



## *City of Miami Springs, Florida*

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, February 9, 2009, at 7:00 p.m.

### **1. Call to Order/Roll Call**

The meeting was called to order at 7:00 p.m.

The following were present:

Mayor Billy Bain  
Vice Mayor Rob Youngs  
Councilman Bob Best  
Councilman Paul C. Dotson  
Councilman Zavier Garcia

Also Present:

City Manager James R. Borgmann  
Assistant City Manager Ronald K. Gorland  
City Attorney Jan K. Seiden  
Chief of Police Peter G. Baan  
Finance Director Leacroft E. Robinson  
Comptroller Alicia E. González  
Public Works Director Robert T. Williams  
Human Resources Director Loretta M. Boucher  
Golf Director Michael W. Aldridge  
Golf Superintendent Sandy Pell  
City Planner Richard E. Ventura  
Elderly Services Director Karen Rosson  
Grant Writer/Public Information Specialist Carol A. Foster  
City Clerk Magalí Valls

**2. Invocation:** Mayor Bain offered the invocation.

**Salute to the Flag:** The audience participated.

### **3. Awards & Presentations:**

#### **3A) Preserve America Designation**

City Manager Borgmann informed Council that Miami Springs was designated a Preserve America community and read a letter from former First Lady Laura Bush dated December 12, 2008 congratulating the citizens of Miami Springs on the designation.

### **4. Open Forum:**

#### **Property Maintenance**

Bob Calvert of 101 South Drive stated that he had been involved in local community organizations, the City's Code Review Board and the Master Land Use Planning Committee. He submitted photographs of various code violations and requested that the Codes be enforced, specifically at one property on his street that is deteriorating. His main concern is the maintenance of the property that is covered under Code of Ordinance Section 93-13 because the house and roof is severely mildewed.

Mayor Bain suggested that the Administration could come back with a report at the next meeting so that Council will understand the history of the property and what action has been taken.

#### **Thank You**

Mr. Calvert thanked Council for their service to the community.

#### **Tree Trimming**

Bob Schwinger of 630 Cardinal Street stated that he has a problem with the way the City is trimming the trees along the alleyways. He suggested that Code Enforcement should place door hangers to notify the property owners to trim back their hedges or trees within ten-days. The City ruined his Areca Palms and they no longer provide a visual barrier because they were cut back too far.

#### **Property Maintenance**

Mr. Schwinger agrees with the comments made by Mr. Calvert regarding property maintenance in the neighborhood around Crescent and South Drive. He knows of several houses that are in deteriorating condition with overgrown foliage.

#### **Thank You**

Mr. Schwinger thanked Council for their service to the community and for their attention to matters that he brought forth. Council's actions resulted in the construction of new buildings on North Royal Poinciana Boulevard and on South Drive, which are an improvement and will increase revenue to the City.

## **Crime Watch Program**

David Trujillo of 350 Navarre Drive expressed concern about the increase in crime in the City.

Mr. Trujillo said that A.D.T. is willing to donate money for a crime prevention program and resources to help the City. There are also programs for business owners that want to take an active part in the community and A.D.T. offers free security reviews with no obligation. He realizes there is a decline in the economy and people are making desperate decisions, including loitering in the alleyways. He handed out bags containing free items and information.

### **5. Approval of Council Minutes:**

#### **5A) 01/26/2009 – Regular Meeting**

Minutes of the January 26, 2009 Regular Meeting were approved as written.

**Councilman Best moved the item. Councilman Garcia seconded the motion, which carried 5-0 on voice vote.**

### **6. Reports from Boards & Commissions:**

#### **6A) 01/20/2009 – Education Advisory Board – Minutes**

Minutes of the January 20, 2009 Education Advisory Board meeting were received for information without comment.

#### **6B) 01/28/2009 – Board of Appeals – Minutes**

Minutes of the January 28, 2009 Board of Appeals meeting were received for information without comment.

#### **6C) 02/03/2009 – Code Enforcement Board – Cancellation Notice**

Cancellation Notice of the February 3, 2009 Code Enforcement Board meeting was received for information without comment.

**6D) 02/04/2009 – Architectural Review Board – Minutes**

Minutes of the February 4, 2009 Architectural Review Board meeting were received for information without comment.

**6E) 02/02/2009 – Zoning and Planning Board – Cancellation Notice**

Cancellation Notice of the February 2, 2009 Zoning and Planning Board meeting was received for information without comment.

**6F) 02/02/2009 – Board of Adjustment – Approval of Actions taken by the Board of Adjustment at their Meeting of February 2, 2009, Subject to the 10-day Appeal Period**

Actions taken by the Board of Adjustment at their meeting of February 2, 2009 were approved subject to the 10-day appeal period.

**Councilman Garcia moved the item. Vice Mayor Youngs seconded the motion which was unanimously carried on voice vote.**

**7. Public Hearings:**

**7A) Second Reading – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-025, Awnings and Canopies in all Zoning Districts, by Establishing a Horizontal Area for Commercial Canopies; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date (First Reading: 01/26/2009 – Advertised: 01/28/2009)**

City Attorney Jan K. Seiden read the ordinance by title.

Attorney Seiden stated that there had been no changes to the ordinance since the first reading. The purpose of amending the Code Section is to differentiate between the residential and commercial areas.

Mayor Bain opened the public hearing to those persons wishing to speak. There were no speakers, and the public hearing was closed.

