

City of Miami Beach - Special City Commission Meeting
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
August 30, 2004

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

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

Visit us on the Internet at www.miamibeachfl.gov for agendas and video "streaming" of City Commission Meetings.

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.

Meeting called to order at 5:44:53 p.m.

Times based on the digital recording in the City Clerk's Office

Addendum items: R7A:

ACTION: Motion made by Commissioner Bower; seconded by Commissioner Smith; to add Addendum item R7A as an emergency item to the agenda. Voice vote: 7-0.

Supplemental Materials:

R9A 4: Discussion Regarding Four (4) Straw Ballot Questions: [Bay Link](#)

REGULAR AGENDA

R7 - Resolutions

Addendum:

R7A A Resolution Authorizing The City Manager To Sign All Contracts, Agreements, Purchase Orders, And Change Orders Required To Make Preparations Before And Clean-Up Efforts After Storms During The 2004 Hurricane Season In The Interest Of The Health, Safety And Welfare Of Citizens And Employees Of The City Of Miami Beach.

(City Manager's Office)

ACTION: Resolution No. 2004-25683 adopted. Motion made by Commissioner Bower; seconded by Commissioner Smith; Voice vote: 7-0.

R9 - New Business and Commission Requests**5:52:40 p.m.**R9A Discussion Regarding Three (3) Straw Ballot Questions: Bay Link

1. A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Asking Whether The Light Rail Construction Project Known As "Baylink" That Would Connect Downtown Miami To The Miami Beach Convention Center Should Be Constructed Within The City Of Miami Beach.
(Requested by Mayor David Dermer)

ACTION: See action, item R9A 4.

2. A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Asking Whether A Streetcar Transportation System Be Built Connecting A Loop Around Downtown Miami To A Loop Around South Beach Via A Dedicated Lane Added To The MacArthur Causeway?
(Requested by Commissioner Saul Gross)

ACTION: See action, item R9A 4.

3. A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Asking Whether A Streetcar/Light Rail Transportation System Be Built Connecting A Downtown Miami Loop To A South Beach Loop Via A Dedicated Lane Added To The Mac Arthur Causeway?
(Requested by Commissioner Matti Herrera Bower)

ACTION: See action, item R9A 4.**Supplemental Materials:**Discussion Regarding Four (4) Straw Ballot Questions: Bay Link

4. Should The City Of Miami Beach Approve The Construction Of An Electrically Operated Street-Car Transportation System, Commonly Known As "Baylink," Running On Tracks And Connecting Downtown Miami To A South Beach Loop By Way Of The MacArthur Causeway?
(Requested by Commissioner Jose Smith)
(Additional Straw Ballot Question)

ACTION: Resolution No. 2004-25660 adopted as amended. Motion made by Commissioner Bower; seconded by Commissioner Smith; Voice vote: 7-0. R. Parcher to handle.

Mayor Dermer clarified, for the record, the original ballot question that had been put out to vote on November 2002: "Shall the County implement the People's Transportation Plan, including plans to build rapid transit lines to West Dade, Kendall, Florida City, Miami Beach and North Dade, expanding bus services, adding 635 buses, improving traffic signalization to reduce traffic back up, improving major and neighborhood roads and highways, including drainage and funding to municipalities for roads and transportation projects, by levying a ½% sales surtax whose proceed will be overseen by the Citizen's Independent Transportation Trust." He added that in that ballot question, nothing referred to "rails." The question needs to be clarified before it is put out to vote.

Alex Santiago spoke.
Benita Argos spoke.
Brad Meltzer spoke.
Robert Warren spoke.
Mark Needle spoke.

Motion made by Commissioner Bower to amend the language from **“South Beach”** to **“Miami Beach”**; seconded by Commissioner Smith.

Commissioner Gross is in favor of a referendum in 2006, when the analysis and final impact have been obtained. However, he added the language that no development credits or concurrency credits will be granted by the City of Miami Beach for this system, and stated that it should be clear that the funding for the system is coming from Federal, State and Miami-Dade County funds.

Mr. Steve Zack, Chairman of the Charter Review Board, submitted a letter into the record, because he had to leave.

