upon.

In the event an investigation becomes a federal case or inquiry, any such property and evidence will be transferred into the custody of the Federal Bureau of Investigation or handled in accordance with their direction.

LIABILITY AND COST-RELATED ISSUES:

Each Party engaging in any mutual cooperation and assistance pursuant to this Agreement agrees to assume its own liability and responsibility for the acts, omissions, or conduct of such Party's own employees while such employees are engaged in rendering such aid, cooperation and assistance pursuant to this Agreement. Nothing herein shall be deemed to constitute a waiver of any sovereign immunity that any Party is entitled to, statutorily under Section 768.28, Florida Statutes, or based on common law or case law. Each Party shall remain responsible for the compensation, retirement, workers compensation and other benefits accruing to the benefit of their participating employees.

Each Party to this Agreement agrees to furnish necessary personnel, property, police equipment, vehicles, resources and facilities to render services to each other Party to this Agreement in order to effect the purposes of the CART and agrees to bear the cost of loss or damage to such equipment, vehicles, or property. Parties understand and agree that they will be responsible for their own liability and bear their own costs with regard to their property and resources, or personnel expenses incurred by reason of death, injury or incidents giving rise to liability. This provision shall not preclude necessary property or resources being purchased, funded, or provided by a participating Party via the Party's legally vested forfeiture funds, if otherwise authorized by law.

Each Agency furnishing aid pursuant to this Agreement shall compensate its own employees during the time such aid is rendered and shall defray the actual expenses of its employees while they are rendering such aid, including any amounts, if legally applicable, that may be determined to be payable for compensation due to personal injury or death while such employees are engaged in rendering such aid. The privileges and immunities from liability, exemption from laws, ordinances, and rules, and all pension, insurance, relief, disability, workers' compensation, salary (including overtime compensation or compensatory time), death and other benefits that apply to the activity of an employee of an Agency when performing the employee's duties within the territorial limits of the employee's Agency shall apply to the employee to the same degree, manner, and extent while such employee acts under this Agreement. This provision shall not preclude payment of compensation, including overtime compensation, for its personnel utilizing its legally vested forfeiture funds to the extent allowed by law.

Each Party agrees to maintain its own comprehensive general liability insurance, professional liability insurance, and automotive liability insurance or maintain a self-insuring fund for the term of this Agreement in the amounts determined by each Party to adequately insure such Party's liability assumed herein. But, for Florida law enforcement officers, in no event shall such coverage be less than the statutory waiver of sovereign immunity limits. Each Party agrees to provide the other Parties with a copy of the respective insurance or self-insurance required hereunder, including the endorsements thereto and renewals thereto. In the event a Party maintains a self-insurance fund, such Party agrees to provide the other Parties with documentation to substantiate the existence and maintenance of such self-insurance fund. The Parties agree that federal participants will be governed by applicable federal laws concerning the above liability issues.

COMPLAINTS AGAINST CHILD ABDUCTION RESPONSE TEAM MEMBERS:

Whenever a complaint has been lodged as a result of CART efforts outside their jurisdictional boundaries pursuant to this Agreement, a designee of FDLE shall ascertain at a minimum:

The identity(ies) of the complainant(s) and an address where the complainant(s) may be contacted, the nature of the complaint, any supporting evidence or facts as may be available, including the names and addresses of witnesses to that which has been complained about, the identity(ies) of the CART participant(s) accused and the employing Agency(ies) of the participant(s) accused.

FDLE will promptly provide to each affected employing Agency the above information for administrative review and appropriate handling or disposition. Each affected employing Agency shall, upon completion of said review, notify FDLE of its findings and any actions taken.

The Parties agree that federal agency participants will handle any complaints against their personnel while such federal personnel are involved in CART operations.

OBLIGATION TO COORDINATE WITH PROSECUTOR'S OFFICE:

The principal goal of the Child Abduction Response Team is the rescue of abducted children and the arrest of criminal perpetrators. An equally important goal is the successful prosecution of perpetrators. The latter requires close coordination with prosecuting authorities, both in the state and federal courts. Members of the CART are obligated to coordinate their efforts in such a way as to support the efficient prosecution of cases, including, but not limited to, prompt responses to requests from prosecutors for information or assistance in handling CART generated cases and reasonable availability for pretrial conferences with prosecutors, discovery depositions, pretrial hearings and trials. Civil or administrative actions derived from CART operations are likewise to receive coordinated support efforts from CART members. CART supervisors shall monitor the efforts of CART members in support of criminal prosecutions, civil actions, administrative actions and forfeiture cases. Such monitoring shall include regular contact with assigned prosecutors or attorneys pursuing actions on behalf of the CART to assure the expected level of support from CART members is occurring. Failure by a member of the CART to support such efforts on a routine and regular basis in the manner set forth herein shall constitute grounds for removal of the member from this Agreement.

COPY TO EACH PARTICIPATING CART MEMBER AGENCY:

When this Agreement is fully executed, a copy shall be provided to each CART member so that each member may be fully aware of the powers, limitations, and expectations applicable to CART members and operations.

TERM OF AGREEMENT:

This Agreement shall be effective as to the executing Parties upon execution by the member agencies of the CART and FDLE. As each additional Party executes this Agreement, it shall be effective as to the newly executing Party.

This Agreement may be duplicated for dissemination to all Parties, and such duplicates shall be of the same force and effect as the original.

Execution of this Agreement may be signified by properly **signing** and **dating** a separate signature page.

The original agreement and all signature pages shall be maintained by the FDLE, Office of General Counsel. A copy of this agreement will also be maintained by the Special Agent in Charge for the CART region of operation.

This Agreement shall remain in full force as to all participating Parties until December 31, 2020, unless terminated in writing by FDLE as to all or separate Parties. This agreement may be renewed, amended, or extended only in writing. Any Party may withdraw from this Agreement upon providing written notice to FDLE and all other participating Parties. Any written cancellation or extension shall be maintained with the original agreement and a copy forwarded to FDLE Mutual Aid office.

**PARTY'S ACCEPTANCE OF THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT, VOLUNTARY
COOPERATION MUTUAL AID AGREEMENT BETWEEN THE MEMBER AGENCIES OF THE SOUTH
FLORIDA CHILD ABDUCTION RESPONSE TEAM.**

Pursuant to Section 23.1225(3), F.S., this agreement may be entered into by a chief executive officer of the agency who is authorized to contractually bind the agency. By signing below, an indication of such authorization is being made. Any signatory may attach to this signature page any further evidence of authorization you wish to remain on file at FDLE along with this signature page.

For the Florida Department of Law Enforcement (FDLE):



Richard Swearingen
Executive Director, Florida Department of Law Enforcement

JD
7/22/16

7/25/16

Date

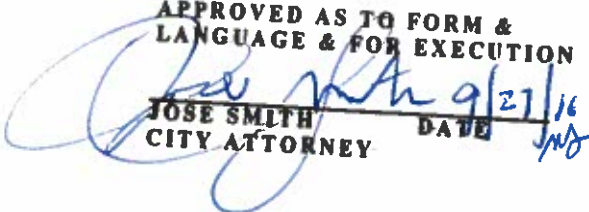
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For the North Miami Beach Police Department:

William Hernandez
Chief of Police

Date of Execution

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION

JOSE SMITH
CITY ATTORNEY
DATE 9/27/16



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

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA: Esmond Scott, Director of Public Works
Richard Lorber, Director of Community Development

DATE: Tuesday, October 4, 2016

RE: Resolution R2016-84 Fulford Monument Restoration Grant
(Esmond Scott & Richard Lorber)

BACKGROUND ANALYSIS:

The 90 year-old Fulford-by-the-Sea Monument is located at the intersection of 173rd Street and N.E. 23rd Avenue in North Miami Beach, FL. It was built in 1924, at a cost of \$15,000, and was meant to be one of five fountains that would mark the entrances to the new development called Fulford-by-the-Sea. The remaining fountains were never built.

The Fulford-by-the-Sea Monument withstood the 1926 hurricane and 90 years later, is still standing. In 1987, the Monument was officially listed as a Dade County Historical Site, and in 2010, it was placed on the United States National Register of Historic Places (NRHP Reference No. 10000937). The Fountain is a symbol of the City of North Miami Beach's history. The City of North Miami Beach is extremely proud to have this historic monument. The Fulford-by-the-Sea Monument is proudly displayed in the City's logo and can be clearly distinguished in the many signs throughout the City. The Monument is part of the City's History Tour which takes place 4 times a year.

The Monument is in desperate need of restorative repair due to extensive structural damage. Water erosion is causing deterioration to the structure, and leaks are compromising the foundation. Weather erosion is clearly visible; Steel is exposed on the unicorns' horns; Cement on the base of the structure is cracking and allowing water to penetrate; Tiles on the dome are missing and/or broken; Lighting needs to be replaced; Currently the Monument shows signs of aging and deterioration.

The City has applied for and received a State of Florida Division of Historic Preservation Special Category Grant for the repair and restoration of the Historic Fulford-by-the Sea Fountain. The program requires that 50% of the total cost for the repair and restoration of the Fountain come from applicant, City of North Miami Beach. Richard Heisenbottle, consulting architect, has determined that the amount of funding needed is anticipated to be approximately \$225,000. A grant request in the amount of \$225,000 would require a City match of \$112,500; a combination \$102,500 in cash and \$10,000 of in-kind services is proposed. This project is of high importance, as it will result in a professional restoration that will completely and properly repair and restore the Monument in accordance with the required Historic Preservation standards. It is projected that the maximum cash outlay for the grant match will not exceed \$102,500 from the general fund.

Major work items involved:

- Conduct a historical conservation study to analyze what restorative measures, in strict compliance with the Secretary of the Interior's historic preservation standards, need to be taken for the appropriate treatment of historic properties;
- Recondition broken and worn elements as best as possible to maintain the historical condition of the Monument;
- Conservators will investigate the causes of the water penetration causing efflorescence at many of the joints and throughout the structure;
- Provide excavation backfill compaction and patchwork for the road in order to repair underground piping for pump equipment
- Moderate sandblasting to remove dirt and old materials to restore structure to its original elements;
- Fill in cracks and joints, smooth, recondition, and seal all surfaces, including exposed rebar;
- Replace and restore the lighting fixtures and conceal conduits;
- If membrane beneath dome tile roof is deteriorated, develop a methodology for safe removal of tile and replacement of waterproofing membrane;
- Replace missing or broken tiles on the exterior dome with similar Italian imported mosaic ceramic tiles to match what is currently there;
- Install new filtration system;
- Replace Sand filter and faulty float switch;
- File all necessary plans and permits with the City Building Department

RECOMMENDATION:

Approve the Resolution

**FISCAL/BUDGETARY
IMPACT:**

\$102,500 is included in approved FY 16/17 budget.

ATTACHMENTS:

▢ [Resolution R2016-84](#)

▢ [Letter of Award](#)

RESOLUTION NO. 2016-84

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE SUBMISSION AND ACCEPTANCE OF THE STATE OF FLORIDA, DEPARTMENT OF STATE DIVISION OF HISTORICAL RESOURCES, SPECIAL CATEGORY GRANT PROJECT APPLICATION FOR THE REPAIR AND RESTORATION OF THE FULFORD-BY-THE-SEA MONUMENT IN AN AMOUNT NOT TO EXCEED \$112,500.00; AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE ALL NECESSARY DOCUMENTS IN FURTHERANCE OF ACCEPTANCE OF THE GRANT FUNDS.

WHEREAS, the Mayor and City Council and the City of North Miami Beach recognize the importance of maintaining and preserving the City's historical monuments; and

WHEREAS, the Mayor and City Council desire to beautify the City and improve the quality of life of our residents by providing restored historical monuments in urban areas; and

WHEREAS, the State of Florida, Department of State, Division of Historical Resources, offers a grant program providing funding for eligible applicants for the restoration of historic monuments; and

WHEREAS, the Mayor and City Council believe it is in the best interest of the residents of the City to authorize and approve the application and acceptance of the State of Florida, Department of State, Division of Historical Resources, Special Category Grant, for the repair and restoration of the Fulford-by-the-Sea Monument, in an amount not to exceed \$112,500.00; and

WHEREAS, the Mayor and City Council authorize the City Manager or designee to execute the necessary documents in furtherance of acceptance of the grant funds.

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

Section 1. The foregoing recitals are true and correct.

Section 2. The Mayor and City Council hereby authorize and approve the City Manager or designee to submit an application to the Department of State, Division of Historical Resources, Special Category Grant, for the repair and restoration of the Fulford-by-the-Sea Monument, in an amount not to exceed \$112,500.00, and to do all things necessary to accept the grants funds and execute the Agreement, in a form acceptable to the City Attorney, in furtherance of acceptance of the funds.

APPROVED AND ADOPTED by the City Council of the city of North Miami Beach, Florida at the regular meeting assembled this **4th day of October, 2016**.

ATTEST:

PAMELA LATTIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM, LANGUAGE
AND FOR EXECUTION:

JOSE SMITH
CITY ATTORNEY

Sponsored by: Mayor and City Council

RESOLUTION NO. R2016-84

From: Begley, Drew <Drew.Begley@dos.myflorida.com>
Sent: Wednesday, April 13, 2016 2:51 PM
To: Lorber, Richard
Subject: SC funded projects

Mr. Richard G. Lorber

Congratulations, your organization has been awarded a Special Category grant from the Department of State's Division of Historical Resources. In the upcoming weeks a grant manager will be assigned to each project as the main point of contact. We will also be preparing Grant Award Agreements (GAA) and hope to be sending those out in **June** for review and execution. However, you may receive a telephone call from the Grants team if we need to inquire if the information submitted in your application has changed from the time of application until now.

Please remember that the grant award period has not yet begun and that work undertaken prior to the execution of the GAA cannot be covered by the award. If you wish, please visit our website <http://dos.myflorida.com/historical/grants/> to access the lists of funded projects or <http://dos.myflorida.com/historical/grants/special-category-grants/> for "information and documents for current grantees". Also, we will soon post a notice on our web page regarding the August webinars on "How to Manage your Grant".

We look forward to working with you all.

DREW BEGLEY

Historic Preservation Grants Specialist | Office of the Director
Division of Historical Resources | Florida Department of State
500 South Bronough Street | Tallahassee, Florida 32399
850.245.6466 | Drew.Begley@DOS.MyFlorida.com | www.flheritage.com



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

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA: Richard G. Lorber, AICP, Director of Community Development
Sarah L. Johnston, Assistant City Attorney

DATE: Tuesday, October 4, 2016

RE: Update on Medical Marijuana Legislation (Richard Lorber,
Director of Community Development)

BACKGROUND ANALYSIS:

Currently, Florida law provides for medical use of low-THC cannabis for very limited medical conditions. The law, as amended in 2016, provides for a preemption regarding any regulation of the cultivation and processing of medical cannabis or low-THC cannabis by dispensing organizations and expressly provides that “a municipality may determine by ordinance the criteria for the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of dispensing organizations located within its municipal boundaries.”

