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COMMISSION MEMORANDUM

TO: Mayor David Dermer and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: July 12, 2006

SUBJECT: **REPORT OF THE NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE MEETING HELD ON WEDNESDAY, MAY 24, 2006.**

A meeting of the Neighborhoods/Community Affairs Committee was held on Wednesday, May 24, 2006, at 2:30 pm in the City Manager's Large Conference Room. Commissioners in attendance: Luis R. Garcia Jr., Richard L. Steinberg, Jerry Libbin, and Matti Herrera Bower. City staff in attendance: Jorge M. Gonzalez, City Manager; Hilda M. Fernandez, Assistant City Manager; Robert C. Middaugh, Assistant City Manager; Kathie Brooks, Budget and Performance Improvement Director; Jean Olin, Deputy City Attorney; Gary Held, First Assistant City Attorney; Raul Aguila, First Assistant City Attorney; Vivian Guzmán, Neighborhood Services Director; Jorge Gomez, Planning Director; Saul Frances, Parking Director; Fred Beckmann, Public Works Director; Jan Pye, Neighborhood Services Department; Jorge Fraga, Sr. Management Consultant; Dolores Mejía, Margarita Alcon, and Marlene Taylor, Mayor and Commissioners Office; and Randi MacBride, Neighborhood Services Department.

1. **DISCUSSION REGARDING AMENDING THE CITY CODE FOR THE PURPOSE OF EXPANDING THE TYPES OF TRANSACTIONS IN WHICH THE CITY MUST PROVIDE NOTICE OF ITS CAMPAIGN FINANCE LAWS.**

   Jean Olin introduced the proposed amendments dealing with prohibition on vendors or lobbyists for vendors making campaign contributions to candidates for elected office in the City of Miami Beach. The suggestion that has been raised is that the definition of vendor should be amended to establish a dollar threshold where there is no threshold now. The dollar amount that has been suggested is $5,000.00 in a City of Miami Beach fiscal year.

   ACTION: The Committee moved to have the City's Legal Department further refine the threshold standard for exempting certain vendors from the campaign finance prohibition of the city code and return to a future Committee meeting.

2. **DISCUSSION REGARDING SERVING "FOIE GRAS" IN THE CITY OF MIAMI BEACH.**

   Commissioner Steinberg introduced the item by showing a short video produced by local television channel 4 to demonstrate the inhumane method of production of "foie gras".

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Debbi Turner, Assistant City Attorney explained that under state law, the City is not able to ban the selling of "foie gras".

Commissioner Steinberg explained that since the City cannot ban this product that the city could recommend to the restaurants that do business here, through the form of a resolution, that they not serve it unless a more humane way is found to produce it as well as asking the state legislature to consider the issue.

Michael Bloise, Executive Chef at Goldman Properties' Wish Restaurant, gave opposing views on the issue. He also provided a handout from the American Veterinary Association website.

Sandee Birdsong, Chef at Tantra Restaurant, stated that personally she does not like foie gras however if a decision is made to not be able to serve something because of an emotional attachment then we must consider other animals like cows, lambs, and animals that are being destroyed as a species and are being served here.

Commissioner Steinberg stated that he would bring the item back for consideration when he deemed appropriate.

ACTION: The Committee moved to take no action unless further research is done.

3. **DISCUSSION REGARDING PLACING A CHARTER AMENDMENT ON THE NOVEMBER BALLOT TO ALLOCATE FUNDS TO PUBLIC EDUCATION, AFFORDABLE AND WORKFORCE HOUSING, AND COMMUNITY ARTS COUNCIL FOR COMMUNITY ART.**

Kathie Brooks, Budget and Performance Improvement Director, introduced the item explaining the Administration was directed to prepare a summary of the City's current efforts on behalf of education on Miami Beach. Ms. Brooks reviewed for the Committee the summary, included in the agenda package.

The Administration recommended that the City negotiate an Education Compact with the School Board that will generate the enhancements desired by the community.

ACTION: This was a discussion item as the Commission had already given direction at the Commission retreat that is in line with the Administrations recommendation.

4. **DISCUSSION REGARDING THE CLEANLINESS INDEX REPORT.**

Kathie Brooks, Budget and Performance Improvement Director, reviewed the Cleanliness Index Report included in the agenda package.