Vice-Mayor Steinberg and Commissioner Cruz both have the same issues on the funding and the concurrency as Commissioner Gross.

Amendments Accepted by Commissioner Smith:

- 1) The language on the dedicated lane on the MacArthur Causeway.
- 2) The language on the funding and the concurrency issues.

Amendments Not Accepted by Commissioner Smith:

- 1) Language on beautification.
- 2) Language on the loop around downtown Miami.

Jean Olin, Deputy City Attorney, read the straw ballot question language into the record, and clarified that according to Florida Statute, each question must have 75 words: “Should the City of Miami Beach approve the construction of an electrically operate streetcar transportation system commonly known as Bay Link running on tracks and connecting downtown Miami to a South Beach loop via a dedicated lane added to the MacArthur Causeway provided that no concurrency or development credits be granted by City of Miami Beach for the transportation system and provided further that all construction costs are paid entirely by Federal, State and Miami-Dade County funds.” She suggested using the title from item R9A1. Discussion held.

Jean Olin, Deputy City Attorney read the title into the record.

“Advisory, Non-Binding Straw Ballot Question – Bay Link Light Rail Project.”

Amended title accepted by Commissioner Smith.

Amendments by Commissioner Gross:

1. Motion made by Commissioner Gross to amend the language by adding: **“a loop around downtown Miami to a loop around South Beach”**; seconded by Commissioner Cruz; Voice vote: 4-3; Opposed: Mayor Dermer and Commissioners Bower and Smith.
2. Motion made by Commissioner Gross to amend the title to read **“Bay Link Streetcar Transportation System.”** No second offered.

Vice-Mayor Steinberg suggested the title to read **“Bay Link Streetcar Rail System.”** This amendment was accepted unanimously.

Jean Olin, Deputy City Attorney, read the final title and ballot question into the record:

“Advisory, Non-Binding Straw Ballot Question – Bay Link Streetcar Rail System.”

“Should the City of Miami Beach approve the construction of an electrically operated streetcar transportation system commonly known as “Bay Link,” running on tracks and connecting a loop around downtown Miami to a loop around South Beach via a dedicated lane added to the MacArthur Causeway, provided that no concurrency or development credits will be granted by City of Miami Beach for the transportation system and provided further that all construction costs are paid entirely from Federal, State and Miami-Dade County funds.”

7:10:51 p.m.

Robert Parcher, City Clerk, stated that the vote that the City Commission took on the Bay Link was not only the vote on the ballot question that Jean Olin read into the record, but it also included calling for the Special Election. He wanted to make sure everybody understands that this vote was all inclusive. This was approved without objections.

Handout or reference materials

1. Notice of a Special City Commission Meeting in The Miami Herald
2. City of Miami Beach – Straw Ballot Questions for November 2, 2004 Election – Three questions proposed.

R9B Information Regarding Bay Link Priority Status.
(Requested by Commissioner Jose Smith)

ACTION: See Page 20 of Agenda; (MPO will discuss at its November 18, 2004 meeting, whether Bay Link should be moved from a priority two to a priority one project)

6:57:42 p.m.

R9C Discussion Regarding Four (4) Straw Ballot Questions: 63rd Street Flyover

1. A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004 For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Asking Whether The 63rd Street Flyover Should Be Demolished.
(Requested by Mayor David Dermer)

ACTION: See action, item R9C(2).

2. A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004 For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Asking Whether The 63rd Street Flyover Should Be Preserved (Not Demolished).
(Requested by Vice-Mayor Richard L. Steinberg)

ACTION: Resolution No. 2004-25661 adopted. Motion made by Vice-Mayor Steinberg; seconded by Commissioner Garcia; Ballot vote: 4-3; Opposed Commissioners Bower, Cruz and Gross. R. Parcher to handle.

3. A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004 For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Asking Whether The 63rd Street Flyover Should Be Kept Rather Than Replacing It With Three Lanes At Street Level.
(Requested by Commissioner Saul Gross)

ACTION: See action, item R9C(2).