Community Development staff and the City Attorney’s Office has been monitoring the legislation in Florida and the Country for the last two years and recommends the City’s Code be amended to address the recent Low THC cannabis legislation and in anticipation of the upcoming Constitutional Amendment on the November 8, 2016 ballot, which may provide for broader use of Low THC cannabis and Medical Marijuana.

The proposed changes will include amending the City’s Zoning and Land Development Code and Chapter 12, Local Business Tax Receipts and Regulations to provide for medical marijuana dispensaries subject to licensure with application and operation criteria and as a conditional use in the B-2 General Business District subject to distance separations.

Chapter 24 Zoning and Land Development Code amendment

will provide for Conditional Use criteria for medical marijuana dispensaries to include:

- No detriment created for persons/property;
- Parking demand must be met and traffic/parking study shall be completed;
- Distance separations between any school, day care center, place of worship, drug/alcohol rehab service, bars, lounges, package liquor store, any other medical marijuana treatment center, medical marijuana dispensary or residential zoned property;
- Cannot be within the CRA;
- There shall be no onsite cultivation or processing within the City;
- The centers must provide adequate seating and cannot direct or encourage standing, sitting, or loitering outside of business;
- Shall not allow any queuing of vehicles;
- No drive-thru service will be allowed;
- No on-site consumption will be allowed;
- Hours of operation will be restricted to 7am-7pm Mon-Sat and 12pm-5pm on Sun;
- Any additional condition/safeguard as deemed necessary by the Council.

Chapter 12 *Local Business Tax Receipts and Regulations* and Chapter 21 *Health* shall provide licensure for medical marijuana dispensaries subject to meeting the below criteria:

Applications for licensure shall include:

- Name and address of applicant (owners) and managers;
- Statement of whether applicant has ever been denied for application, had a license revoked;
- Proof of ownership/approval of property owner to open the facility;
- Must provide an operating plan with description of products and services, floor plan, security plan, area map of a ¼ mile radius;
- Approval from other City Departments;
- Inspection of premises;
- Full compliance with all requirements.

Requirements for operation shall include:

- No marijuana shall be consumed on the premises;
- No person under the age of 18 (unless qualified by state and accompanied by a parent) is allowed on the premises;
- Name and contact of owners shall be posted conspicuously on the premises;
- Any storage, display, sales, or distribution shall not be visible from the exterior;
- Off-site delivery and sales shall be prohibited;
- The only permitted managers and owners shall be registered;
- The delivery hours and hours of operation;
- The licensed premises shall require with the Zoning Code provisions; and
- Security requirements.

The proposed changes are consistent with existing and proposed changes to Florida Law and incorporate those provisions and standards which were successful in Cities across the Country.

The item is being placed on the next available Planning & Zoning Board meeting agenda for review, after which it will be brought to the City Council for review and approval.

RECOMMENDATION: No action required.

**FISCAL/BUDGETARY
IMPACT:** Not applicable.

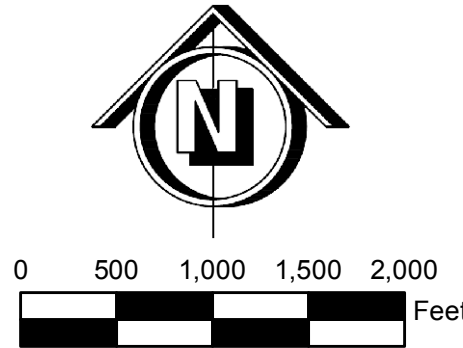
ATTACHMENTS:

- | |
|--|
| <input type="checkbox"/> Map - 1000 foot distance separation |
| <input type="checkbox"/> Map - 500 foot distance separation |
| <input type="checkbox"/> Map - 1500 foot distance separation |



500 FT RESIDENTIAL AND 1000 FT RESTRICTIVE SITE SEPARATION FOR MEDICAL MARIJUANA DISPENSARIES CITY OF NORTH MIAMI BEACH

MIAMI-DADE COUNTY, FLORIDA
TOWNSHIP 52 SOUTH, 41 TO 42 EAST



1000 Ft Buffer From These Restrictive Sites

- School Locations
- Day Care Facilities
- Places of Worship
- Bars, Lounges and PLS's
(Package Liquor Store)
- 500/1000 FT Separation

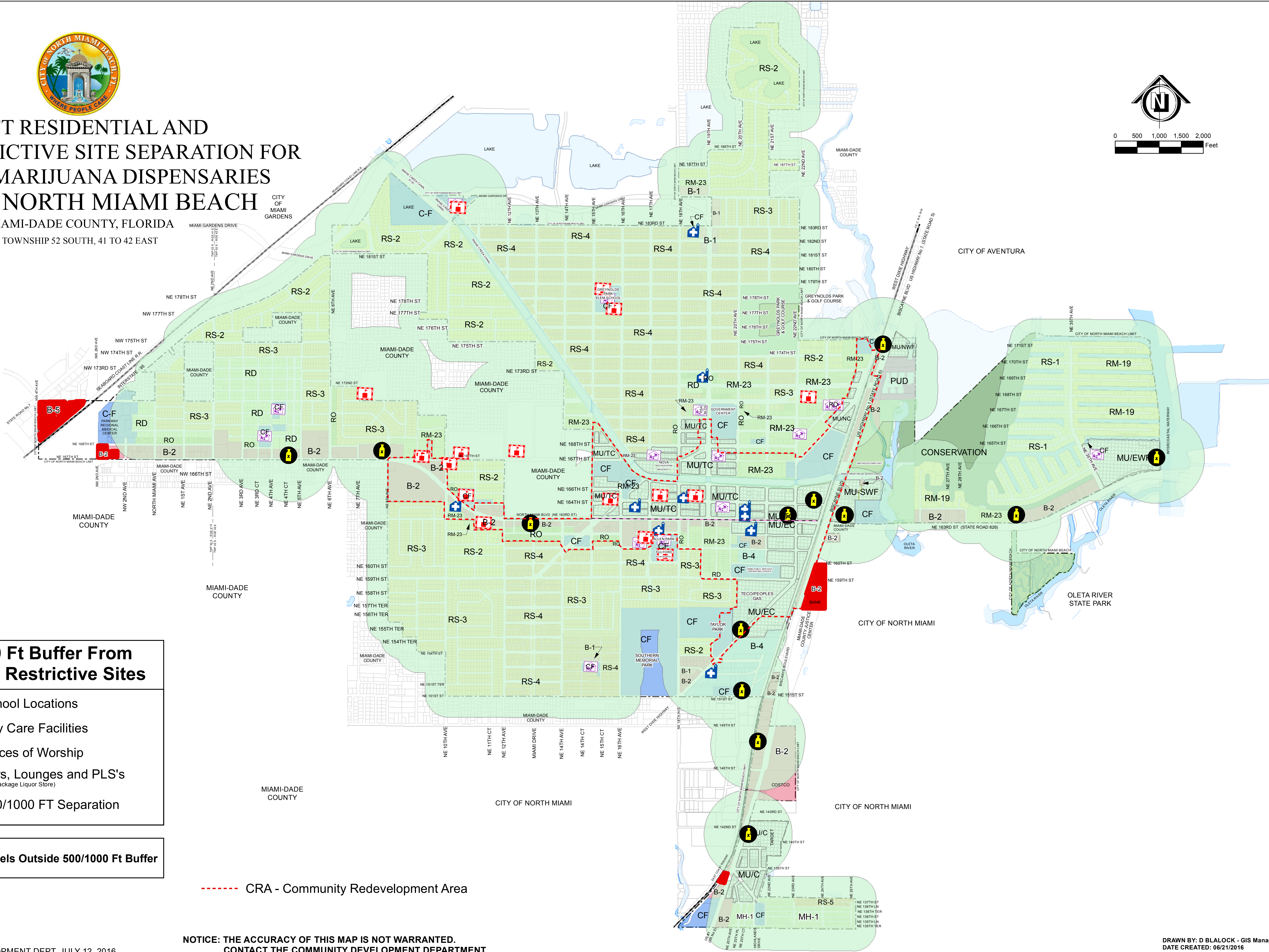
Parcels Outside 500/1000 Ft Buffer

----- CRA - Community Redevelopment Area

NOTICE: THE ACCURACY OF THIS MAP IS NOT WARRANTED.
CONTACT THE COMMUNITY DEVELOPMENT DEPARTMENT
FOR A ZONING MAP DETERMINATION AT (305) 948-2966

REVISED BY: COMMUNITY DEVELOPMENT DEPT. JULY 12, 2016
MAP REPRINTED: JULY 12, 2016

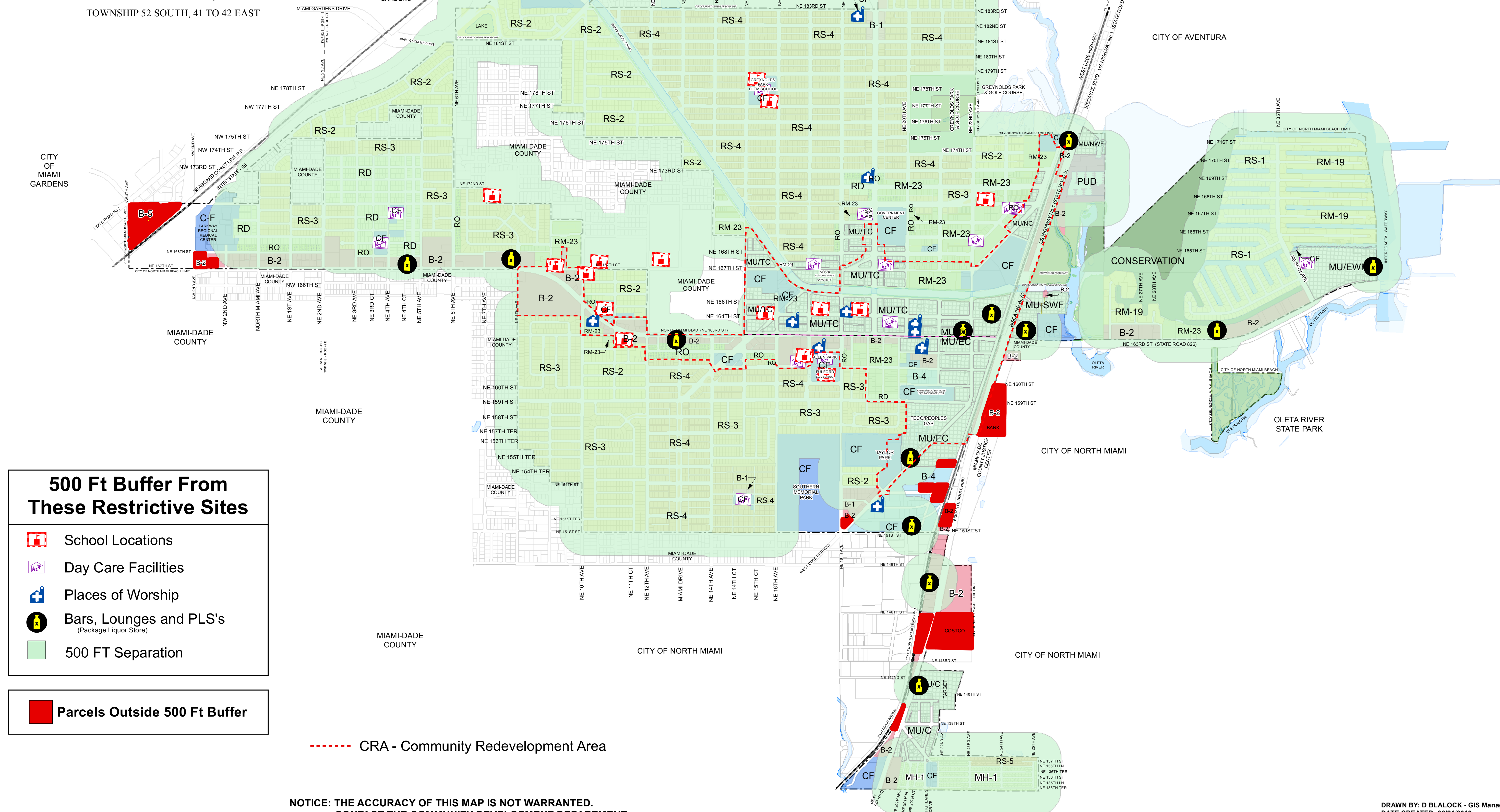
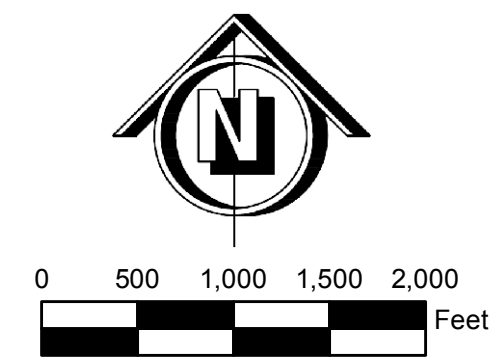
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DATE CREATED: 06/21/2016
REVISED: 07/26/2016
MAP NAME: C:\GIS\Users\Shared\Workspace\Projects
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500 FT SEPARATION FOR MEDICAL MARIJUANA DISPENSARIES CITY OF NORTH MIAMI BEACH

MIAMI-DADE COUNTY, FLORIDA
TOWNSHIP 52 SOUTH, 41 TO 42 EAST



NOTICE: THE ACCURACY OF THIS MAP IS NOT WARRANTED.
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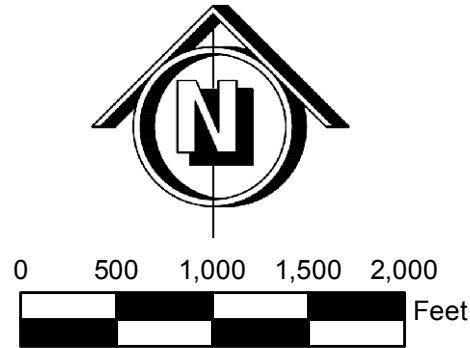
REVISED BY: COMMUNITY DEVELOPMENT DEPT. JULY 12, 2016
MAP REPRINTED: JULY 12, 2016

DRAWN BY: D BLALOCK - GIS Manager
DATE CREATED: 06/21/2016
REVISED: 06/21/2016
MAP NAME: C:\GIS\Users\Shared\Workspace\Projects
ICommDev\MedicalMJZoning20160713-500RES_Schools.mxd



