



Presentations & Awards/City Commission Meeting
City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
May 20, 2015

Mayor Philip Levine
Vice-Mayor Jonah Wolfson
Commissioner Michael Grieco
Commissioner Joy Malakoff
Commissioner Micky Steinberg
Commissioner Edward L. Tobin
Commissioner Deede Weithorn

City Manager Jimmy L. Morales
City Attorney Raul J. Aguila
City Clerk Rafael E. Granado

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In order to ensure adequate public consideration, if necessary, the Mayor and City Commission may move any agenda item to an alternate meeting date. In addition, the Mayor and City Commission may, at their discretion, adjourn the Commission Meeting without reaching all agenda items.

AGENDA

ADDENDUM MATERIAL 1:

R9D R9E R9F

SUPPLEMENTAL MATERIAL 1:

C7A1 Memorandum & Resolution
C7A2 Memorandum & Resolution
C7B Memorandum

Meeting called to order at 5:01:47 p.m.

Pledge of Allegiance lead by Police Captain John Burhmaster.

Rafael E. Granado, City Clerk, announced the items added.

ADDENDUM AGENDA

5:14:45 p.m.

ACTION: Motion made by Commissioner Malakoff to add Items R9D, R9E and R9F to the Commission Agenda; seconded by Commissioner Grieco; Opposed: Commissioner Weithorn; Voice-vote: 6-1.

CONSENT AGENDA

5:15:30 p.m.

ACTION: Motion made by Commissioner Weithorn, to approve the Consent Agenda; seconded by Commissioner Grieco; Voice-vote: 7-0.

Presentations and Awards

5:02 58 p.m.

PA1 Certificates Of Recognition To Be Presented To Tamra Sheffman And Carol Scanlon, For Their Excellence In Participating In The 2015 All Women's Air Race Classic, Representing The City Of Miami Beach.

(Requested By Commissioner Joy Malakoff)

ACTION: Certificates of Recognition presented.

Commissioner Malakoff is proud to honor and recognize her friend, Tamra Sheffman, on behalf of the Mayor and City Commission, for her excellence in participating during the last nine years in the All Women's Air Race Classic, representing the City of Miami Beach; as well as for her continued participation in the 2015 event. This race receives widespread publicity, encourages women and young girls to learn how to fly, celebrates aviation history, increases public awareness of general aviation, and mostly demonstrates the women's roles in aviation. The City of Miami Beach congratulates Tamra Sheffman for taking part in this event and setting an inspirational example for the women in our community.

Tamra Sheffman thanked the City Commission for the recognition, as they prepare for the 2015 Airways Classis, an annual transcontinental, all-female pilot airways derby, which is historically the longest in the world. It dates back to 1929; Amelia Earhart participated in the first race, although she did not win. She explained how their "Team 31" race would be conducted. This year they are celebrating their 105th anniversary of licensed women pilots. They will fly 2,500 nautical miles. Since their teammates are in their 60s, they hope to inspire all women and girls, as no one is ever too old to compete with the younger generation.

5:07:34 p.m.

PA2 Certificate Of Recognition To Be Presented To Samantha Narson, Miami Beach Sr. High School Student, Whose Team Won First Place At The Summit 2015, Varsity All Star's Cheerleading And Dance Championship.

(Requested by Commissioner Micky Steinberg)

ACTION: Certificate of Recognition and Medal of Honor presented.

Commissioner Steinberg recognized Samantha Narson, a Miami Beach Senior High School student and a member of "Top Gun." She and her team won first place at The Summit 2015, which is an all-star varsity cheerleading and dance competition. Commissioner Steinberg thanked Samantha Narson for representing the City so well with her grace and class. On behalf of the City Commission, they are very proud of Ms. Narson's achievement.

Samantha Narson thanked the City Commission for acknowledging her and her team. She stated that they worked very hard, and representing the City was an amazing experience.

5:09 21 p.m.

PA3 Recognition To Teen Club Members For "Que Pasa Miami Beach" Performance.

(Requested by Mayor Philip Levine)

ACTION: Medals of Honor were presented.

Mayor Levine recognized the incredible members of Teen Club, who recently created and performed the Miami Beach version of "Que Pasa USA?" The City's senior citizens loved the performance of "Que Pasa Miami Beach?" He recognized the participating Teen Club Members and read their names into the record: Melanie Haber, Rachel Saruski, Catherine Verblud, Charlize Santos, Manuela Assef, Emily Vazquez, Ainez Hernandez, Davina Siegel, Amber Teboe, Zoe Damle, DeCarlo Carr, Isaiah Sheffield, Joaquin Llanes, Jade Mesa, Leandra Brooks, Gaby Garcia, Sara Muhtaseb, Luna Borges, Valentino Sigrin, and Jahcob Coicou. He also recognized the staff who worked with them: William Priegues, Daniella Fernandez, and Bryant Del Toro.

Leonor Hernandez, Aide to Mayor Levine, explained that it was incredible to see this performance, which was all about Miami Beach and its culture; she enjoyed the performance along with the seniors. She recognized everyone's efforts, and gave a special acknowledgement to Willy Priegues for doing amazing shows; he is very talented and the City is lucky to have him.

