



# MIAMI BEACH

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## City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive  
April 11, 2006

Mayor David Dermer  
Vice-Mayor Saul Gross  
Commissioner Matti Herrera Bower  
Commissioner Simon Cruz  
Commissioner Luis R. Garcia, Jr.  
Commissioner Jerry Libbin  
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez  
City Attorney Murray H. Dubbin  
City Clerk Robert E. Parcher

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### ATTENTION ALL LOBBYISTS

**Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.**

*Special note: In order to ensure adequate public consideration, if necessary, the Mayor and City Commission may move any agenda item to the alternate meeting date which will only be held if needed. In addition, the Mayor and City Commission may, at their discretion, adjourn the Commission Meeting without reaching all agenda items.*

- PA1 Proclamation/Pat Schneider, Assistant Police Chief Retiring from the City. (Cruz)
- PA2 Proclamation Declaring April "National Donate Life Month" in the City.
- PA3 Certificate of Appreciation/Bunny Patchen, Serving on the Marine Authority. (Steinberg)
- PA4 Certificate of Appreciation/Randolph Gumenick, Donation of Universal Pet Scanner. (Steinberg)
- PA5 Employee Special City Awards for Safety Presented to Several Employees.
- PA6 **New Item:** Certificates of Appreciation/Annual Gardens Tour Participants. (Gross)
- C2A Issue RFP, Management & Operation of (4) Street Markets in Miami Beach.
- C2B Extend Contract, Spanish Language Translation & Subtitling Services, \$100,000.
- C2C Approve Purchase, (1) John Deere 410G Backhoe, \$72,814.43.
- C2D Approve Purchase, (1) Tennant ATLV4300 Litter Vacuum, 29,869.74.
- C2E Approve Purchase, (1) Bobcat 5600 Work Machine, \$33,838.97.
- C2F Approve Purchase, (40) Public Safety Equipment Packages for Police Vehicles, \$135,331.
- C2G Issue RFP, Landscape Ground Maint. & Litter Control Services for Parking Lots/Garages.
- C2H Award Bid No. 10-05/06, Rental of (8) 65-Passenger School Buses w/ Driver, \$84,960.
- C2I Issue RFP, Complete Turf Mowing Services at All Non-Contracted Sites Citywide.
- C2J Issue RFP, Emergency Disaster Debris Monitoring Services for CMB.
- C2K Issue RFP, Provide Food & Beverage Facilities Management Services for MBCC.
  
- C4A Ref: Neighborhoods/Community Affairs Comm. - Public Education Funds. (Steinberg)
- C4B Ref: Land Use & Development Comm. - 90-Day Period when Zoning in Progress Starts.
- C4C Ref: Neighborhoods/Community Affairs Comm. - Temporary Facility for Vessels.
- C4D Ref: Land Use & Development Comm. - Transfer of Development Rights.
- C4E Ref: Planning Board - Gas Stations Conforming to Installation of Generators. (Gross)
- C4F Ref: Land Use & Development Comm. - .5 FAR Bonus in Existing Zoning Code. (Gross)
- C4G Ref: Planning Board - Limit Number of Lots that Aggregate in One Development Site. (Gross)

- C4H Ref: Planning Board - Lower Heights in Abutting CD-1 & CD-2 Districts. (Gross)
- C6A Report: Neighborhoods/Community Affairs Committee Meeting on February 22, 2006.
- C6B Report: Neighborhoods/Community Affairs Committee Meeting on March 22, 2006.
- C6C Report: Finance & Citywide Projects Committee Meeting on March 23, 2006.
- C7A Set Public Hearing, Review DRB Decision Requested by Miami Design Preservation League.
- C7B Consent to Appoint Gladys Acosta as Information Technology Director.
- C7C Submit Grant Applications to Several Funding Agencies.
- C7D Issue Certification of Consistency to HACMB, Annual Plan for FY 2006.
- C7E Issue Certification of Consistency to Neighborhood Services Dept., Homeless Services.
- C7F Establish April 2006 as "Fair Housing Month" in CMB.
- C7G Execute Home Program Agmt. w/ MBCDC, (24) Rental Units for Income-Eligible Participants.
- C7H Execute Interlocal Agreement w/ Miami-Dade County, Parking Ticket Issuing System.
- C7I Declare Parking Emergency for Various Upcoming 2006-2007 Events.
- C7J Accept Donation of \$250 from Randy Gumenic to the Miami Beach Police Department.
- C7K Accept Donation of a Mobile Video System from Lewis S. Nadel to the MB Police Dept.
- C7L Accept Recommendation, Atlantic Greenway Network "Beachwalk II" Project.
- C7M Oppose House Bill 1199 & Propose Elimination of Local Cable Franchises.
- C7N Execute Agreement, Rue Granville Seawall Replacement.

#### REGULAR AGENDA

- R5A **10:15 a.m. 2<sup>nd</sup> Rdg**, Ban on Sexual Predators from Parks. (Steinberg)
- R5B **10:45 a.m. 1<sup>st</sup> Rdg**, Structures 50,000 Sq. Ft. & Over in I-1 Requires Conditional Use. **5/7**
- R5C **10:45 a.m. 1<sup>st</sup> Rdg**, Process for Structures 50,000 Sq. Ft. & Over in I-1 Req. Cond. Use. **5/7**
- R5D **11:15 a.m. 1<sup>st</sup> Rdg**, Flamingo Park Local Historic District Height Restrictions. **5/7**
- R5E **1<sup>st</sup> Rdg**, Amend Prohibited Areas for Construction Noise & Provide Exceptions.
- R7A **10:20 a.m.** Execute Lease Agmt. w/ Manpriya, Inc., Lease of 22 Washington Avenue. **5/7**
- R7B **10:30 a.m.** Consider After-the-Fact Revocable Permit Request by Raleigh Hotel.
- R7C Adopt BODR, South Pointe RDA Phase III, IV, & V, ROW Improvement Project.
- R7D **11:00 a.m.** Execute Amendment to Hazen & Sawyer Agmt., Program Mgmt Services.
- R7E **1<sup>st</sup> Rdg**, Approve Lease Agmt. w/ Internal Intelligence Services, 1130 Washington Ave. **5/7**
- R7F Approve Selection Entitled "Drift" for South Pointe Park, as Recommended by AiPP.
- R7G **11:30 a.m.** Amend Resolution, Series 2006 Bonds Shall be Secured by Reserve Account.
- R7H Approve Conditions of Employment Agreement w/ City Attorney Jose Smith.
- R7I Approve Agreement w/ Murray H. Dubbin for Separation & Continuing Service.
- R9A Board & Committee Appointments.
- R9A1 Board & Committee Appointments - City Commission Appointments.
- R9B1 **1:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
- R9B2 **5:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
- R9C Discuss Request of TRG-Block One, LTD., Creating Certain Underground Improvements.
- R9D Discuss Resolution Suspending City Code re: Roofing Material Requirements. (Libbin)
- R10A **Noon**, Notice of Closed Executive Session - Status of FOP Contract Negotiations.
- R10B **Noon**, Notice of Attorney-Client Session - 900 Collins Ave. / Zedek Assoc. / Frank Otero.
- R10C **Noon**, Notice of Closed City Commission Session - Frederica Breaux / Rabbi Poleyeff.
- A Parking Status Report - January 2006.
- A1 Parking Status Report - February 2006.
- B Status Report: Rehabilitation & Construction of the New Fire Station No. 2.
- C Status Report: Construction of Fire Station No. 4.
- D Status Report: Normandy Isle Park & Pool Project.
- E Informational Report: Federal, State, M-DC, U.S. Communities & All Existing City Contracts.
- F City Attorney's Status Report.

#### REDEVELOPMENT AGENCY ITEMS - 10:00 A.M.

- 1A Report: Itemized Revenues/Expenditures of RDA City Center Dist. & S. Pointe - Feb. 2006.

Meeting called to order at 9:35:11 a.m.

Pledge of Allegiance led by Chief De Lucca.

Invocation given by Dr. Annette Jones from St. John's United Methodist Church.

**Supplemental Materials:**

**C7C (Resolution), C7D (Resolution), C7E (Resolution), C7H (Resolution & Agreement), C7I (Resolution), C7L (Resolution), R7C (Resolution), R7D (Resolution & Agreement), and R7F (Resolution & Agreement).**

**Addendum items: R10C and "F"**

**ACTION:** Motion made by Commissioner Steinberg to add items R10C and "F" as emergency items to the Commission Agenda; seconded by Commissioner Bower; Voice vote: 7-0.

**9:39:53 a.m.**

**New Item**

Mayor Dermer introduced and welcomed the Honorable Darrin P. Gayles, who is a t the Miami Beach Court House. He added that Governor Jeb Bush appointed Darrin P. Gayles to the County Court of the Eleventh Judicial Circuit of Florida in April 2004. He had been a prosecutor since 1993; he has had 30 jury and felony trials; has worked in narcotics section and was an Assistant United States Attorney for the Southern District of Florida. He is a 1990 graduate of Howard University, where he was awarded a Bachelor of Arts degree in Political Science, and a 1993 graduate of The George Washington University Law School in Washington, D.C.

Honorable Gayles thanked Mayor Dermer and the City Commission. He announced that Old City Hall has been closed and informed them that the County Clerk's Office will be temporarily located outside of the building until they find a new location.

Handout or Reference Material:

1. Brief biography, the Honorable Darrin P. Gayles

**Presentations and Awards**

**9:52:30 a.m.**

PA1 Proclamation To Be Presented To Pat Schneider, Assistant Police Chief, On Her Retirement From The City Of Miami Beach.

(Requested by Commissioner Simon Cruz)

**ACTION:** Proclamation presented.

Commissioner Cruz stated that Patricia Schneider was the first female major and first Assistant Chief in the Miami Beach Police Department. Over her 26 years tenure she was involved in community activities with different organizations and she will be missed.

Commissioner Garcia stated that Patricia has conducted herself in an exemplary manner and is a role model for other women police officers. He wished her the best in future endeavors.

Chief De Lucca stated that she has really been a role model for women in law enforcement and will be missed.

Patricia Schneider thanked everyone for the opportunities given throughout the years and for the friends made during that time.

**10:08:18 a.m.**

PA2 Proclamation Declaring April "National Donate Life Month" In The City Of Miami Beach.  
(City Manager's Office)

**ACTION:** Proclamation presented.

Jorge Gonzalez, City Manager, introduced Phyllis Shamis, Union Stewart with CWA Union. He explained that during Union negotiations Phyllis brought to his attention the importance of recognizing National Donate Life Month, and learned that her husband is a survivor of organ transplant.

Phyllis Shamis introduced representatives from the Organ Recovery Organization and organ recipients present in the audience and thanked Ramiro Inguanzo, Chief of Staff, for his help coordinating the presentation.

Kestia Marcelus, from the University of Miami School of Medicine, on behalf of the Life Alliance Organ Recovery Agency, thanked the entire City of Miami Beach for spreading the awareness on the importance of organ donation. She presented a Certificate of Partnership to the City on behalf of the Life Alliance Organ Recovery Agency.

Claudette Shelley, Assistant Director with Community Blood Centers of South Florida, stated that most people are not aware of the need for blood donation and thanked the City Commission.

Rene Ortiz from the Community Blood Center, spoke regarding the bone marrow program.

Renee Kilpatrick explained that seven months ago September 5, 2005, she received a call that a heart donor was available; she then had a heart transplant the same morning at Jackson Hospital and is now back to work. She thanked every one for making this possible.