500 FT RESIDENTIAL AND 1500 FT RESTRICTIVE SITE SEPARATION FOR MEDICAL MARIJUANA DISPENSARIES CITY OF NORTH MIAMI BEACH

MIAMI-DADE COUNTY, FLORIDA
TOWNSHIP 52 SOUTH, 41 TO 42 EAST



1500 Ft Buffer From These Restrictive Sites

- School Locations
- Day Care Facilities
- Places of Worship
- Bars, Lounges and PLS's
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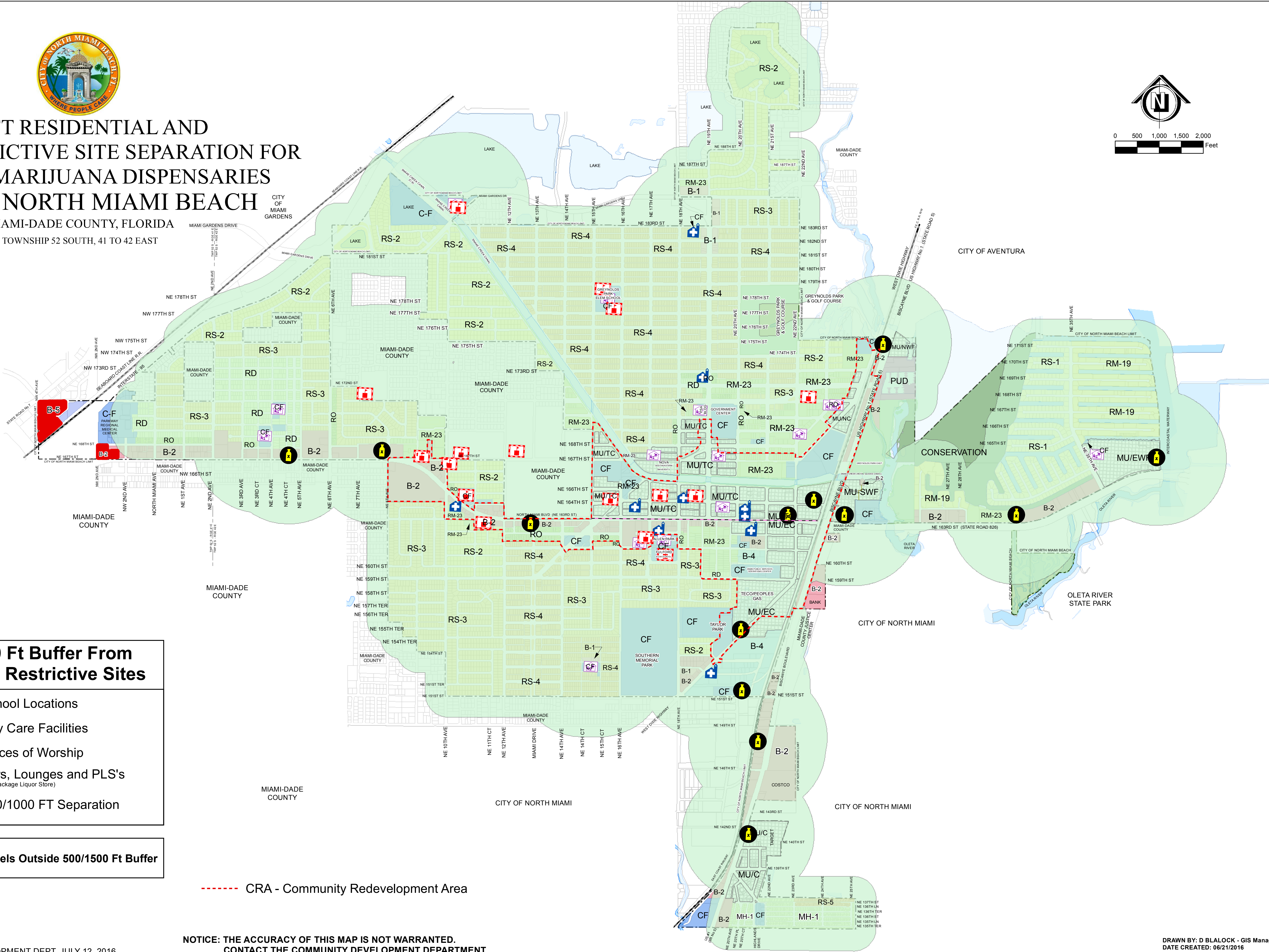
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DRAWN BY: D BLALOCK - GIS Manager
DATE CREATED: 06/21/2016
REVISED: 07/26/2016
MAP NAME: C:\GIS\Users\Shared\Workspace\Projects
iCommDev\MedicalMJZoning20160726-500RES_1500Rest.mxd





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

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA: Richard G. Lorber, AICP, Director of Community Development

DATE: Tuesday, October 4, 2016

RE: Peoples Gas East Parcel Green Reuse Area Designation (Richard Lorber, Director of Community Development)

BACKGROUND ANALYSIS: On October 18, 2016, staff will be bringing forward for the first of two public hearings a request by Peoples Gas System, Inc., to designate land, located 15779 W. Dixie Hwy., 15700 Biscayne Blvd., and 15902 Biscayne Blvd., North Miami Beach, FL 33162, identified by Folio Nos. 07-2216-000-0380, 07-2216-000-0410, and 07-2216-000-0360, as a Green Reuse Area pursuant to Section 376.80(2)(c), Florida Statutes, of Florida's Brownfield Redevelopment Act. The second public hearing will occur on November 1, 2016.

RECOMMENDATION:

FISCAL/BUDGETARY IMPACT: No negative fiscal impact.

ATTACHMENTS:

 [Application Material](#)

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.
Brownfields, Transactions, Due Diligence, Development, Permitting, Cleanups & Compliance

One Southeast Third Avenue, Suite 2120
Miami, Florida 33131
Telephone: (305) 777-1680
Facsimile: (305) 777-1681
www.goldsteinenvlaw.com

Michael R. Goldstein, Esq.
Direct Dial: (305) 777-1682
Email: mgoldstein@goldsteinenvlaw.com

September 30, 2016

Via Email & FedEx

Mr. Richard G. Lorber, AICP, LEED AP
Director of Community Development
City of North Miami Beach
17050 NE 19th Ave., 1st Floor
North Miami Beach, FL 33162

Re: Request for Designation of the Property Located at 15779 West Dixie Highway, 15700 Biscayne Blvd., and 15902 Biscayne Blvd., North Miami Beach, FL 33162, and Identified by Folio Numbers 07-2216-00-0380, 07-2216-000-0410, and 07-2216-000-0360 as Green Reuse Areas Pursuant to § 376.80(2)(c), Florida Statutes, of Florida's Brownfields Redevelopment Act

Dear Mr. Lorber:

On behalf of Peoples Gas System, Inc. ("Peoples Gas"), we are pleased to submit this Request for Designation of the property located at 15779 West Dixie Highway, 15700 Biscayne Blvd., and 15902 Biscayne Blvd., North Miami Beach, FL 33162, Folio Numbers 07-2216-00-0380, 07-2216-000-0410, and 07-2216-000-0360, respectively (collectively, the "Subject Properties"), as Green Reuse Areas (the "Letter Request") pursuant to Section 376.80(2)(c), Florida Statutes, of Florida's Brownfields Redevelopment Act.

Peoples Gas proposes to redevelop the Subject Properties with a mix of uses, consisting of commercial, retail, office, and hospitality. Property cards depicting the location of the Subject Properties are enclosed at Exhibit A.

Peoples Gas is applying for the Green Reuse Area Designations due to the fact that there is actual contamination documented in the soil and groundwater at the Subject Properties from its use as a

Ms. Richard G. Lorber, AICP, LEED AP
September 30, 2016
Page 2

gas manufacturing and natural gas distribution facility. This has required, and will continue to require, that Peoples Gas incur significant time and expense for technical, engineering, and legal consultants in order to properly conduct environmental assessment and remediation. The designation has thus become a key part of the proposed redevelopment by enabling Peoples Gas, and its future development partners, to access certain regulatory and economic incentives to mitigate and manage the risk and expense associated with contamination cleanup. This Project will dramatically increase local tax revenues, attract major new capital investment in the City of North Miami Beach, and further activate the West Dixie Highway corridor with innovative, sustainable, and desirable new uses.

In considering a request for this type of designation, a local government must evaluate and apply the criteria set forth in § 376.80(2)(c), Florida Statutes. As reflected in the Statement of Eligibility incorporated herein at Exhibit B, Peoples Gas meets such statutory criteria. Accordingly, based on the foregoing, we respectfully request that staff recommend approval. Of course, as you evaluate the application and supporting materials, please feel free to contact us with any questions or should further information be required. Thank you.

Very truly yours,

THE GOLDSTEIN ENVIRONMENTAL LAW FIRM, P.A.



Michael R. Goldstein
/mrg

Enclosures

cc: Peoples Gas System, Inc.

Exhibit A



OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 9/29/2016

Property Information	
Folio:	07-2216-000-0380
Property Address:	15779 W DIXIE HWY North Miami Beach, FL 33162-6037
Owner	PEOPLES GAS SYSTEM INC ATTN TAX DEPARTMENT
Mailing Address	PO BOX 2562 TAMPA, FL 33601-2562
Primary Zone	8600 SPECIAL USE
Primary Land Use	9163 UTILITY : UTILITY
Beds / Baths / Half	0 / 0 / 0
Floors	1
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	257,440 Sq.Ft
Year Built	1926



Assessment Information			
Year	2016	2015	2014
Land Value	\$370,714	\$176,089	\$176,089
Building Value	\$10,000	\$10,000	\$10,000
XF Value	\$0	\$0	\$0
Market Value	\$380,714	\$186,089	\$186,089
Assessed Value	\$204,697	\$186,089	\$186,089

Benefits Information				
Benefit	Type	2016	2015	2014
Non-Homestead Cap	Assessment Reduction	\$176,017		
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Short Legal Description
16 52 42 5.91 AC
BEG C/L OF SEC TH E65.08FT
S 18 DEG W897.92FT W564.28FT
N 44 DEG E 1156.27FT TO PO A/K/A
TRS 3 & 6

Taxable Value Information			
	2016	2015	2014
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$204,697	\$186,089	\$186,089
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$380,714	\$186,089	\$186,089
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$204,697	\$186,089	\$186,089
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$204,697	\$186,089	\$186,089

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description

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Version:



OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 9/29/2016

Property Information	
Folio:	07-2216-000-0410
Property Address:	15700 BISCAYNE BLVD North Miami Beach, FL 33160-0000
Owner	PEOPLES GAS SYSTEM
Mailing Address	PO BOX 2562 TAMPA, FL 33601 USA
Primary Zone	6400 COMMERCIAL - CENTRAL
Primary Land Use	1081 VACANT LAND - COMMERCIAL : VACANT LAND
Beds / Baths / Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	13,406 Sq.Ft
Year Built	0



Assessment Information			
Year	2016	2015	2014
Land Value	\$134,060	\$134,060	\$134,060
Building Value	\$0	\$0	\$0
XF Value	\$0	\$0	\$11,449
Market Value	\$134,060	\$134,060	\$145,509
Assessed Value	\$134,060	\$134,060	\$145,509

Benefits Information				
Benefit	Type	2016	2015	2014
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Short Legal Description
16 52 42 .307 AC M/L S1/2 OF NW1/4 OF NW1/4 OF SE1/4 LYG BET F E C RR & US #1 LOT SIZE 13406 SQUARE FEET OR 20964-1340 1202 6 (3)

Taxable Value Information			
	2016	2015	2014
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$134,060	\$134,060	\$145,509
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$134,060	\$134,060	\$145,509
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$134,060	\$134,060	\$145,509
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$134,060	\$134,060	\$145,509

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
12/18/2013	\$2,215,000	28975-4269	Utility companies
12/01/2002	\$650,000	20964-1340	Other disqualified
12/01/1996	\$350,000	17460-1378	Deeds that include more than one parcel
07/01/1992	\$600,000	15595-0468	Deeds that include more than one parcel

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Version:



OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 9/29/2016

Property Information	
Folio:	07-2216-000-0360
Property Address:	15902 BISCAYNE BLVD North Miami Beach, FL 33160-4302
Owner	PEOPLES GAS SYSTEM
Mailing Address	PO BOX 2562 TAMPA, FL 33601 USA
Primary Zone	6400 COMMERCIAL - CENTRAL
Primary Land Use	1081 VACANT LAND - COMMERCIAL : VACANT LAND
Beds / Baths / Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	17,439 Sq.Ft
Year Built	0



Assessment Information			
Year	2016	2015	2014
Land Value	\$104,634	\$104,634	\$104,634
Building Value	\$0	\$0	\$0
XF Value	\$0	\$0	\$0
Market Value	\$104,634	\$104,634	\$104,634
Assessed Value	\$104,634	\$104,634	\$104,634

Benefits Information				
Benefit	Type	2016	2015	2014
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).				

Short Legal Description
16 52 42 .38 AC
THAT PART OF N1/2 OF NW1/4 OF NW
1/4 OF SE1/4 BETWEEN FEC RR &
U S NO 1
LOT SIZE 17439 SQUARE FEET

Taxable Value Information			
	2016	2015	2014
County			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$104,634	\$104,634	\$104,634
School Board			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$104,634	\$104,634	\$104,634
City			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$104,634	\$104,634	\$104,634
Regional			
Exemption Value	\$0	\$0	\$0
Taxable Value	\$104,634	\$104,634	\$104,634

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description
12/18/2013	\$2,215,000	28975-4269	Utility companies
12/01/2002	\$650,000	20964-1340	Other disqualified
12/01/1996	\$350,000	17460-1378	Deeds that include more than one parcel
07/01/1992	\$600,000	15595-0468	Deeds that include more than one parcel

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Version:

Exhibit B

Green Reuse Area Designation Eligibility Statement

Peoples Gas East Parcel Green Reuse Area
15779 West Dixie Highway, North Miami Beach, FL 33162
Folio Number 07-2216-000-0380

Former Melting Pot Green Reuse Area
15700 Biscayne Blvd., and 15902 Biscayne Blvd., North Miami Beach, FL 33162
Folio Numbers 07-2216-000-0410, and 07-2216-000-0360

Peoples Gas System, Inc. (“Peoples Gas”), proposes to redevelop and rehabilitate several parcels of land located at 15779 West Dixie Highway, 15700 Biscayne Blvd., and 15902 Biscayne Blvd., North Miami Beach, FL 33162, Folio Numbers 07-2216-000-0380, 07-2216-000-0410, and 07-2216-000-0360, respectively (collectively, the “Subject Properties”), for a mix of uses, consisting of commercial, retail, office, and hospitality (the “Project”). As demonstrated herein, the Project meets all five of the applicable brownfield area designation criteria set forth at Section 376.80(2)(c), Florida Statutes.¹ In addition, the Subject Properties meet the definition of “brownfield sites” pursuant to Section 376.79(3), Florida Statutes.

I. Subject Properties Satisfy the Statutory Criteria for Designation

1. Agreement to Redevelop the Brownfield Site. As the first requirement for designation, Florida Statutes § 376.80(2)(c)(1) provides that “[a] person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.”

Peoples Gas satisfies this criterion in that it owns the Subject Properties and has agreed to redevelop and rehabilitate them. See Quit Claim Deed at Attachment B. Accordingly, Peoples Gas meets this first criterion.

