



August 1, 2005

City of Miami Beach

**City of Miami Beach – Special City Commission Meeting  
Commission Chambers, 3rd Floor, City Hall  
1700 Convention Center Drive  
August 1, 2005**



Mayor David Dermer  
Vice-Mayor Matti Herrera Bower  
Commissioner Simon Cruz  
Commissioner Luis R. Garcia, Jr.  
Commissioner Saul Gross  
Commissioner Jose Smith  
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.*

**REGULAR AGENDA**

**R9 - New Business and Commission Requests**

**10:47:03 a.m.**

R9A CWA Local 3178 Impasse Resolution Hearing  
(City Attorney's Office)

- ❖ No. 1 Letter from Murray H. Dubbin, City Attorney, dated July 19, 2005
- ❖ No. 2 Letter from Robert A. Sugarman, Attorney for CWA Local 3178, dated July 26, 2005
- ❖ No. 3 Letter from Murray H. Dubbin, City Attorney, dated July 27, 2005
- ❖ No. 4 Letter from Richard D. McKinnon, President, CWA Local 3178 to Mayor Dermer and Members of the City Commission dated June 29, 2005
- ❖ No. 5 Letter to Commission No. 166-2005 dated June 24, 2005 from Jorge M. Gonzalez, City Manager

**ACTION:** Motion made by Commissioner Cruz to refer the issues of wages, pension and health insurance to the Finance and Citywide Projects Committee meeting scheduled for September 14; seconded by Vice-Mayor Bower; Voice vote: 7-0. Patricia Walker to place on the agenda. Linda Gonzalez, Kathie Brooks, and Patricia Walker to handle.

Mayor Dermer wished Murray Dubbin, City Attorney, Happy Birthday.

Representing the CWA Bargaining Unit, Bob Sugarman, Sugarman & Susskind, introduced himself along with Pedro Herrera also with Sugarman & Susskind, Richard McKinnon, CWA Union President, and Joseph McManus, CWA Public Information Officer.

Mr. Jorge Gonzalez, City Manager, stated that Jim Crosland and Paul Ryder both with Akerman Senterfitt, staff, and himself will be representing the City.

Mayor Dermer stated that there were some preliminary time limits established, 15 minute opening presentation by CWA, followed by 15 minute by the Administration. Following the open presentation each party will be given 45 minutes to present their position. If more time is needed, it will be granted. He stated that he wants a complete airing of the issues.

Mr. Sugarman objected to the order of the presentations and also objected to the City Manager sitting on the dais.

Mr. Sugarman explained why he objects to the order of presentation.

Mr. Crosland and Mr. Dubbin presented why the order should be as listed in the Agenda.

Mayor Dermer stated that the presentation order will remain as listed. Addressing Mr. Sugarman's other objection, the City Manager sitting on the dais, he asked Mr. Sugarman to state his objection.

Mr. Sugarman presented his objection.

Mayor Dermer stated that the City Manager is the chief hire in the City and it is easier to see him and hear him at the dais, and the City Manager will remain on the dais.

Mr. Sugarman asked if this is a public hearing where public comments will be permitted.

Mayor Dermer stated that after everyone has spoken if there are individuals who are not represented by the CWA Union or members of the Administration they will be allowed to speak.

### **CWA's presentation**

#### **11:00:15 a.m.**

Mr. Sugarman gives the opening presentation on behalf of the CWA.

#### **11:23:59 a.m.**

Jorge Gonzalez, City Manager, gives the opening presentation on behalf of the City.

#### **11:47:48 a.m.**

Mr. Sugarman, during the 45 minute presentation, began by responding to several points made by the City Manager.

#### **12:05:23 p.m.**

Mr. Joseph McManus, CWA Public Information Officer, gave his presentation.

#### **12:31:07 p.m.**

Richard McKinnon, CWA Union President, gave his presentation. During his presentation he stated that in 1993 the City increased the pension contribution and reduced the pension benefits. He stated that the magistrate wanted the CWA to drop the lawsuit. If a contract can be awarded which is fair the CWA will

drop the lawsuit and save the City five to seven million dollars.