**10:16:00 a.m.**

Mayor Dermer stated that in reference to the \$200 checks, so far 8,000 checks have been mailed, and a total of 16,000 will be mailed. He commended his colleague for supporting this project. He commended everyone in the Finance and Budget Departments, in addition to the employees in Central Services. He explained that the check is real. He encouraged everybody to do whatever they want with this money. He stated that when a City is successful, the City should give back to the citizens. He thanked the City Manager for his technical help and assistance, and Jose Smith, City Attorney, who was a Commissioner when the project was approved.

**9:56:33 a.m.**

PA3 Certificate Of Appreciation To Be Presented To Bunny Patchen For Many Years Of Service To The City Of Miami Beach And For Serving On The Marine Authority.  
(Requested by Commissioner Richard L. Steinberg)

**ACTION:** Certificate presented.

Commissioner Steinberg explained that Bunny has been an advocate in this community for many years; she served several years on the Marine Authority and in the Noise Abatement Aviation Task Force. The Certificate of Appreciation is presented on behalf of the entire City Commission and the 90,000 residents of this City.

Bunny Patchen stated that she will take a year off and will continue to work with the waterway issues as a private citizen and resident.

Vice-Mayor Gross stated that he hopes she continues with her annual tradition of baking and sharing at holiday time.

**9:59:59 a.m.**

- PA4 Certificate Of Appreciation To Be Presented To Mr. Randolph Gumenick For His Donation To Help The Miami Beach Police Department Purchase A Universal Pet Scanner.  
(Requested by Commissioner Richard L. Steinberg)

**ACTION:** Certificate presented.

Commissioner Steinberg explained that Randy has donated funds to pay for a pet scanner that will assist the Police Department. This donation originated from Randolph's dog having escaped from his residence during Super Bowl Sunday. Commissioner Steinberg explained that if the dog had a microchip, which is about the size of a piece of rice, and the Police Department had a scanner, the dog could have been rescued and given to his owner much faster. He thanked Mr. Gumenick for his donation and encouraged residents to implant microchips to track their pets.

Randolph Gumenick thanked everyone and stated that he hopes that in the future people can locate lost dogs quicker.

**9:43:16 a.m.**

- PA5 Presentation Of The Employee Special City Awards For Safety Award, Joe McManus; Customer Service, Kerry Hernandez; Beyond The Call Of Duty, Gus Sanchez; Community Service, Lori Freedline; And City Achievement, Saul Frances, Presented By The Mayor And City Commission And Personnel Board Members.

(Human Resources)

**ACTION:** Special Awards presented.

Jorge Gonzalez, City Manager, explained that these are annual awards for specific categories of individuals and the Personnel Board reviews and makes recommendations on the selections.

Diane Downs, Chair of the Personnel Board, read the names of nominees and winners, and when they were selected.

**10:03:08 a.m.**

- PA6 Certificate of Appreciations/Five Annual Gardens Tours Participants  
(Requested by Vice-Mayor Gross)

**ACTION:** Certificates presented.

Vice-Mayor Gross stated that the Miami Beach Botanical Garden is being recognized today. He added that this fabulous institution is under recognized and a lot of people do not realize what a great garden the City has. The Garden is thriving again, and at their annual meeting, Richard Toledo will become the new President. He continued to say that he hopes the Garden will use the G.O. Bond funds to make it even a better place to visit. About five years ago, the Garden started a traditional tour by involving enthusiast gardeners who opened up their private gardens. This year over 200 people participated in this tour visiting each other's gardens. He recognized the following people who participated in this community event: Richard Toledo, Sesso Souza, Michael Janelle, Kim and Bill Cook, Victory Garden, Renee Savary, and Victoria and Stephen DiNardo Montifiore, who are not in town but deserve the recognition as well. He also thanked Laura Jamieson, Executive Director of Miami Beach Botanical Gardens.

Richard Toledo stated that Vice-Mayor Gross had also graciously opened up his house as well during the tour and thanked the City Commission for their support.

Mayor Dermer expressed his appreciation for their work and efforts. He also recognized former Commissioner Nancy Liebman, who was present in the audience, and has been very active in the garden for many years.

**CONSENT AGENDA**

**ACTION:** Motion made by Commissioner Bower to approve the Consent Agenda; seconded by Commissioner Cruz; Voice vote: 7-0.

**C2 - Competitive Bid Reports**

C2A Request For Approval To Issue A Request For Proposals (RFP) For The Management And Operation Of: 1) Green (Farmers) Market On Lincoln Road; 2) Street Market On Espanola Way; 3) Street Market In Normandy Village; And 4) Antique And Collectibles Market On Lincoln Road; And Approve The Extensions Of The Aforementioned Agreements On A Month-To-Month Basis, Not To Exceed Six (6) Months, Or Until Such Time That New Agreements Are Awarded, Which Ever Occurs First.  
(Asset Management)

**ACTION: Award authorized.** Gus Lopez to issue the RFP.

C2B Request For Approval To Extend The Contract With The Kitchen, Formerly Tm Systems, LLC., For Spanish Language Translation And Subtitling Services At An Estimated Cost Not To Exceed \$100,000 For FY 2005/2006 Until The New Translation Service Can Be Fully Tested.  
(City Clerk's Office)

**ACTION: Award authorized.** R. Parcher to handle.

**11:00:10 a.m.**

C2C Request For Approval To Purchase One (1) John Deere 410G Backhoe From Nortrax Equipment Company, Pursuant To Federal General Services Administration Contract No. GS-30F-1021D, In The Amount Of \$72,814.43.  
(Fleet Management)

**ACTION: Item separated for discussion by Commissioner Cruz.** Discussion held. **Award authorized without objection.** Drew Terpak to handle.

Commissioner Cruz asked if the company had brought their own equipment to the work.

Jorge M. Gonzalez, City Manager, replied that when the contractors are hired, they have their own equipment, and there is also in-house equipment in the Public Works Department and this is a budgeted replacement line item.

**11:01:42 a.m.**

C2D Request For Approval To Purchase One (1) Tennant ATLV4300 Litter Vacuum From Tennant Sales And Service Company, Pursuant To Federal General Services Administration Contract No. GS-30F-1020D, In The Amount Of \$29,869.74.

(Fleet Management)

**ACTION:** Item separated for discussion by Commissioner Garcia. Award authorized. Discussion held in conjunction with items C2E, and C2F. Drew Terpak to handle. Items approved without objections.

Commissioner Garcia stated that these items need more explanation. He is in favor of piggy backing contracts, but added that all the Commission memorandums from Fleet Management need to provide more information about who was contracted and the prices quoted.

Drew Terpak, Fleet Management Director, explained that these particular items are specifically designed for use within the City. There are multiple contracts for different machines out there. All contracts are looked at, including the federal GSA contract. There were no other existing contracts available.

Commissioner Garcia added that specifications can be crafted so close that it will make it a sole source, and that may not be in the best interest of the City. He added that buying from contracts with federal government is not exactly always in the City's best interest, and it may be better to put it out for bid. He wants to see better back up materials and better justification for these contracts.

Jorge Gonzalez, City Manager, stated that the Administration goes through an extensive review but in future purchases, the Administration will include the details of the research in the Commission materials. He stated that both Drew Terpak and Gus Lopez do everything possible to make sure the City gets the best price.

**11:01:42 a.m.**

C2E Request For Approval To Purchase One (1) Bobcat 5600 Work Machine With Attachments From Kipper Tools, Pursuant To Federal General Services Administration Contract No. GS-06F-0018L, In The Amount Of \$33,838.97.

(Fleet Management)

**ACTION:** Item separated for discussion by Commissioner Garcia. Award authorized. Drew Terpak to handle. See discussion C2D.

C2F Request For Approval To Purchase Forty (40) Public Safety Equipment Packages For Police Pursuit Vehicles, From Duval Ford, Pursuant To Florida State Contract No. 04-12-0823, In The Amount Of \$135,331.00.

(Fleet Management)

**ACTION:** Item separated for discussion by Commissioner Garcia. Award authorized. Drew Terpak to handle. See discussion C2D.

**10:26:24 a.m.**

C2G Request For Approval To Issue A Request For Proposals (RFP) For Landscape Ground Maintenance And Litter Control Services For All Green Areas Associated With The City's (61) Parking Lots And (5) Garages.

(Parking Department)

**ACTION: Item separated for discussion by Vice-Mayor Gross.** Discussion held. **Award authorized. Landscape and Cleanliness Report referred to the Neighborhoods/Community Affairs Committee for discussion.** Motion made by Vice-Mayor Gross, seconded by Commissioner Garcia; Voice vote: 7-0. Gus Lopez to issue the RFP. Vivian Guzman to place on the committee agenda. Saul Frances to handle.

Vice-Mayor Gross stated that this is a question not just about landscaping, but also about litter control in the 61 parking lots in the City. One of the major outcomes of the resident survey was that the City is not as clean as it could be. Extra money was added last year to address that issue and make the City cleaner and safer. He feels the City is not doing as good of a job as it should. He questions whether it makes sense to have landscape companies coming back not to provide landscape services but to provide litter control. He would like to see better progress and asked the City Manager for help in achieving this.

Jorge Gonzalez, City Manager, stated that it is a good suggestion, and the items will be separated as an add alternate. A written report can be provided. He explained the standard for cleanliness index where staff goes out and photograph locations that are clean or not clean, and tracking is kept of all streets. Scores have improved post hurricanes. He asked if the Commission would want to include a cleanliness index report at committee level.

Motion made by Vice-Mayor Gross to refer to the Neighborhoods/Community Affairs Committee the report on the cleanliness index; seconded by Commissioner Garcia; Voice vote 7-0.

Commissioner Bower stated that the parking lot in back of her house is cleaned by someone that is under contract. The workers are not really cleaning the lots, they are blowing debris onto the streets and sidewalks.

Commissioner Steinberg stated that the issue of blowers should be discussed at the next Neighborhoods/Community Affairs committee meeting, as other municipalities prohibit using blowers to remove debris. **Vivian Guzman to handle.**

Commissioner Cruz stated that he has received complaints from Lincoln Road merchants due to the blowing and pressure cleaning while people are having breakfast.

Commissioner Bower asked on the status of the ordinance that she had requested.

Fred Beckmann, Public Works Director, explained that there is an ordinance being drafted but is oriented primarily to the private owners, since the sanitation crews are limited to certain hours and some of the private owners contract with people to clean. This ordinance needs to be reviewed at committee level.

Commissioner Garcia believes that the City crews are cleaning. He added that in front of the Colony Theatre the City crews begin spraying at eight in the morning.

Fred Beckmann, Public Works Director, explained that City crews are not suppose to be there at that time and private owners have been informed to call the Public Works Department to inform about these incidents.

Commissioner Libbin stated that he thought Commissioner Bower had asked for private contractors and Commissioner Steinberg also had requested moving the time earlier, provided it was not disrupting residents, and that was the issue discussed regarding private contractors, and that is what needs to be addressed and implemented.

Fred Beckmann, Public Works Director, explained that this issue will be addressed and the Superintendent will be given specific direction for staff to stop all work before eight in the morning.