**Councilman Best moved to adopt the ordinance. Councilman Dotson seconded the motion which was carried 5-0 on roll call vote (Ordinance No. 974-2009).**

**7B) Second Reading – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 93-14, Theft of Recycling Containers and Unauthorized Removal of Recyclable Materials, by Expanding the Ordinance Prohibitions to Include the Theft of Items of Garbage, Rubbish and Waste; by Providing for the Expansion of Locations from which Items May not be Taken; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date (First Reading: 01/26/2009 – Advertised: 01/28/2009)**

City Attorney Jan K. Seiden read the ordinance by title.

City Attorney Seiden explained that there were no changes to the ordinance since the first reading. The ordinance incorporates the suggestions from the Police Department to expand locations of and the types of items that cannot be legally removed from the recycle bins.

Mayor Bain opened the public hearing to those persons wishing to speak. There were no speakers, and the public hearing was closed.

**Councilman Garcia moved to adopt the ordinance. Vice Mayor Youngs seconded the motion which was carried 5-0 on roll call vote (Ordinance No. 975-2009).**

**8. Consent Agenda:**

**8A) Approval of the City Attorney's Invoice for January 2009 in the Amount of \$9,944.00**

There was no discussion regarding this item.

**Councilman Garcia moved the item. Councilman Best seconded the motion which was carried 5-0 on voice vote.**

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Mayor Bain passed the gavel to Vice Mayor Youngs during his absence from the dais.  
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**9. Old Business:**

**9A) Consideration of Donation to Springs River Festival**

City Manager Borgmann stated that at a recent Council meeting, Ms. Barbra Marr, Chairperson of the Springs River Festival Committee, requested funding for this year's festival. The City has donated \$6,000 in the past few years and this amount was included in this year's Recreation budget. The funds are used to support the Police and Sanitation needs of the event. The profits that are derived from the festival sales, the Chili Contest and other revenue generators are donated to recognize 501 (c) (3) charities, according to the various organizers in the past.

City Manager Borgmann reported that he attended a Virginia Gardens' Council meeting on Thursday, August 21, 2008 to listen to their discussion on annexation and the Mayor's report indicated that the Springs River Festival organization donated \$2,500 to the Village of Virginia Gardens for youth activities. Although it is wonderful to give back to the youth, it seems like a conflict for the City to donate \$6,000 and another city is benefiting from it.

The City Manager asked Council how they wanted to proceed. He added that there is no problem with donating the \$6,000, but he would like an accounting each year on how the Festival Committee disburses their funds.

Councilman Best asked if this would be different or if it is applicable to the funds that Virginia Gardens donates for the City's fireworks display every year.

Vice Mayor Youngs stated that the contribution for the Fourth of July fireworks display is a shared expense between the City of Miami Springs and the Village of Virginia Gardens. He does not know if it has any relevance to the festival issue.

City Manager Borgmann commented that Miami Springs' residents certainly benefit through some of the Virginia Gardens' sports programs. He felt that the funds could have come back to the City's Recreation Center for youth activities since Miami Springs donated \$6,000.

Councilman Garcia recalled that past Festival Chairs had presented a brief report on the total amount of money raised and named the organizations that received donations, but it was not an official report. He would not require a formal report; he would ask for an informal report. The funds were donated to Virginia Gardens for youth programs, which is a neighboring community with shared programs. He asked the City Manager if he is recommending a written report.

City Manager Borgmann responded that a report would be appropriate because the City is donating money and there should be some level of accountability from the Committee.

Councilman Garcia stated that the \$6,000 had been requested from the Committee as "start up" cash to pay for initial expenses to get the event going. He asked if the expenses for the Police and Public Works' expenses are paid in advance or at the end of the festival.

Former Springs River Festival Chairperson Constance Brandenburg clarified that the Police and Public Works' expenses are paid at the end of the festival. She said that last year's event was a success with funds left over that were donated to local charities. This year they are not anticipating to make as much. She confirmed that last year \$2,500 was given to the Virginia Gardens youth program. Virginia Gardens has always donated to the event and the Committee always gives back.

Ms. Brandenburg stated that last year the Committee donated \$11,000 to local Miami Springs organizations, including high school groups, the CATS organization, the Miami Springs Historical Society and Museum, the Dog Park, Women's Club, Lions Club, Pelican Playhouse, Recreation Center, Rotary Club, etc.

Ms. Brandenburg added that the off-duty Police Officers were paid a total of approximately \$11,000, as well as overtime to the Public Works crew totaling \$4,500. The T-shirts and plaques are ordered from local companies and approximately \$40,000 comes back to Miami Springs and Virginia Gardens.

To answer Councilman Best's question, Ms. Brandenburg explained that the Committee saves approximately \$6,000 for the following year's festival and the remainder of the profit is donated pursuant to the Board of Directors recommendations.

Councilman Garcia said that he appreciates the Committee and he would like them to report back to everyone that donates funds in order to let them know how much revenue is generated from the event and how the funds are disbursed.

Vice Mayor Youngs agreed with Councilman Garcia. He said that the \$6,000 is the taxpayers' money and since there is an accounting of how the funds are spent it would be appropriate to report back to the organizations that make a donation.

Ms. Brandenburg offered to convey the message to this year's Festival Chairperson.

Councilman Dotson stated that the Festival is a big event for Miami Springs and past donations were approved because the event means so much to the residents. He said that if the money was misspent, there might be second thoughts about making the donation, but there has never been that feeling because the funds were spent on Police and Public Works services that make the event possible. He would not ask for a report since it is a volunteer organization and there has never been a problem with the volunteers who have made the event possible.