CONSENT AGENDA

C7 - Resolutions

SUPPLEMENTAL MATERIAL 1: MEMORANDUM & RESOLUTION

- C7A Execute MOU w/ LRPOA & Call Special Mail Ballot Election To Approve Lincoln Road BID
1. A Resolution Approving And Authorizing The City Manager To Execute A Memorandum Of Understanding Between The City Of Miami Beach And The Lincoln Road Property Owners Association, Inc. ("LRPOA"), To Conduct A Special Mail Ballot Election To Determine Whether A Majority Of The Affected Property Owners Approve The Creation Of A Special Assessment District To Be Known As The Lincoln Road Business Improvement District, Which Election Shall Be Conducted By The Office Of The City Clerk And Office Of The City Attorney, And To Provide That LRPOA Shall Cover The Costs Of Conducting Such Election.
(Office of the City Attorney)

ACTION: Resolution 2015-29025 adopted. Office of the City Attorney and Office of the City Clerk to handle.

SUPPLEMENTAL MATERIAL 1: MEMORANDUM & RESOLUTION

2. A Resolution Calling For A Special Mail Ballot Election To Be Held From June 29, 2015 To July 24, 2015, To Determine Whether A Majority Of The Affected Property Owners Approve The Creation Of A Special Assessment District To Be Known As The Lincoln Road Business Improvement District (The "District"); Providing That The Office Of The City Clerk And Office Of The City Attorney Shall Conduct Such Election; Providing For The Form Of Ballot; Directing The City Clerk To Give Notice Of Such Election As Required By The City Code And State Law; And Authorizing The City Manager To Vote In Favor Of The Creation Of The District On Behalf Of The City, Which, As The Owner/ Lessor Under The Ground Lease With The New World Symphony, Is An Affected Property Owner.
(Office of the City Attorney)

ACTION: Resolution 2015-29026 adopted. Office of the City Attorney and Office of the City Clerk to handle.

SUPPLEMENTAL MATERIAL 1: MEMORANDUM

- C7B A Resolution Approving And Authorizing The Mayor And City Manager To Provide City Resources In Support Of The City's Proposal To Host The U.S. Conference Of Mayors In 2018; And Further Authorizing The Mayor And City Manager To Fund Transportation And Youth And Family Programs For Attendees; And Retroactively Approving The Mayor's Execution Of The Proposal On Behalf Of The City.
(Sponsored by Mayor Philip Levine)
(Legislative Tracking: Tourism, Culture & Economic Development)

ACTION: Resolution 2015-29027 adopted. Max Sklar to handle.

REGULAR AGENDA**5:15:44 p.m.**

R5A Amend Chapter 6 - Alcoholic Beverages And Chapter 82 - Public Property Sidewalk Café Ordinance - Alcohol Regulations

1. Chapter 6 - Alcoholic Beverages

An Ordinance Amending Chapter 6, Entitled "Alcoholic Beverages," Of The Code Of The City Of Miami Beach, Florida, Article I, Entitled "In General," Section 6-3 Thereof, Entitled "Hours Of Sale," To Terminate The Sale And Consumption Of Alcoholic Beverages At Sidewalk Cafes At 2:00 a.m., Prohibit The Granting Of Variances From The Provisions Of Section 6-3(3)(d), And Provide For Penalties; And Providing For Repealer, Severability, Codification, And An Effective Date. **5:15 p.m. Second Reading Public Hearing**

(Sponsored by Mayor Philip Levine)

(Co-Sponsored by Commissioner Michael Grieco)

(Legislative Tracking: Office of the City Attorney)

(First Reading on May 6, 2015 - R5K1)

ACTION: Title of the Ordinance read into the record. Public hearing held. **Ordinance 2015-3938 adopted as amended.** Item heard in conjunction with R5A-2. Motion made by Commissioner Grieco as amended; seconded by Commissioner Malakoff; Ballot vote: 7-0. **Office of the City Attorney and Hernan Cardeno to handle.**

Amendments;

- Alcoholic beverages shall not be served for sale or consumption in outdoor cafés between the hours of 1:30 PM and 8:00 AM.
- Alcoholic beverages shall not be consumed at sidewalk cafés between the hours of 2:00 AM and 8 AM.

Raul J. Aguila, City Attorney, clarified that this is second and final reading of two Ordinances; the first is amending Chapter 6 of the City Code, which deals with limiting the hours of sale and consumption of alcoholic beverages, from previously prohibiting sale or consumption between the hours of 5 AM and 8 AM; to now prohibiting sale or consumption between the hours of 2 AM and 8 AM. There is also a companion item to the sidewalk café Ordinance, since this prohibition would only apply to City permitted sidewalk café Ordinances. He clarified an issue raised via email as to the cutoff time for sale and consumption; the issues raised are: 1) what is the cutoff hour for sale of alcoholic beverages, and 2) what is the cutoff hour for consumption of alcoholic beverages at sidewalk cafés. In other words, when can the establishment stop selling them, and when can the patrons really have to stop consuming alcohol and move indoors. He knows the intent of the Ordinance was that service, consumption and sale on the public right-of-way and sidewalk cafés end by 2:00 AM; therefore, he modified both Ordinances to clarify that:

"alcoholic beverages shall not be offered for sale or consumption at sidewalk cafés between the hours of 1:30 AM and 8:00 AM," and

"alcoholic beverages shall not be consumed at sidewalk cafés between the hours of 2:00 AM and 8:00 AM."