- C2H Request For Approval To Award A Contract To Franmar Corporation, Pursuant To Invitation To Bid No. 10-05/06, For The Rental Of Eight (8) 65-Passenger School Buses With Driver For The City's Summer Programs, In The Annual Amount Of \$84,960.  
(Parks & Recreation)

**ACTION: Award authorized.** Kevin Smith to handle.

- C2I Request For Approval To Issue A Request For Proposals (RFP) For Complete Turf Mowing Services At All Non-Contracted Sites Citywide.  
(Parks & Recreation)

**ACTION: Award authorized.** Gus Lopez to issue the RFP.

- C2J Request For Approval To Authorize The Issuance Of A Request For Proposals (RFP) For Emergency Disaster Debris Monitoring Services For The City Of Miami Beach.  
(Procurement)

**ACTION: Award authorized.** Gus Lopez to issue the RFP.

- C2K Request For Approval To Issue A Request For Proposals (RFP) To Provide Professional Food And Beverage Facilities Management Services For The Miami Beach Convention Center; With An Option To Manage Food And Beverage Services At Other City Cultural Facilities, If Deemed To Be In The City's Best Interest.  
(Tourism & Cultural Development)

**ACTION: Award authorized.** Gus Lopez to issue the RFP.

**C4 - Commission Committee Assignments****10:59:02 a.m.**

- C4A Referral To The Neighborhoods/Community Affairs Committee - Discussion Regarding Placing A Charter Amendment On The November Ballot To Allocate Funds To Public Education.  
(Requested by Commissioner Richard L. Steinberg)

**ACTION: Item separated for discussion by Commissioner Bower.** Discussion held. **Referred as amended in addition to the one percent (1%) for enrichment of public education for Miami Beach residents, to also include one percent (1%) for affordable and workforce housing, and one percent (1%) for Community Arts Council for community art from non-RDA Ad Valorem tax.** Motion made by Commissioner Bower; seconded by Commissioner Garcia; Voice vote: 7-0. Vivian Guzman to place on the committee agenda. Kathie Brooks to handle.

Commissioner Bower stated that she will also like to refer for discussion a one percent (1%) for affordable and work force housing, a 1% for the Arts Council for community art, along with the one percent (1%) to Public Education.

- C4B Referral To The Land Use And Development Committee - Discussion Regarding The 90-Day Time Period When Zoning In Progress Starts After A Positive Recommendation From The Planning Board And The Schedule Of The City Commission Meetings.  
(Planning Department)

**ACTION: Referred.** Jorge Gomez to place on the committee agenda and to handle.

- C4C Referral To The Neighborhoods/Community Affairs Committee - Marine Authority Board Motion That A Temporary Facility Be Established Near Island View Park To Accommodate As Many Vessels As Possible.  
(Neighborhood Services)

**ACTION: Referred.** Vivian Guzman to place on the committee agenda. Robert Middaugh to handle.

- C4D Referral To The Land Use And Development Committee - Historic Preservation Board Resolution Pertaining To The Transfer Of Development Rights (TDR'S).  
(Planning Department)

**ACTION: Referred.** Jorge Gomez to place on the committee agenda and to handle.

- C4E Referral To The Planning Board - Make Existing Miami Beach Gas Stations Legally Conforming And To Establish A Conditional Use Process Regarding Installation Of Generators.  
(Requested by Vice-Mayor Saul Gross)

**ACTION: Referred.** Jorge Gomez to place on the committee agenda and to handle.

**11:10:14 a.m.**

- C4F Referral To The Land Use And Development Committee - Discussion Regarding The .5 FAR Bonus In Existing Zoning Code For Mixed Use Developments.  
(Requested by Vice-Mayor Saul Gross)

**ACTION: Referred.** Jorge Gomez to place on the committee agenda and to handle.

During the discussions on item C4G and C4H, it was stated that this referral also includes a referral of affordable housing/workforce house.

**11:08:00 a.m.**

- C4G Referral To The Planning Board - Proposal To Limit (To Three Or Four), The Number Of Lots That Can Be Aggregated In One Development Site.  
(Requested by Vice-Mayor Saul Gross)

**ACTION: Items C4G and C4H separated for discussion by Commissioner Libbin and discussed together.** Discussion held. **Item referred without objection.** Jorge Gomez to place on the committees agendas and to handle.

Commissioner Libbin stated that he separated this item to highlight the issue of the need to address workforce housing. He stated that in Miami Beach it has all been talk and there has been no action. He added that he doesn't have a problem with the referral, but suggested that it is time to decide what steps the Commission plans to take to address workforce housing issues. He stated that his concern with the referral is that if the Planning Board decides to move forward with the possible recommendation to put zoning in progress without the City Commission's input, certain opportunities or tools maybe missed. He is recommending that concurrent with the referral that the Commission begin setting up a process, whether a referral to a joint meeting of the Land Use & Development Committee, , a discussion at the City Commission Retreat, or a community workshop, but the Commission needs to identify concurrently with the Planning Board, what needs to be done.

Vice-Mayor Gross stated that he placed a concurrent referral, item C4F, which is exactly the issue Commissioner Libbin, is addressing.

Commissioner Libbin requested to include with the C4F referral a discussion regarding the aggregation of lots.

Vice-Mayor Gross stated that the lot aggregation is separate. The Commission has used the lot aggregation issue successfully as a tool to make sure that development in different neighborhoods is compatible with the as-built size and character of that particular neighborhood. It was successfully used on West Avenue and it was used on lower Ocean Drive. He added that the Commission has asked the Planning Board to consider using it in other neighborhoods like the museum districts, Indian Creek Drive and low scale neighborhoods. He stated that at the Commission Retreat is a great place to discuss how to adopt some workforce housing initiatives.

Commission Bower identified what has been done regarding workforce housing.

Commissioner Libbin stated that there should be agreement to have a healthy discussion at the Commission Retreat.

**11:08:00 a.m.**

C4H Referral To The Planning Board - Lowering Of Heights In The Abutting CD-1 And CD-2 Districts From 50 Feet To 40 Feet.

(Requested by Vice-Mayor Saul Gross)

**ACTION: Item C4G and C4H separated for discussion by Commissioner Libbin and discussed together. See item C4G. Item C4H referred without objection.** Jorge Gomez to place on the committee agenda and to handle.

The issue of affordable housing/workforce housing (see Item C4F) was referred to the Land Use and Development Committee. Jorge Gomez to place on the committee agenda. Jorge Gomez to handle.

### **C6 - Commission Committee Reports**

**10:45:50 a.m.**

C6A Report Of The Neighborhoods/Community Affairs Committee Meeting On February 22, 2006: **1)** Discussion Regarding The Issuance Of A New Request For Proposals For The Management And Operation Of 1. Green (Farmers) Market On Lincoln Road; 2. Street Market On Espanola Way; 3. Street Market In Normandy Village; And 4. Antique And Collectibles Market On Lincoln Road; **2)** Discussion Regarding Lincoln Road Pressure Cleaning; **3)** Discussion Regarding Allowing Dogs To Use The Beach For Swimming, North Of The South Pointe Pier; And **4)** Discussion Regarding The Pilot Program To Allow Dogs On The Beachwalk.

**ACTION: Item separated for discussion by Vice-Mayor Gross.** Discussion held. The report was accepted without objection.

Discussion held at the April 11, 2006 Commission Meeting.

Vice-Mayor Gross requested the new City Attorney and former City Commissioner, Jose Smith, help draft an ordinance allowing either the security guards on the boardwalk or the code compliance officers to issue tickets to dog owners that do not pick up after their dogs. The other issue is when promoters working for clubs throw flyers on the ground and litter. He stated that the focus is keeping the City clean and safe and he asked the City Attorney for his help on this.

Jose Smith, City Attorney, stated that he will be happy to look into this and will provide a report by the next meeting. **Legal Department to handle.**

Commissioner Cruz stated that there are laws that the shop owners clean up the area in front of their space. This law should be enforced so that shop owners clean up early in the morning before they open. It is not only the City's responsibility. The City should vigorously enforce this law because it will not only make the City cleaner, but it also will alleviate the City's burden.

Commissioner Garcia disagreed with Commissioner Cruz because shop owners will be burdened with cleaning up for something that they probably did not do. The burden should not be on shop owners for the garbage left behind by the owners of night clubs.

Commissioner Bower stated that keeping the City clean is everyone's responsibility and everyone should do their part.

Jorge Gonzalez, City Manager, clarified that flyers can be distributed if they are handed to a person. If that person throws the flyer on the ground that is littering. It is illegal for the distributor to throw flyers on the ground. This is a problem.

Commissioner Libbin asked if the flyers are handed to someone walking down the street, and that person litters, can the businesses be held responsible for the littering.

Vice-Mayor Gross stated that on Washington Avenue 90% of the flyers distributed are either thrown on the ground or placed on walls or windows and very few are actually handed to people and this has to stop because it is wrong and it is litter. The City needs to have an effective fine and the message will go to the clubs that if they are going to litter they will be fined and they will stop doing it. There should be garbage cans so that the people who want to throw them away will have a place to put them, and then the City can get the shop owners to clean the front of their stores.

Commissioner Garcia, referring to the citation issued to David's Café, stated that the City should not cite a business for litter until the business owner is given the opportunity to clean up in the morning.

Jorge Gonzalez, City Manager, stated that the ordinance requires the business owner to clean the right of way in front of their stores.

Mayor Dermer stated that the report is accepted by acclamation.

Daniel Veitia spoke on the Green Market. He stated that there was discussion about moving the Normandy Market and they met with the vendors and they want to keep the market and also suggested to the City Commission to embrace the idea of a secondary market in Band Shell Park at Ocean Terrace Drive.

## **End of Discussion**

### **Item No.1:**

The Committee moved to direct staff to issue the RFP's, get direction from staff as to how to deal with issues that have been raised, such as location of markets and those of the vendor in North Beach and how best to deal with issues such as these in the future. The Committee also moved to allow for month-to-month extensions until the RFP process is completed. Commissioner Gross asked if the ability to adjust location during the agreement can be written into the agreement for flexibility. Motion carried unanimously.

City Clerk's Note: See Agenda item C2A.

### **Item No. 2:**

The Committee moved that the issue be discussed at the next meeting of the sidewalk café owners and brought back to this committee with a recommendation. **Robert Middaugh to handle.**

### **Item No. 3:**

Committee moved to approve the shell beach location as presented. **Robert Middaugh to handle.**

### **Item No. 4:**

The Committee moved to go to the full Commission with a recommendation of a six month extension of the pilot program allowing the dogs on the beachwalk, to include specific criteria as to how success or failure will be measured during or at the end of the six month period, and have a plan of action as to how the Administration is going to deal with the issue. Additionally, the Committee moved to have legal look into the authority and ability to ticket for both litter and not cleaning up after pets. **Fred Beckmann and Legal Department to handle.**

- C6B Report Of The Neighborhoods/Community Affairs Committee Meeting On March 22, 2006: **1)** Discussion Regarding Amending City Code For The Purposes Of Expanding The Types Of Transactions In Which The City Must Provide Notice Of Its Campaign Finance Laws; **2)** Discussion Regarding The "Drift" By The Artist Inigo Manglano-Ovalle To Be Commissioned For Placement In South Pointe Park, As Recommended By The Art In Public Places Committee; And **3)** Discussion Regarding The Location Of Lifeguard Stands On The Most Crowded Portions Of Our Beaches.

**ACTION:****Item No. 1:**

Item deferred to the next Neighborhoods/Community Affairs Committee meeting. **Vivian Guzman to place on the Agenda.**

**Item No. 2:**

The Committee moved to conditionally approve the project pending the satisfactory testing of the removal of graffiti from a sample piece of the proposed marble.

City Clerk's Note: See Agenda Item R7F.