**Councilman Garcia made a motion to donate \$6,000 to the Springs River Festival. Councilman Best seconded the motion which was carried 5-0 on roll call vote.**

## **9B) Discussion of Tree Trimming in Public Alleyways**

City Manager Borgmann stated that a report was submitted from Public Works Director Robert Williams together with his follow-up memorandum outlining a plan that will be used as they address trimming the remaining alleys in the City.

The City Manager said that the memorandum from Mr. Williams indicates that significant damage has occurred to a lot of City vehicles that is related to overhanging trees and vegetation from private properties into the 16-foot alleys. The City purchases sanitation trucks that are smaller than normal so that they can maneuver through the alleys. He reviewed the total number of incidents.

City Manager Borgmann stated that this is certainly a problem and several years ago there was an alley clearing program by which 30-day notice was given to the residents to clear the alley before the City sent in a crew to trim. He outlined the following plan for the future:

1. The City will be divided into sections so that they can focus on one area at a time.
2. Prior to going into an area (2-4 weeks), notices will be posted to let the residents know of the need to clear their alley. The notices will give the property owner time to do the work themselves before the City comes in.
3. The notices will describe the manner in which the work will be done by the City. In keeping with arborist standards, it may be necessary to prune a foot or more into the property.
4. The notice will also remind the homeowner of proper pruning standards and make the arborist available to show the residents where to prune.

City Manager Borgmann said that they believe this action will help avoid the problems that were heard at the last meeting and this meeting.

Councilman Dotson said that he likes the new procedures because it gives people the hope for some consideration of protecting their foliage. He would also like apology letters sent to Mr. Schwinger and Ms. McLees with an explanation of the new procedures.

Public Works Director Williams reported that he met with Mr. Schwinger to apologize and discuss the entire process. He offered to contact Ms. McLees at 1101 Falcon Avenue.

Councilman Best felt that the Administration had addressed the issue and the residents who complained would be pleased with the new plan.

Vice Mayor Youngs thanked the Administration for addressing the matter.

**9C) Resolution – A Resolution of the City Council of Miami Springs Approving, Adopting and Transmitting the City’s Water Supply Facilities Work Plan and Corresponding Comprehensive Plan Amendments for the City of Miami Springs Comprehensive Plan to the Department of Community Affairs in Accordance with Florida Statutes Section 163.3191; Expressing the Intent of the City Council to Amend the Comprehensive Plan Based Upon the Work Plan and Corresponding Comprehensive Plan Amendments; Effective Date**

City Attorney Seiden read the resolution by title.

City Planner Richard E. Ventura stated that Council had approved the request to allow the Mellgren Group to draft the attached documents at the Council meeting of April 14, 2008, and the completed report was presented on August 11, 2008. The documents were transmitted to the Florida Department of Community Affairs (DCA) for recommendations, objections or comments. He explained that the suggested revisions were addressed by the Mellgren Group and the resulting documents are attached for review.

City Planner Ventura recommended that Council adopt the changes and approve the Water Supply Work Plan and the associated amendments listed in the report. The completed Educational Facilities and Capital Improvements Elements will be presented to Council after the resolution is approved.

City Planner Ventura stated that David Plummer and Associates is working on the traffic study for N.W. 36<sup>th</sup> Street. The firm Valle & Valle, Inc. of Coral Gables is supplying the architectural development information; the traffic report is expected to be completed within three months and forwarded to the DCA. The finance projections are expected from the Finance Department sometime in March, and the Florida International University (FIU) Metropolitan Center has completed their portion of the project. All of the components in the Comprehensive Plan must be submitted to receive final approval.

In response to Councilman Best's question, City Planner Ventura replied that the Metropolitan Center is handling the portion of the study regarding affordable housing. It was understood by all of the agencies that Miami Springs is in a difficult situation, as the City has no room to expand and may not be able to comply with the goals set forth in the study.

Vice Mayor Youngs remembered that at one time a zoning change was considered for the parcel of land between Curtiss Parkway and Eldron Drive, but the results of the Comprehensive Plan were needed in order to make the decision. It was thought that the information could have been gathered within a year, but it has been much longer.

City Planner Ventura said that the problems with the educational facilities and the affordable housing were the first hurdles, and then additional information was requested by David Plummer and Associates for the traffic study. It is hoped that by the time all the components of the Comprehensive Plan have been submitted and approved, the floor area ratio (FAR) for N. W. 36<sup>th</sup> Street would also be law.

Vice Mayor Youngs noted that the Comprehensive Plan approval had been a goal of Council for the past four years, and it does not look like it will be accomplished. It is a lengthy process and he was sorry that the DCA had delayed the process pending additional information.

City Planner Ventura clarified that the delay was not because of a lack of effort on the City's part.

City Attorney Seiden reiterated that it was not the fault of Council or the City; every municipality in Miami-Dade County is going through the same process of amending their Comprehensive Plan. He pointed out that Miami Springs is closer to completion than ever before.

Vice Mayor Youngs asked the City Planner if the sanctions for not meeting the deadline had been allayed.

City Planner Ventura replied that the biggest concern is that the FAR for N. W. 36<sup>th</sup> Street cannot be increased until the Comprehensive Plan is approved. An updated Capital Improvements Element and the Public Education Facility are the next items to be addressed.