Commissioner Garcia asked how well the city is doing. Ms. Brooks explained that the City is improving and heading in the right direction, however we are not yet where we would like to be.

Commissioner Libbin expressed that he would like to have detailed work plans and that he would like to hear all the particulars as to how employees are to be doing their jobs.

Jorge Gonzalez, the City Manager, explained that the process, being discussed today intends, in a very systematic way, to ensure that the job is being done. He also explained that this process was designed by an industrial engineer.

Commissioner Bower suggested that the commissioners go out with the assessment teams to get a better feel as to how this is accomplished.

ACTION: This item was for discussion only, however the Administration will offer individual briefing sessions to each Commissioner and will provide the Commission with results on a quarterly basis.

5. **DISCUSSION REGARDING A REQUEST TO DEDICATE FIRE STATION NO. 4 TO LEONARD "LENNY" RUBIN WHO DIED IN THE LINE OF DUTY IN A BUILDING FIRE AT THE OLD CARILLON HOTEL ON MARCH 8, 1962.**

Eric Yuhr, Assistant Fire Chief, presented the item explaining that Leonard "Lenny" Rubin is the only firefighter to die while on duty in the City of Miami Beach. The committee asked for guidance in the proper procedure to handle. Raul Aguila, First Assistant City Attorney, explained that passing at the committee level is the first step followed by Commission approval where naming of a public facility requires a 5/7 vote. There would then be a referendum, a question for the ballot in November. Provided it is approved by the voters, then we can proceed.

ACTION: The Committee moved to bring the item to the full City Commission.

6. **DISCUSSION REGARDING THE USE OF BLOWERS.**

Robert C. Middaugh, Jr., Assistant City Manager, presented the item and explained that there are two basic approaches and that after explaining them he would like to know which direction the committee would like to take and he will come back with an ordinance. Mr. Middaugh continued that some communities try to regulate the use of the blowing device by either stating that they cannot be used or that the blowers can be used under certain conditions. Mr. Middaugh continued that other communities have taken a results oriented approach by stating that litter and debris is not to be in the streets or drains no matter how it gets there. He elaborated that, in terms of the two approaches, he believes that regulating the device is going to be the more difficult to enforce.

ACTION: The Committee directed staff to consider the approach requiring debris to be contained on the individual property for the drafting of an ordinance.

7. **DISCUSSION REGARDING THE MARINE AUTHORITY BOARD MOTION THAT A TEMPORARY FACILITY BE ESTABLISHED NEAR ISLAND VIEW PARK TO ACCOMMODATE AS MANY VESSELS AS POSSIBLE.**

Robert C. Middaugh, Jr., Assistant City Manager, gave an overview of the item for discussion. He explained that after the Commission adopted the mooring ordinance that restricted the amount of time vessels could moor in our waters, this discussion ensued. One of the provisions in the ordinance stated that the City Manager had the authority to designate temporary mooring areas. The Marine Authority took up that concern as well as the question of what the city should do by way of a more permanent mooring facility. The most immediate question is should any area be designated as a temporary facility. One area that has been suggested is a small area that is under the City's direct control, just off our current boat ramp off Purdy

Avenue near Island View Park.

Commissioner Garcia expressed his concern that this is a very small area.

Dr. Morris Sunshine, the former chairman of the Marine Authority, explained that the Marine Authority, at the time the Commission passed the 7-day anchoring ordinance, urged the Commission to look into the establishment of a permanent mooring area and a designated anchorage area. He continued to explain that an anchorage area is a place where boats lower their anchors over the side and anchor whereas a mooring is a permanent attachment to the bottom that usually has a chain that goes up to a float at the surface and the sailor ties their boat to a permanent mooring. The Marine Authority had hoped that both options will be considered.

Commissioner Steinberg stated that he thought the area by interstate 195 near Julia Tuttle Causeway was an area to be considered. There are sailboats there now that are far enough away from people's property that it probably is not a concern and we have had no complaints but we did get complaints from people that were living on the islands. Maybe we want to limit the number of boats if we go to an anchoring facility. He continued that maybe we want to make sure that these are people that live in Miami Beach. If we are the only one in the area with such a facility then we will find people coming from all over Dade County to litter this area with their vessels. He asked if we can limit an area to residents only and Gary Held, First Assistant City Attorney, agreed to look into that possibility.