**Item No. 3:**

The Committee moved to continue the discussion of this item at the next Commission retreat. **Ramiro Inguanzo to handle.**

- C6C Report Of The Finance And Citywide Projects Committee Meeting On March 23, 2006: **1)** Discussion Regarding Domestic Partner Benefits Coverage Termination - Miami Beach Fraternal Order Of Police Health Trust/Fire Fighters Insurance Trust; **2)** Discussion Regarding Exercising The Renewal Term Of The City's Agreement With SMG For The Management And Operation Of The Miami Beach Convention Center, The Jackie Gleason Theater Of The Performing Arts, Colony Theater, Byron Carlyle Theater, And Little Stage Theater; **3)** Discussion Regarding The Issuance Of A Request For Proposals For The Management And Operation Of Professional Food And Beverage Service For The Miami Beach Convention Center, With An Option To Manage Food And Beverage Services At Other City Cultural Facilities, If Deemed To Be In The City's Best Interest; **4)** Discussion Regarding The Normandy Park And Pool Project; And **5)** Discussion Regarding Mount Sinai Medical Center Request For Hurricane Mitigation Funding.

**ACTION****Item No. 1:**

Item deferred to April 20, 2006 meeting. **Patricia Walker to place on the next Agenda.**

**Item No. 2:**

The Committee made a recommendation to extend the contract with SMG for two one-year extensions, pursuant to a re-evaluation of the SMG Incentive Fee Performance schedule. **Max Sklar to handle.**

**Item No. 3:**

Finally upon completion of a lengthy discussion, the Committee recommended the issuance of an RFP to include all of the items previously listed.

City Clerk's note: See Agenda item C2K.

**Item No. 4:**

Following a discussion it was agreed that the public must be informed of the latest delay in the opening of Normandy Park and Pool. Therefore the Administration will explore other avenues to provide activities for the children and citizens this summer at that location. **Jorge Chartrand, Hilda Fernandez and Kevin Smith to handle.**

**Item No. 5:**

Item deferred to April 20, 2006 meeting. **Patricia Walker to place on the next Agenda.**

**C7 - Resolutions****10:39:57 a.m.**

C7A A Resolution Setting A Public Hearing Pursuant To Miami Beach City Code Section 118-262, To Review A Design Review Board Decision Requested By The Miami Design Preservation League And By Affected Persons Pertaining To DRB File No. 18871.  
(City Clerk's Office)

**ACTION: Resolution No. 2006-26157 adopted as amended.** Motion made by Commissioner Bower; Seconded by Commissioner Garcia; Voice vote 7-0. Public Hearing scheduled for ~~May 10~~ June 7, 2006. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. R. Parcher to notice and handle.

Steven T. Maher who represents the property owner, stated that he has a problem with setting the public hearing on May 10.

Bill Farkas, Executive Director of the Miami Design Preservation League, requested that the Commission waive the \$400 appeal fee and stated that the appeal process should be friendlier by waiving the appeal fees.

Jose Smith, City Attorney, stated that there is no fee waiver provision, but it is up to the discretion of the City Commission.

Commissioner Steinberg and Jorge Gonzalez, City Manager, both stated that since there is no provision in the City Code to waive the appeal fee, they cautioned the Commission to not waive the fee.

Bill Farkas, Executive Director of the Miami Design Preservation League, withdrew his request.

City Clerk's Note:

1. 15-day notice Neighbors (description of the request, time and place of hearing).
2. No mailers required.
3. Check with Jorge Gomez – Courtesy notice nonprofit community organization notification
4. Verbatim Transcript and written statement, or if represented by legal counsel, appropriate legal briefs, shall be filed no later than two weeks prior to the first public hearing – (BY WEDNESDAY – May 24)
5. File No. 18871 Notice of Appearance and Certificate of Service.

10:21:24 a.m.

C7B A Resolution Consenting To The Appointment Of Gladys Acosta As Information Technology Director.  
(City Manager's Office)

**ACTION: Item separated for discussion by Jorge Gonzalez, City Manager. Resolution No. 2006-26158 adopted. Item adopted without objections.** Mayra Buttacavoli to handle.

Gladys Acosta thanked Jorge Gonzalez, City Manager, and Patricia Walker, Chief Financial Officer, for their support with implementing new programs and the strategic planning.

Commissioner Garcia asked the City Manager for the report he requested for the Cyborg System.  
**Patricia Walker to handle.**

Vice-Mayor Gross stated that Gladys's training in the private sector has helped her and the City of Miami Beach. He thanked her for the capabilities that she brings to the job.

Handout or reference material

1. Oath

C7C A Resolution Authorizing The City Manager Or His Designee To Submit The Following Grant Funding Requests: 1) Grant Application To The Miami-Dade County Homeless Trust For Funding In An Amount Not To Exceed \$64,000 For Funding From The 2006 HUD Super NOFA For Homeless Outreach And Placement Activities; And 2) Grant Application To The Children's Trust, Service Partnership Program For Funding, In An Amount Not To Exceed \$400,000 For The Planning Phase And Pilot Program Of A Service Partnership To Serve Youth Ages 13-18 Years; Further Appropriating The Grants And Matching Funds, If Approved And Accepted By The City; And Authorizing The Execution Of All Necessary Documents Related To This Application.  
(Grants Management)

**ACTION: Resolution No. 2006-26159 adopted.** Patricia Walker to appropriate the funds if approved and accepted. Judy Hoanshelt to handle.

C7D A Resolution Approving And Authorizing The City Manager To Issue A Certification Of Consistency With The City's Consolidated Plan To The Housing Authority Of The City Of Miami Beach (HACMB) For Their Annual Plan For Fiscal Year 2006, To Be Submitted By HACMB To The U.S. Department Of Housing And Urban Development (U.S. HUD).  
(Neighborhood Services)

**ACTION: Resolution No. 2006-26160 adopted.** Vivian Guzman to handle.

C7E A Resolution Authorizing The City Manager To Issue A Certificate Of Consistency With The City's Consolidated Plan To The City's Neighborhood Services Department Office Of Homeless Coordination To Utilize Funds From U.S. Department Of Housing And Urban Development (HUD) To Provide Outreach And Case Management Services To Homeless Individuals In Miami Beach.  
(Neighborhood Services)

**ACTION: Resolution No. 2006-26161 adopted.** Vivian Guzman to handle.

- C7F A Resolution Establishing April 2006 As "Fair Housing Month" In The City Of Miami Beach.  
(Neighborhood Services)

**ACTION: Resolution No. 2006-26162 adopted.** Vivian Guzman to handle.

- C7G A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Home Investment Partnerships (Home) Program Agreement With The Miami Beach Community Development Corporation (MBCDC), Providing \$300,000 Of Fiscal Year 2004/05 Home Program Set Aside Funds, For The Rehabilitation Of The Westchester Apartments, Located At 516 15th Street, Miami Beach, To Provide 24 Rental Units For Income - Eligible Participants In Accordance With The Home Program Requirements; Further, Approving A One -Time Only Assignment Of This Agreement To MBCDC: Westchester Apartments, LLC, A Not-For-Profit Entity Created By MBCDC As A Successor In Interest In Title To The Property Located At 516 15th Street, And Under This Agreement.  
(Neighborhood Services)

**ACTION: Resolution No. 2006-26163 adopted.** Vivian Guzman to handle.

**11:24:13 a.m.**

- C7H A Resolution Approving An Interlocal Agreement With Miami-Dade County For A Computerized Parking Ticket Issuing System, And Authorizing The Mayor And City Clerk To Execute The Agreement.

(Parking Department)

**ACTION: Item separated for discussion by Commissioner Libbin. Resolution No. 2006-26164 adopted without objection. Agreement amended.** Saul Frances to handle.

**Amendment to the Agreement:**

Article Four – Right to Offset. If the CITY fails to meet any of its obligations as set forth in this agreement and as determined by the County, and the County incurs costs, expenses or damages as a result of such failure, the County, ~~in addition to any other remedies,~~ reserves the right to offset said costs, expenses or damages primarily from any sums due the City from any parking ticket revenue source in an amount equal to the County's cost of equipment assigned to the City, and secondarily the County may pursue any other remedies, but subject to the City's administrative and legal rights as provided in Article Seven.

Commissioner Libbin stated that Harvey Ruvin, Clerk of Court, Miami-Dade County, Florida, was at the forefront of bringing the County up-to-date on this issue and wanted to recognize him. He will invite Mr. Ruvin to the next Commission Meeting to recognize him for his work.

- C7I A Resolution Declaring The Existence Of A Parking Emergency With Respect To Increased Traffic And Parking Demand On The Following Respective Dates For The Following Respective Events; October 6-15, 2006 For The South Florida Auto Show; December 6-10, 2006 For Art Basel; December 31, 2006 - January 1, 2007 For New Year's Eve Event; January 4-8, 2007 For Art Miami; January 12-14, 2007 For Art Deco Weekend; January 26-28, 2007 For Graphics Of The Americas; January 29 - February 4, 2007 For Superbowl Weekend; February 15-19, 2007 For The NMMA Miami International Boat Show; May 24-28, 2007 For Memorial Day Weekend; And August 31 - September 3, 2007 For Labor Day Weekend; Allowing For The Use Of Specified Vacant Surface Lots Citywide.

(Parking Department)

**ACTION: Resolution No. 2006-26165 adopted.** Saul Frances to handle.

- C7J A Resolution Authorizing The Mayor And The City Clerk To Accept The Donation Of \$250 From Randy Gumenic, A Miami Beach Resident, For The Purchase Of A Handheld Universal Microchip Scanner For The Miami Beach Police Department, Which Will Be Utilized To Reunite Lost And Stolen Pets With Their Owners.

(Police Department)  
(Deferred from March 8, 2006)

**ACTION: Resolution No. 2006-26166 adopted.** Chief DeLucca to handle.

- C7K A Resolution Accepting The Donation Of A Mobile Video System To Include A Video Camera, Monitor And Cassette Recorder; A Total Value Of \$15,000 To The Miami Beach Police Department, From Mr. Lewis S. Nadel; This Equipment Will Be Utilized For Criminal Investigations Requiring Covert Surveillance In An Effort To Reduce Crime.

(Police Department)

**ACTION: Resolution No. 2006-26167 adopted.** Chief DeLucca to handle.

- C7L A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Qualifications Received Pursuant To Request For Qualifications (RFQ) No. 08-05/06, For Professional Architectural And Engineering Services For Design, Permitting And Construction Management Of The Atlantic Greenway Network "Beachwalk II" Project, For The City Of Miami Beach; Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Firm Of Coastal Systems International, Inc.; And Should The Administration Not Be Able To Negotiate An Agreement With The Top-Ranked Firm, Authorizing The Administration To Negotiate With The Second-Ranked Firm Of BEA International; And Should The Administration Not Be Able To Negotiate An Agreement With The Second-Ranked Firm, Further Authorizing The Administration To Negotiate With The Third-Ranked Firm Of Behar-Ybarra & Associates Of Florida, Inc.

(Public Works)

**ACTION: Resolution No. 2006-26168 adopted.** Fred Beckmann to handle.

- C7M A Resolution Opposing House Bill 1199 And The Proposed Elimination Of Local Cable Franchises; Further Opposing House Joint Resolution 7247 Proposing Amendments To The State Constitution To Limit The Expenditures Of Counties And Municipalities.

(Economic Development)

**ACTION: Resolution No. 2006-26169 adopted as amended without objection.** Kevin Crowder to handle.

Jorge Gonzalez, City Manager, requested amending the resolution regarding House Bill 1199 by giving the City Manager the discretion to transmit the resolution.

- C7N A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Agreement Between City Of Miami Beach, Florida And Bay Lights Development, Co. For Rue Granville Seawall Replacement, Subject To Final Approval By The City Manager And City Attorney, And Authorizing The City Manager And City Attorney To Take Such Actions As May Be Necessary To Carry Out The Intent Hereof.