City Attorney Seiden explained that the penalty is that no projects or zoning changes are allowed to proceed until the plan is approved.

In response to Vice Mayor Youngs' question, City Planner Ventura replied that he believed the earliest the Plan would be approved would be this summer.

**Vice Mayor Youngs moved the item. Councilman Best seconded the motion which was carried 5-0 on roll call vote (Resolution No. 2009-3430).**

#### **9D) Appointments to Advisory Boards by the Mayor and Council Members**

Councilman Best **re-appointed** Charles M. Hill to the Historic Preservation Board for a full 3-year term ending on February 28, 2012.

#### **10. New Business:**

##### **10A) Request that Council Waive the Competitive Bid Process and Authorize an Agreement with The Wren Group for a 1-year Period Ending on December 12, 2009, in the Total Amount of \$44,000.00**

City Manager Borgmann stated that this is a request to retain the services of The Wren Group for the upcoming Legislative sessions in Tallahassee. Last year they were successful for procuring \$500,000 for the City in two separate grants of equal funds for the new Community Center and additional stormwater projects.

Article 4 of the original agreement for professional services with The Wren Group dated December 13, 2007, states that the agreement may be amended or extended only by a written document, according to City Manager Borgmann. The amount of the recommended extension is \$44,000, which is the same amount as last year. The Wren Group has provided excellent service and results and he recommends retaining their services again this year.

Councilman Best said that he knows from his trips to Tallahassee and observing The Wren Group that they are well worth every nickel the City paid them, especially considering it was a very difficult budget year.

Councilman Dotson noted that The Wren Group would be paid in three installments and the City would have the ability to cancel the agreement according to the thirty-day clause in the agreement if funding was not available. He acknowledged that they did a great job in collecting \$500,000 for the City, while they were paid a fee of \$44,000.

Vice Mayor Youngs commented that he is in favor of retaining the services of The Wren Group, but pointed out that there is no guarantee on the return, particularly in the current environment. He was impressed with their actions in Tallahassee last year and their advice about particular strategies that made a difference.

**Councilman Best moved the item and Councilman Dotson seconded the motion.**

City Attorney Seiden mentioned that because the renewal was not officially offered as an option that voting for it would be waiving the competitive bidding process.

City Manager Borgmann stated that the renewal option would be reduced to a letter in writing.

Councilman Garcia clarified that the Community Center and storm drainage projects were existing projects that are moving forward.

City Manager Borgmann mentioned that it is important to keep in mind the statements made by the new President of the United States about the dollars from the proposed stimulus package that will be released for various projects and it is possible that the City projects might qualify for additional dollars that are distributed through the State. He felt that it is imperative for the City to have someone in Tallahassee who is representing the City's best interests.

**The motion was carried 5-0 on roll call vote.**

#### **10B) Discussion Regarding Hiring Process Guidelines**

City Manager Borgmann stated that the Council and Administration had received a letter from Councilman Dotson questioning the hiring procedures in regards to the selection of the latest Recreation Director. He explained that the letter was broken down into segments with respective replies to each concern or question. The Human Resources Director, Police Chief, City Attorney and himself were very involved in the discussions. The intent was to produce a document in which all the facts were stated properly and did not violate any privacy issues.

In response to Councilman Garcia's question, City Manager Borgmann replied that this is the same process that is followed for hiring any department head.

Mr. Borgmann said that the unfortunate part is that some of the cities that were asked for information had already destroyed the pertinent records. Some of the information from Hialeah had been scanned and corroborated with the information that was written in the job application. The records from Miami Beach were destroyed during Hurricane Andrew. In addition, two public records requests have been made to the City of Wilton Manors to try and verify at least one of the concerns that had been raised regarding a falsified résumé.

City Manager Borgmann explained that Mr. Giglio stated in writing that he may not have given the correct job titles for his previous employment. To the best of his knowledge they were correct, but the time lapse of over thirty years made it difficult to certify. A copy of that memo is included in the agenda packet.

City Manager Borgmann stated that it is a common occurrence because each city refers to job titles in a different way. The question is what job duties each person performed while employed with that city. Also included in the packet are inquiries made in accordance with the national pre-employment guidelines, along with privacy definitions and the legal basis for employee privacy rights. The intent is to protect the privacy of the persons in question as much as possible.

City Manager Borgmann explained that a background check is performed for all employees. For general employees, this includes a driver license check and a national criminal check conducted by the Human Resources Director. Background checks on sensitive positions such as Police Dispatcher, Police Officers, Finance employees that handle funds, Department Heads and Assistant department heads are forwarded to the Police Department and a detective is assigned to perform a national criminal check, driver license check and a credit check, as well as references and employment verifications for the previous ten years. The City Manager commented that Mr. Giglio had been self-employed for the past thirty years.

The results of the investigation are sent back to Human Resources with the recommendation to hire, according to City Manager Borgmann. Police officers and dispatches are required to undergo polygraph and psychological evaluations. A release is signed and a national criminal/predator check is completed. All employees are required to pass a drug test at the time of employment.

City Manager Borgmann noted that a memo from Chief Baan and the results of the background check were included for review and the City followed the correct procedures. Statements that are made regarding the personal conduct of an employee are difficult to verify and will not be made public in a background check. He pointed out that résumés do not usually include a salary history unless specifically requested by the hiring company, but the City's employment application asks for a salary history. He reiterated that to the best knowledge of the Police Department, Human Resources Department and himself there was nothing in the gentleman's background checks that would prevent him from becoming a successful candidate for the position and he was held in high esteem by many of his peers.

