



## *City of Miami Springs, Florida*

The Miami Springs City Council held a **SPECIAL MEETING** in the Council Chambers at City Hall on Monday, June 30, 2008, at 7:30 p.m.

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

The meeting was called to order at 7:32 p.m.

The following were present:

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

Also Present:

- City Manager James R. Borgmann
- Assistant City Manager Ronald K. Gorland
- City Attorney Jan K. Seiden
- Chief of Police H. Randall Dilling
- Finance Director Leacroft E. Robinson
- Interim Comptroller Alicia E. González
- City Planner Richard E. Ventura
- City Clerk Magalí Valls

**2) Invocation:** Councilman Paul C. Dotson offered the invocation.

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

**3) Approval of the City Attorney's Invoice for June 2008 in the Amount of \$9,839.50**

There was no discussion regarding this item.

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

#### 4) New Community Center – Bank Loan Funding

City Manager Borgmann stated that contact was made with Melanie Gillespie at the Florida League of Cities office. She had expressed to Councilman Dotson that the Florida League would take the City's situation to their Credit Committee, but apparently it was never an issue of credit, only a question of the private banks and their liquidity. She conveyed that the banks had no liquidity and when he told her that the City had a loan offer from SunTrust, she was emphatic that the City should take the offer.

Councilman Dotson spoke with Ms. Gillespie and she emphasized that the banks were very skittish about lending money to municipalities because of the tax mandated reductions and the passage of Amendment One. She said that some of the municipalities might default on loans they already have, which seems extreme. She told him that they favor loan applications when a referendum had already been approved.

City Manager Borgmann stated that Council had reviewed three bank proposals and he followed up with the Florida League of Cities, which is not an option, so it looks like the only option at this point is the SunTrust offer.

Councilman Dotson said that Florida Statute Section 166.101 regarding municipal loans defines a bond as any debenture, note, certificate of indebtedness, mortgage certificate or other obligations or evidence of indebtedness of any type or character. The Statute goes on to define a general obligation bond as:

*“Bonds which are secured by or provide for their payment by the pledge in addition to those special taxes levied for their discharge in such other sources as may be provided for their payment or pledge as security under the ordinance or resolution authorizing their issuance of the full faith and credit taxing power of the municipality. . . .”*

Councilman Dotson stated that the City Charter discusses general obligation bonds and under Section 9.06 it states:

*“No general obligation bond shall be issued by the City unless the issuance of such bond shall have been approved by the vote of the majority of the electors voting on the issuance of such bonds in a general or special election. Such election shall be called, noticed and conducted and a result thereof determined and declared in the manner required by law.”*

Councilman Dotson said that the Florida Statutes define a bond in a very broad way and it also defines a general obligation bond. The City Charter only refers to general obligation bonds and revenue bonds and financing the community center is clearly not a revenue bond. He believes that whatever financing that Council approves would require a vote of the people and he would like to have the City Attorney's legal opinion.

Attorney Seiden responded that he would not agree with Councilman Dotson that a vote of the people is required. He explained that a general obligation bond looks for the repayment of the bond from the ad valorem taxation of the City. The commitment letter from SunTrust requires only the pledge of the half-cent sales tax.

City Attorney Seiden stated that the method of repayment is the key to the characterization of the borrowing and, as long as the borrowing does not require the pledging of the ad valorem taxes, then it is not an ad valorem bond.

Councilman Dotson reiterated that his argument is that it is a general obligation bond, not an ad valorem bond.

City Attorney Seiden referred to his memorandum dated June 9, 2008 stating that:

*“Constitutional and statutory provisions imposing the requirement of an election as a prerequisite to the issuance of bonds are not applicable to the issuance of instruments or obligations payable only from a special fund, such as tax anticipation warrants or notes payable from non-ad valorem sources. The rule that a bond referendum is not necessary to approve obligations payable from the revenue of the project financed is not restricted to the situation where the securities are payable solely from the revenues of the project itself. It is also applicable where certain other sources of payment are pledged in addition to the revenue of the project as long as the ad valorem taxing power of the unit cannot ultimately be called upon to service or retire the bonds. Thus, a pledge of revenues of other utilities, fees from licenses, or a restricted tax that is not an ad valorem one, such as a utilities tax or cigarette tax, in addition to the revenue from the project financed, does not require a referendum.”*

To address Councilman Dotson’s concern, Attorney Seiden stated that the City would not be pledging the general credit or the taxing power and the only security for repayment would be the half-cent revenue source, as outlined in the commitment letter. He clarified that if the City were to default on the loan the bank would only be able to go against that one source of revenue.

Councilman Dotson understood that the term “general obligation bonds” means bonds which are secured by or provide for their payment by the pledge, which is the half-cent sales tax. The language states “and such other sources” it does not state “or” so it seems to add other revenue sources besides the particular pledge.