(Public Works)

**ACTION: Resolution No. 2006-26170 adopted.** Fred Beckmann to handle.

**End of Consent Agenda****REGULAR AGENDA****R5 - Ordinances****1:37:00 a.m.**

- R5A An Ordinance Amending Chapter 70 Of The City Code; Adding A New Section 70-404 Entitled "Additional Restrictions," Making It Unlawful For Persons Convicted Of Violation Of Sections 794.01, 800.04, 827.011, Or 847.0145, Florida Statutes, To Be Present In A Park Or Child Care Facility Under Specified Circumstances With Exceptions; Setting A Penalty; Providing For Codification, Repealer, Severability And An Effective Date. **10:15 a.m. Second Reading, Public Hearing**  
(Requested by Commissioner Richard L. Steinberg)  
(First Reading on March 8, 2006)

**ACTION:** Public Hearing held. **Ordinance No. 2006-3512 adopted.** Motion made by Commissioner Steinberg; seconded by Commissioner Bower; Ballot vote: 6-0; Absent: Commissioner Garcia. R. Parcher to transmit to Municipal Code. Chief De Lucca to handle.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald

**11:27:32 a.m.**

- R5B An Ordinance Amending Chapter 142, "Land Development Regulations," Of The City Code, By Amending Division 11, "I-1 Light Industrial District," By Requiring Conditional Use Approval For New Construction Of Structures 50,000 Square Feet And Over; Providing For Repealer, Severability, Codification And An Effective Date. **10:45 a.m. First Reading, Public Hearing.**  
(Planning Department)

**ACTION:** Public Hearing held. **Ordinance approved on first reading with the referral of the additional review criteria for traffic impact in the neighborhood and any other appropriate criteria to the Planning Board.** Motion made by Commissioner Steinberg; seconded by Vice-Mayor Gross; Ballot vote: 7-0. Second reading and second public hearing scheduled for May 10, 2006 at 5:01 p.m. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Nancy Liebman stated that the group present was going to ask that the meeting open and continue to 5:00 p.m. because there are lots of people who couldn't come, however there is a good crowd of people attending. She stated that the group is fine with hearing the item now.

Jorge Gomez, Planning Director, introduced the items.

Discussion was held.

Jorge Gomez, Planning Director, stated for the record, that his interpretation of the ordinance is if there is a structure that has 50,000 square feet or greater it requires conditional use approval. He stated that he would not interpret this ordinance that if someone takes a 50,000 square foot building and is told by the building owners that they have five (5) 10,000 square foot tenants, that he will interpret it as though they are still subject to conditional use.

Jorge Gonzalez, City Manager, stated that there are two ordinances. The first ordinance (R5B) is a building 50,000 square feet or larger must go to conditional use. If it is one building with 50,000

square feet or 10 buildings with 5,000 square feet, it is still one mass; the size of the structure.

Commissioner Steinberg stated that he is in agreement.

Jorge Gonzalez, City Manager, regarding R5C, stated that regardless of which is the order in which the applicant will proceed, and per Jorge Gomez's suggestion or the size of the unit, any new construction which requires conditional use should go to the Planning Board first.

Jorge Gomez, Planning Director, explained that this should be the subject of a separate ordinance. **Jorge Gomez to handle.** He asked if the first ordinance (R5B) can be expanded to any other districts beside the I-1 District. He stated that the Planning Board recommended limiting to the I-1 district.

Vice-Mayor Gross asked to approve the ordinance for the I-1 District and to deal with the other districts at another time. He suggested approving these two ordinances and then discussing at the Commission level to expand.

Nancy Liebman, Belle Isle, spoke.

Heather Urban Sunset Island 3 and 4 spoke.

Winston Lett, Vice-President of Sunset Harbour South, spoke.

Vladimir Kamenko spoke.

Marilyn Freundlich spoke.

Juan Duarte, President Sunset Harbour South, spoke.

Herbert Frank, President of the Belle Isle Residence Association, spoke.

Carter McDowell spoke.

Alexander Angueira, Esq., representing the property owner in the area, gave a presentation.

Mayor Dermer thanked Mr. Angueira and stated that his presentation was excellent and his preparation should be commended. He emphasized that Mr. Angueira did an excellent job. He explained that Mr. Angueira's argument is that the ordinance is not broad enough and Mr. Angueria agreed.

Gary Held, First Assistant City Attorney, stated that the Mr. Angueria's presentation is directed to an ordinance that is not in front to the Commission right now. He explained that the ordinance that appears to be the target of his presentation would be a cap or an annual limit as recommended by the voters which would have prevented the project his client is proposing and this ordinance does not prevent the project his client is proposing. This ordinance establishes a review process for projects of the magnitude that is being proposed to go through, and this ordinance does not single out anyone project. It is a process that is applied to all developments across the City. He explained that if imposing the conditional use process is unconstitutional or unfair then that will apply to every conditional use and this is simply not true, it is not the law and it would not result in a court voiding this ordinance. He stated that the chart that presented identifying the square footages of various properties was a chart based on lot size; this is not a lot size ordinance, this is a structure based ordinance and any combination of property owners can combine to create a proposed structure that will be subject to this ordinance; thus Mr. Angueira's client is not the only property owner in the I-1 district that will be subject to the ordinance. He clarified that the Planning Board does not call zoning in progress on any project. It happens automatically by application of the City Code.

Jorge Gomez, Planning Director, explained that this ordinance does not prohibit uses, or targets any specific development; it is an ordinance that affects the immediate area of this property owner. He stated that Mr. Angueira made an excellent presentation but explained that this ordinance allows the process to have a body to review the impact of the development in terms of traffic, etc. to ensure compatibility with the neighborhood, and this is what the conditional review process is. It is not prohibitive but it requires that level of review of criteria to access the impact of the proposed used on

the neighborhood.

Vice-Mayor Gross stated that this ordinance is not a ban and it is only a conditional use process. He emphasized that all of the information that Mr. Angueira said the Planning Board should evaluate, will be evaluated, because this is the process of the conditional use. He explained that the Planning Board will review the impact of any project in the I-1 district. He believes this should be expanded more broadly. He stated that he had asked Jorge Gomez, Planning Director, to draft language to clarify that the Planning Board can and should consider the traffic impact on the neighborhood.

Jorge Gomez, Planning Director, stated that this would be an additional criteria for the Planning Board's consideration: He read the following amending language: The cumulative size, residential density and or commercial intensity of the proposed use shall not result in a traffic transportation impact that will adversely affect traffic circulation on the roadway network or the surrounding neighborhood.

Gary Held, First Assistant City Attorney, suggested that the above language should be referred to the Planning Board.

Motion made by Commissioner Steinberg to approve the ordinance and refer to the Planning Board the additional criteria and any other review criteria.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald
2. Letter to Jorge Gonzalez, dated February 21, 2006 in reference to Miami Beach Light Industrial Zone from Juan Duarte, President, Sunset Harbor South Condo Association, Winston Lett, Vice President, Sunset Harbor South Condo Association, Marilyn Freudich, President, Town Homes at Sunset Harbor Condo Association Inc., Linda Arama, Vice President, Board of Directors, Sunset Harbor North Condo Assoc., Herb Frank, President, Belle Isle Residents Associations, Frank Kruzeswki, Chair, Sunset Harbor Neighborhood Association, Amy Rabin, Sunset Island 3 & 4 Homeowners Association.

**11:27:32 a.m.**

- R5C An Ordinance Amending Chapter 142, "Land Development Regulations," Of The City Code, By Amending Division 11, "I-1 Light Industrial District," By Providing That To The Greatest Extent Possible, The First Step In The Process For New Construction Of Structures 50,000 Square Feet And Over Shall Be The Conditional Use Approval By The Planning Board; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading.**  
(Planning Department)

**ACTION: Ordinance approved on First Reading as amended and the referrals to the Planning Board (see below).** Motion made by Vice-Mayor Gross; seconded by Commissioner Steinberg; Ballot vote: 7-0. Second Reading and Public Hearing scheduled for May 10, 2006 at 5:01 p.m. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

See discussion on item R5B.

Amendments:

1. Planning Board approval first
2. Remove the words "which to the greatest extent possible,"

Gary Held, First Assistant City Attorney, stated that language will be drafted between first and second reading to clarify the issue raised by Jorge Gomez dealing with the interpretation issue. **Jorge Gomez to handle.**

Jorge Gonzalez, City Manager, stated that there was discussion regarding perhaps having all conditional use go first to the Planning Board and asked if this should be included.

Gary Held, First Assistant City Attorney, stated that this should be a separate ordinance. **Jorge Gomez to handle.**

Jorge Gonzalez, City Manager, asked for guidance on: 1) should another ordinance be drafted that would make all conditional uses go first to the Planning Board; and 2) Is there any desire to make the conditional use process for structure 50,000 square feet or larger beyond the I-1 District.

Vice-Mayor Gross stated that item 2 should be referred to the Planning Board and to look at all district.

Commissioner Garcia stated that the Commission is giving power away to the Planning Board.

Jorge Gonzalez, City Manager, stated that there are two referrals to the Planning Board; 1) the expansion beyond the I-1 District for the requirement of conditional use to look at the different thresholds, and 2) the order in which the conditional use will begin with the Planning Board.

**Referral: Jorge Gomez to place on the committee agenda and to handle.**

Handout or Reference Materials:

1. Letter to Jorge Gonzalez, dated February 21, 2006 in reference to Miami Beach Light Industrial Zone from Juan Duarte, President, Sunset Harbor South Condo Association, Winston Lett, Vice President, Sunset Harbor South Condo Association, Marilyn Freudich, President, Town Homes at Sunset Harbor Condo Association Inc., Linda Arama, Vice President, Board of Directors, Sunset Harbor North Condo Assoc., Herb Frank, President, Belle Isle Residents Associations, Frank Kruzeswki, Chair, Sunset Harbor Neighborhood Association, Amy Rabin, Sunset Island 3 & 4 Homeowners Association.

**12:58:54 p.m.**

R5D An Ordinance Amending Chapter 142, "Land Development Regulations," Of The City Code; By Amending Division 3, "Residential Multifamily Districts," Subdivision II, "RM-1 Residential Multifamily Low Intensity," By Adjusting The Height For Any New Construction Or Additions To Existing Structures In The Flamingo Park Local Historic District; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading.**  
(Planning Department)

**ACTION: Ordinance approved on First Reading.** Motion made by Commissioner Bower; seconded by Commissioner Libbin; Ballot vote: 6-0; Absent: Commissioner Cruz. Second Reading and Public Hearing scheduled for May 10, 2006. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Jorge Gomez, Planning Director, introduced the item.

Motion made by Commissioner Bower to refer the reduction of the FAR, the lot aggregation and the affordable housing and workforce housing issues to the Planning Board and to the Land Use and Development Committee for review; seconded by Vice-Mayor Gross. No vote taken.

Arthur Marcus, representing the Miami Design Preservation League, spoke.

Mark Needle, member of the Flamingo Park Neighborhood Committee, spoke.

Mayor Dermer stated that Mark Needle did the first draft of the Charter Amendment from the Save Miami Beach movement. He asked Mr. Needle what the City Commission could do now that is not

presently doing.

Mark Needle stated that the City Commission could institute zoning in progress on the FAR issue by placing an ordinance for first reading at the next meeting along with the companion item that will be going for second reading. He suggested closing the doors and discussing the issues responsibly at the Planning Board. **Jorge Gomez to handle.**

Jorge Gomez, Planning Director, stated that he will try to draft an ordinance dealing with these issues to be discussed at the Planning Board at the end of May and then bring in front of the City Commission at the Commission Meeting in June.