Councilman Dotson felt that it is his job to respond to the complaints and problems brought to him by residents, and he tries to give the same consideration to every situation. In this particular case, he received complaints from two different people in November. One person remained anonymous; the other was known to him, but did not wish to be named in public. His response was to contact the City Manager to discuss the situation, which involved an improper résumé and inappropriate conduct. He asked the City Manager before Thanksgiving to investigate and get back to him.

Councilman Dotson stated that the man started the job on December 1<sup>st</sup>, so there was time to check into the job descriptions. His concern was that the résumé was not accurate and he felt the matter should be resolved. He did not receive a response until December 29<sup>th</sup> when there was a complaint of sexual harassment at the Recreation Center and he contacted the City Manager, who acknowledged there had been an allegation from two of the young ladies working there. It was his understanding that the personnel were being interviewed by the Human Resources Director. He felt that the results of that interview concealed most of the information presented in the interest of preserving the privacy of the people involved. The issue is that this involves the City's Recreation Center; if there is a legitimate case of sexual harassment it should be dealt with immediately.

Councilman Dotson thought it was peculiar that the City was still asking for background information after the person started the job, and disagreed that a salary history would not be included in a résumé. The application form included a section for salary, but it referred to the résumé, and no mention of salary was made. Background and history usually determines the salary for a position, and there are several ways to determine salary history.

Councilman Dotson expressed his disappointment with the documentation supplied by the Administration, which seems to stand by its findings that proper procedures were followed. He would have liked to have seen a statement that there was zero tolerance for sexual harassment, and more details regarding the incident itself. He also found it disturbing that Council was issued a copy of a resignation letter and two weeks later the local newspaper reported that the matter was still pending and the person in question was on administrative leave.

Councilman Dotson felt that the situation had been mishandled. Further investigation had not confirmed some of the positions or titles listed on the résumé more than one month after employment started. He agreed with all of the checks performed by the Police Department.

Councilman Dotson was concerned that the résumé was falsified and that all of the background checks for work history should have been completed prior to the person being placed on the payroll. Council has a responsibility to the residents, especially where children are concerned. To maintain that trust, they have a duty to ensure that processes are in place to protect current employees, make sure future employees are not given any special considerations and proper procedures are followed.

Councilman Best agreed that Council is charged to protect the City from falsification in all areas. He pointed out that Council had given the City Manager a vote of confidence four years in a row. The Human Resources Director was correct in withholding details to protect the privacy of the people involved.

Councilman Best pointed out that the person in question was not convicted of any wrongdoing and the City Manager accepted his resignation. The difference in job titles is a matter of semantics and he has never seen a résumé for a director's position that listed a salary, nor would he ask for one.

Vice Mayor Youngs felt that Councilman Dotson's request to review the hiring policies was valid in order to be able to determine that no exceptions were made in this case. It was unfortunate that some of the pre-hiring investigation was limited, but he was satisfied that the standard operating procedure was not violated for this candidate.

Vice Mayor Youngs stated that sexual harassment claims must be handled in a specific way because the information is confidential and the consequences can range from a verbal warning to a dismissal. Whether the gesture is correctly or incorrectly perceived as sexual in nature, the determination is made by the disciplining authority, which in this case is the City Manager and the Human Resources Director. Any action taken is confidential by law, so the report would be vague and would not go into specifics.

Vice Mayor Youngs explained that he may not be happy at how the situation came about or how it was handled, but he is satisfied that standard operating procedures were followed in the hiring process and dealing with the incident. He thanked the City Manager for his report.

City Manager Borgmann noted that several years ago an employee was terminated for this type of behavior, but it was far in excess of what occurred in this situation and was truly sexual in nature. The actions demanded immediate termination of the employee. He felt that that this particular situation, which Council is now discussing, was nowhere close to being considered sexual in nature.

Vice Mayor Youngs said that the zero tolerance policy for any sexual harassment can be reinforced with training and advice for new employees. The training could be reviewed to determine how effective it is.

City Manager Borgmann stated that the Employee Assistance Program personnel came last week and gave a 90-minute presentation, which was filmed. It will be available for current employees and required viewing for any new employees, along with a copy of the City's policy that will require a signature.

Councilman Dotson was aware that there were privacy concerns when dealing with these types of issues. He said that if he had received the information when the investigation was concluded instead of much later, it would have been enough for him to determine whether or not he needed to pursue the matter further. He felt like the information had been withheld and all he wanted was a discussion of the items that could be talked about.

City Manager Borgmann offered his apology. He explained that the matter was not discussed with the other Council members in general and when Councilman Youngs called with a question, he was directed to the Human Resources Department.

The City Manager reiterated that it was not his intent to keep anyone in the dark, but he did not want to make a public comment until he had gathered all the appropriate material.

Councilman Garcia thanked the City Manager for his explanation of the procedures as they were followed with Mr. Giglio. He understood the concern, and was satisfied that they had adhered to the proper procedures. He asked if there was an ongoing investigation at this time.

City Manager Borgmann said that the Administration had made two public records requests to Wilton Manors, and has yet to receive a reply.