2. Economic Productivity. As the second requirement for designation, Florida Statutes § 376.80(2)(c)(2) provides that “[t]he rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks.”

Peoples Gas satisfies this criterion in that the Project will result in significant economic productivity of the area. The projected budget for rehabilitation and redevelopment is approximately \$75 million - 100 million, which will be spent in part on local labor, contractors, consultants, construction materials, furnishings, infrastructure improvements, and impact fees. This work will support between 300 - 500 temporary construction jobs over the period of development. The construction workers will spend a percentage of their salaries with local merchants who, in turn, will reinvest locally in their respective businesses, as well as the businesses of other local merchants. In addition, the Project, once completed, is anticipated to create up to 500 permanent, full-time and part-time positions not associated with the implementation of the rehabilitation agreement and not associated with redevelopment project demolition or construction activities. Such job creation will result in the payment of significant payroll taxes and salaries, thereby benefitting the local economy and increasing the economic productivity of the area. Accordingly, Peoples Gas meets this second criterion.

¹ A copy of § 376.80, Florida Statutes, can be found at Attachment A to this Eligibility Statement.

3. Consistency with Local Comprehensive Plan and Permittable Use under Local Land Development Regulations. As the third requirement for designation, Florida Statutes § 376.80(2)(c)(3) provides that “[t]he redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations.”

Folio Number 07-2216-000-0380 is located in the Mixed-Use Employment Center of the City of North Miami Beach’s Comprehensive Plan, which allows mixed use development, and is zoned in a Mixed-Use/Employment Center District that permits a mix of intense non-residential uses and higher density residential uses that are both vertically and horizontally integrated, including residential, eating and drinking establishments, general business, office, retail/personal services, retail/retail services, lodging accommodations, light industrial/warehouse, and institutional uses. See § 24-58.2 of the City of North Miami Beach Code of Ordinances. Folio numbers 07-2216-000-0360 and 07-2216-000-0410 are located in the Business Designation of the City’s Comprehensive Plan, which allows a range of zoning districts, including residential-office with nonresidential uses (limited to offices, institutions and community facilities) to arterial highway districts (including automotive and entertainment uses with intensity limitations). These parcels are zoned in a General Business District that permits a broad array of office, retail, and service establishments. See § 24-52 of the City of North Miami Beach Code of Ordinances. All of the Project’s anticipated uses are thus allowable as of right under these applicable local land development regulations. Accordingly, Peoples Gas meets the third criterion.

4. Public Notice and Comment. Florida Statutes § 376.80(2)(c)(4) stipulates that “[n]otice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be posted in the affected area.” Additional notice requirements pertaining to applicants other than a governmental entity can be found at Florida Statutes § 376.80(1)(c)(4)(b) and consist of publication in a newspaper of general circulation in the area, publication in ethnic newspapers or local community bulletins, and announcement at a scheduled meeting of the local governing body before the actual public hearing.

Peoples Gas satisfies all applicable notice and opportunity to comment requirements established by Florida Statutes § 376.80(2)(c)(4) and § 376.80(1)(c)(4)(b) as follows:

- (i) notice is being posted at the Subject Properties;*
- (ii) notice is being published in the Miami Herald;*
- (iii) notice is being published in the City of Miami community bulletin section of Craig’s List; and*
- (iv) a community meeting will be held at the Marjorie & William McDonald Center, located at 17051 NE 19th Ave., North Miami Beach, FL 33162.*

All notices will contain the following narrative:

***Notice of Community Meeting and Public Hearings for Proposed Green Reuse Area
Designation Pursuant to Florida’s Brownfields Redevelopment Act***

A Community Meeting and Public Hearing shall be conducted on October 13, 2016, from 5:30 p.m. to 7:00 p.m. for the purpose of affording interested parties the opportunity to provide comments and suggestions about the potential designation of property located at 15779 West Dixie Highway, 15700 Biscayne Boulevard, and 15902 Biscayne Boulevard, North Miami Beach, FL 33162, Folio Nos. 07-2216-000-0380, 07-2216-000-0410, and 07-2216-000-0360, as a Green Reuse Area pursuant to Section 376.80(2)(c), Florida Statutes. This Community Meeting and Public Hearing, to be held at the Marjorie & William McDonald Center, located at 17051 NE 19th Avenue, North Miami Beach, FL 33162, will also address future development and rehabilitation activities planned for the site by the designation applicant, Peoples Gas System, Inc.

Two additional public hearings, dates to be announced, will be held at the North Miami Beach City Hall, located at 17011 NE 19th Avenue, 2nd Floor, North Miami Beach, FL 33162. For more information regarding the community meeting and/or the public hearings, including dates for the public hearings, or to provide comments and suggestions regarding designation, development, or rehabilitation at any time before or after the community meeting and/or public hearings, please contact Michael R. Goldstein, who can be reached by telephone at (305) 777-1682, U.S. Mail at The Goldstein Environmental Law Firm, P.A., 1 SE 3rd Avenue, Suite 2120, Miami, FL 33131, and/or email at mgoldstein@goldsteinenvlaw.com.

Proof of publication or posting will be provided to the City.

5. Reasonable Financial Assurance. As the fifth requirement for designation, Florida Statutes § 376.80(2)(c)(5) provides that “[t]he person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan.”

The total projected capital budget for the Project as described in Paragraph 2 above will be fully funded. First, Peoples Gas has ample resources in hand to promptly complete the rehabilitation portion of the Project and ensure timely remediation of all on-site and off-site contamination issues under strict oversight by the Miami-Dade County Department of Regulatory and Economic Resources – Division of Environmental Resources Management (“DERM”). Specifically, according to its Form 10-Q, filed with the U.S. Securities and Exchange Commission for the Quarterly Period Ended June 30, 2016,² as of June 30, 2016, Peoples Gas had \$1,135.9 billion in total assets. And, for the first 6 months of 2016, Peoples Gas had total revenue in the amount of \$233.1 million. Second, Peoples Gas is committed to ensuring, through a rigorous due diligence process, that any development partners selected for redeveloping and building on the Subject Properties will have the experience and resources to design, permit, finance, and construct the end-uses that are contemplated for the Subject Properties (and approved by the City). Founded in 1895, Peoples Gas has provided Florida residents and businesses with reliable and economical natural gas products and service. It is Florida’s largest natural gas distributor, serving more than 365,000 residential, commercial, and industrial customers through more than 9,200 miles of system infrastructure. It’s affiliate, TECO Energy Inc. (“TECO”), a subsidiary of Emera Inc., is a leading energy company located in Tampa, Florida. Nearly 725,000 residential, commercial, and industrial customers depend of TECO for reliable power and value-added energy services. TECO has nearly 4,400 megawatts of generating capacity and recently completed a 10-year, \$1.2 billion environmental improvement program that significantly reduced environmental emissions while providing reliable, and affordable electricity. Based on all the foregoing, Peoples Gas satisfies the fifth criterion.

II. Subject Properties Meet the Definition of Brownfield Sites

Section 376.79(3), Florida Statutes, defines “brownfield site” to mean “. . . real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.” The facts here clearly evidence that the Subject Properties falls within the definition of the term “brownfield site” in that, as a result of its past uses, there is contamination in the soil and groundwater that has required ongoing formal cleanup under Florida’s pollution remediation laws, which has significantly complicated redevelopment and reuse.

Specifically, the portion of the Subject Properties known as “TECO East” was utilized as a gas manufacturing facility from 1930 until the late 1950s, when the facility transitioned into a natural gas distribution system. These operations were discontinued in the 1970s and the facility was dismantled in the 1980s. Subsequent site assessment activities conducted at the Subject Properties, beginning in 1987 and continuing through the present day, have revealed elevated levels of chlorinated organic compounds and polycyclic aromatic

² The Form 10-Q may be accessed at https://www.sec.gov/Archives/edgar/data/96271/000156459016023379/te-10q_20160630.htm.

hydrocarbons in the soil and groundwater from the historic use of coal and coal tar production.³ The portion of the Subject Properties that formerly operated as a Melting Pot restaurant has been impacted by off-site groundwater contamination migration from TECO East and will be the location of recovery well installation for groundwater remediation. All contamination response activities have been and will continue to be conducted under the close oversight of DERM and the Florida Department of Environmental Protection (“FDEP”).⁴ In addition, Peoples Gas will enter into a Brownfield Site Rehabilitation Agreement with DERM and pursue regulatory closure pursuant to the requirements of Chapters 376 and 403, Florida Statutes, Rule 62-780 of the Florida Administrative Code. Assessment, remediation, and closure has been and will continue to be an expensive and lengthy process that will require Peoples Gas to carefully manage the contamination during redevelopment, imposing great legal and financial risk to incorporate design and construction changes on the Project that would not be required but for the presence of actual contamination.

In sum, the presence of contamination imposes a material level of regulatory, construction, health, and legal liability risk, complicates redevelopment efforts, and requires significant time and money for environmental, engineering, and legal consultants to property investigate and address. Accordingly, this designation, if granted, will allow for Peoples Gas to access limited but important state-based economic incentives to help underwrite the unanticipated and unbudgeted costs associated with managing the environmental risk as well as, generally, to put the Project to a more certain financial ground. In this sense, the designation will not only play a critical role in the successful redevelopment of the Subject Properties, but also in the larger revitalization efforts for this area of the City of North Miami Beach.

Based on all the foregoing, the Subject Properties clearly fall within the definition of “brownfield sites” as set forth in § 376.79(3), Florida Statutes.

III. Conclusion

Peoples Gas has demonstrated that the Subject Properties meet the definition of “brownfield sites” and that it satisfies the five statutory criteria for designation. Accordingly, designation of the Subject Properties as Green Reuse Areas pursuant to § 376.80(2)(c), Florida Statutes, of Florida’s Brownfield Redevelopment Act is appropriate.

³ A complete chronology of such assessment activities and the reporting documentation associated with such activities may be found online in internet accessible databases maintained by FDEP and DERM, respectively, at: [FDEP Oculus – Peoples Gas East Parcel](#) and [DERM emPOWER – Peoples Gas East Parcel](#).

⁴ Such joint oversight is being implemented pursuant to a Remediation Consent Order that Peoples Gas entered into on April 9, 1987. Peoples Gas is in full compliance with the Consent Order.

Attachment A

Select Year: 2015 ▼ Go

The 2015 Florida Statutes

[Title XXVIII](#)

NATURAL RESOURCES; CONSERVATION,
RECLAMATION, AND USE

[Chapter 376](#)

POLLUTANT DISCHARGE
PREVENTION AND REMOVAL

[View Entire
Chapter](#)

376.80 Brownfield program administration process.—

(1) The following general procedures apply to brownfield designations:

(a) The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, the designation criteria under paragraph (2)(a) apply, except if the local government proposes to designate as a brownfield area a specified redevelopment area as provided in paragraph (2)(b).

2. Any person, other than a governmental entity, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, or not-for-profit corporations, the designation criteria under paragraph (2)(c) apply.

(c) Except as otherwise provided, the following provisions apply to all proposed brownfield area designations:

1. Notification to department following adoption.—A local government with jurisdiction over the brownfield area must notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of its decision to designate a brownfield area for rehabilitation for the purposes of ss. [376.77](#)-[376.86](#). The notification must include a resolution adopted by the local government body. The local government shall notify the department, and, if applicable, the local pollution control program under s. [403.182](#), of the designation within 30 days after adoption of the resolution.

2. Resolution adoption.—The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, which includes a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [166.041](#), except that the procedures for the public hearings on the proposed resolution must be in the form established in s. [166.041\(3\)\(c\)2](#). For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. [125.66](#), except that the procedures for the public hearings on the proposed resolution shall be in the form established in s. [125.66\(4\)\(b\)](#).

3. Right to be removed from proposed brownfield area.—If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request.

4. Notice and public hearing requirements for designation of a proposed brownfield area outside a redevelopment area or by a nongovernmental entity. Compliance with the following provisions is required before designation of a proposed brownfield area under paragraph (2)(a) or paragraph (2)(c):

a. At least one of the required public hearings shall be conducted as closely as is reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.

b. Notice of a public hearing must be made in a newspaper of general circulation in the area, must be made in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.

(2)(a) *Local government-proposed brownfield area designation outside specified redevelopment areas.*

—If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government shall provide notice, adopt the resolution, and conduct public hearings pursuant to paragraph (1)(c). At a public hearing to designate the proposed brownfield area, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;
2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;
3. Whether the area has potential to interest the private sector in participating in rehabilitation; and
4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) *Local government-proposed brownfield area designation within specified redevelopment areas.*

—Paragraph (a) does not apply to a proposed brownfield area if the local government proposes to designate the brownfield area inside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area and the local government complies with paragraph (1)(c).

(c) *Brownfield area designation proposed by persons other than a governmental entity.*—For designation of a brownfield area that is proposed by a person other than the local government, the local government with jurisdiction over the proposed brownfield area shall provide notice and adopt a resolution to designate the brownfield area pursuant to paragraph (1)(c) if, at the public hearing to adopt the resolution, the person establishes all of the following:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site.
2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. [420.0004](#) or the creation of recreational areas, conservation areas, or parks.
3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permissible use under the applicable local land development regulations.
4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to paragraph (1)(c), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions

about rehabilitation. Notice pursuant to this subparagraph must be posted in the affected area.

5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

(d) *Negotiation of brownfield site rehabilitation agreement.*—The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(3) When there is a person responsible for brownfield site rehabilitation, the local government must notify the department of the identity of that person. If the agency or person who will be responsible for the coordination changes during the approval process specified in subsections (4), (5), and (6), the department or the affected approved local pollution control program must notify the affected local government when the change occurs.

(4) Local governments or persons responsible for rehabilitation and redevelopment of brownfield areas must establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use, local employment opportunities, community safety, and environmental justice. Such advisory committee should include residents within or adjacent to the brownfield area, businesses operating within the brownfield area, and others deemed appropriate. The person responsible for brownfield site rehabilitation must notify the advisory committee of the intent to rehabilitate and redevelop the site before executing the brownfield site rehabilitation agreement, and provide the committee with a copy of the draft plan for site rehabilitation which addresses elements required by subsection (5). This includes disclosing potential reuse of the property as well as site rehabilitation activities, if any, to be performed. The advisory committee shall review any proposed redevelopment agreements prepared pursuant to paragraph (5)(i) and provide comments, if appropriate, to the board of the local government with jurisdiction over the brownfield area. The advisory committee must receive a copy of the executed brownfield site rehabilitation agreement. When the person responsible for brownfield site rehabilitation submits a site assessment report or the technical document containing the proposed course of action following site assessment to the department or the local pollution control program for review, the person responsible for brownfield site rehabilitation must hold a meeting or attend a regularly scheduled meeting to inform the advisory committee of the findings and recommendations in the site assessment report or the technical document containing the proposed course of action following site assessment.