Don Worth spoke.

Bill Farkas, Executive Director of the Miami Design Preservation League, spoke.

**Motion made by Commissioner Steinberg to bring a proposed ordinance lowering the FAR for first reading on May 10, 2006 and in the interim refer the item to the Land Use and Development Committee and to the Planning Board for discussion; seconded by Commissioner Bower; Voice vote: 5-1: Opposed: Commissioner Libbin; Absent: Commissioner Garcia. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to place on committees agendas and handle.**

Vice-Mayor Gross requested the actual FAR for a typical building in the Historic District for 1, 2, and 3 stories for the City Commission to see what is compatible. **Jorge Gomez to handle.**

#### Handout or Reference Material

1. Color copy titled: Flamingo Historic District, Miami Beach
2. Letter to the Mayor dated April 11, 2006 from the Miami Design Preservation League in reference to the Flamingo Historic District, signed by Arthur J. Marcus.

#### 1:38:08 p.m.

R5E An Ordinance Amending Chapter 46 Of The City Code, Entitled "Environment," By Amending Article IV, Entitled "Noise," By Amending Section 46-156, Entitled "Temporary Permits," By Amending The Prohibited Areas For Construction Noise And Providing Exceptions Thereto; Amending Section 46-158, Entitled "Enforcement By Code Inspectors; Notice Of Violation," By Amending The Procedures For Warnings In Single Family Zoning Districts; Providing For Codification, Repealer, Severability, And An Effective Date. **First Reading.**

(City Manager's Office)

**ACTION: Ordinance approved on First Reading with a referral to the Land Use and Development Committee the issue of construction noise.** Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Ballot vote: 6-0; Absent: Commissioner Garcia. Second Reading and Public Hearing scheduled for May 10, 2006. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to place on the Land Use and Development Committee agenda. Robert Middaugh to handle.

Commissioner Libbin stated that there should be a differentiation in terms of warnings between party houses and a private party in a residential area such as birthday parties.

**R7 - Resolutions****1:31:12 p.m.**

R7A A Resolution Following A Duly Noticed Public Hearing To Obtain Citizen Input On Same, Approving And Authorizing The Mayor And City Clerk To Execute A Lease Agreement Between The City And Manpriya, Inc., For The Lease Of Approximately 2080 Square Feet Of City-Owned Property, Located At 22 Washington Avenue, Miami Beach, Florida, For The Purpose Of An Outdoor Café Associated With A Restaurant Operation Located At 816 Commerce Street, Which Is Directly Adjacent To And West Of The Subject City Property; Said Lease Having An Initial Term Of Five Years, With An Option To Renew For Four Years And 364 Days, At The City's Discretion; Further Waiving, By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements, As Required By Section 82-39 Of The Miami Beach City Code. **10:20 a.m. Public Hearing.**

(Asset Management)

**ACTION:** Public Hearing Held. **Resolution No. 2006-26171 adopted. Agreement amended.** Motion made by Commissioner Bower; seconded by Vice-Mayor Gross; Voice vote: 7-0. Tim Hemstreet to handle.

Steve Polisar expressed a heartfelt welcome to City Attorney, Jose Smith, and a heartfelt gratitude to outgoing City Attorney, Murray Dubbin. He also spoke on this item.

Commissioner Libbin pointed out that there is going to be construction on the sidewalk for a year or so and also that construction noise will be occurring in the area in addition to dust, etc. He wanted to make sure that Mr. Polisar's client is aware of this.

Vice-Mayor Gross emphasized that since this is an outdoor café in a somewhat residential neighborhood noise should be controlled, if there is a lot of noise the City will stop it and may terminate the lease.

**Amendments to the Agreement:**

1. Page 299 in the agenda - Section 2.1, it should read April 2011, if it's a 5 year term commencing in 2006.

2. Subsection 8.4 (page 6 of the Lease/page 304 of the City Commission Agenda). Add a second paragraph.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IN THE EVENT OF A BREACH BY TENANT OF THIS SUBSECTION 8.4, THE CITY, IN ITS SOLE DETERMINATION AND JUDGMENT, SHALL HAVE THE RIGHT (BUT NOT THE OBLIGATION) TO AUTOMATICALLY TERMINATE THIS LEASE, WITHOUT ANY LIABILITY TO THE CITY, SAID TERMINATION EFFECTIVE UPON THREE (3) DAYS WRITTEN NOTICE TO TENANT. TO THE EXTENT PERMITTED BY LAW, TENANT HEREBY WAIVES AND RELEASES ALL RIGHTS NOW OR HEREAFTER CONFERRED BY FLORIDA STATUTE, THE MIAMI-DADE AND MIAMI BEACH CODES (RESPECTIVELY), AND/OR OTHERWISE THAT WOULD HAVE THE EFFECT OF LIMITING OR MODIFYING THE CITY'S RIGHTS TO TERMINATE THIS LEASE PURSUANT TO THIS SUBSECTION.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald
2. Agreement amendment language Subsection 8.4 page 6 of lease and page 304 of the agenda distributed at the meeting.

**1:41:38 p.m.**

- R7B A Resolution To Consider At A Public Hearing, An After-The Fact Revocable Permit Request By AB Green Raleigh LLC, Owner Of The Raleigh Hotel Located At 1775 Collins Avenue, To Retain Portions Of A Stair, Columns, Landscaping And A Masonry Fence Wall In The Adjacent Eighteenth Street City Right-Of-Way.. **10:30 a.m. Public Hearing.**  
(Public Works)

**ACTION:** Public Hearing opened and continued to May 10, 2006 at 10:30 a.m. without objection. Lilia Cardillo to place on the Commission Agenda. Fred Beckmann to handle.

Handout or Reference Materials:

1. Notice of Ad in The Miami Herald

**1:41:15 p.m.**

- R7C A Resolution Approving And Officially Adopting The Basis Of Design Report (BODR) For The South Pointe Redevelopment Area (RDA) Phase III, IV And V, Neighborhood 12 Right-Of-Way Improvement Project.  
(Capital Improvement Projects)

**ACTION: Resolution No. 2006-26172 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Commissioner Garcia. Jorge Chartrand to handle.

Handout or Reference Materials

1. Bound document titled "City of Miami Beach – Right-of-way Infrastructure Improvements Program – South Pointe Phases III, IV, & V."

**1:45:31 a.m.**

- R7D A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 1 To The Agreement Between The City And Hazen & Sawyer, P.C., In The Amount Of \$16,683,000, Extending The Term Of The Agreement From The Current Termination Date Of September 2006, To A New Termination Date Of September 2012, To Provide Program Management Services In Accordance With The Existing Agreement, As Amended Herein.  
(Capital Improvement Projects)

**ACTION: Resolution No. 2006-26173 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Cruz; Voice vote: 6-0; Absent: Commissioner Garcia. Jorge Chartrand to handle.

**2:07:09 p.m.**

- R7E A Resolution Approving, On First Reading, A Lease Agreement Between The City And Internal Intelligence Services, Inc., For Use Of Approximately 1,585 Square Feet Of City-Owned Office Space On The 6th Floor Of Historic City Hall, Located At 1130 Washington Avenue, Miami Beach, Florida, For An Initial One Year Term, Commencing On May 1, 2006, And Ending On April 30, 2007, With Two Additional One Year Renewal Terms, At The City's Sole Discretion; Further Waiving, By 5/7ths Vote, The Competitive Bidding And Appraisal Requirements, As Required By Section 82-39 Of The Miami Beach City Code, Finding Such Waiver To Be In The Best Interest Of The City; And Further Setting A Public Hearing On May 10, 2006, Pursuant To The Second Reading (And Final Approval) Of The Lease Agreement. **First Reading.**  
(Asset Management)

**ACTION:** Item withdrawn by the Administration.

**2:07:28 p.m.**

R7F A Resolution Approving The Selection Of A Public Art Commission For South Pointe Park Entitled "Drift", As Recommended By The Art In Public Places Committee And Neighborhoods/Community Affairs Committee; Authorizing The City Manager To Execute A Contract With The Artist, Iñigo Manglano-Ovalle; And Appropriating Funds, Not To Exceed \$500,000, As Follows: \$153,000, Fund 147 – Art In Public Places From South Pointe Park Project; \$135,000, Capital Budget South Pointe Capital Fund – Contribution For South Pointe Area Art In Public Places; And \$212,000, Fy 2006 South Pointe Contingency Capital Fund.

(Tourism & Cultural Development)

**ACTION: Resolution No. 2006-26174 adopted as amended subject to the resolution of the parking and with the recommendations of the City Manager.** Motion made by Commissioner Steinberg; seconded by Vice-Mayor Gross; Voice vote: 4-2; Opposed: Mayor Dermer and Commissioner Cruz; Absent: Commissioner Garcia. Patricia Walker to appropriate the funds. Max Sklar to handle.

Max Sklar, Cultural Arts and Tourism Director, gave the background on this item.

Motion made by Commissioner Bower; seconded by Commissioner Libbin.

Heather Urban, Former Chairperson of the Art in Public Places Committee, spoke.

Commissioner Bower is concerned with the maintenance of this item; how will it be maintained and protected from the sun, the sand and the graffiti.

Jeremy T. Chestler, member of the Art in Public Places Committee, spoke.

Charles Seiger, Architect, spoke.

Commissioner Steinberg wants to know where the City is in developing parking for this area.

Jorge Gonzalez, City Manager, stated that they are developing an LTC. The direction he received from the City Commission before was to explore a joint development with the owners of lot 52, Block 51 and this is not viable. Instead, the Administration is bringing two options to the Finance and Citywide Projects Committee, which are 1) underground parking at the Penrod site, and 2) underground parking in the park itself; schematics are being done now. The Administration is hoping to have everything ready for the April 20<sup>th</sup> meeting of the Finance and Citywide Projects Committee.

**Tim Hemstreet to handle.**

Commissioner Steinberg stated that he cannot support this without knowing that there will be access to it. He stated that he would like to defer the item until the parking is defined. Motion made by Commissioner Steinberg to defer; seconded by Commissioner Cruz. No vote taken.

Tom Daly, from The Related Group (Developer), stated that he is proposing going down a half of a level and leave the top parking intact.

Erika Brigham spoke.

Discussion continued.

Motion made by Commissioner Steinberg to defer this issue until after the Finance and Citywide Committee meeting and refer to the Design Review Board (DRB) in the interim; seconded by Commissioner Cruz. No vote taken.

Jorge Gonzalez, City Manager, suggested an approval subject to the resolution of the parking, because an approval of the project is needed to be considered at the Design Review Board (DRB), and also to amend the Hardgrave's contract.

Commissioner Steinberg withdrew his motion to defer and he moved the item with the City Manager's recommendation to approve subject to resolution of the parking; seconded by Vice-Mayor Gross.

Commissioner Bower added that it is also subject to be able to maintain it. She is also concerned with liability the same as Commissioner Garcia.

Max Sklar, Cultural Arts and Tourism Director, stated that they will work with the artist on that, but the height of the sculpture will take care of the problem of somebody placing a child on it for photographs, also the artist will provide the City with extra pieces of the marble. **Max Sklar to handle.**

Commissioner Steinberg asked in reference to the testing, how it will be tested to be able to withstand time and exposure to the elements.

Max Sklar, Cultural Arts and Tourism Director, stated that they will have to rely on the specifications from the manufacturer.