**12:40:51 p.m.**

Mr. Sugarman stated that he wanted to make it clear what CWA President McKinnon stated. One of the Special Magistrate's recommendations was to drop the McKinnon lawsuit if the Special Magistrate's decision is adopted by the City Commission.

Commissioners Cruz and Smith asked that the CWA in their rebuttal address the three critical issues, **wages, pension, and health insurance**. He asked the CWA and the Administration to address the comments made by the special magistrate regarding the creation of the health insurance trust and exactly what was meant when he stated that if it costs the City the same amount of money to establish the trust then he is in favor of it, but if the City is going to end up paying more money, then he is against it.

**Administration's presentation**

**12:45:50 p.m.**

Paul Ryder, Akerman Senterfitt, presented on pension, health care and random drug testing.

**1:21:37 p.m.**

Richard Schell, City's consultant on health insurance, gave an overview of the City's health insurance. He stated that the City went out to bid in 2003. As a result of the bid, and because of the excessive percentage of retirees under the current plan, in excess of 40%, the City received three denial letters because the retiree population exceeds 15%. The only other quote the City received were all self-insured proposals where the City is assuming some level of risk beyond re-insurance. The next closest bid was almost three quarters of a million dollars higher than the incumbent renewal. By pushing the retiree percentage over 50% the City will not get full insurance from alternate carriers and the City is putting the incumbent carrier in a good position of not allowing the City to negotiate. This year's renewal has been negotiated and the City received a very, very competitive rate for the City. If the CWA leaves, not only is there the issue of the retirees, but also a change in enrollment. Insurance carriers reserve the right to re-rate a group where the population has changed by more than 10%. Humana will want to re-negotiate the rate.

**1:21:52 p.m.**

Linda Gonzalez, Labor Relations Director, responded to several questions and spoke specifically about wages.

**1:47:24 p.m.**

Jim Crosland, Akerman Senterfitt, referring to a statement made by Mr. Sugarman, stated that the special magistrate's report is not binding. He explained that the State Legislature has decreed since 1974 that the magistrate's report is not binding. The Legislator has decreed that the taxing authority and not a third party has to make the final decision. The reason this was done is that the taxing authority will consider the interests of the citizens. He also spoke about management's rights and working conditions.

**2:12:58 p.m.**

Patricia Walker, Chief Financial Officer, explained about revenue and expense trends.

**2:22:56 p.m.**

Commissioner Gross stated that the City showed the CWA salaries as compared to the League of Cities salaries. He asked for the CWA's benefits, including pension, as compared to the League of Cities. Linda Gonzalez stated that benefits comparison does not include pension but she will try to get that information. **Linda Gonzalez to handle.**

**2:24:01 p.m.**

Meeting adjourned until 4:00 p.m.

Meeting reconvened at 4:15:24 p.m.

**4:16:26 p.m.**

Mr. Sugarman and Mr. McKinnon responded to the City's arguments in the order they were presented. He spoke about wages, pay for performance, certification pay for code enforcement officers, uniform pay, health insurance, pension, lifeguard and pool guard issue, temporary employees, union time pool, promotion testing, sponsorship issue, the asbestos issue, election of remedies (Personnel Board), reporting pay, triple time and a half for working holidays, and contracting services.

**5:07:06 p.m.**

Mr. Sugarman, in conclusion, asked the Commission to do one of two things. One, the Special Magistrate made his offer self-funding by saving \$13.5 million over the same time span the City is looking at; adopt the Special Magistrate's recommendations, or two, if it is re-opened, remove the 100% survivorship and the early retirement, put back the 3% base pay for the first year of the contract, CWA will drop the lawsuit, and adopt the remainder of the Special Magistrate's recommendations.

**5:07:58 p.m.**

Richard McKinnon, CWA president, gave his closing statement.