If the intent of the Ordinance is to stop the sale and consumption of alcoholic beverages on sidewalk cafés by 2 AM, then they are bifurcating it to create a last call at 1:30 AM, so that establishment owners can tell their patrons that sale of alcohol will be stopped at 1:30 AM; the patrons that drinks after that time at a sidewalk café can enter the establishment at 2:00 AM. They are referring to a half-hour grace period.

Mayor Levine agreed with the amendment, because he wants the sale and consumption of alcohol in sidewalk cafés to stop completely at 2:00 AM without extensions, and for the benefit of the public, he mentioned that this new Ordinance will not affect Miami Beach indoor bars, clubs, and/or restaurants; it only specifically affects the street sidewalk cafés, the permitted street sidewalk cafés, and drinking outside in those areas.

City Attorney Aguila stated that the limited scope is to City permitted sidewalk cafés and he clarified that the intent is to stop sale and consumption of alcoholic beverages on the sidewalk café at 2:00 AM.

Commissioner Grieco stated that he asked to co-sponsor this legislation because it does not affect indoor businesses; but only addresses City property and is supportive of this amendment.

Commissioner Malakoff understood that the sale of alcohol would be prohibited after 2:00 AM, but that patrons would have a grace period of 15 or 30 minutes to finish their drinks. The idea is not to have people consuming alcohol at sidewalk cafes until 5 AM.

Mayor Levine has no problem with the cutoff hour of selling alcohol until 2:00 AM; however, if there are signs of alcohol sale or consumption on sidewalk cafes after 2:00 AM, the restaurant and the consumer need to be fined. The intent of this Ordinance is 2:00 AM and no one should be drinking in the streets after that time.

Commissioner Grieco stated that there would be other amendments brought in June that will address similar issues such as open-container laws and creating a new fine schedule. These are just a few of the many steps that are taken towards getting Ocean Drive where the City Commission wants to see it.

Commissioner Tobin stated his support for this legislation, but he has his doubts whether this is the most precise way to reduce crime on South Beach or make Ocean Drive safer or classier. He awaits the report of the Ocean Drive Task Force.

Mayor Levine stated that this 2:00 AM prohibition is not necessarily the end-all solution for cleaning up Ocean Drive, but it is one small step in a long journey. The City Commission is committed to bring back Ocean Drive to its iconic nature where locals and families actually enjoy visiting. He stated that aside from its people and beaches, the greatest asset the City has is its brand. The City cannot let a bad operator tarnish that brand, and he, nor his colleagues, will let that happen while under their watch. Many more reforms are coming. They formed a Task Force of nine qualified, interesting, bright people and stakeholders, and he and the City Commission expect to hear their recommendation.

Joshua Wallack, Chief Operating Officer of Mango's Café, stated that he wants what is best for Ocean Drive and the City of Miami Beach. He thanked the City Commission for driving this issue forward and for the intent of making Ocean Drive iconic again and more competitive. He agrees with the 2:00 AM alcohol sale cutoff hour, but requested that the 1:30 AM grace period not be adopted. He asked the City Commission to reconsider and allow 2:00 AM be the cutoff hour for the sale of alcohol.

Discussion held.

Mayor Levine clarified for everyone that this Ordinance will not take effect for Memorial Day Weekend, but when it does take place, it needs to be enforced with significant fines and possibly the suspension of licenses.

Raul J. Aguila, City Attorney, explained that as suggested they have added monetary fines that go towards the establishment, and not the patron.

Mr. Wallack asked if the City would extend the hours for major events.

Raul J. Aguila, City Attorney, stated that operating hours for major events would not be altered by the Ordinance.

Michael Palma, on behalf of The Clevelander, stated that the biggest issue is people carrying open containers and entering establishments. This needs to be addressed, and requires proper enforcement.

Commissioner Weithorn stated that there will be strong penalties as well as signage to indicate that open containers are not allowed.

Discussion continued regarding the recommendations from the Task Force.

Commissioner Tobin asked all operators to put prices on the menus. Too many problems have resulted from customers being overcharged without their knowledge.

David Wallack, Vice-Chairman of the Ocean Drive Association, stated that there is currently an establishment on Ocean Drive with over 39 violations and it is still operating. He expressed his disapproval of the liquor store that opened on 9th Street, which he labeled as a "bird feeder for criminals." He respectfully requested that the City figure out a moratorium for liquor licenses.

Kyle Eldridge, Johnny Rockets Restaurant, stated that their restaurant is open on the weekends until 5:00 AM, serving alcohol and food; they teach their personnel whom to serve, and he is wondering how to go about directing staff on what to do after the new legislation is in place. He does not think this is solving the problems of Ocean Drive, and stated that the existing Ordinances are not being enforced. His restaurant has been certified as a responsible vendor by the State and he considers himself a good operator and feels he will be negatively impacted because some things have not been enforced.