(5) The person responsible for brownfield site rehabilitation must enter into a brownfield site rehabilitation agreement with the department or an approved local pollution control program if actual contamination exists at the brownfield site. The brownfield site rehabilitation agreement must include:

(a) A brownfield site rehabilitation schedule, including milestones for completion of site rehabilitation tasks and submittal of technical reports and rehabilitation plans as agreed upon by the parties to the agreement.

(b) A commitment to conduct site rehabilitation activities under the observation of professional engineers or geologists who are registered in accordance with the requirements of chapter 471 or chapter 492, respectively. Submittals provided by the person responsible for brownfield site rehabilitation must be signed and sealed by a professional engineer registered under chapter 471, or a professional geologist registered under chapter 492, certifying that the submittal and associated work comply with the law and rules of the department and those governing the profession. In addition, upon completion of the approved remedial

action, the department shall require a professional engineer registered under chapter 471 or a professional geologist registered under chapter 492 to certify that the corrective action was, to the best of his or her knowledge, completed in substantial conformance with the plans and specifications approved by the department.

(c) A commitment to conduct site rehabilitation in accordance with department quality assurance rules.

(d) A commitment to conduct site rehabilitation consistent with state, federal, and local laws and consistent with the brownfield site contamination cleanup criteria in s. 376.81, including any applicable requirements for risk-based corrective action.

(e) Timeframes for the department's review of technical reports and plans submitted in accordance with the agreement. The department shall make every effort to adhere to established agency goals for reasonable timeframes for review of such documents.

(f) A commitment to secure site access for the department or approved local pollution control program to all brownfield sites within the eligible brownfield area for activities associated with site rehabilitation.

(g) Other provisions that the person responsible for brownfield site rehabilitation and the department agree upon, that are consistent with ss. 376.77-376.86, and that will improve or enhance the brownfield site rehabilitation process.

(h) A commitment to consider appropriate pollution prevention measures and to implement those that the person responsible for brownfield site rehabilitation determines are reasonable and cost-effective, taking into account the ultimate use or uses of the brownfield site. Such measures may include improved inventory or production controls and procedures for preventing loss, spills, and leaks of hazardous waste and materials, and include goals for the reduction of releases of toxic materials.

(i) Certification that the person responsible for brownfield site rehabilitation has consulted with the local government with jurisdiction over the brownfield area about the proposed redevelopment of the brownfield site, that the local government is in agreement with or approves the proposed redevelopment, and that the proposed redevelopment complies with applicable laws and requirements for such redevelopment.

Certification shall be accomplished by referencing or providing a legally recorded or officially approved land use or site plan, a development order or approval, a building permit, or a similar official document issued by the local government that reflects the local government's approval of proposed redevelopment of the brownfield site; providing a copy of the local government resolution designating the brownfield area that contains the proposed redevelopment of the brownfield site; or providing a letter from the local government that describes the proposed redevelopment of the brownfield site and expresses the local government's agreement with or approval of the proposed redevelopment.

(6) Any contractor performing site rehabilitation program tasks must demonstrate to the department that the contractor:

(a) Meets all certification and license requirements imposed by law; and

(b) Will conduct sample collection and analyses pursuant to department rules.

(7) During the cleanup process, if the department or local program fails to complete review of a technical document within the timeframe specified in the brownfield site rehabilitation agreement, the person responsible for brownfield site rehabilitation may proceed to the next site rehabilitation task. However, the person responsible for brownfield site rehabilitation does so at its own risk and may be required by the department or local program to complete additional work on a previous task. Exceptions to this subsection include requests for "no further action," "monitoring only proposals," and feasibility studies, which must be approved prior to implementation.

(8) If the person responsible for brownfield site rehabilitation fails to comply with the brownfield site rehabilitation agreement, the department shall allow 90 days for the person responsible for brownfield site

rehabilitation to return to compliance with the provision at issue or to negotiate a modification to the brownfield site rehabilitation agreement with the department for good cause shown. If an imminent hazard exists, the 90-day grace period shall not apply. If the project is not returned to compliance with the brownfield site rehabilitation agreement and a modification cannot be negotiated, the immunity provisions of s. 376.82 are revoked.

(9) The department is specifically authorized and encouraged to enter into delegation agreements with local pollution control programs approved under s. 403.182 to administer the brownfield program within their jurisdictions, thereby maximizing the integration of this process with the other local development processes needed to facilitate redevelopment of a brownfield area. When determining whether a delegation pursuant to this subsection of all or part of the brownfield program to a local pollution control program is appropriate, the department shall consider the following. The local pollution control program must:

(a) Have and maintain the administrative organization, staff, and financial and other resources to effectively and efficiently implement and enforce the statutory requirements of the delegated brownfield program; and

(b) Provide for the enforcement of the requirements of the delegated brownfield program, and for notice and a right to challenge governmental action, by appropriate administrative and judicial process, which shall be specified in the delegation.

The local pollution control program shall not be delegated authority to take action on or to make decisions regarding any brownfield site on land owned by the local government. Any delegation agreement entered into pursuant to this subsection shall contain such terms and conditions necessary to ensure the effective and efficient administration and enforcement of the statutory requirements of the brownfield program as established by the act and the relevant rules and other criteria of the department.

(10) Local governments are encouraged to use the full range of economic and tax incentives available to facilitate and promote the rehabilitation of brownfield areas, to help eliminate the public health and environmental hazards, and to promote the creation of jobs and economic development in these previously run-down, blighted, and underutilized areas.

(11)(a) The Legislature finds and declares that:

1. Brownfield site rehabilitation and redevelopment can improve the overall health of a community and the quality of life for communities, including for individuals living in such communities.

2. The community health benefits of brownfield site rehabilitation and redevelopment should be better measured in order to achieve the legislative intent as expressed in s. 376.78.

3. There is a need in this state to define and better measure the community health benefits of brownfield site rehabilitation and redevelopment.

4. Funding sources should be established to support efforts by the state and local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, to evaluate the community health benefits of brownfield site rehabilitation and redevelopment.

(b) Local governments may and are encouraged to evaluate the community health benefits and effects of brownfield site rehabilitation and redevelopment in connection with brownfield areas located within their jurisdictions. Factors that may be evaluated and monitored before and after brownfield site rehabilitation and redevelopment include, but are not limited to:

1. Health status, disease distribution, and quality of life measures regarding populations living in or around brownfield sites that have been rehabilitated and redeveloped.

2. Access to primary and other health care or health services for persons living in or around brownfield sites that have been rehabilitated and redeveloped.

3. Any new or increased access to open, green, park, or other recreational spaces that provide

recreational opportunities for individuals living in or around brownfield sites that have been rehabilitated and redeveloped.

4. Other factors described in rules adopted by the Department of Environmental Protection or the Department of Health, as applicable.

(c) The Department of Health may and is encouraged to assist local governments, in collaboration with local health departments, community health providers, and nonprofit organizations, in evaluating the community health benefits of brownfield site rehabilitation and redevelopment.

(12) A local government that designates a brownfield area pursuant to this section is not required to use the term “brownfield area” within the name of the brownfield area designated by the local government.

History.—s. 4, ch. 97-277; s. 3, ch. 98-75; s. 11, ch. 2000-317; s. 2, ch. 2004-40; s. 44, ch. 2005-2; s. 7, ch. 2006-291; s. 5, ch. 2008-239; s. 2, ch. 2014-114.

Attachment B

2442
13 18.50
9,290.00
9,967.50
23,276.00

SPECIAL WARRANTY DEED

Prepared by: Robert Lederman, Esquire
1541 Sunset Drive - Suite 201
Coral Gables, Florida 33143

Grantor's Address: 15700 Biscayne Boulevard, North Miami Beach, Florida 33160
Grantees' Address : P.O. Box 2562, Tampa, Florida 33601
Grantee's Tax Identification Number:
Tax Folio Numbers: 06-2221-007-0251 07-2216-000-0360 07-2216-000-0410

THIS INDENTURE, made on this 18 day of December, 2013, between **DAISYLO, LLC, a Florida limited liability company**, as Grantor, and **PEOPLES GAS SYSTEM, a Division of Tampa Electric Company**, as Grantee.

WITNESSETH: That said Grantor, for and in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, to said Grantor in hand paid by said Grantee, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, conveyed, and sold to the said Grantee, and Grantee's successors and assigns forever, the following described land, situate, lying and being in Miami-Dade County, Florida:

See Exhibit A attached hereto

SUBJECT TO:

1. Taxes for the year 2014 and years subsequent.
2. Conditions, limitations, restrictions, and easements of record, if any, however this provision shall not be deemed to reimpose any of same.

and said Grantor will only warrant and forever defend the right and title to the above described property under the said Grantee against the claims of these persons claiming by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, Grantor has caused these presents to be signed in its name by its proper Managing Members the day and year above written.

Signed, sealed and delivered
in our presence:

Daisylo, LLC, a Florida limited liability company

Gina Sabatino by:
Witness Print Name: Gina Sabatino

David S. Lopate (SEAL)
David S. Lopate, Managing Member

Robert Lederman by:
Witness Print Name: Robert Lederman

Michelle Lopate (SEAL)
Michelle Lopate, Managing Member

STATE OF FLORIDA)
) SS
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me on this 18 day of December, 2013, by David S. Lopate, Managing Member, and Michelle Lopate, Managing Member, of Daisylo, LLC, a Florida limited liability company, on behalf of the limited liability company. They are each [] personally known to me or [] has each produced a Florida driver's license as identification.



ROBERT LEDERMAN
MY COMMISSION # EE 131371
EXPIRES: December 9, 2015
Bonded Thru Budget Notary Services

Robert Lederman
Notary Public
Notary Print Name:

my commission expires:

BOOK 28975 PAGE 4270
LAST PAGE**Exhibit "A"****Parcel I:**

The part of the S 1/2 of the NW 1/4 of the NW 1/4 of the SE 1/4 of Section 16, Township 52 South, Range 42 East, Town of North Miami Beach, Miami-Dade County, Florida, lying West of the right-of-way of U.S. No. 1 or Florida State Road No. 4, and East of the right-of-way of the Florida East Coast Railroad, except the South fifteen (15) feet thereof, and that part of Lot 7, Block 3, BISCAYNE BOULEVARD SUBDIVISION ONE, Plat Book 40, Page 4, lying North of the South line of the NE 1/4 of the NE 1/4 of the SW 1/4, Section 16, Township 52 South, Range 42 East, lying and being in Miami-Dade County, Florida.

Parcel II:

All that portion of the N 1/2 of the of the NW 1/4 of the NW 1/4 of the SE 1/4 of Section 16, Township 52 South, Range 42 East, being bounded on the East by the West line of The Federal Highway, U.S. 1, and said strip being bounded on the West by the East line of the Florida East Coast Railway Right of Way, as now located and constructed, all as shown on a plat entitled "Right of Way Plans #4, Miami-Dade County, Florida" as same is recorded in the Public Records of Miami-Dade County, Florida in Plat Book 34, at Page 51.

Parcel III:

The South fifteen (15) feet of that part of the S 1/2 of the NW 1/4 of the NW 1/4 of the SE 1/4 of Section 16, Township 52 South, Range 42 East, Town of North Miami Beach, Miami-Dade County, Florida, lying West of the right-of-way of U.S. No. 1 or Florida State Road No. 4, and East of the right-of-way of the Florida East Coast Railway.





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

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA: Paulette Murphy, Director of Parks & R.E.C.

DATE: Tuesday, October 4, 2016

RE: Farm Share Free Food Distribution, October 8, 2016 from 10AM
- 1PM (Paulette Murphy, Director of Parks & R.E.C.)

BACKGROUND ANALYSIS: In partnership with State Representative Barbara Watson, a FREE food distribution will take place on Saturday, October 8, 2016 from 10:00 AM to 1:00 PM at Allen Park / DeLeonardis Youth Center, 1770 NE 162 Street, North Miami Beach, FL 33162. Food quantities are limited, first come, first serve.

RECOMMENDATION:

**FISCAL/BUDGETARY
IMPACT:**

ATTACHMENTS:

 Farm Share Event
--

FARM SHARE

FREE Food Distribution



In Partnership With

State Representative Barbara Watson

along with the

City of North Miami Beach

*To distribute food and grocery items that will
help people in need.*

Saturday

October 8th, 2016

10 am-1 pm

**Allen Park/ De Leonardis
Youth Center**

1770 NE 162nd Street, North Miami Beach, Florida 33162

Quantities are Limited * First come, first serve.

For more information contact (305) 654-7100



City of North Miami Beach
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305-947-7581
www.citynmb.com

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA: Paulette Murphy, Director of Parks & R.E.C.

DATE: Tuesday, October 4, 2016

RE: NMB Magical History Tour, October 16, 2016 (Ana M. Garcia, City Manager)

BACKGROUND ANALYSIS: NMB Magical History Tour
Sunday, October 16, 2016
12:30 p.m. check-in, 1:00 p.m. departure

Join Councilwoman Barbara Kramer, liaison to the North Miami Beach Multi-Cultural Committee, and local historian Alan Sokol, on Sunday, October 16th for a FREE history tour of North Miami Beach. **This is a great opportunity to learn more about the fascinating history of NMB, from the iconic Ancient Spanish Monastery to the Fulford Fountain, where we will have a ground breaking ceremony for the restoration and enhancement of this national historic monument.** The tour will last approximately three hours and will leave and return from the North Miami Beach Library. Advance reservation required. For more information and reservations, please call (305) 948-2957.

RECOMMENDATION:

FISCAL/BUDGETARY IMPACT:

ATTACHMENTS:

▣ [Magical History Tour](#)

North Miami Beach Magical History Tour



Sponsored by The City of North Miami Beach and the City of North Miami
Beach Multi-Cultural Committee, Councilwoman Barbara Kramer, liaison

Sunday, October 16, 2016

1:00 p.m. departure

Leaving from the NMB Library

1601 NE 164 Street, North Miami Beach



Join Councilwoman **Barbara Kramer** and local historian **Alan Sokol** on **Sunday, October 16th** for a **FREE** history tour of North Miami Beach. This is a great opportunity to learn more about our City's fascinating history as the tour takes you from the iconic Spanish Monastery to the Fulford Fountain. **The last stop on the tour will be a ground breaking ceremony for the restoration and enhancement of the Fulford Fountain Monument** which was listed in the National Register in 2010 as the "Fulford by the Sea Entrance." The tour will last approximately three hours and will leave and return from the NMB Public Library.