4. A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004 For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Asking Whether The 63rd Street Flyover Should Be Replaced With Three Lanes At Street Level In Conjunction With The Florida Department Of Transportation's Rehabilitation Of The 63rd Street Bascule Bridge Project.
(Requested by Commissioner Matti Herrera Bower)

ACTION: See action, item R9C(2).

Raul Linder spoke.
Robert Warren spoke.
Alfredo Rey spoke.
Barry Klein spoke.
Benita Argos spoke.

Commissioner Cruz explained that he would vote to put this question on the straw ballot, but FDOT will continue with their plans, regardless of the action the City Commission takes. It is a safety issue and FDOT will start demolition in 2006.

Commissioner Bower stated that she attended a meeting with FDOT and there will be construction; if the flyover does not come down, the bridge will have to be closed.

Commissioner Gross agrees with Commissioners Cruz and Bower, and added that he is not in support of a referendum on this question for the same reasons; 1) this public safety project is in FDOT's jurisdiction and they intend to proceed with the project, no matter what the citizens of Miami Beach believe. It is not honest to put this issue to a straw ballot vote; 2) FDOT explained that with the work being done on the bridge, if the flyover is not removed, traffic on the bridge will have to be restricted to a one direction only; 3) the statistics that we have been looking at are based on the year 2021; and 4) the City should insist that a Citizens Advisory Committee be established, which FDOT has agreed to form, to make sure that the project will be done with as little interruption as possible. Business owners and residents should form a collaborative group to meet with FDOT and give their input, and the City should spend money on a traffic study in the North Beach area from 63rd to 87th Street to come up with other ways to improve the flow of the traffic.

Commissioner Smith stated that the notion that the City is impotent and have no say so in what FDOT does is an erroneous concept. This past Friday, during meetings with FDOT it was explained to me that it was feasible and possible to add another lane to 63rd St. on the south side. FDOT does not want to do it because they do not want to spend the money to add another lane to the bridge. He stated that a few years ago FDOT presented a number of options to the prior City Commission. He suggested that the City has the ability to go to FDOT and ask them for other alternatives. The City needs to study the issue further, have citizen input and come up with long term solutions.

Commissioner Bower suggested that the language should include 1) there will be a year and a half of construction, 2) the bridge will be part of the construction and 3) the intersection should be enhanced.

Vice-Mayor Steinberg agreed with two of Commissioner Bower's concepts; including the bridge as part of the construction, and suggested a year of construction, rather than 18 months. He disagrees with the intersection enhancement.

Mayor Dermer stated that there is consensus with Vice-Mayor Steinberg's original question regarding amendments of adding "**approximately a year of construction**" and that "**the bridge is part of the construction.**"

Commissioner Smith suggested including language to read: "concurrently with the renovations or improvements to the bridge, should the flyover be demolished?" and adding text that "**there will be significant construction**" rather than saying that the construction will take 18 months."

Mayor Dermer read the language of the ballot question with the added language: "**Should the flyover at the intersection of 63rd Street and Indian Creek be preserved (not demolished) in addition to the construction work on the draw bridge that is estimated to take at least a year?**"

Discussion continued.

Kent Harrison Robbins, Esq. suggested: "Should the demolition of the 63rd flyover be included in the one year plus reconstruction of the 63rd Street bridge?"

Vice-Mayor Steinberg suggested having the word "**added**" instead of "**included.**"

Motion made by Commissioner Gross to amend question to start as follows: "**Should the Florida Department of Transportation demolish or preserve.....**"; seconded by Commissioner Cruz; Voice vote: 3-4; Opposed: Mayor Dermer, Commissioners Garcia, Smith and Vice-Mayor Steinberg. The motion failed.

Jean Olin, Deputy City Attorney read the language into the record: "**Should the demolition of the flyover at the intersection of 63rd Street and Indian Creek be added to the one year reconstruction project of the 63rd Street Bridge?**"

Motion made by Vice-Mayor Steinberg to approve his original ballot question, R9C(2); seconded by Commissioner Garcia; Ballot vote: 4-3; Opposed: Commissioners Bower, Cruz and Gross.