Councilman Garcia said that he had not heard the case discussed publicly until today and felt it was unfair to accuse a man of sexual harassment when he could be innocent. He also understood that it was a difficult situation for the City Manager to deal with, and that he has seen nothing but professionalism from the City Manager, his hiring processes and the employees that he has brought to the City. He felt that the City Manager and his Staff have done a stellar job vetting candidates through the years. He would like it known that the City has a zero tolerance policy regarding sexual harassment, and wished that this issue had not been discussed until the situation was totally resolved without outside interference. It is unfortunate that a good man is branded over accusations.

Mayor Bain said that he was kept informed to the best of the Administration's ability. He pointed out that the City Manager has a good hiring record and this was an unfortunate situation. He was confident that the City Manager and the Human Resources Director would handle the issue in a professional manner. He explained that his intent was to see the hiring process set out in a "line item process" for review and recommendations by Council, and hoped that could be added to a future agenda.

City Attorney Seiden pointed out that the Human Resources Department has been trained and attends seminars regarding the handling of sexual harassment complaints. He said that Council and the residents could rest assured that this complaint was handled "by the book". He explained that through every phase of the investigation, the employees knew the appropriate steps they were to take by going to their supervisor, who in turn went to the Human Resources Director. The employees and management are well educated in the steps they are required to take, and the matter was handled following the correct procedures. The outcome of the eventual punishment is strictly a managerial decision.

City Attorney Seiden stated that it is difficult to obtain strict personnel information about former employees from local governments because no one wants a lawsuit on their hands if unflattering references are provided for a candidate.

City Manager Borgmann said that on rare occasions hints may be dropped that further investigation of a candidate might be warranted, but the information will not be provided outright.

Mayor Bain asked that the hiring process guidelines be prepared for the next meeting.

## **10C) Acceptance of Interlocal Agreement with the City of Doral**

Mel Johnson of 109 South Royal Poinciana Boulevard expressed his concern about the proposed contract for the use of the pool. He said that while a contract would be an improvement over a “handshake” agreement, it should provide for the usual and customary revenue. He found out that the County charges \$8.00 per lane, per hour and Hialeah charges \$45.00 per swimmer per month, which equals \$27,000 per year. The Junior College receives \$26,000 per year based on four swimmers per lane, six days a week.

Councilman Garcia clarified that the agenda item was related to an Interlocal Agreement with the City of Doral who is willing to pay the City \$15,000 per year for three years.

City Manager Borgmann stated that the agreement has nothing to do with any swim team practices; it is Doral’s way of compensating the City to offset associated costs for their residents to use the pool.

Councilman Garcia asked if the agreement would lock in a certain number of residents from Doral.

City Manager Borgmann responded that the pool was repaired approximately ten years ago with funds from the County’s Safe Neighborhood Parks bond, which means it is open to every resident of Miami-Dade County. Prior to receiving the funding, there were rates for residents and non-residents but now everyone pays the same fee. The same restrictions will apply to the new Community Center because of the General Obligation Bond (GOB) funding that the City received for the construction of the building.

The City of Doral stepped forward and offered to contribute \$15,000 per year since some of their residents use the pool, according to the City Manager.

Vice Mayor Youngs explained that Doral residents would be able to use the pool regardless and this agreement is favorable for Miami Springs. He felt that Doral is very gracious and the agreement contributes to interlocal cooperation.

City Manager Borgmann clarified for Mr. Johnson that he was speaking about renting the pool facility to a club as opposed to the City of Doral contributing funds for the use of the pool.

Mr. Johnson suggested that if and when a contract is considered for a swim team that it should reflect the usual and customary costs that are charged throughout the County.

City Manager Borgmann stated that City Attorney Seiden was instrumental in the preparation of the agreement after consulting with Doral’s City Attorney. Language was added to Item No. 18 to provide for immediate reimbursement of a pro-rata share of the payment to Doral should the City of Miami Springs terminate the agreement during the year.

Vice Mayor Youngs said that the consideration is that Miami Springs cannot close the doors to the residents of Doral and the payment is based upon a guarantee to Doral that their residents will be treated the same as Miami Springs residents.

To answer Councilman Dotson's question, City Manager Borgmann clarified that any resident of Doral could use the pool, the same as Medley or Virginia Gardens residents who use the pool and pay the normal rate.

Councilman Dotson asked how the Interlocal Agreement differs from a contract.

City Attorney Seiden responded that there is no difference except that it is an agreement between governmental bodies, which are normally referred to as Interlocal Agreements. Doral is giving the City of Miami Springs money for usage of the pool by their citizens and they also get some consideration for scheduling special events and group activities that Doral might want to conduct, as outlined in paragraph 9. There is some special consideration for their usage and like most agreements there is a 30-day cancellation clause.

Councilman Garcia said that if Doral schedules an event or group activity the agreement provides for Doral to provide additional supervisory personnel.

City Attorney Seiden stated that the City's lifeguards would always be responsible if there is a drowning; the agreement authorizes Doral to assist the City should they have a group event.

City Manager Borgmann clarified that the City would always have the right and first claim for use of the pool on any date.

Councilman Best stated that the Interlocal Agreement is for a three-year period, billable at \$15,000 per year for a total of \$45,000.

Councilman Dotson pointed out that the agreement is essentially a contract.

**Councilman Garcia moved the item. Councilman Best seconded the motion which was carried 5-0 on roll call vote.**

## **11. Other Business:**

### **11A) Presentation of Golf Course First Quarter Financial Statements for FY2008-2009**

Finance Director Leacroft E. Robinson presented the Golf Course first quarter financial statements for the period ending December 31, 2008. He clarified that the revenues are understated because there was a discrepancy between the point of sale system at the Golf Course and the H.T.E. financial system and a correction will be made in the second quarter.