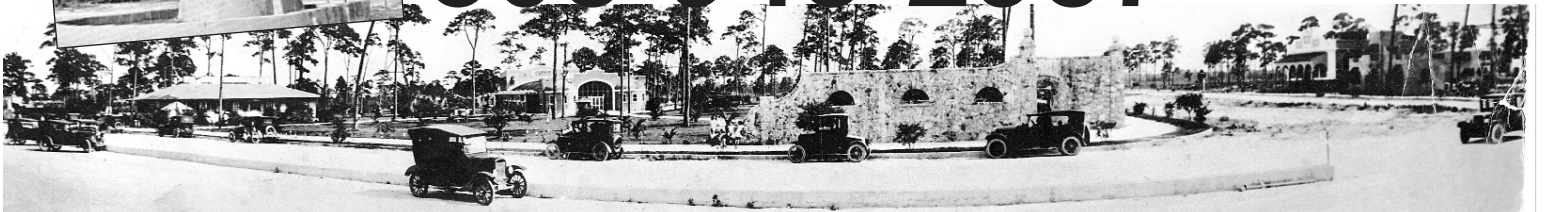
SPACE IS LIMITED

Advance reservation required.

R.S.V.P. or for more information call

305-948-2957

George Vallejo, Mayor
Anthony F. DeFillipo, Councilman
Barbara Kramer, Councilwoman
Marlen Martell, Councilwoman
Frantz Pierre, Councilman
Phyllis S. Smith, Councilwoman
Beth E. Spiegel, Councilwoman
Ana M. Garcia, City Manager
Jose Smith, City Attorney
Pamela 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](#)

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA: Paulette Murphy, Director of Parks & R.E.C.

DATE: Tuesday, October 4, 2016

RE: Monster Mash Bash, October 31, 2016 (Paulette Murphy, Director of Parks & R.E.C.)

BACKGROUND ANALYSIS: Monster Mash Bash is a safe Halloween Event without the tricks, just the treats. Activities include haunted ghost tours, music, edible arts & crafts, bounce houses, rides, vendors, costume contests, prizes, and candy!

The event takes place at the Gwen Margolis Amphitheater located at 16501 NE 16 Avenue from 6 p.m. until 10 p.m. Admission is \$5 per person. For more information and for discounted tickets please contact the Parks & R.E.C. Department at (305) 948-2957.

RECOMMENDATION:

**FISCAL/BUDGETARY
IMPACT:**

<u>ATTACHMENTS:</u>

None



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

MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: Jose Smith, City Attorney
VIA:
DATE: Tuesday, October 4, 2016

RE: Litigation List (Jose Smith, City Attorney)

BACKGROUND ANALYSIS: Litigation List as of October 4, 2016
RECOMMENDATION:
FISCAL/BUDGETARY IMPACT:

ATTACHMENTS:

▢ [Litigation List as of October 4, 2016](#)

LITIGATION LIST

TO: Mayor and City Council
FROM: Jose Smith, City Attorney
DATE: October 4, 2016

- I. Civil Rights:
- II. Personal Injury:
- III. Other Litigation:
- IV. Forfeitures:
- V. Mortgage Foreclosures:

NEW CASES

Bayview Loan Servicing v. Estate of Owen A. Britton et al and CNMB

CLOSED CASES

Midfirst Bank v. Shirley Horton and CNMB	Dismissed
Reverse Mortgage Solutions v. Alexander Chupak, (Estate) and CNMB	Sold
Green Tree Servicing v. Carmen Bonet and CNMB	Sold
Wilmington Trust v. Fernando Jose Chaviano and CNMB	Sold

- VI. Bankruptcies:
- VII. Other information:



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

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA:

DATE: Tuesday, October 4, 2016

RE: Stephane Bolongaro Invitation to Monte Carlo March 2017

BACKGROUND
ANALYSIS:
RECOMMENDATION:
FISCAL/BUDGETARY
IMPACT:

ATTACHMENTS:

 [Letters from Stephane Bolongaro](#)



STÉPHANE
BOLONGARO

93, avenue de Brancolar - 06100 Nice - France
T : +33 (0) 6 74 33 53 62
@ : impact1@live.fr

Nicole GOMEZ
City of North Miami Beach
17011 NE 19th Avenue
North Miami Beach, FL 33162

Dear Nicole,

I come back to you regarding the invitation to my Art show that will be held on the 27th of March 2017.

Could you please send us the details of the guests (full names and date of birth)?

As promised we will deal with all the aspects of the trip as follows:

- Business class tickets to Nice with Air France or British Airways.
- Transfer from Nice airport to Monaco by helicopter (duration 15 minutes).
- Stay at the Fairmont Monte Carlo Hotel.
- Relaxation at the famous "Thermes marins Monte Carlo" Spa.

The Art show being on the 27th of March at 7.00 PM, we advise you to depart from Miami on the 25th and have a rest and relax at the spa on the 26th.

We are looking to receiving your answer.

Yours sincerely

Stéphane Bolongaro



**STÉPHANE
BOLONGARO**

93, avenue de Brancolar - 06100 Nice - France
T : +33 (0) 6 74 33 53 62
@ : impact1@live.fr

**The Honorable George VALLEJO
Mayor, City of North Miami Beach
17011 NE 19th Avenue
North Miami Beach, FL 33162**

Dear Mayor Vallejo,

From the depths of my heart I wanted to thank you and the members of the City Council of North Miami Beach for the extraordinary and unforgettable welcome that you have given me.

You deeply touched my soul with this marvelous ceremony. Living a moment like this was without a doubt a milestone in my life.

I would be delighted and honored that you accept the invitation to my Art show that will take place in Monte Carlo under the patronage of HSH Prince Albert II of Monaco on the 28th of March 2017.

The official invitation for 4 persons will be sent to you in a few days with details regarding the complimentary transportation and accommodation.

Thank you again for everything and I am looking forward to seeing you the soonest.

Yours sincerely


Stéphane Bolongaro



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

MEMORANDUM

 **Print**

TO: Mayor and City Council
FROM: Jose Smith, City Attorney
VIA:
DATE: Tuesday, October 4, 2016

RE: Ordinance 2016-9 Second and Final Reading (Jose Smith, City Attorney)

**BACKGROUND
ANALYSIS:**

RECOMMENDATION:

**FISCAL/BUDGETARY
IMPACT:**

ATTACHMENTS:
<input type="checkbox"/> Memo re-Ordinance 2016-9
<input type="checkbox"/> Memorandum of Law Re-Ordinance 2016-9
<input type="checkbox"/> Ordinance 2016-9



City of North Miami Beach
Memorandum

CITY ATTORNEY'S OFFICE

Phone: (305) 948-2939

Fax: (305) 787-6004

TO: Honorable Mayor George Vallejo
Members of the City Council

CC: Ana Garcia, City Manager
Pamela Latimore, City Clerk

FROM: Jose Smith, City Attorney

DATE: October 4, 2016

RE: 2-1.1 Meetings of the City Council
Quorum Required/Ethical Duty to Remain at City Council Meetings
(Second Reading)

Pursuant to the request of City Councilmember Barbara Kramer, the attached Ordinance has been drafted to address concerns pertaining to recent actions of certain members of the City Council who have left Council meetings prior to the Council's completion of official business. The Ordinance imposes requirements for Councilmembers to remain at Council meetings during any such meeting, and further provides that when instances beyond a Councilmember's control compels his/her presence elsewhere, the Councilmember state into the record such basis prior to the leaving the Council meeting. Finally, the ordinance expressly grants the Miami-Dade County Ethics Commission jurisdiction to enforce this measure's provisions and impose relevant penalties for violation thereof.

Councilwoman Kramer also requested a Memorandum of Law confirming that (1) Councilpersons have a statutory duty to vote (absent a legal conflict); (2) Councilpersons do not have a First Amendment right to walk out of a meeting in "protest" as a reaction to legislative action; and (3) requiring Councilpersons to state a reason for leaving a meeting does not violate their right to privacy.



City of North Miami Beach

Memorandum

CITY ATTORNEY'S OFFICE

Phone: (305) 948-2939

Fax: (305) 787-6004

TO: Honorable Mayor George Vallejo
Members of the City Council

CC: Ana Garcia, City Manager
Pamela Latimore, City Clerk

FROM: Jose Smith, City Attorney

DATE: October 4, 2016

RE: City of North Miami Beach Ordinance No. 2016-09 re: "Ethical Duty to Remain at City Council Meetings": City Attorney Opinion confirming Constitutionality

I. Introduction

In voting against Ethics Ordinance 2016-09, on first reading, Councilwoman Beth Spiegel challenged the constitutionality of the proposed ordinance on First Amendment and Right to Privacy concerns. For the reasons explained below, Councilwoman Spiegel's constitutional challenges are without merit.

At the request of Councilwoman Barbara Kramer, I have prepared this Memorandum confirming that (1) Councilpersons have a statutory duty to vote (absent a legal conflict); (2) Councilpersons do not have a First Amendment right to walk out of a meeting in "protest" as a reaction to legislative action; and (3) requiring Councilpersons to state a reason for leaving a meeting does not violate their right to privacy.

During the September 6, 2016 public hearing on the Ordinance, the following comments were made:

Joseph Centorino, Executive Director of the Miami-Dade Commission on Ethics and Public Trust:

“I have been in public life a long time, but I have never really come across a situation where apparently **there may be members of this body who are not remaining at meetings and voting and carrying out their public responsibilities. I have a hard time understanding that, if that is the case.**

You know, I know how hard it is to get elected to public office and I try to respect every single elected official because I now **it is hard to be get elected. I know it is difficult and it is a great honor to be chosen by your constituents to represent them and do the things that they can’t do for themselves in terms of making public decisions.**

And I always try to impress in *people the sacredness of the public trust and it really means that when you walk in to this chambers you leave your personal agendas outside. You leave your personal grievances, your gripes...You are elected to make decisions that are the best for the public...*

There is a law that requires that you vote on matters unless you have a conflict of interest or some basis for not being able to be fair on a given matter.

Following Mr. Centorino, resident Chuck Cook spoke about protesting the Vietnam War while serving in the Army.¹ He also compared councilpersons to the Ladies in White protesting in Communist Cuba and the recent mass protests in Venezuela:

Chuck Cook, North Miami Beach resident:

“I myself protested for Civil Rights and protested against the war in Vietnam while I was actually serving in the United States Army. This piece of legislation apparently was created as a response to a form of protest by some of the Councilmembers who walked out of a meeting as a statement of protest as to what they conceived as a measure of injustice...

¹ It would have been illegal for Mr. Cook to protest the Vietnam War while on active military duty. In the face of compelling government interests to promote efficiency in its armed services, the Supreme Court has held that an officer’s First Amendment interests do not outweigh the interest of the military. Lee v. United States, 32 Fed. Cl 530,542 (1995) (“even if there was any interference with protected expression in this case, it was merely incidental to the military’s need to ensure discipline in order to carry out its important mission”).

Is it an ethical violation to leave a meeting as a form of protest? Is it an ethical violation to leave the room because a piece of legislation is against your beliefs?

Be glad that the protests here do not come to the same risk as one of the Ladies in White protesting against a decade old repressive regime in Cuba, or the risk the citizens of Caracas, Venezuela took last week to protest the failed policies from an authoritarian ruler. Surely, you have it in you to respect the rights of your colleagues to protest and be glad they can do so without fear for their lives or their safety.”

During discussion on the Ordinance, Councilwoman Spiegel confirmed that she walked out of the July 19, 2016 City Council meeting “as a protest” to the Mayor’s new seating arrangements:

Beth Spiegel, Councilwoman:

“Yes, when I left, I left as a protest. I announced on the record, why I was leaving and what my protest was.”²

I do not claim to be a constitutional scholar but I believe this violates every councilmembers’ first amendment right to free speech. Free speech includes the right to protest. It includes the right to get up and leave when you are being disrespected and that is what I did and I don’t think that if there is a constitutional challenge and this will withstand it...If you really want to have a knee jerk reaction like this, let’s go back to the drawing board and let’s do something that doesn’t violate our...First Amendment Rights.”

² Councilwoman Spiegel was cautioned previously at the September 21, 2015 public meeting, and thereafter, in a formal legal opinion dated September 30, 2015 that she was **required** to vote and that she could **not** “abstain from voting.” Ignoring my legal advice, she refused to vote on the appointment of Michael Joseph to the Code Enforcement Board:

“Councilwoman Spiegel: I’d ask that you would please record my vote as abstaining. The only reason I’m not leaving the dais is that I don’t want to destroy quorum but I am not voting on this.

Mayor Vallejo: I don’t know, Mr. Attorney?

Councilwoman Spiegel: I’m not voting.

Mayor Vallejo: Ok.

Councilwoman Spiegel: First Amendment Right, Freedom of Speech. I am not voting.

City Attorney Mr. Smith: I would rather that you vote against it than abstain because there is no such thing as abstaining, you have to vote one way or the other.

Councilwoman Spiegel: I’ll walk off the dais then. I’m not voting on it.

Mayor Vallejo: We lost just quorum again.”

II. Legal Analysis

The first question raised by Councilwoman Spiegel is whether the First Amendment to the United States Constitution affords her the right to walk out in protest over some legislative action. The United States Supreme Court has held that the answer is NO. Nevada Commission on Ethics v Carrington, 564 US 117 (2011).

Additionally, as eloquently explained by Joe Centorino, and legal opinions I issued, Florida law requires elected officials to vote on all matters absent a conflict of interest. Fla. Statute §286.012³

Finally, as discussed below, requiring council members to announce why they leave a meeting does not violate their right to privacy. As elected officials, their right to privacy is significantly diminished under well-established legal authorities.

A. DUTY TO VOTE

Except where there is a conflict of interest, elected officials are required to vote on all matters before them. George v. City of Cocoa, Fla., 78 F.3d 494 (11th Cir. 1996). F.S. Section § 286.012, Florida Statutes, provides:

*A member of a state, county, or municipal governmental board, commission, or agency who is present at a meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted **may not abstain from voting** in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, **unless, with respect to any such member, there is, or appears to be, a possible conflict of interest** under s. 112.311, s.112.313, s. 112.3143. (emphasis added).*

For there to be legal conflict there must exist a special pecuniary interest—i.e. a financial gain or loss to the legislator, a client, relative or business associate. See Fla. Stat. §112.3143(3)(a) (“No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer...”).

The Florida Attorney General has rendered numerous opinions interpreting Section 286.012. Under the provisions of the Code of Ethics, a public official is required to have a personal financial interest in a matter in order to abstain from voting. AGO 072-229 (a public official must

³ See also, e.g. FL. AGO 79-14, 72-229, 74-31; George v. City of Cocoa, Fla., 78 F.3d 494 (11th Cir. 1996) (Under Florida law, elected officials are required to vote on all matters before them, and abstaining from a vote is prohibited unless there is a conflict of interest.

cast his vote unless he has a personal interest in the matter); AGO 073-236 (a city councilman is not allowed to abstain on a request for a zoning change made by a business customer unless such vote results in a benefit to the councilman's business); and AGO 074-31 (a county commissioner may not abstain on matters relating to mental health board of which he is a director as he would not profit personally). Furthermore, when adopting the Code of Ethics, the Legislature was concerned primarily with the effect of a public official's economic interests and relationships upon the performance of public duties, rather than the effect on personal preferences or animosities. See Fla. Stat. 112.311(5).