Steve Polisar, representing Miami Beach vendors, suggested that this hospitality industry is missing a vision for the future, and this must be addressed.

Stanley Shapiro stated that this is a City that people come to for entertainment, and expect to be out late.

Commissioner Grieco motioned to adopt the Ordinance as amended; Commissioner Malakoff seconded; Ballot vote: 7-0.

Handouts or Reference Materials:

1. Ad in The Miami Herald No. 1017
2. Email from Henry Stolar henrystolar@bellsouth.net dated May 18, 2015 to City Commission RE: Sidewalk Café Alcoholic Beverages Ordinance.
3. Email from Frank Del Vecchio fdelvecchio@atlanticbb.net dated May 15, 2015 to Nick Kallergis, RE: Sidewalk Café/Alcoholic Beverage Ordinance.
4. Email from Ceci Velasco <ceci@mangos.com> dated May 20, 2015, RE: Commission Agenda Item R5A Alcohol Beverages.
5. Proposed amendments to the Ordinance distributed at the dais.

5:47:44 p.m.

2. Chapter 82 - Public Property Sidewalk Café Ordinance - Alcohol Regulations
An Ordinance Amending Chapter 82, Entitled "Public Property," Of The Code Of The City Of Miami Beach, Florida, By Amending Article IV, Entitled "Uses In Public Rights-Of-Way," Division 5, Entitled "Sidewalk Cafes," Subdivision II, Entitled "Permit," By Creating Section 82-388 Thereof, Entitled "Hours Of Sale Of Alcoholic Beverages; Enforcement," To Terminate The Sale And Consumption Of Alcoholic Beverages At Sidewalk Cafes At 2:00 a.m., And Provide That Section 82-388 Shall Be Enforced Pursuant To Section 6-3(8) Of The City Code; And Providing For Repealer, Severability, Codification, And An Effective Date. **5:15 p.m. Second Reading Public Hearing**

(Sponsored by Mayor Philip Levine)
(Co-Sponsored by Commissioner Michael Grieco)
(Legislative Tracking: Office of the City Attorney)
(First Reading on May 6, 2015 - R5K2)

ACTION: Title of the Ordinance read into the record. Public hearing held. **Ordinance 2015-3939 adopted.** Item heard in conjunction with R5A-1. Motion made by Commissioner Malakoff; seconded by Commissioner Grieco; Ballot vote: 7-0. **Office of the City Attorney and Hernan Cardeno to handle.**

Commissioner Steinberg requested that café owners receive proper written notification so that they are fully aware that the City has adopted this Ordinance as amended. **Office of the City Manager to handle.**

Commissioner Tobin stated that he will change his vote in opposition in two or three months, if effective enforcement of the City Ordinances is not taking place.

Mayor Levine agreed with Commissioner Tobin and stated that they need to look at Code Enforcement, and perhaps this should be brought up at the Ocean Drive Task Force meeting. **Jeff Oris and Hernan Cardeno to handle.**

Commissioner Malakoff asked whether liquor stores should be allowed in the entertainment district.

Commissioner Malakoff motioned to adopt the Ordinance; Commissioner Grieco seconded; Ballot vote: 7-0. **Office of the City Attorney to handle.**

Handouts or Reference Materials:

1. Ad in The Miami Herald No. 1017
2. Email from Henry Stolar henrystolar@bellsouth.net dated May 18, 2015 to City Commission RE: Sidewalk Café Alcoholic Beverages Ordinance.
3. Emails from Frank Del Vecchio fdelvecchio@atlanticbb.net dated May 15, 2015 at 3:11 PM and May 16, 2015 at 11:31 AM to Nick Kallergis, RE: Sidewalk Café/Alcoholic Beverage Ordinance with recommended addition to pending Ordinance restricting alcoholic beverage service or consumption at City-permitted sidewalk cafes.
4. Email from Frank Del Vecchio fdelvecchio@atlanticbb.net dated May 16, 2015 at 1:22 PM to Nick Kallergis, RE: Sidewalk Café/Alcoholic Beverage Ordinance.
5. Email from Ceci Velasco <ceci@mangos.com> dated May 20, 2015, RE: Commission Agenda Item R5A Alcohol Beverages.
6. Proposed amendments to the Ordinance distributed at the dais.

6:30:19 p.m.**R5B Sidewalk Café - Ocean Drive - Umbrellas**

An Ordinance Amending Chapter 82, Entitled "Public Property," Article IV, Entitled "Uses In Public Rights-Of-Way," Division 5, Entitled "Sidewalk Cafes," Subdivision 2, Entitled "Permit," By Creating Section 82-389, Entitled "Additional Minimum Standards, Criteria, And Conditions For Operation Of Sidewalk Cafes On Ocean Drive Between 5th Street And 15th Street" To Provide Minimum Standards For Umbrellas And Awnings, Require Regular Maintenance Of Umbrellas, And Provide Prohibitions; And Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading.**

(Sponsored by Vice-Mayor Jonah Wolfson)
(Legislative Tracking: Office of the City Attorney)

ACTION: Title of the Ordinance read into the record. Item referred to the Ocean Drive Task Force and the Land Use and Development Committee (LUDC). Motion made by Commissioner Malakoff to refer to Ocean Drive Task Force and the Land Use and Development Committee; seconded by Vice-Mayor Wolfson; Voice-vote: 7-0.