Jorge Gonzalez, City Manager stated that the Administration needs to make sure that the marble can be cleaned easily or treated to prevent graffiti. **Max Sklar to handle.**

Commissioner Bower asked which department will be responsible for maintenance and Jorge Gonzalez, replied that Property Maintenance will be responsible.

Jorge Gonzalez, City Manager, stated that the Administration needs to find out from the suppliers of this material what is the maintenance required. **Max Sklar to handle.**

Mayor Dermer suggested finding out the maintenance requirements before the contract is signed because since the City is buying this piece of art, it will become the City's maintenance requirements. **Max Sklar to handle.**

**1:36:04 p.m.**

R7G A Resolution Amending Resolution No. 2006-26153 Adopted By The City On March 8, 2006, To Provide That The Series 2006 Bonds Shall Be Secured By The Reserve Account; Providing For The Funding Of The Reserve Account With Moneys Loaned By The City's General Fund; Providing For The Repayment Of The General Fund Moneys From Available Moneys Of The Water And Sewer Utility; Ratifying Resolution 2006-26153; Authorizing Officers And Employees Of The City To Take All Necessary Related Actions; And Providing For An Effective Date.

(Finance Department)

**ACTION: Resolution No. 2006-26175 adopted.** Motion made by Vice-Mayor Gross; seconded by Commissioner Cruz; Voice vote: 7-0. Patricia Walker to handle.

**9:34:50 a.m.**

R7H A Resolution Approving A Conditions Of Employment Agreement Between The City Of Miami Beach And City Attorney Jose Smith And Authorizing The Mayor And City Clerk To Execute The Agreement.

(Requested by Mayor David Dermer)

**(Memorandum and Agreement to be Submitted In Supplemental)**

**ACTION: Resolution No. 2006-26176 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Cruz; Voice vote: 7-0. Mayra Diaz Buttacavoli to handle.

Oath of Office given by his long-time friend and Judge for the Commonwealth of Massachusetts, Judge Isaacs Borenstein and City Clerk Robert Parcher.

## Handout or Reference Materials

1. E-mail from Jean Olin, Assistant City Attorney to Robert Parcher, City Clerk, reference Oath of Office for Jose Smith, City Attorney.

**9:34:29 a.m.**

R7I A Resolution Relating To The City Attorney Recognizing His Exemplary Service To The City For Over Ten And A Half Years; Retaining Him As Special Counsel, For A Five Month Period; Approving An Agreement Between The City And Murray H. Dubbin For Separation And Continuing Service; Setting An Effective Date.

(City Attorney's Office)

**(Memorandum and Agreement to be Submitted In Supplemental)**

**ACTION: Resolution No. 2006-26177 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 7-0. Ramiro Inguanzo to handle.

**R9 - New Business and Commission Requests**

R9A Board And Committee Appointments.

(City Clerk's Office)

**ACTION:****Health Facility Authority Board:**

Allison Stone Attorney	Term expires 6/19/2009	City Appointment TL 12/11
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**Loan Review Committee:**

Rene Varela	Term expires 12/31/07	Appointment by Mayor Dermer TL 12/13
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**Miami Beach Commission on the Status of Women:**

Dr. Elsa Orlandini	Term expires 12/31/06	Appointed by Mayor Dermer TL 12/13
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**Miami Beach Sister Cities Program:**

Dr. David Lehrman Other	Term expires 12/31/07	Appointed by Mayor Dermer TL 12/10
John Gale Pescara, Italy	Term expires 12/31/07	Appointed by Mayor Dermer TL 12/08
Armando Hernandez Cozumel, Mexico	Term expires 12/31/07	Appointed by Mayor Dermer TL 12/08
Bernice Martinez Other	Term expires 12/31/07	Appointed by Mayor Dermer TL 12/09
Michael McNamee Fujisawa, Japan	Term expires 12/31/07	Appointed by Mayor Dermer TL 2/11
Roberto Datorre Almonte, Spain	Term expires 12/31/07	Appointed by Mayor Dermer TL 12/09
Bruce Reich Krumlov, Czech Republic	Term expires 12/31/07	Appointed by Mayor Dermer TL 12/13

**Police Citizens Relations Committee:**

Ronald Krongold	Term expires 12/31/07	Appointed by Commissioner Libbin TL 12/13
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R9A1 Board And Committee Appointments - City Commission Appointments.  
(City Clerk's Office)

**ACTION**

Motion made by Commissioner Bower to nominate Allison Stone for the Attorney position for the Health Facility Authority Board. Appointed without objection.

**3:22 470 p.m.**

R9B1 Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.)

**ACTION:**

**Speaker**

1. Mitchell Chonin, a performer on Lincoln Road, stated that the issue with Code Compliance is affecting him and a lot of people. He clarified that if any lady on Lincoln Road does not want to dance with him he does not force the ladies to dance, he dances for them. The performers are having a problem with Code Compliance because every three months they have to participate in the lottery; you can get picked or not; now the lottery was stopped. He stated that there is inconsistency between Code Compliance and the Police Department. Sometimes the Code Officers come out and sometimes they do not. A Police Officer would come around and tell him that he is culture and he is Miami Beach and then the Code Officer comes and tell him that he cannot be there and that he cannot ask for tips because he does not have a permit, then they call the same Police Officer that tells him that they love his show. Since the lottery was stopped, he does not know what is going on because apparently there is a battle with SEIU and the City. He stated that other major cities, Chicago, New York, Cambridge, and Los Angeles have performers with permits performing on the streets. He wants to be able to perform on Lincoln Road with a legitimate permit from the City. He asked if something has been done about this,

Commissioner Bower stated that she has tried. She stated that SEIU and the City are trying to work something out. She stated that the City Manager is going to meet with Code Compliance and everyone involved to come up with solutions. The meeting is scheduled for Wednesday.

Jorge Gonzalez, City Manager, stated that there will be an internal meeting of City Staff and then a meeting with the public to inform everyone.

Commissioner Bower asked Mr. Chonin to call her office at the end next week.

2. Marty Evans stated that this is the beginning of a great partnership between the City and IBM and also send a salute to Commissioner Steinberg for his vision. He suggested the City considers a big celebration or ribbon cutting when the final contract is signed to cement this partnership.

**6:23:24 p.m.**

R9B2 Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

**ACTION:**

Benita Argos let the Commission know that she received her \$200 check from the City and wanted to thank the Mayor, the Commissioners, and the City Manager. As a City employee, she also asked why is the pension being cut by two percent if things are so good.

**2:46:12 p.m.**

R9C Discussion Regarding Request Of TRG-Block One, Ltd. For The City Commission Of Miami Beach, Florida To (1) Modify The Previously Approved Concept Plan For The Area Known As Block 1, Which Is Bounded By 1st Street On The North, Ocean Drive On The East, Collins Avenue On The West And South Pointe Drive (Biscayne Street) On The South; (2) Initiate The Necessary Amendments To The City Code To Effectuate The Modified Concept Plan; And, (3) Release Of Subsurface Easement Rights To The Alley Located In Block 1 For The Purpose Of Creating Certain Underground Improvements.

(Planning Department)

**ACTION:** Discussion held. **Motion made by Vice-Mayor Gross to approve plans for the south side building and approve vacation of the subsurface rights relative to the easement and subject to confirmation from Public Works that this area is not needed to run sewer utility lines. He also made a motion to defer the transferring of the development rights to the collaborate group or the Planning Board; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Commissioner Garcia.** Fred Beckmann and Tim Hemstreet to handle.

Matt Gorson, Esq., Greenberg Traurig, et al., representing the Related Group, TRG with Tom Daly and Architects Charles Seiger and Jose Suarez, gave a brief update on the settlement and other items on Block 1. He added that permits had been obtained on Blocks 51 and 52 and the project would be moving forward.

Vice-Mayor Gross asked if the developer had made a deal with Ramos on Block 51 to do a building there.

Tom Daly, from The Related Group (Developer), explained that the permits have not been obtained, only the required approvals from the DRB. He explained that they made a deal with Max swapping lands but Max is building his own building and they are sharing some of the facilities.

Matt Gorson, Esq., added that Block 1 is a parcel that had three parts to it; the southern part or L-shape building; two parts to the north on the Northeast building along Ocean Drive and the Northwest single lot small building. The Commission approved the concept plan as part of the settlement. After the last DRB meeting, there was a change to the southern building from an L-shape to a semi-circular shape and it was decided to bring back this item to the Commission for approval. Underground parking is also provided by lowering the building by almost an entire floor, making the pedestal go down approximately 10 feet at a cost of \$5 million.

Discussion continued.

Jorge Gomez, Planning Director, explained that there is a transfer of development rights provision in the City's code, which identifies specific transfer district and specific receiving district but never within the same district.

Gary Held, First Assistant City Attorney, explained that as part of the settlement agreement the City allowed a covenant in lieu of unity of title on Lot 51 for the developer to share FAR from the south half of the block to the north half of the block. He added that there was an ordinance amendment dealing with Blocks 51 and 52 which allowed this, and the proposed amendment is to add Block 1 to the category.

Commissioner Bower asked if the collaborate groups are aware of the changes.

Tom Daly, developer from The Related Group, stated that most of the people participating in the process were at the DRB. In answer to Mayor Dermer, he added that there seemed to be consensus with the people and the DRB.

Commissioner Bower made a motion to approve the recommendations of referring the item to the Planning Board and ensure that the collaborate groups review it. No second offered.

Tom Daly, developer from The Related Group, requested approval for the plans on the south side. He requested the Commission to approve vacation of the subsurface rights relative to the easement but for the easement to remain in order to relocate utilities.

Vice Mayor Gross stated that he has not problem with the South side building or with vacating the subsurface easement, but he is uncomfortable with the transfer of the development rights without seeing a massing model knowing that it would otherwise require a referendum.

Commissioner Steinberg asked, in reference to the development rights, what impact the abandonment has.

Gary Held, First Assistant City Attorney, explained that this alley is dedicated by Plat to the City and there are different interpretations as to what this means. The City's view is that it obscures feasible title of the budding property owners and the City has the right to use it in perpetuity until it is vacated. The City has surface rights of access, which the City is holding in trust for the public, and also sub-surfaces rights. All the City is doing is releasing a certain amount of sub-surface rights for them to do the underground parking, the City still retains the surface and sub-surface rights as if the alley was there.

Matt Gorson, Esq., stated that Commissioner Steinberg's concern is that if the Commission went along and vacated sub-surface easement rights that this will give them an increased argument. He stated that they are willing to stipulate that this will not increase the argument one way or the other. He is stipulating that it will have no effect.

Discussion continued.

Matt Gorson, Esq., stated that the argument is that they own fee title now and that the City's right is only an easement right. He stated that the City Attorney's position is that it depends on the type of easement. He explained that if everyone likes it they will do it, if there is a huge argument they will probably build what was originally approved. He stated that by having underground parking is better for everyone and it is not weakening the City's position. He stipulated that they are not making an argument on the basis of abandonment. He emphasized that he is stipulating this forever and that he will not come back later or go to court because of abandonment.

**Motion made by Vice-Mayor Gross to approve plans for the south side building and approve vacation of the subsurface rights relative to the easement and subject to confirmation from Public Works that this area is not needed to run sewer utility lines. He also made a motion to defer the transferring of the development rights to the collaborate group or the Planning Board; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Commissioner Garcia.**

Discussion continued.

Gary Held, First Assistant City Attorney, spoke.

Erika Brigham spoke.

Vice-Mayor Gross stated that the item is approved subject to Public Works confirming that they have looked at the subsurface area and it is not needed to run sewer utility lines.