Accordingly, absent a legal conflict of interest, a Councilmember's refusal to vote during a Council meeting constitutes a per se violation of Florida and County ethics laws, and also violates the Councilmember's oath to "well and faithfully perform" his or her duties as an elected official of the City, as mandated by Section 8 of the City Charter.

B. VOTING IS NOT PROTECTED SPEECH UNDER THE FIRST AMENDMENT

The First Amendment protects freedom of expression, ideas and points of view, Stanford v. State of Tex., 379 U.S. 476 (1965). However, the Amendment does not apply when the restriction is not protected speech. Nevada Com'n on Ethics v. Carrington, 564 US 117, 121 (2011).

The U.S. Supreme Court has noted that "[r]estrictions on legislators' voting are not restrictions on legislators' protected speech...Even if the mere vote itself could express depth of belief (which it cannot), **this Court has rejected the notion that the First Amendment confers a right to use governmental mechanics to convey a message.**" The Court further explained that *"the legislator casts his vote 'as trustee for his constituents, not as a prerogative of personal power.'* In this respect, voting by a legislator is different from voting by a citizen. While 'a voter's franchise is a personal right,' *the procedures for voting in legislative assemblies...pertain to legislators not as individuals but as political representatives executing the legislative process.*" (emphasis added)

The argument that walking out of a meeting as a "protest" is tantamount to "symbolic speech," was rejected by the Supreme Court in Carrington:

There are, to be sure, instances where action conveys a symbolic meaning—such as the burning of a flag to convey disagreement with a country's policies, see Texas v. Johnson, 491 U.S. 397...But the act of voting symbolizes nothing. It discloses, to be sure, that the legislator wishes (for whatever reason) that the proposition on the floor be adopted...Moreover, the fact that a nonsymbolic act is the product of deeply held personal belief—even if the actor would like it to convey his deeply held personal belief—does not transform action into First Amendment speech.

Further, the Supreme Court admonished that “a legislator has no right to use official powers for expressive purposes. “It is one thing to say that an inherently expressive act remains so despite its having governmental effect, but it is altogether another thing to say that a governmental act becomes expressive simply because the governmental actor wishes it to be so.” And the Court and emphasized that “[w]e have never said the latter is true.” 564 US at 128.

B. RIGHT TO PRIVACY

Just as City employees are required to disclose reasons for their absence from City employment⁴, requiring a Councilmember to disclose reasons for his/her departure from a Council meeting serves the public good and furthers transparency. Requiring such disclosure advances a legitimate interest of the City in preventing Councilmembers from frustrating official action by refusing to remain at a Council meeting, forcing the postponement and rescheduling of time-sensitive items for future Council meetings or adjournment pending the Council’s ability to obtain a quorum.

By virtue of seeking and holding public office, public officers inherently lack the degree of privacy possessed by other citizens. *Florida Commission on Ethics v. Plante*, 369 So.2d 332 (Fla. 1979). Regardless of whether a public official is elected or appointed to office, his or her legitimate expectation of privacy is substantially diminished. *Duplantier v. U.S.*, 606 F.2d 654, 671 (5th Cir. 1979). The Ordinance is a reasonable regulation on elected officials requiring that prior to leaving a Council meeting on an emergency matter they: “...shall state into the record the basis of such emergency/other matter prior to leaving the meeting. Failure of a Councilmember to truthfully state the basis of emergency/other matter prior to leaving the meeting shall constitute a violation of this Code subsection”. City Code, 2-1.1(a). There is no provision in the Ordinance requiring the disclosure of private or confidential information, nor does the Ordinance’s legislative intent reveal that the City Commission intended Councilmembers to disclose such confidential information.

In *Goldtrap v. Askew*, 334 So.2d 20 (Fla.1976), the Supreme Court determined that a right of privacy did not warrant overturning the State’s ethics law requiring elected officials to disclose their personal finances⁵: **“The State of Florida has a compelling interest in protecting its citizens from abuse of the trust placed in their elected officials, and no court has yet declared**

⁴ See City of North Miami Beach Personnel Policy and Procedure, Number 20 dated December 8, 2014.

⁵ See, also, *Plante v. Gonzalez*, 575 F.2d 1119 (5th Cir. 1978), in which the court held that Florida’s “Sunshine Amendment,” which required extensive financial disclosure by all elected state officials, including judges, did not illegally interfere with familial privacy. Plaintiffs contended that financial disclosure was a matter of “great family concern,” and could bring “mischief, even kidnappers or other criminal attention to an office holder.” 575 F.2d at 1128. The Court concluded, however, that “(f)inancial privacy is not within the autonomy branch of the right to privacy.” *Id.* at 1132.

Similarly, it would be laughable for a public official to claim a right to privacy when confronted with a public records request under Chapter 119 of the Florida Statutes.

that a federal right of privacy overrides a reasonable effort by the state to implement a policy of ethics in government. In this state, in particular, the interest in preventing conflicts of interest rests on the broadest possible base.” Citing to the State’s ethics laws and the legislative intent for such laws⁶, the Court held that the disclosure of personal finances advances the legitimate interest of the state in preventing the wrongful diversion of governmental authority to private financial gain. The Legislature could reasonably conclude that a holder of public office is most apt to act for the public’s good only when any member of the public can see any possible conflicts of interest. Similarly, it is not unreasonable that the City of North Miami Beach Council has determined that a member of the City Council is more apt to fulfill his/her public duties to the residents of the City when its residents are provided with the reasons for a Councilmember’s departure from a Council meeting. Further, in *Garner v. Florida Com’n on Ethics*, 415 So.2d 67, 69 (Fla. 1DCA 1982), a Commissioner challenged the Ethics Commission’s disclosure of information after a probable cause hearing on complaints alleging sexual harassment, with the Commissioner claiming such disclosure violated his right to privacy. The Florida Supreme Court held that individual privacy rights did not outweigh the public’s right to see such reports, citing *Shevin v. Byron, Harless, Schaffer, Reid & Associates, Inc.*, 379 So.2d 633 (Fla.1980).

III. Conclusion

The City of North Miami Beach has a compelling interest in deterring any abuse of trust placed in their elected officials, such as occurs when a Councilmember unjustifiably leaves a Council meeting prior to its completion of official business. The Ordinance does not place unreasonable burdens on City Council members who for emergency reasons leave Council meetings prior to its adjournment—disclosure of the reason for leaving a meeting is required but no requirement exists that confidential or private information be disclosed. The Ordinance comports with constitutional principles and does not unlawfully impair elected officials’ free speech or privacy rights.

⁶ Fla. Stat. sec. 112.311(6): “It is declared to be the policy of the state that public officers and employees, state and local, are agents of the people and hold their positions for the benefit of the public. They are bound to uphold the Constitution of the United States and the State Constitution and to perform efficiently and faithfully their duties under the laws of the federal, state, and local governments. Such officers and employees are bound to observe, in their official acts, the highest standards of ethics consistent with this code and the advisory opinions rendered with respect hereto regardless of personal considerations, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern”.

ORDINANCE NO. 2016-9

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CITY OF NORTH MIAMI BEACH CITY CODE CHAPTER II ENTITLED “STRUCTURE OF CITY GOVERNMENT”, SECTION 2-1 ENTITLED “CITY COUNCIL”, SUBSECTION 2-1.1 ENTITLED “MEETINGS OF THE CITY COUNCIL” AT SUBSECTION (a) THEREOF TO ESTABLISH AN ETHICAL DUTY OF CITY COUNCILMEMBERS TO REMAIN AT CITY COUNCIL MEETINGS DURING THE ENTIRETY OF ANY SUCH COUNCIL MEETING AND PROVIDING FOR JURISDICTION OF MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST TO ENFORCE THIS SUBSECTION; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, Florida Statute section 286.012 (Florida’s “Government in the Sunshine” law) specifically provides that members of governmental bodies are required to perform their responsibilities by participating in decisions to be made by such bodies. Clearly, a member of a governmental body, such as the North Miami Beach City Council, is expected to attend and remain at meetings of the City Council, barring a situation in which that member’s presence is unexpectedly required elsewhere;

WHEREAS, allowing without restriction a City Councilmember to leave Council meetings prior to its completion of business effectively grants to such Councilmember the means of frustrating official action by merely refusing to remain at a Council meeting, which actions the City Council deems to be inconsistent with a Councilmember’s official duties and contrary to the Oath of Office as stated in Section 8 of the City Charter (“...to well and faithfully perform... their duties...”);

WHEREAS, within the past several months, certain Councilmembers have left Council meetings before the Council’s completion of agenda items, necessitating either the postponement and rescheduling of time-sensitive items for future Council meetings or the need for meeting adjournment pending the Council’s ability to obtain a quorum, both situations serving to obstruct and impede good, responsive government in the City of North Miami Beach; and

ORDINANCE NO. 2016-9

WHEREAS, inasmuch as State and County laws permit the governing body of a municipality to impose upon its officers additional or more stringent standards of conduct than those specified in said laws, the City Commission hereby enacts the following to address the above concerns for the purposes of supplementing existing code of conduct regulations applicable to members of the City Council.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of North Miami Beach, Florida:

Section 1. The foregoing recitals are true and correct.

Section 2. That City of North Miami Beach Code, Chapter II “Structure of City Government”, Article I “The City Council”, section 2-1 “City Council”, subsection 2-1.1 “Meetings of the City Council” at subsection (a) thereof is hereby amended to read as follows:

CHAPTER II – STRUCTURE OF CITY GOVERNMENT,

ARTICLE I—THE CITY COUNCIL

2-1 CITY COUNCIL

2-1.1 Meetings of the City Council.

- a. Quorum Required/Ethical Duty to Remain at City Council Meetings. Before the City Council can transact any legal business, there must be not less than five (5) duly qualified Councilmembers present. Furthermore, in order to promote the integrity of Council meetings and to ensure the performance of public duties by the City’s elected officials, Councilmembers shall (subject to restroom or other temporary personal breaks, and subject to a Councilmember’s duty to leave Council chambers during that portion of a Council meeting in which the Councilmember has a voting conflict) remain at City Council meetings throughout the entirety of such meeting, barring an emergency or other matter beyond a Councilmember’s control which compels his/her presence elsewhere, in which event he/she shall state into the record the basis of such emergency/other matter prior to leaving the meeting. Failure of a Councilmember to truthfully state the basis of emergency/other matter prior to leaving the meeting shall constitute a violation of this Code subsection. The Miami-Dade County Commission on Ethics and Public Trust shall enforce the provisions of this subsection and may impose any penalty authorized by County Code pertaining to violations of municipal ethics laws. The

validity of any action or determination of the City Council shall not be affected by the failure of any Councilmember to comply with the provisions herein.

* * *

Section 3. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held invalid by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. All other City ordinances and resolutions or parts thereof in conflict with the provisions of this Ordinance are hereby superseded and repealed.

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 re-lettered to accomplish this intention and the word “Ordinance” may be changed to “Section,” “Article,” or other word as the codifier may deem appropriate.

Section 6. This Ordinance shall be effective ten days after adoption on second reading.

APPROVED on first reading this **6th day of September, 2016.**

APPROVED AND ADOPTED on second reading this **4th day of October, 2016.**

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

GEORGE VALLEJO
MAYOR

(CITY SEAL)

APPROVED AS TO FORM &
& LANGUAGE & FOR EXECUTION

JOSE SMITH
CITY ATTORNEY

Sponsored by: Councilmember Barbara Kramer.



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

MEMORANDUM

 **Print**

TO: Mayor and City Council

FROM: Ana M. Garcia, City Manager, ICMA-CM

VIA: Richard G. Lorber, AICP, Director of Community Development
Sarah L. Johnston, Assistant City Attorney

DATE: Tuesday, October 4, 2016

RE: Ordinance 2016-10 First Reading by Title Only (Richard Lorber
Director of Community Development)

BACKGROUND ANALYSIS:

On January 20, 2015, the City Council of the City of North Miami Beach (“City”) amended Section 24-80 *Fences, Walls, and Hedges* in Ordinance No. 2015-2, to provide, in part, that the heights of elevation of any wall or fence shall be measured from the “crown of the road”. The amendment was adopted primarily to address compatibility concerns in the RS-1 (Eastern Shores) single-family residential district.

Unfortunately, the adopted amendment has resulted in unexpected problematic consequences in other single-family residential districts in the City and enforcement of these regulations would result in incompatible fence heights and numerous non-conforming fences in many of the single-family districts.

City staff has identified the impracticability of enforcement and is preparing to recommend amendments to address compatibility concerns that are consistent with existing neighborhoods. The preparation of proposed amendments require time to study and evaluate potential impacts to ensure compatibility and consistency with the surrounding neighborhoods, the North Miami Beach Comprehensive Plan and Zoning and Land Development Code.

Staff recommends adopting a temporary moratorium to suspend enforcement and preserve the status quo during the planning process, in order to ensure the problematic consequences are

not exacerbated. It will be in the best interests of the City and its residents to temporarily suspend enforcement of fence height restrictions that result in incompatibility and numerous non-conforming fences, by establishing a temporary moratorium on the enforcement of fence height regulations in single-family neighborhoods.

The proposed temporary moratorium would automatically dissolve upon the earlier of April 4, 2017, or upon the adoption of amendments to the North Miami Beach Zoning and Land Development Code relating to fence height regulations.

A moratorium is a well-recognized exercise of a City's authority when temporary in nature, rationally related to the City's interests and instituted while a formalized regulatory scheme is adopted. *WCI Communities, Inc. v. City of Coral Springs*, 885 So.2d 912 (4th DCA 2004).

RECOMMENDATION: Adoption of the Ordinance.

FISCAL/BUDGETARY Not applicable.

IMPACT:

ATTACHMENTS:

▣ [Ordinance 2016-10](#)

▣ [January 20, 2015 Fence Height Ordinance](#)

ORDINANCE NO. 2016-10

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE ENFORCEMENT OF FENCE HEIGHT REGULATIONS IN THE SINGLE-FAMILY RESIDENTIAL NEIGHBORHOODS; THE MORATORIUM SHALL AUTOMATICALLY DISSOLVE UPON THE EARLIER OF APRIL 4, 2017, OR UPON THE ADOPTION OF AMENDMENTS TO THE NORTH MIAMI BEACH ZONING AND LAND DEVELOPMENT CODE RELATING TO FENCE HEIGHT REGULATIONS.