Thomas Mooney to place on the Land Use and Development Committee Agenda; Hernan Cardeno and Office of the City Attorney to handle. Jeff Oris to place on the Ocean Drive Task Force Agenda; Hernan Cardeno and Office of the City Attorney to handle.

REFERRAL:

Referral to Ocean Drive Task Force

Referral to the Land Use and Development Committee.

Vice-Mayor Wolfson explained that throughout the many discussions the City Commission has had on restoring the iconic nature of Ocean Drive, they have consistently talked about reducing the umbrella sizes and shapes to make them aesthetically pleasing and not obstructing the view of the art deco buildings. He believes this is the right direction to maximize the public's experience on Ocean Drive.

Commissioner Malakoff stated that she agrees with Commissioner Wolfson, but believes voting on the item now is premature, and would prefer hearing from the Ocean Drive Task Force first, so that they can first look at the street holistically and consider awnings and umbrellas, and whether they should be bolted to the ground. She suggested looking at retractable awning types as well as individual umbrellas, in a way where people can see the buildings, even if the umbrellas are up.

Vice-Mayor Wolfson suggested referring the item to LUDC to get further input, and then bring back to the City Commission.

Raul J. Aguila, City Attorney, in clarifying Commissioner Malakoff's comment, stated that this Ordinance does not prohibit retractable awnings that are bolted to poles underground. If the City opts to do awnings that are retractable from the buildings, since it is affecting historical designated buildings, it may require Historical Preservation Board approval, which could be a lengthy process.

Discussion held.

Mayor Levine suggested a dual referral to the Ocean Drive Task Force and LUDC.

Commissioner Weithorn stated that the City Commission needs to discuss storage of outdoor heaters, what can be affixed to the umbrellas, waterlines that are fixed and attached to the umbrellas. There needs to be a comprehensive discussion.

Mayor Levine suggested bringing the item back in June. He showed the audience a current photo of Ocean Drive covered with large umbrellas, clipped together, which is precisely what people do not want to see anymore, as this is taking away from the iconic street that it used to be.

Raul J. Aguila, City Attorney, asked if there was an objection in passing the Ordinance on first reading and then referring and having the Ordinance return to the City Commission.

Commissioner Steinberg suggested that this issue gets the right attention and for it to be done the right way.

Discussion held.

Mayor Levine asked Assistant City Manager Joe Jimenez to have this item return in June, after discussion at LUDC on May 27, 2015. **Joe Jimenez to handle.**

Commissioner Malakoff moved the item to a dual referral to the Ocean Drive Task Force and LUDC; seconded by Vice-Mayor Wolfson; Voice-vote: 7-0.

Handouts or Reference Materials:

1. Email from Ceci Velasco <ceci@mangos.com> dated May 20, 2015, to the City Commission, RE: Commission Agenda Item R5B Sidewlak Café – Ocean Drive – Umbrellas.

6:24:22 p.m.

R5C An Ordinance Amending The Firefighters' Relief And Pension Fund To Comply With Applicable Provisions Of The Internal Revenue Code And Regulations Thereunder; Amending The Related Special Acts Of The City By Amending Article VII, Entitled "Firefighters' Relief And Pension Fund," By Amending Sections 36 Through 48; Providing For Severability; Repealing All Ordinances In Conflict Therewith; Providing For Codification; And Providing An Effective Date. **First Reading.**

(Sponsored by Deede Weithorn)
(Legislative Tracking: Human Resources)

ACTION: Title of the Ordinance read into the record. Motion made by Commissioner Weithorn; seconded by Commissioner Grieco; Ballot vote: 7-0. Second reading, public hearing scheduled for June 10, 2015. Rafael E. Granado to notice. Lilia Cardillo to place on the Commission Agenda if received. **Sylvia Crespo-Tabak to handle.**

Sylvia Crespo-Tabak, Human Resources Director, stated that the proposed Ordinance incorporates language required by the Internal Revenue Code and the Internal Revenue Service to keep this plan as qualified, which is a significant issue both for the sponsor and for the members.

6:28:09 p.m.

R5D An Ordinance Amending And Restating The Miami Beach Employees' Retirement Plan Created By Ordinance No. 2006-3504, As Subsequently Amended, By Amending Sections 2, 4, 5, 11, And 12 Of The Plan To Comply With Applicable Provisions Of The Internal Revenue Code And Regulations Thereunder, And Deleting Outdated Language; Providing For Severability; Repealing All Ordinances In Conflict Therewith; And Providing An Effective Date. **First Reading.**

(Sponsored by Deede Weithorn)

(Legislative Tracking: Human Resources)

ACTION: Title of the Ordinance read into the record. Heard in conjunction with R5C. Motion made by Commissioner Weithorn; seconded by Commissioner Malakoff; Ballot vote: 7-0. Second reading, public hearing scheduled for June 10, 2015. Rafael E. Granado to notice. Lilia Cardillo to place on the Commission Agenda if received. **Sylvia Crespo-Tabak to handle.**

R7 - Resolutions

6:12:56 p.m.