**5:09:01 p.m.**

Jorge Gonzalez, City Manager, gave the Administration's rebuttal. He addressed the number of times the CWA has changed their proposal, and they are changing it again today. He mentioned the length of the time the negotiations have been going on. He also talked about the first year COLA. He stated that the latest proposal has cost implications which need to be calculated. He stated that after listening over the last 6-hours, he still has yet to understand and hear a compelling argument as to why the demands that are being made by the CWA are warranted. He also talked about Mr. McManus' verbal attack against the Administration, at this meeting, regarding the Ocean Rescue budget and the number of grievances filed by the CWA. He stated that the Administration has been accused of punishing the CWA Union and being mean-spirited and this is simply not true. He addressed the issue of evaluations, certification, uniform cleaning pay, health insurance, pension, scheduling of staffing, temporary employees, sponsorship issues and uniforms, and the election of remedies. He talked about call-back pay and holiday pay, and he addressed the issue of contracting out work by stated that this is a management right and it has been used for the Byron Carlyle Theater and the fountains on Lincoln Road.

He stated that the main issues are pension and health. These issues are nationwide issues. He stated that pension costs today have grown astronomically over the last six years. In 2000, the pension cost was \$7.7 million, representing 4.5% of the budget. In the proposed budget for FY 05/06 the pension cost is \$27 million, representing 10.4% of the budget. Over six years that is a 260% increase. Health insurance has grown as well. In 2000 the health insurance cost was \$6.1 million representing 3.6% of the budget. In the proposed FY 05/06 budget it jumps to \$15.1 million or 5.7% of the budget. He commended Assistant Fire Chief Ed Del Favero for his efforts in managing the Ocean Rescue Division. Finally, considering the CWA's demands, one must take into consideration whether it is fair to both the employees and the residents.

Mark Gidnez, Budget Advisory Board member spoke.

Jeryl (Deede) Weithorn, Chairperson, Budget Advisory Board, spoke.

Steven Krowitz, City retiree, spoke.

Larry Herrup, past chairperson, Budget Advisory Board, spoke.

Frank Del Vecchio spoke.

Jimmy Newton, AFSCME member, spoke.

Raul Jorge, CWA unit employee, spoke.

**6:17:32 p.m.**

Commissioner Garcia stated that the Human Resources Department should be looked at because it has been inefficient for years. He stated that earlier in the presentation it was stated that 15% of the union members live in the City of Miami Beach. Referencing the other City unions, what percentage of their employees are Miami Beach residents? **Linda Gonzalez to handle.** He also stated that he has a hard time changing the rules of the game.

**6:23:14 p.m.**

Jorge Gonzalez, City Manager, to clarify the statement, stated that the rules of the game have not been changed. The process allows for either side to reject the Special Magistrate's recommendations.

Mr. Sugarman, objected to the City Manager participating in the discussion.

Commissioner Gross discussed the pension issue. He stated that one possible solution is to lower the contribution from 10% to 8% for tier B employees only.

Commission Garcia explained the history between tier A and B employees.

Commission Smith stated that as a Commissioner, he represents the citizens of Miami Beach and it is his responsibility to look at the fiscal impact of the issues. He stated that he still does not have a satisfactory cost estimate as to the costs of the pension and the health insurance. He stated that he believes the City Manager would like to analyze the costs based on the CWA's latest proposal, the "Olive Branch Proposal", presented at this meeting. He stated that most of the side issue can be deal with. He is concerned about the pension and the health insurance and added that he is not sure a decision can be made today.

Mayor Dermer and Vice-Mayor Bower agreed that the pension and health insurance are the major issues.

Vice-Mayor Bower stated that if the CWA wants their own health trust then they should take their retirees into their plan. She stated that if it is going to hurt the non-union employees, she will not support the change.

Richard McKinnon, CWA President, stated that during the negotiations the CWA proposed to take some of the retirees.

Vice-Mayor Bower and Commissioner Gross stated that if the CWA is allowed to have their own trust it needs to take all of their retirees and asked how many of the retirees from CWA are in the health plan. **Linda Gonzalez to handle.**

Richard Schell, City's consultant on health insurance, stated that if the CWA leave and take their retirees with them there are a couple of issues. There will be a 10% change in the enrollment which will trigger a re-rate of the program. In the re-rating the company will take into consideration a combination of the actual experience and the insurance company's manual rates. The manual rates are typically higher than the actual experience. When they are blended the two the rates will go up. He stated that this is the question: Set up a fund (CWA), take the retirees with the new fund and the change is made on the renewal date, what impact will this have? **Linda Gonzalez to handle.**