Handout or reference materials

1. Notice of a Special City Commission Meeting in The Miami Herald
2. LTC No. 229-2004 to Mayor David Dermer and Members of the City Commission, dated August 26, 2004, RE: Rehabilitation of the 63rd Street Bridge, Construction of At-Grade Intersection at 63rd Street and Indian Creek Drive, and Reconstruction of Indian Creek Drive from 63rd Street to Abbott Avenue.
3. Ballots
4. City of Miami Beach – Straw Ballot Questions for November 2, 2004 Election – Three questions proposed.

8:06:36 p.m.

- R9D Discussion Regarding Two (2) Straw Ballot Questions: District Elections For City Commissioners
1. A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004 For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Regarding Changing The Manner Of Electing The Six City Commissioners From At-Large To District Representative.

(Requested by Commissioner Luis R. Garcia, Jr.)

ACTION: Discussion held. Motion made by Commissioner Garcia; seconded by Mayor Dermer; Voice vote: 2-5; Opposed: Vice-Mayor Steinberg and Commissioners Bower, Cruz, Gross and Smith. Motion failed.

Jonathan Beloff, Vice-Chairman of the Charter Review Board, spoke on behalf of the Charter Review Board.

Franck Dossa spoke.

Dr. Morris Sunshine spoke.

David Kelsey spoke.

Gary Knight spoke.

Erika Brigham spoke.

Motion made by Commissioner Garcia to allow the voters express their desires of what form of government they want to have. Mayor Dermer seconded the motion even though he disagrees with the issue, but he wants to give the citizens a chance to decide.

Handout or reference materials

1. LTC No. 232-2004 RE: Letter to City Commission from the Charter Review and Revision Board.
2. Letter from the Charter Review and Revision Board dated August 24, 2004 to the Mayor & City Commission in reference to recommendations RE: straw ballot questions.
3. Memo from Frank Del Vecchio to Mayor and Commissioners, City of Miami Beach dated August 18, 2004 RE: Comments Received on District Election of Commissioners' Alternative Ballot Language.

2. A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004 For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Regarding Changing The Manner Of Electing Three City Commissioners From At-Large To District Representation, With The Remaining Three City Commissioners And The Mayor To Continue To Be Elected At-Large.

(Requested by Commissioner Matti Herrera Bower)

ACTION: See Action, item R9D(1). Commissioner Bower pulled her item from the Agenda.

Handout or reference materials

1. LTC No. 232-2004 from Jorge M. Gonzalez, City Manager, dated August 27, 2004, RE: Letter to City Commission the Charter Review and Revision Board.
2. Letter from the Charter Review and Revision Board dated August 24, 2004 in reference to the ballot questions regarding district elections for commission members and changing the City's form of government.
3. E-mail memo from Frank Del Vecchio to the City Clerk dated August 17, 2004
4. Comparison: Charter of Miami-Dade County, City of Miami, City of Miami Beach- terms and powers of Commissioners, Mayors, Managers, Analysis and chart by Frank Del Vecchio dated August 11, 2004 and corrected August 19, 2004

8:50:00 p.m.

- R9E Discussion Regarding Two (2) Straw Ballot Questions: Executive Mayor Form Of Government
1. A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004 For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Regarding Executive Mayor Form Of Government.
(Requested by Commissioner Luis R. Garcia, Jr.)

ACTION: Discussion held. Motion made by Commissioner Garcia; seconded by Mayor Dermer; Voice vote: 2-5; Opposed: Vice-Mayor Steinberg and Commissioners Bower, Cruz, Gross and Smith. Motion failed.

Commissioner Garcia introduced the item.

Franck Dossa spoke.
Sidney Goldin spoke.
Dr. Morris Sunshine spoke.
David Kelsey spoke.

Mayor Dermer seconded Commissioner Garcia's motion, provided that this is to allow getting the sentiment of the people. He stated that he does not agree with the issue, and added that usually a Strong Mayor form of government passes when a municipality is in very bad shape; this is not right for this City. This is the best time to be a Mayor or a Commissioner on Miami Beach. The City has a Manager that is responsive and has done a good job.