R7A A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Construction Manager At Risk Agreement With Clark Construction Group, LLC ("Clark"), Pursuant To Request For Proposals (RFP) No. 2015-129-ME, For Construction Manager At Risk Services For The Miami Beach Convention Center Renovation And Expansion Project ("Project"), With A Lump-Sum Pre-Construction Phase Fee In The Amount Of \$2,594,073.

(Office of the City Manager)

ACTION: Resolution 2015-29028 adopted. Motion made by Commissioner Weithorn to adopt the resolution, seconded by Commissioner Grieco; Voice-vote: 7-0. **Maria Hernandez to handle.**

City Clerk's Note: Vice-Mayor Wolfson was not present during the vote; however, he returned to the City Commission Chamber at 6:29:22 p.m. and placed his vote.

Maria Hernandez, Capital Projects Director, introduced the item. She thanked Rafael Paz, Jr., First Assistant City Attorney, and Raul J. Aguila, City Attorney, for their help on this project. She mentioned that Sydney Jordan, Clark Construction Southern Region Division President & CEO, was present in the audience.

PowerPoint presentation shown. Click [here](#) to view.

Jeff Sachs, Strategic Advisory Consultant, explained that the request is to execute the Construction Manager at Risk contract with Clark Construction Group. He clarified for the public, that today they are bringing to the City Commission: 1) all the terms of the contract, 2) the Construction Manager at Risk (CMR) fees; and 3) the negotiated overall fee. Today they completed the design development of the Convention Center. The following proposed dates include document availability and process to be followed:

- By July 1, 2015, the City will have an estimate, based on the cost estimate from Clark and the City's cost estimator, as well as a preliminary Guaranteed Maximum Price.
- On August 15, 2015 is "*pencils down day*," and Fentress should be at overall 65% of construction documents.

- By February 2016, the contractor will have 100% construction documents available; however, they will be at roughly 100% on steel, concrete, foundations, enclosures, all vertical transportation, such as elevators and escalators.
- In mid-August 2015, Clark will do their pricing again; the City's cost estimators will do their pricing.
- On October 1, 2015, Clark will give the City the final GMP proposal and bring back in front of the City Commission.
- Before October 2015 bidding starts. They will have some bids in place, but the overall preponderance of the money is competitively bid in the market. All local contractors will have a chance to participate, and effectively it will go to the lowest, most responsive and responsible bidder. There will be pre-qualifications and the bidding will take place and fall into 2016.

Mr. Sachs added that they previously presented a preliminary proposal on the pre-GMP fees from Clark at roughly \$3.7 million. They met and worked through the line items; discussed expenses of construction trailer costs, which Clark will not need until October, so these costs were removed. Clark also had a large component fee of \$715,000, and after discussions, it was agreed that if the City and Clark do not reach a GMP contract in October, the City is asking to have the preponderance of that fee delayed – this is what they call *demobilization*. As long as an agreement is reached in October, they are on budget at roughly \$2.5 million, with \$1 million of savings through the negotiations process, and only in the event that they do not reach an agreement is there an additional \$400,000 paid to Clark.

Rafael Paz, Jr., First Assistant City Attorney, stated that the contract they are working on, in addition to locking in fees, establishes all of the terms and conditions that will govern the entire project and scope of services for pre-construction, construction phase, and close out. They have provided for an open book bidding process for subcontractor work, \$350,000,000 worth of work will go to the lowest responsible bidders. He further detailed the project including the employment of Miami Beach and Miami-Dade residents. They will return to the City Commission in October for approval.

Discussion held.

Handouts and Reference Materials:

1. Miami Beach Convention Center Renovation & Expansion Project – Construction Manager At-Risk Contract Approval dated May 20, 2015 PowerPoint Presentation.

5:49:53 p.m.

R7B A Resolution Accepting The Recommendation Of The City Manager, Pursuant To Request For Proposals (RFP) No. 2015-103-ME, For The Development Of A Convention Headquarter Hotel Adjacent To The Miami Beach Convention Center ("Project"); Authorizing The Administration To Negotiate A Development And Ground Lease Agreement With Portman Holdings, LLC, With Said Agreement Subject To Prior Approval By The Mayor And City Commission Before Final Execution Thereof.

(Office of the City Manager)

ACTION: Resolution 2015-29029 adopted. Motion made by Commissioner Tobin to adopt the resolution, seconded by Commissioner Grieco; Opposed: Vice-Mayor Wolfson. Voice-vote: 6-1. **Maria Hernandez to handle.**

City Clerk's Note: Vice-Mayor Wolfson was not present during the vote; however, he returned to the City Commission Chamber at 6:29:22 p.m. and placed his vote.

Maria Hernandez, Capital Projects Director, introduced the item and stated that Mr. Portman will address the City Commission.

Jeff Sachs, Strategic Advisory Consultant, explained the item.

Jack Portman, Vice-Chairman, Portman Holdings, gave a brief presentation.

PowerPoint presentation shown. Click [here](#) to view.

Ambrish Baisiwala, CEO of Portman Holdings, continued with a review of the financial proposal.