WHEREAS, the City Council of the City of North Miami Beach (“City”) amended Section 24-80 *Fences, Walls, and Hedges* in Ordinance No. 2015-2, to provide, in part, that the heights of elevation of any wall or fence shall be measured from the “crown of the road”; and

WHEREAS, the amendment was adopted to address compatibility concerns in the RS-1 single-family residential district; and

WHEREAS, the adopted amendment has resulted in unexpected problematic consequences in other single-family residential districts in the City and enforcement of these regulations would result in incompatible fence heights and numerous non-conforming fences in many of the single-family districts; and

WHEREAS, City staff has identified the impracticability of enforcement and is preparing to recommend amendments to address compatibility concerns that are consistent with existing neighborhoods; and

WHEREAS, preparation of proposed amendments require time to study and evaluate potential impacts to ensure compatibility and consistency with the surrounding neighborhoods, the North Miami Beach Comprehensive Plan and Zoning and Land Development Code; and

WHEREAS, a temporary moratorium to suspend enforcement and preserve the status quo during the planning process will ensure the problematic consequences are not exacerbated; and

WHEREAS, the City Council finds it in the best interests of the City and its residents to

suspend enforcement of fence height restrictions that result in incompatibility and numerous non-conforming fences by establishing a temporary moratorium on the enforcement of fence height regulations in single-family neighborhoods which shall automatically dissolve upon the earlier of April 4, 2017, or upon the adoption of amendments to the North Miami Beach Zoning and Land Development Code relating to fence height regulations.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida that:

Section 1. The foregoing recitals are true and correct.

Section 2. That a temporary moratorium is hereby imposed:

- a) on the enforcement of fence height regulations in single-family neighborhoods, and
- b) the temporary moratorium shall automatically dissolve upon the earlier of April 4, 2017, or upon the adoption of amendments to the North Miami Beach Zoning and Land Development Code relating to fence height regulations

Section 3. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held invalid by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. All other City ordinances and resolutions or parts thereof in conflict with the provisions of this Ordinance are hereby superseded and repealed.

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 re-lettered to accomplish this intention and the word "Ordinance" may be changed to "Section," "Article," or other word as the codifier may deem appropriate.

Section 6. This Ordinance shall be effective ten days after adoption on second reading.

APPROVED on first reading this **4th day of October, 2016.**

APPROVED AND ADOPTED on **2nd** reading this **___ day of _____, 2016.**

SIGNATURE PAGE TO FOLLOW

ATTEST:

PAMELA L. LATIMORE
CITY CLERK

(CITY SEAL)

GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM, LANGUAGE
AND FOR EXECUTION

Sponsored by: Mayor & Council

JOSE SMITH
CITY ATTORNEY



City of North Miami Beach, Florida

Planning and Zoning Department

City Council Staff Report

TO: City Council

FROM: Carlos Rivero, City Planner

DATE: January 20, 2015

ITEM: 14-019

RE: Specifying the maximum height permitted for fences and perimeter walls within the City's single-family residential zoning districts (Second reading)

Request:

The Planning and Zoning Department is requesting the approval of an ordinance to amend Article 5, Section 24-41 entitled "RS-1 Residential Single-Family District," and Article 8, Section 24-80 entitled "Fences, Walls and Hedges" of the Zoning and Land Development Code by clarifying that the heights of elevation of walls and fences shall be measured from the crown of the road. The proposed article amendments are as follows:

ARTICLE V. - ZONING USE DISTRICTS

Sec. 24-41 - RS-1 Residential Single-Family District.

* * *

(9) *Special regulations:* Anything in this Code to the contrary notwithstanding, the following special regulations shall apply for this district:

* * *

(m) See Section 24-80(c)(3) ~~No boundary wall or fence shall be constructed with a height of more than four (4) feet in the front yard or six (6) feet in the rear, interior side, and corner side yard. Pedestrian and vehicular gates may be increased by one (1) additional foot for decorative features. Solid waterfront walls and fences shall not be permitted in excess of three (3) feet in height. The heights of elevation of any wall shall be measured from the minimum finished floor elevation. Any questions as to such heights may be conclusively determined by a registered civil engineer, a~~

~~registered land surveyor or an architect. Fences around tennis courts will be permitted to a height of ten (10) feet.~~

ARTICLE VIII. - SUPPLEMENTAL REGULATIONS

Sec. 24-80 - Fences, Walls and Hedges.

* * *

(C) *General Requirements.*

* * *

(3) *Maximum height:*

(a) ~~RS-1 Zoning District: See Section 24-41(D)(m).~~

~~(b)~~ RS-1, RS-2, RS-3, RS-4, RS-5, MH-1, RD, and RO Zoning Districts: No fence or wall shall exceed six (6) feet in height within a required rear, corner side, and interior side yard, or four (4) feet in height within a required front yard. Pedestrian and vehicular gates may be increased by one (1) additional foot for decorative features.

Any questions as to such heights may be conclusively determined by a registered civil engineer, a registered land surveyor or an architect, at the cost of the applicant. Fences around tennis courts will be permitted to a height of ten (10) feet. Solid waterfront walls and fences shall not be permitted in excess of three (3) feet in height. The heights of elevation of any wall or fence under this section shall be measured from the crown of the road.

~~(c)~~ RM-19 Zoning District: See Section 24-47(D)(e).

~~(d)~~ RM-23, RM-32, and FCC Zoning Districts: No fence or wall shall exceed six (6) feet in height. Pedestrian and vehicular gates may be increased by one (1) additional foot for decorative features.

~~(e)~~ Under all circumstances, in all residential districts the six (6) foot height of any fence or wall shall not begin prior to the front building line.

~~(f)~~ In all nonresidential districts, no fence, wall or hedge shall exceed six (6) feet in height, except as may be permitted or further restricted elsewhere in this section.

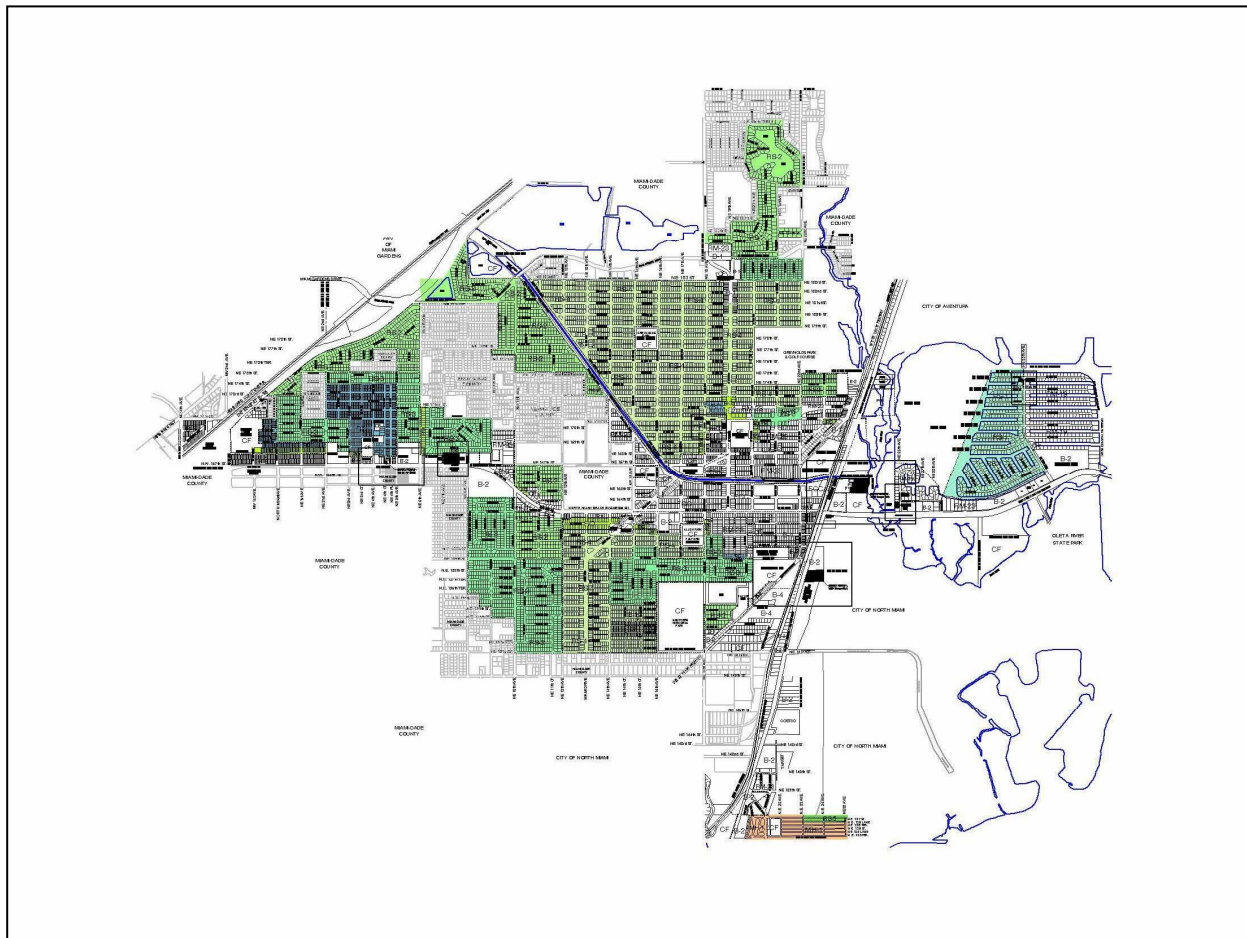
Background:

There has been concern that the currently specified method of measuring maximum height of fences and walls, i.e. from the minimum finished floor elevation of the house, may result in oversized walls and fences that are incompatible with the surrounding homes in a neighborhood. Adjusting the method of measurement for walls and fences to be from the crown of the road would ensure a more compatible construction of these features. The proposed ordinance will affect all single-family zoning districts.

Planning and Zoning Department Recommendation:

Staff recommends approval of an ordinance to amend Article 5, Section 24-41 entitled "RS-1 Residential Single-Family District," and Article 8, Section 24-80 entitled "Fences, Walls and Hedges" of the Zoning and Land Development Code by clarifying that the heights of elevation of walls and fences shall be measured from the crown of the road and avoid oversized walls and fences that are incompatible with the surrounding homes in a neighborhood.

The proposed ordinance will affect the single-family zoning districts outlined below.



Submittal History:

Planning and Zoning Board (December 8, 2014)

Unanimously approved, amending the point of measurement to be the "crown of the road."

City Council Meeting (January 6, 2015)

Unanimously approved on first reading with amendment to include the words: "at the cost of the applicant" in the case of any questions.

ORDINANCE 2015-2

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL AMENDING CHAPTER XXIV, OF THE CODE OF THE ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA BY AMENDING ARTICLE V, SECTION 24-41 ENTITLED "RS-1 RESIDENTIAL SINGLE-FAMILY DISTRICT," AND ARTICLE VIII, SECTION 24-80 ENTITLED "FENCES, WALLS AND HEDGES" BY CLARIFYING THAT THE HEIGHTS OF ELEVATION OF WALLS AND FENCES SHALL BE MEASURED FROM THE CROWN OF THE ROAD; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; CODIFICATION; AND FOR AN EFFECTIVE DATE.

WHEREAS, the North Miami Beach Zoning and Land Development Code specifies the maximum height permitted for fences and perimeter walls within the City's single-family residential zoning districts; and

WHEREAS, the current method of measuring the maximum height of fences and walls is from the minimum finished floor elevation of the house and this may result in walls and fences that are incompatible with the surrounding homes in the single-family neighborhoods; and

WHEREAS, adjusting the method of measurement for walls and fences to be from the crown of the road would ensure more compatible construction of these features; and

WHEREAS, the City Council deems it in the best interest of the City to change the method of measurement for fence and wall height in single-family zoning districts and to consolidate the requirements for this measurement into one unified section of the North Miami Beach Zoning and Land Development Code, and finds the change to be consistent with the City's Comprehensive Plan; and

WHEREAS, the Planning and Zoning Board after public hearing on December 8, 2014 recommended approval of this change to the North Miami Beach Zoning and Land Development Code by a vote of 6 to 0.

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

Section 1. The forgoing recitals are true and correct.

Section 2. The City of North Miami Beach Zoning and Land Development Code is amended as follows:

ARTICLE V. - ZONING USE DISTRICTS

Sec. 24-41 - RS-1 Residential Single-Family District.

* * *

(9) *Special regulations:* Anything in this Code to the contrary notwithstanding, the following special regulations shall apply for this district:

* * *

(m) See Section 24-80(c)(3) ~~No boundary wall or fence shall be constructed with a height of more than four (4) feet in the front yard or six (6) feet in the rear, interior side, and corner side yard. Pedestrian and vehicular gates may be increased by one (1) additional foot for decorative features. Solid waterfront walls and fences shall not be permitted in excess of three (3) feet in height. The heights of elevation of any wall shall be measured from the minimum finished floor elevation. Any questions as to such heights may be conclusively determined by a registered civil engineer, a registered land surveyor or an architect. Fences around tennis courts will be permitted to a height of ten (10) feet.~~

Sec. 24-80 - Fences, Walls and Hedges.

* * *

(C) *General Requirements.*

* * *

(3) *Maximum height:*

(a) RS-1 Zoning District: ~~See Section 24-41(D)(m).~~

(b) RS-1, RS-2, RS-3, RS-4, RS-5, MH-1, RD, and RO Zoning Districts: No fence or wall shall exceed six (6) feet in height within a required rear, corner side, and interior side yard, or four (4) feet in height within a required front yard. Pedestrian

and vehicular gates may be increased by one (1) additional foot for decorative features. Any questions as to such heights may be conclusively determined by a registered civil engineer, a registered land surveyor or an architect at the applicants cost. Fences around tennis courts will be permitted to a height of ten (10) feet. Solid waterfront walls and fences shall not be permitted in excess of three (3) feet in height. The heights of elevation of any wall or fence under this section shall be measured from the crown of the road.

- (eb) RM-19 Zoning District: See Section 24-47(D)(e).
- (ec) RM-23, RM-32, and FCC Zoning Districts: No fence or wall shall exceed six (6) feet in height. Pedestrian and vehicular gates may be increased by one (1) additional foot for decorative features.
- (ed) Under all circumstances, in all residential districts the six (6) foot height of any fence or wall shall not begin prior to the front building line.
- (ee) In all nonresidential districts, no fence, wall or hedge shall exceed six (6) feet in height, except as may be permitted or further restricted elsewhere in this section.

Section 3. The Director of Community Development is hereby directed to make all necessary changes to the City of North Miami Beach Zoning and Land Development Code to implement the intent of this Ordinance.

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

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

Section 6. It is the intention 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 6th day of January, 2015.

APPROVED AND ADOPTED on second reading this 20th day of January, 2015.

ATTEST:

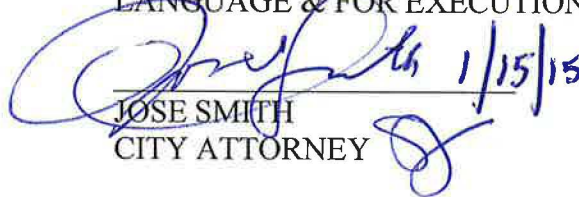


PAMELA L. LATIMORE
CITY CLERK



GEORGE VALLEJO
MAYOR

APPROVED AS TO FORM &
LANGUAGE & FOR EXECUTION


1/15/15

JOSE SMITH
CITY ATTORNEY

SPONSORED BY: Mayor and City Council