2. A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004 For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Regarding Executive Mayor Form Of Government.
(Requested by Commissioner Matti Herrera Bower)

ACTION: See action R9E(1).

Handout or reference materials

1. LTC No. 232-2004 from Jorge M. Gonzalez, City Manager, dated August 27, 2004, to Mayor David Dermer and City Commissioners RE: Letter to the City Commission from the Charter Review and Revision Board.
2. Interoffice Memo from Jorge M. Gonzalez, City Manager to Jose Smith, Commissioner, in reference to Form of Government Inquiry dated August 27, 2004.
3. Letter from the Charter Review and Revision Board to Honorable Mayor David Dermer and members of the City Commission, dated August 24, 2004 in reference to recommendations from the board re: straw ballot questions.
4. E-mail memo from Frank Del Vecchio to Jean Olin, Deputy City Attorney, dated August 22, 2004 RE: District Election of Commissioners" Vesting "Executive" Authority in Mayor
5. Comparison: Charter of Miami-Dade County, City of Miami, City of Miami Beach- terms and powers of Commissioners, Mayors, Managers, Analysis and chart by Frank Del Vecchio dated August 11, 2004 and corrected August 19, 2004

9:03:15 p.m.

R9F A Resolution Calling For A Special Election To Be Held On Tuesday, November 2, 2004, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach An Advisory, Non-Binding Straw Ballot Question Asking Whether Miami Beach Should Establish Annual Limits On The Construction Of New Buildings That Are Taller Than 75 Feet And Bigger Than 50,000 Square Feet. (Requested by Commissioner Saul Gross)

ACTION: Resolution No. 2004-25662 adopted as amended. Motion made by Commissioner Gross; seconded by Vice-Mayor Steinberg; Voice vote: 6-0; Absent: Commissioner Garcia. R. Parcher to handle.

Amendment:

"Should the Miami Beach Comprehensive Plan be amended to establish annual limits on the construction of new buildings that are bigger than 50,000 square feet."

Commissioner Gross introduced the item.

Commissioner Smith asked what ordinance the City can put in place so that it is not unconstitutional. He stated that the fair way of doing this should be across the board, including all projects.

Cliff Schulman spoke.

Amy Perry spoke.

Commissioner Cruz asked why the need to go to a referendum when the Planning Department has been able to put control on growth before.

Jeff Bercow spoke.

Frank Del Vecchio spoke.

Erika Brigham spoke.

Vice-Mayor Steinberg thanked Frank Del Vecchio for the handout which was very helpful. He stated that he has been frustrated with the issue of concurrency. **He suggested deleting the language on height.**

Gary Held, First Assistant City Attorney, read the language into the record: **"Should the Comprehensive Plan be amended to establish annual limits on the construction of new buildings that are larger than 50,000 square feet?"**

Motion made by Commissioner Gross to amend the language to read: "Should the Miami Beach Comprehensive Plan be amended to establish annual limits on the construction of new buildings that are bigger than 50,000 square feet?"

Commissioner Smith suggested adding the language **"where appropriate"**.

Commissioner Gross accepted the amendment.

Final Ballot language:

"Should the Miami Beach Comprehensive Plan be amended to establish annual limits on the construction of new buildings that are larger than 50,000 Square Feet where appropriate?"

City Clerk's Note: The Legal Department inserted "where appropriate," after the word "limit" and before the word "on". See Handout (1).

Handout or Reference Material

1. City of Miami Beach – Straw Ballot Questions for November 2, 2004 Election – Three proposed questions.

9:56:01 p.m.

R9G A Resolution Authorizing The Miami-Dade County Canvassing Board To Serve As Canvassing Board For The Special Election Of The City Of Miami Beach To Be Held On November 2, 2004.
(City Attorney's Office)

ACTION: Resolution No. 2004-25663 adopted. Motion made by Commissioner Smith; seconded by Vice-Mayor Steinberg; Voice vote: 6-0; Absent: Commissioner Garcia. R. Parcher to handle.

Mayor Dermer urged everyone to go out and vote tomorrow, August, 31, 2004.

End of Regular Agenda

Meeting adjourned at 9:59:32 p.m.