Video presented by John Portman. Click [here](#) to view.

Jeff Sachs, Strategic Advisory Consultant, gave a brief snapshot of the next step, if authorized to move forward. He compared the revenue potential between the parking lot, which currently generates \$267,000 in revenue and the proposed hotel, which will generate over \$12 million in revenue. He further detailed the financial aspects and benefits of this project during the next 30 years. He stated they are seeking to have authorization to enter into negotiations with the Portman team.

Commissioner Malakoff stated that the Portman team took into consideration many things that were wrong with the originally proposed Convention Center Hotel. They have considered the green space, and made it walkable; she is very impressed. She only has one concern, and that is to ensure that the rooftop restaurant is enclosed for sound; as it is important that the noise stays within the hotel and does not impact the Soundscape.

City Manager Morales mentioned that assuming the public approves the Convention Center Hotel in the November election; the preliminary design must go through the Design Review Board, prior to approval of the City Commission.

Commissioner Weithorn stated that she has received several questions from residents as to why they only received two vendors for this project, and would like clarification for all those present.

Jeff Sachs, Strategic Advisory Consultant, stated that the reason they only received two vendors is that very few developers can finance \$450 million for a single project. He listed other cities with similar projects that only received one proposal.

Mayor Levine stated that they are honored that Portman group to be interested and excited. His dad is as iconic as this City is.

Handouts and Reference Materials:

1. Miami Beach Convention Center Headquarter Hotel – Portman Holdings Proposal dated May 20, 2015 PowerPoint Presentation.

6:23:30 p.m.

R7C A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 7 To The Professional Services Agreement Between The City Of Miami Beach And Strategic Advisory Group Dated October 19, 2011 For Consulting Services Relative To The Expansion And Enhancement Of The Miami Beach Convention Center In An Amount Not To Exceed \$358,825, Including All Reimbursable Expenses.

(Office of the City Manager)

ACTION: Resolution 2015-29030 adopted. Motion made by Commissioner Tobin, seconded by Commissioner Grieco; Voice-vote: 7-0. **Maria Hernandez to handle.**

City Clerk's Note: Vice-Mayor Wolfson was not present during the vote; however, he returned to the City Commission Chamber at 6:29:22 p.m. and placed his vote.

R9 - New Business and Commission Requests

6:45:41 p.m.

R9A Board And Committee Appointments - City Commission Appointments.
(Office of the City Clerk)

ACTION: Item deferred from the May 6, 2015 R9A. Motion made by Commissioner Malakoff; to appoint Roberto J. Rovira to the Planning Board in the faculty of a school of architecture category; by acclamation. Ballot vote: 7-0.

Rafael E. Granado, City Clerk, announced that Roberto J. Rovira is the one nominee for the Planning Board.

PLANNING BOARD:

Roberto J. Rovira Term End: 12/31/16 Appointed by City Commission Term Limit: 12/31/20

Commissioner Tobin stated that he would like to meet Mr. Rovira.

Handouts and Reference Materials:

1. City Commission At-Large Nominations for May 20, 2015 – Release #1; Memorandum from Rafael E. Granado, City Clerk, to Mayor Philip Levine and Members of the City Commission, dated May 15, 2015.

6:24:11 p.m.

R9B Discussion Regarding Rescheduling The June Commission Meeting From June 10, 2015 To June 8, 2015.

(Sponsored by Mayor Philip Levine)

ACTION: Discussion held. **Resolution not adopted.** There was consensus not to reschedule the June 10, 2015 Commission Meeting.

Mayor Levine explained that he has family commitments on June 10, 2015.

Commissioner Grieco will not be able to attend on June 8, 2015, because he has two trials scheduled.

Discussion held.

6:46:22 p.m.

- R9C Discussion Regarding City Of Miami Beach Requiring Mandatory Nighttime Closure Of All Ocean Drive Sidewalk Umbrellas For The Duration Of Memorial Day Weekend.
(Sponsored by Commissioner Michael Grieco)

ACTION: Discussion held.

Commissioner Grieco stated that he is concerned with the unlawful behavior that occurs on Ocean Drive during Memorial Day Weekend. He suggested collapsing the umbrellas at nighttime throughout the weekend for safety purposes.

Vice-Mayor Wolfson stated that although this item was proposed with good intentions for security reasons, singling out this weekend to close the umbrellas may send the wrong message. Memorial Day Weekend has traditionally had a large influx of African-American visitors, and closing umbrellas exclusively during this time may be interpreted as an unwelcoming gesture. He added that he was recently in contact with a member of the NAACP, 100 Black Men of America, Inc., and the Miami-Dade Black Affairs Advisory Board, who told him that if this item passes, these organizations will issue statements against it.

Discussion held.

Mayor Levine stated that he wants this City to be safe and enjoyable for all residents and tourists. He believes it may be inappropriate to close umbrellas for this particular weekend. He asked the City Commission to discuss, at a future time, whether Ocean Drive umbrellas should be closed during high-volume weekends.

Commissioner Tobin stated that he agrees that the umbrellas should probably be taken down during all heavily congested events or when Ocean Drive is closed, but if closing the umbrellas at nighttime during this Memorial Day Weekend will in fact increase safety for residents and visitors, then he will vote for it.