Vice-Mayor Bower wants to know the cost of health benefits to the other non CWA, Police and Fire employees. **Linda Gonzalez to handle.**

Commissioner Cruz stated that the issues are the cost of the wages, pension and health insurance and suggested referring the issues to the Finance and Citywide Projects Committee and then reconvene at a Special Commission meeting. He stated that another issue is the tier A and B employees. Tier B is now the majority. Patricia Walker to place on the Committee Agenda. **Linda Gonzalez, Kathie Brooks, and Patricia Walker to handle.**

Motion made by Commissioner Cruz to refer the issues of wages, pension and health insurance to the Finance and Citywide Projects Committee; seconded by Vice-Mayor Bower. Discussion continued.

Mr. Sugarman stated that it would be helpful to know the questions. The CWA and the Administration can meet to see if a joint answer can be achieved.

Mayor Dermer stated that he is hopeful that the peripheral issues can be resolved without Commission intervention.

Commissioner Steinberg stated that he agrees with the Mayor's comment that the other issues be resolved before it comes to the Finance and Citywide projects Committee. He referenced the figures given by the Administration regarding the salaries, he asked for comparative data from the South Florida market (the tri-county area) and to see if the League of Cities can assist in providing data.

Mayor Dermer stated that he is interested in comparisons with other beachfront or tourist communities in terms of pension plans, health care plans, and how it compares with Miami Beach. **Linda Gonzalez to handle.**

Commissioner Steinberg asked if either party objects to sending the issues to the Finance and Citywide Projects Committee.

Richard McKinnon, CWA President, stated that he does not have a problem with the referral.

Commissioner Smith asked if there is an objection to the Finance and Citywide Projects Committee reviewing the data and making recommendations to the full Commission.

Commissioner Steinberg stated for the record that CWA counsel and CWA president have no objection.

The Finance and Citywide Projects Committee meeting will be scheduled for September 14, the alternate Commission meeting date.

Vote on the motion, 7-0.

Meeting adjourned 7:14:25 p.m.

#### Handout or Reference Materials

1. City of Coral Gables job announcement dated Tuesday, July 19, 2005 and documents titled Miami-Dade County Parking Violations System – Municipality Statistics both dated July 31, 2005. Submitted by Raul Jorge, a City employee
2. Document title "Statement of Joe Mc Manus, CWA Local 3178 – Miami Beach to the Miami Beach City Commission on the subject of Labor Contract Impasse – dated August 1, 2005
3. Letter from Joe Fisher, Vice President – C.W.A. to the Mayor and City Commissioners, dated August 1, 2005
4. Documents submitted by CWA titled, State of Florida, Communications Workers of America, Local 3178, charging party, v. City of Miami Beach, Respondents – Case No. CA-2005-017 (cost of reproduction of documents)

5. Document titled: "Proposal Comparison", submitted by the Administration
6. Document titled: "Magistrate's Position on City's Long Term Financial Future", submitted by the Administration
7. Candidate Questionnaire – 2003 – Miami Beach Municipal Election, submitted by the CWA
8. Document titled: "Public Employer Pension Comparison – 2004", submitted by the Administration
9. Document showing benefit comparison between the City of Miami Beach and different governmental agencies (Broward County, Coral Gables, North Miami, Sunrise, Ft. Lauderdale, Miami, Hialeah, Hollywood, and Miami-Dade County) – Submitted by the Administration
10. Document titled: "City of Miami Beach CWA Local 3178 (History of Across-the-Board Increases for CWA, FOP, IAFF and AFSCME) – Submitted by the Administration
11. Document titled: Cost Exhibit – Cost Impact of 3% for Fiscal Year 2004 – Submitted by the Administration
12. Document titled: "Olive Branch Proposal" – Submitted by the CWA
13. Document titled: "City Administration" – Submitted by the Administration
14. Document titled: "Cost Impact of Pension Proposals for Fiscal Year 2006" – Submitted by the Administration
15. Meeting Notice published in The Miami Herald, dated July 21, 2005

City Clerk's note: Dr. McCollister, Special Magistrate

**End of Regular Agenda**