To answer Councilman Dotson's question, Finance Director Robinson clarified that the difference in the amount of the revenue was approximately \$10,000. There is a manual interface process to bring the information into H.T.E. and there are controls in place to find the differences and a daily process was implemented to make sure that it does not happen again. He added that he is checking with H.T.E. SunGard to determine if there is a way to eliminate the manual process.

Revenues for the first quarter total \$314,358, which is understated by \$10,000, compared to \$332,004 for the same period last year or a 3% drop, according to Mr. Robinson. This is the first report that does not reflect the food and beverage operations. The overall operating profit is a loss of \$1,698 compared to \$42,485 last year. He clarified that once the \$10,000 correction is made that it would be a positive number.

Finance Director Robinson stated that Pro Shop costs total \$118,705 compared to \$115,462 last year, which is 2.8% higher. Maintenance costs total \$197,352 versus \$174,057 for the same period last year or 13.4% higher. Total rounds played, total greens revenues and average per round are more detailed on the last page of the report. Page B-1 is important because it shows the comparison between the actual and budget numbers for the first quarter ending December 31, 2008.

Pro Shop revenues total \$314,358 or \$324,000 considering the \$10,000 difference. Total operating expenditures are \$316,057 and the operating loss is -\$1,698. There is a positive variance of \$15,870 over budget or \$24,000 considering the \$10,000, according to Mr. Robinson.

To answer Councilman Dotson's question, Finance Director Robinson stated that there is no impact due to the machinery and equipment that was not purchased.

Golf Director Mike Aldridge said that the reduction in expenses would not be shown in the first two quarters.

City Manager Borgmann stated that Golf Superintendent Sandy Pell submitted a report outlining her efforts to reduce maintenance costs. There is equipment worth approximately \$60,000 that still remains to be purchased, which will be carefully considered in order to determine if the expense could be put off until next year. He said that golfers know the value of the course and they are coming here to play and that is why the revenue is still good regardless of the downturn in the economy.

Finance Director Robinson pointed out the number of rounds played for seniors during the week totaling \$2,133 or 20% of the total rounds, which generated revenue totaling \$52,557 or an average of \$24.64 per round. He explained that this is a new rate this year.

Golf Director Aldridge said that the senior summer rate that Council approved was \$25.00. He has noticed that many of the people that play during the summer are now playing during the winter as well. The revenue is approximately \$8,000 less than last year due to declining memberships and because December had five weekends, while there were only four this year. February 29<sup>th</sup> was also an extra day last year. He said that January 2009 finished \$10,000 higher than last year.

Golf Director Aldridge reported that there is no longer an expense for the Assistant Pro and one maintenance person was laid off.

To answer Councilman Dotson's question, Mr. Aldridge stated that the industry average is down 22%. He noticed that more people are paying with credit cards instead of cash and there are not as many tourists as last year.

City Manager Borgmann said that Golf Superintendent Pell is trying alternate methods of fertilization in order to save on the maintenance costs.

Councilman Dotson asked how the contractual arrangement for maintenance is working out and if this is becoming a cost burden compared to previous years.

Golf Director Aldridge explained that the quality of the help is much better and there will be a noticeable improvement in the second quarter.

Vice Mayor Youngs stated that Council approved the idea of the contractual maintenance because it was more convenient for Human Resources and Ms. Pell, and it was also to render a cost savings.

Golf Director Aldridge explained that the cost savings relates more to the overall benefits that the City does not have to pay, including pension, insurance, etc.

Vice Mayor Youngs said that he asked for a projection for the entire year and it was alarming that last year the operation lost \$195,000, considering at the end of the first quarter, there was a \$42,495 operating profit. He is worried because the operation is \$34,000 behind compared to last year. He asked what mid-course corrections were going to be made.

Golf Director Aldridge responded that corrections were made that will reflect the numbers in the second quarter, which is the loss of two full-time employees.

Vice Mayor Youngs said that he would like to see the specific changes that were made from the current budget and estimate the quantifiable effect at the end of the year. Last year a loss of \$125,000 was budgeted and it ended with a loss of \$195,000, in spite of increased revenue. This year a loss of \$150,000 was budgeted and the revenues are looking worse.

Vice Mayor Youngs would like to get to a break even point with the actual information the way this year is performing. He felt that this is significant because the City has contracted to fund and build a Community Center, which means an annual debt service of approximately \$200,000.

To answer Councilman Dotson's question, Golf Director Aldridge stated that the maintenance of the Golf Course would not suffer as a result to the loss of the full-time employees.

## **12. Reports & Recommendations:**

### **12A) City Attorney**

#### **April 7, 2009 Miami Springs Municipal and Special Elections**

City Attorney Seiden stated that City Clerk Magalí Valls would make a report.

City Clerk Valls stated that she placed copies of an e-mail and a memorandum on the dais for Council regarding the election polling place. She reported that Miami-Dade County Elections approved the Dynasty Room as a suitable location to hold the April 7, 2009 Miami Springs Municipal and Special Elections and asked if it would be appropriate to schedule an agenda item at the next meeting for final approval.

City Attorney Seiden noted that the County is requesting some items from the City, which changes the nature of the approval. He explained that they are requesting the re-painting and re-stripping of the handicap parking spaces since the lines are faded and they will require additional Deputies on Election Day to help the voters cross the street and at the handicap access to the building. Since the Clerk can serve as a Deputy, there is only a need for two.