Commissioner Steinberg stated that she thinks it would be a good idea for every major weekend or high-traffic weekend. She asked what the Police Department's opinion was on the safety issues of keeping the umbrellas opened.

Commissioner Weithorn agreed with Commissioner Grieco, but her concern is that it is unrealistic for it to take place at this time; she offered to refer this as a policy for all high traffic events to the Land Use and Development Committee.

Discussion held.

Vice-Mayor Wolfson stated that this item may be beneficial from a safety perspective, but Memorial Day Weekend is coming up, and suggested to defer unless the police advises that removing the umbrellas is necessary. He reiterated that this could be brought up at a later time for big event weekends.

Commissioner Grieco emphasized that this is not a race issue, but a fact that crime spikes during Memorial Day Weekend, more so than during any other major event. He mentioned that there are many precautions that are already in place, such as barricades, DUI traffic stops, and traffic loops to prevent visitors from entering residential neighborhoods, which could also be interpreted as unwelcoming, and he does not believe closing umbrellas for safety is any different.

Mayor Levine asked for Police Chief Oates to give his opinion on the matter.

Police Chief Oates stated that this is a policy decision for the City Commission, but it would be easier to observe the area with the umbrellas down.

Vice-Mayor Wolfson asked for clarification whether his opinions are for this specific weekend or every high-impact weekend.

Police Chief Oates clarified that lowering the umbrellas would be beneficial for safety reasons for every high-impact weekend.

Discussion continued.

Commissioner Grieco motioned; Commissioner Tobin seconded.

Commissioner Malakoff stated that it is not a good idea to close the umbrellas at all, even during high-impact weekends. It will not improve visibility that much, and it is not fair to the customers because of the frequent rain showers that occur.

Commissioner Grieco withdrew his motion.

Commissioner Steinberg stated that this issue needs further discussion at future City Commission meetings.

6:41:47 p.m.

R9D Discussion And Update On Fee In Lieu Of Parking Rate As Required By Section 130-132(d) Of The Code Of The City Of Miami Beach (Annual Evaluation Of Parking Impact Fee).
(Office of the City Manager)

ACTION: Resolution 2015-29031 approved. Motion made by Commissioner Weithorn; seconded by Vice-Mayor Wolfson to approve the fee in lieu of parking rate at \$40,000; Voice-vote; 7-0. **Joe Jimenez and Carmen Sanchez to handle.**

Jimmy L. Morales, City Manager, explained that pursuant to the City Code, an evaluation is held every year to re-evaluate the number charged for fee in lieu of parking rate. They have looked at the number and currently it is \$40,000, although the analysis shows that it should be a few dollars more, but they recommend keeping it at that figure. He explained that they are required by law to present the updated item to the City Commission.

Carmen Sanchez, Assistant Planning Director, clarified that the City Commission is required to take action either to leave it at the rate they have today, or to increase it. The next set of invoices will be sent on June 16.

Discussion held.

Commissioner Weithorn moved the item and Vice-Mayor Wolfson seconded the motion.

Vice-Mayor Wolfson commended staff for following the right process, although he disagrees with recent increase, but bringing the item on an annual basis is the right thing to do.

Commissioner Malakoff asked if the motion is to approve the \$40,000 or \$40,649. Commissioner Weithorn answered that the motion is for the \$40,000.

R9E Discussion Regarding Watson Island/Flagstone Development.
(Sponsored by Commissioner Edward L. Tobin)

ACTION: Item withdrawn.

6:43:30 p.m.

R9F Discussion And Referral To The Land Use And Development Committee Regarding The Degradation Of The Sea Wall In The Lakeview Drive Neighborhood.
(Sponsored by Commissioner Edward L. Tobin)

ACTION: Discussion held. Item referred. Motion made by Commissioner Tobin to refer item to the next Land Use and Development Committee with seawall repairs estimate; by acclamation. **Thomas Mooney to place on the Land Use and Development Committee Agenda; Eric Carpenter to handle.**

REFERRAL:

- To the next Land Use and Development Committee meeting. **Thomas Mooney to place on the Land Use and Development Committee Agenda; Eric Carpenter to handle.**

TO DO:

- Bring estimate for the seawall repairs. **Eric Carpenter to handle.**

Commissioner Malakoff spoke to the City's Chief Engineer and it is possible that at the Cherokee Avenue seawalls, they may be able to use the new type of seawalls that the City has been looking to use in a pilot project; it will probably be used at Crespi first but Cherokee may be a good place. They last longer and are less costly, so they are looking into it.

Discussion held.

Jeffrey Bercow, representing a number of neighbors in the area, stated that this seawall has been in a very bad condition for 15 years. The City promised to have the seawall improved with the GO Bond in 2000. The seawall is missing a cap, it is cracked, it is leaching soil out; the water is coming in with the land becoming wet, no one maintains it and it needs to be fixed.

Commissioner Tobin is in agreement to refer the item, and requested to bring an estimate for the repairs to committee, but not to add it to the Bergeron contract.

Discussion held.

End of Agenda

Meeting adjourned at 7:06:08 p.m.