Handout or Reference Materials:

1. 5 color pages of Block 1 – Concept Plans by The Sieger Suarez Architectural Partnership

**3:10:27 p.m.**

R9D Discussion And Resolution Suspending City Code Section 142-875 Regarding Roofing Material Requirements.

(Requested by Commissioner Jerry Libbin)

**ACTION:** Discussion held.

Commissioner Libbin explained that Mr. Harvey Levine from North Beach expressed his concern regarding roof damage in his home, which is difficult to repair due to this section of the Code. He added that with the approaching hurricane season he suggests giving residents the ability to repair the roofs with light materials.

Mr. Harvey Levine stated his home has both shingles and tile but he is unable to get tile. He was told that tile is not available for at least six to eight months. The only thing available is shingles.

Mayor Dermer asked Jorge Gomez, Planning Director, if there is a provision as to emergency situations where the materials cannot be found and the roofs have to be repaired.

Jorge Gomez, Planning Director, stated that the only provision is a variance process.

Vice-Mayor Gross asked Jorge Gomez, Planning Director, if there are instances where people are able to find the tile and install them.

Jorge Gomez, Planning Director, stated that the majority of the roof repairs are to shingle roofs.

Vice-Mayor Gross suggested having a variance granted administratively in this situation.

Jorge Gomez, Planning Director, explained the process, which is having the applicant submit an application and proof of a hardship case; the case goes to the Board of Adjustment once a month.

Mayor Dermer asked if he could be fast tracked to the Board of Adjustment agenda for the May meeting since this is a real hardship.

Jorge Gomez, Planning Director, explained that there is a noticing requirement.

Commissioner Steinberg explained that Miami-Dade County is coming forward with a project called "no blue roof" to address the issue more on the financial side, and perhaps through that program a solution can be found.

Jorge Gonzalez, City Manager, asked if there is a reason why it can be done through the Board of Adjustment process.

Jorge Gomez, Planning Director, explained the noticing requirements of 15 days in advance and labels for residents that live within 300 feet. The advertisement will go out Friday.

Vice-Mayor Gross asked if the roof can be repaired without the tile or the shingles, since they are just decorative, and then after the emergency period eases, have the tile put on.

Jorge Gomez, Planning Director, explained that he could obtain a building permit.

Mr. Levine will apply for a permit.



**R10 - City Attorney Reports**

## R10A Notice Of Closed Executive Session.

Pursuant To Section 447.605, Florida Statutes, A Closed Executive Session Will Be Held During Recess Of The City Commission Meeting On April 11, 2006 In The City Manager's Large Conference Room, Fourth Floor, City Hall, For Discussion Regarding The Status Of Fraternal Order Of Police (FOP) Contract Negotiations.

(City Manager's Office)

**ACTION:** Executive session held.

**11:25:48 a.m.**

**Notice of Attorney/Client Sessions**

Jose Smith, City Attorney, advised, for the record, that pursuant to Section 286.011, Florida Statutes, the City Attorney advises the Mayor and City Commission that he desires advice concerning the following matters which are pending before the Circuit Court:

1. The City of Miami Beach Vs 900 Collins Avenue, LLC, and 900 Collins Avenue, LLC Vs the City Of Miami Beach Thomas Velazquez, Building Official
2. Zedek Associates, A Florida General Partnership Vs. The City Of Miami Beach,
3. Frank Otero Vs. City Of Miami Beach, Florida, and La Gorce Country Club, Inc., And DM Fence Corporation.

Therefore Attorney/Client sessions will be held during the lunch recess of the City Commission in the City Manager's Large Conference Room on the fourth floor, to discuss settlement negotiations and/or strategy relating to litigation expenditures with regard to the above matters. Mayor Dermer will announce the commencement of the Attorney/Client sessions at that time.

## R10B Notice Of Attorney - Client Session.

Pursuant To Section 286.011, Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning The Following Pending Litigation Matters:

1. City Of Miami Beach, A Florida Municipal Corporation, Vs. 900 Collins Ave., LLC, A Florida Limited Liability Company. Eleventh Judicial Circuit, Case No. 06-01533 CA10; And  
900 Collins Avenue, LLC, A Florida Limited Liability Company, Vs. City Of Miami Beach, A Florida Municipal Corporation, And Thomas Velazquez, Building Official, City Of Miami Beach. Eleventh Judicial Circuit, Case No. 06-05341CA09
2. Zedek Associates, A Florida General Partnership Vs. The City Of Miami Beach, A Florida Municipal Corporation. Eleventh Judicial Circuit, General Jurisdiction Division. Case No. 05-19628 CA 31
3. Frank Otero Vs. City Of Miami Beach, Florida, A Political Subdivision Of The State Of Florida, La Gorce Country Club, Inc., And DM Fence Corporation. Eleventh Judicial Circuit, General Jurisdiction Division. Case No. 05-17754 CA04

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Lunch Recess Of The City Commission Meeting On April 11, 2006 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Settlement Negotiations And/Or Strategy Related To Litigation Expenditures With Regard To The Above Referenced Litigation Matters.

The Following Individuals Will Be In Attendance At All Attorney-Client Sessions: Mayor David Dermer; Members Of The City Commission: Matti Herrera Bower, Simon Cruz, Luis R. Garcia Jr., Saul Gross, Jerry Libbin And Richard Steinberg; City Attorney Jose Smith, City Manager Jorge Gonzalez, First Assistant City Attorney Gary Held, Senior Assistant City Attorney Jeffrey Donner And Special Counsel Murray H. Dubbin, Esq. The Following Individuals Will Also Be In Attendance: As To Litigation Matter #1, First Assistant City Attorney Sheri Sack; And As To Litigation Matter #3, First Assistant City Attorney Rhonda Hasan.

**Amendment:**

As listed as a correction in the Agenda Time Certain listing the following correction was listed: #1, First Assistant City Attorney ~~Sheri Sack~~-Rhonda Hasan; As To Litigation; Matter #3, First Assistant City Attorney Rhonda Hasan. The as to litigation matter . Legal Department notified the City Clerk that the following correction also needed to be made: #1, First Assistant City Attorney ~~Sheri Sack~~ Rhonda Hasan.

**ACTION:** Announced and held.

**3:31:27 p.m.**

Mayor Dermer stated that the Attorney/Client Session should commence and will be held between 3:30 p.m. and 6:00 p.m. in the City Manager's Large Conference Room. The following individuals will be attending the Attorney/Client Session: Mayor David Dermer, members of the Commission; Matti H. Bower, Simon Cruz, Luis R. Garcia Jr., Saul Gross, Jerry Libbin, and Richard Steinberg, City Attorney, Jose Smith, City Manager, Jorge Gonzalez, First Assistant City Attorney, Gary Held, Senior Assistant City Attorney, Jeffrey Donner, and Special Counsel, Murray H. Dubbin, Esq. Regarding the following cases:

1. City Of Miami Beach, A Florida Municipal Corporation, Vs. 900 Collins Ave., LLC, A Florida Limited Liability Company. Eleventh Judicial Circuit, Case No. 06-01533 CA10; And  
900 Collins Avenue, LLC, A Florida Limited Liability Company, Vs. City Of Miami Beach, A Florida Municipal Corporation, And Thomas Velazquez, Building Official, City Of Miami Beach. Eleventh Judicial Circuit, Case No. 06-05341CA09
2. Zedek Associates, A Florida General Partnership Vs. The City Of Miami Beach, A Florida Municipal Corporation. Eleventh Judicial Circuit, General Jurisdiction Division. Case No. 05-19628 CA 31
3. Frank Otero Vs. City Of Miami Beach, Florida, A Political Subdivision Of The State Of Florida, La Gorce Country Club, Inc., And DM Fence Corporation. Eleventh Judicial Circuit, General Jurisdiction Division. Case No. 05-17754 CA04

He stated that First Assistant City Attorney, Rhonda Montoya-Hasan will also be on attendance as to City of Miami Beach, vs. 900 Collins Avenue. LLC and 900 Collins Avenue LLC, vs. City of Miami Beach and Thomas Velazquez, Building Office of Miami Beach.

**6:22:38 p.m. - Announcement regarding the termination of the Attorney/Client Sessions**

Vice-Mayor Gross called the meeting to order at 6:22:47 p.m. The following were present: Vice-Mayor Gross, and Commissioners Bower, Cruz, Libbin, and Steinberg. Absent: Mayor Dermer and Commissioner Garcia.

Vice-Mayor Gross announced that the Attorney/Client Sessions which were announced at the beginning of the lunch recess have now been terminated and completed and that concludes business. He asked Jose Smith, City Attorney, if he wanted to report on the results of the Zedek case.

Jose Smith, City Attorney, stated that it is not necessary until the City has all of the documents signed

and delivered, and the City is certain that there is a settlement.

**Addendum:**

R10C Notice Of Closed City Commission Session.

Pursuant To Section 768.28, Florida Statutes, A Closed City Commission Session Will Be Held During Lunch Recess Of The City Commission Meeting On April 11, 2006 To Discuss The Following Risk Management Claims:

Frederica E. Breaux, As Administrator Of The Estate Of Zachary Charles Breaux, Deceased Vs. City Of Miami Beach, Et. Al. Eleventh Judicial Circuit, General Jurisdiction, Case No. 99-3808 CA 27 And Rabbi Israel Poleyeff, As Personal Representative Of The Estate Of Eugenie Poleyeff, Deceased, Vs. Sevilla Beach Hotel Corporation, Et. Al. Eleventh Judicial Circuit, General Jurisdiction, Case No. 99-04209 CA 13

The Closed City Commission Session Will Be Held In The City Manager's Large Conference Room, Fourth Floor, City Hall.

**ACTION:** Executive session held.

### Reports and Informational Items

A Parking Status Report - January 2006.  
(Parking Department)

**ACTION:** Written report submitted.

A1 Parking Status Report - February 2006.  
(Parking Department)

**ACTION:** Written report submitted.

B Status Report On The Rehabilitation Of The Existing Building And Construction Of The New Fire Station No. 2.  
(Capital Improvement Projects)

**ACTION:** Written report submitted.

C Status Report On The Construction Of Fire Station No. 4.  
(Capital Improvement Projects)

**ACTION:** Written report submitted.

D Status Report On The Normandy Isle Park And Pool Project.  
(Capital Improvement Projects)

**ACTION:** Written report submitted.

- E Informational Report To The Mayor And City Commission, On Federal, State, Miami-Dade County, U.S. Communities, And All Existing City Contracts For Renewal Or Extensions In The Next 180 Days. (Procurement)

**ACTION:** Written report submitted.

**Addendum:**

- F City Attorney's Status Report.

(City Attorney's Office)

**End of Regular Agenda**

## **Miami Beach Redevelopment Agency**

**City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive**

**April 11, 2006**

Chairman of the Board David Dermer  
Member of the Board Matti Herrera Bower  
Member of the Board Simon Cruz  
Member of the Board Luis R. Garcia, Jr.  
Member of the Board Saul Gross  
Member of the Board Jerry Libbin  
Member of the Board Richard L. Steinberg

Executive Director Jorge M. Gonzalez  
Assistant Director Tim Hemstreet  
General Counsel Murray H. Dubbin  
Secretary Robert E. Parcher

### **AGENDA**

#### **1. OLD BUSINESS**

- A Report Of The Itemized Revenues And Expenditures Of The Miami Beach Redevelopment Agency's City Center District And South Pointe (Pre-Termination Carry Forward Balances) For The Month Of February 2006.  
(Finance Department)

**ACTION:** Written report submitted.

Meeting adjourned at 6:25:00 p.m.

**End of RDA Agenda**