Councilman Best added that the County is requesting network connectivity and they will work with the City's I.T. Department.

Councilman Garcia stated that the re-stripping would not be a problem, but he would like the additional Deputies to be provided by the County.

**Councilman Garcia moved to approve and Councilman Best seconded the motion which was carried 5-0 on roll call vote.**

Vice Mayor Youngs stated that because the County is holding other elections on the same day that they will not determine the results on-site. He asked the City Clerk if she could look into the matter.

City Manager Borgmann explained that the County does not have enough Staff for the collection, canvassing and tabulation processes for three elections.

City Clerk Valls was also concerned about the off-site counting of votes because the results have always been announced at the Recreation Center. The only hope is that either Bay Harbor or Bal Harbour will cancel their election if their candidates run unopposed. The County no longer has the Staff to send to each City and the results will be announced at the Elections Department in Doral.

Councilman Garcia felt that it would only be a matter of a phone call from a City representative at Doral to someone at the City who would announce the results.

Vice Mayor Youngs suggested that the officials from the Elections Department in Doral could call the City Clerk who would announce the results at the polling place.

City Clerk Valls clarified that she would be at the Elections Department in Doral after the election when the votes are counted.

## **12B) City Manager**

### **Revenue Tracking**

City Manager Borgmann stated that the Administration would carefully track the Golf Course revenue stream from this point on, especially with the declining revenue from state and property taxes. This will be done for every City department and the Finance Director will closely monitor the revenue, especially in anticipation of preparing the budget for next Fiscal Year.

City Manager Borgmann said that the last quarterly financial report indicated that expenditures for most departments ranged from 20 to 22% and the Recreation Department expenditures will increase during the summer. It is important to check the numbers and track the revenue.

The Consumer Price Index (CPI) for last year increased 0.1% over the prior year, which is deceiving because it was positive in the first three quarters and went down 12.5% in the fourth quarter. There is no certainty as to the impact of the decreases going forward, which will pertain to personnel issues for the coming year.

### **Pension Boards**

City Manager Borgmann announced that the General Employees' and Police and Firefighters' Retirement boards met in a joint meeting on Thursday, February 5<sup>th</sup>. He referred to a report from the investment advisor, ICC, which indicates that the preservation of principal is the key focus. The Actuary report indicates the negative impacts of the past year's market condition. The employee and employer contributions will have to be reviewed in order to determine the average over the last five years.

### **ADA Lawsuit**

City Manager Borgmann reported that the Americans with Disabilities Act (ADA) lawsuit was dropped. The case was settled for \$350.00, which was split between the City and the County.

To answer Vice Mayor Youngs' question, City Attorney Seiden clarified that a conference call would be made to the ADA Counsel and there is a list of eleven items to be addressed going forward and brought back to Council.

City Manager Borgmann explained that the lawsuit was very general and the City is not in bad shape in regard to ADA compliance.

### **Baseball Signups**

City Manager Borgmann announced that baseball, softball and T-ball registration is held on Saturday mornings from 10:00 a.m. to noon at the Recreation Center.

### **Little League Opening Ceremonies**

City Manager Borgmann reported that the Little League baseball opening ceremonies will be held on March 7<sup>th</sup>, which is one week earlier than previous years.

### **Basketball Play-offs**

City Manager Borgmann stated that basketball play-offs begin on Thursday, February 12<sup>th</sup>.

### **Budget Planning**

City Manager Borgmann reported that the Administration had already implemented the budget planning process for Fiscal Year 2009-2010.

## **12C) City Council**

### **Golf Tournament**

Councilman Best announced that a nighttime golf tournament was held last weekend at the Golf Course for the first time, which was sponsored by the Lions Club to raise funds for the Cancer Walk for Life Relay. The successful event was followed by a spaghetti dinner at the Club that was very well attended. He stated that Mayor Bain was in the winning foursome and the City Manager provided music from his 1960's record collection.

### **Annexation**

Councilman Dotson asked the City Manager to follow up with the Department of Environmental Resources Management (DERM) to request that they send a representative to report on pollution in the annexation area. He felt that pollution is a major element that should be addressed as part of the information that is circulated to the residents.

## **Annexation**

Vice Mayor Youngs requested that the City Manager provide a progress report from The Corradino Group on the amendment to the annexation application and the feasibility of annexation based on the new assessed tax values.

City Manager Borgmann reported that he spoke with The Corradino Group representative one week ago who indicated that he was waiting for an economic consultant to update their numbers.

## **ADA Lawsuit**

Councilman Garcia said that the County installed the metal barrier along the bike path and the City had asked for openings to allow access.

City Manager Borgmann commented that the access openings would be the County's responsibility based on the lawsuit.

City Attorney Seiden said that because of the road design and angle of the traffic, everyone seems to be in agreement to not placing any openings in the guardrail due to the difficulty in seeing the oncoming traffic.

## **Lady Hawks**

Mayor Bain wished the Miami Springs Senior High School "Lady Hawks" soccer team good luck at the State Championship in Tampa.

## **13. Adjourn.**

There being no further business to be discussed the meeting was adjourned at 9:44 p.m.

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Billy Bain  
Mayor

## **ATTEST:**

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Magalí Valls, CMC  
City Clerk

Approved as written during meeting of: 2/23/2009.  
Transcription assistance provided by S. Hitaffer and M. Newton.