Fred Beckmann, Public Works Director, explained the need for a bottom survey to ensure that there are no environmental issues before a mooring field site can even be considered.

Commissioner Garcia stated that if we designate an area people will come and we will end up with a floating city.

Commissioner Bower expressed that we are a water community and that we need to make an effort to get some answers regarding the issues including the number of boats that we are talking about and ensuring that the residents are not disturbed.

Commissioner Steinberg believes that before any money is spent that a determination needs to be made as to whether we can go with a priority system for residents vs. non-residents or limiting the number of boats in an area.

Commissioner Garcia stated that no alternative that would allow someone to anchor their boat in perpetuity is going to be allowed.

ACTION: The Committee made no motion on this item.

8. DISCUSSION REGARDING THE PROPOSED AMENDMENT ALLOWING CIGAR VENDORS ON OCEAN DRIVE.

Commissioner Garcia opened the discussion of this item by explaining that according to the ordinance as it exists today, for someone to be selling cigars at a table, the vendor must be in a substantially enclosed building.

Jorge Gomez, Planning Director, explained that there is a specific section of code that deals with the Ocean Drive mixed-use entertainment district and it has an entire section that deals with accessory uses along Ocean Drive permitted to hotels. When you are in a hotel the code states the type of accessory uses that you can have in this district and it gives specific language about the uses located on the porches,

patios, and terraces. It states that the only thing that is allowed is flower vendors in a movable cart and the tables and seating for outdoor cafes. Based on an interpretive letter issued several years ago it was thought that if a cigar vendor had a license to the hotel, with a place to sell inside the hotel, it was considered a service to the sidewalk café enabling the vendor to go out and service the customers in the sidewalk café.

Mr. Gomez also stated that when he recently reviewed the code, those uses on the porches, terraces, and patios are actually prohibited except for those uses expressly allowed. So if the intent here today is to allow the sale of merchandise outside of an enclosed structure on Ocean Drive, specific language would have to be added. The previous interpretation was actually incorrect.

Commissioner Garcia suggested a way to regulate the cigar vendors selling while traveling between licensed locations would be to designate some type of structure/box that would cover up the cigars when off of the property. If the vendor is caught with the structure open while they are walking then you have a violation.

Vivian Guzman, Neighborhood Services Director, added that the vendors have the flashing lights as attention getting devices and that is how they sell going from point A to point B.

Jorge Gonzalez, City Manager, recommended going with Commissioner Garcia's suggestion to have a box designed that is more appropriate from an enclosure perspective and if the vendors agree to remove the lights then we can accept that and sales will only be on private property. What the city is trying to accomplish here is to get the vendors into where they are licensed which is on private property, not on the right-of-way. Mr. Gonzalez also recommended having the Planning Department get a chance to look at the boxes.

Commissioner Steinberg stated that there may be an enforcement issue as far as the licensing and how they can be cited that makes it so that we cannot enforce the ordinance.

Vivian Guzman, Neighborhood Services Director, mentioned that what can be considered is going to an immediate fine.

Jorge Gomez, Planning Director, asked if the issue of the box and the not wearing of lights would be addressed in something like a code of honor that the operator understands the conditions under which they will be issued a license by the Licensing Division and if these conditions are violated they will be advised by the Code Compliance Division.

ACTION: The Committee moved to take the proposed ordinance amendments to the Planning Board.

9. DISCUSSION REGARDING THE COMPOSITION OF THE TRANSPORTATION AND PARKING COMMITTEE.

Robert C. Middaugh, Jr., Assistant City Manager, introduced this item explaining that the Transportation and Parking Committee has had some trouble obtaining a quorum with their current membership. Their problem is that they are made up of organizations that are designated seats of members that either don't exist or don't come.

There are two methods to address the problem. One method is to remove non-functioning seats which reduces their total membership or revert to a more traditional Board Commission appointed method as we have on other boards and take out the community representatives going forward.

Alan Fishman, the current director of the Transportation and Parking Committee, explained that the committee is recommending leaving the committee with seven appointees, one from each of the Commissioners and seven at large seats which have already been designated from the areas of North, Middle, and South Beach.

ACTION: The Committee moved to accept the recommendation of the Transportation and Parking Committee.

JMG/HMF/VPG/rfm