Councilman Best asked why Council would even consider entering into a loan agreement if there was even a propensity of going into default.

Councilman Dotson responded that he could not answer that question and he hopes the City does not default. He is only talking about complying with the City Charter.

Councilman Best stated that the City Attorney rendered a legal opinion.

Councilman Dotson said that he has a right to question that opinion.

**Vice Mayor Garcia moved to proceed with the loan with SunTrust Bank. Councilman Best seconded the motion which was carried 4-1 on roll call vote, with Councilman Dotson casting the dissenting vote.**

To answer the Mayor's question, City Manager Borgmann stated that all the financing must be in place before signing a contract with Link.

Mayor Bain was informed that Council must adopt a resolution in order to be able to accept the funds that are available from the County. He said that Representative Lincoln Diaz-Balart is requesting an application or letter of explanation stating how private entities could donate funds for the community center.

City Attorney Seiden advised the Council and Administration that they should establish a separate trust account for the receipt of the monies for the project.

City Manager Borgmann added that the project would be set up separately to show the incoming and outgoing funds.

Councilman Youngs stated that if the SunTrust loan requires the City to accept the funds in the beginning rather than drawing down on the construction loan period, there would have to be a separate account and he would like to find out if those funds can be co-mingled with the remaining monies set aside for the project.

Attorney Seiden explained that the City should not pay interest on monies they are not using, so perhaps it could be a construction draw type loan if SunTrust is willing to do that.

City Manager Borgmann said that there is approximately \$3.8 million dollars pledged to the project and the City will pay as the project progresses and then be reimbursed, so the funds will have to be available up front.

City Attorney Seiden added that there had not been substantive discussions with Link to determine the payment process, which must be done. There is still an issue open with Lemartec and he called the County Attorney's Office for assistance, but has not yet received a response regarding an interpretation issue on the Statute they raised. He felt that the City should continue to negotiate with Link and if something happens then the City will deal with the problem.

Mayor Bain stated that there is a possibility that corporations could pledge funds for the project and if there are any questions about the process the Administration should contact Representative Lincoln Diaz-Balart's office.

Attorney Seiden explained that a trust account could be established for the construction and development of the City of Miami Springs community center and there could even be wire transfer instructions.

## 5) Discussion Regarding Annexation Issues

City Manager Borgmann stated that the Council packets include a package delivered by Commissioner Sosa on March 24, 2008 detailing the financial impacts on the UMMA budget prepared by County staff. There is also an updated document on annexation and a corresponding chart showing anticipated expenses and revenues from the area if the City were to acquire the area from N. W. 36<sup>th</sup> Street to N. W. 74<sup>th</sup> Street. Since policing would be the single largest expense regarding annexation, a memo from the Police Chief is included that details anticipated expenses.

City Manager Borgmann explained that the first sheet in the packet contains a list of questions; some are unresolved and some have received partial answers. The first question is “*Does the County have any issues regarding Miami Springs and contiguity to the area in question?*” He has been told by Peter Velar at one time that the County did not have an issue with Miami Springs and contiguity, but he did not know if that referred to the geographic area with two canals and a railway. He thought that if Miami Springs had an issue, Virginia Gardens would too, and the County would have prevented either of the cities to continue to pursue annexation.

Councilman Youngs suggested that the City should request an opinion from the County Attorney concerning the two applications from Miami Springs and Virginia Gardens and whether or not they meet the County’s test for contiguity. It is important to distinguish if physical touching is required, and if the County needs to designate the rail yard a utility or terminal of some sort so that it would not count against any City in a contiguity argument. He would like the County Attorney to interpret the County’s rules regarding contiguity, and they would need to have that information early in the process. Information that was provided even a few years ago might not be pertinent today.

Councilman Dotson said that contiguity and mitigation were discussed at the last meeting. He thought that they had all agreed that the Interlocal Agreement should include some guarantee that Miami Springs should acquire the railroad yard in the event it was developed in the future. If Miami Springs was to annex the property west of the railroad, the railroad parcel should be included. Otherwise there is the possibility of a small village or entity being created between the two parcels.

In response to Vice Mayor Garcia’s question, City Manager Borgmann replied that he had not received any information from the FEC in regard to their plans for that area.

Vice Mayor Garcia said that he was advised that the Mayor of Virginia Gardens had received a memo from the FEC regarding the area west of Miami Springs, and asked the City Manager to ask the Mayor for a copy of that information.

Attorney Seiden asked if anyone knew how much of the railroad area was contiguous to Virginia Gardens.

Discussion ensued and it was determined that the area from N. W. 36<sup>th</sup> Street to N. W. 41<sup>st</sup> Street borders Virginia Gardens. Councilman Youngs pointed out that the railroad yard continues south down to N. W. 25<sup>th</sup> Street, and Virginia Gardens might also have an issue with contiguity.

Councilman Best was aware that the railroad wanted to downsize and evacuate the property, but he was under the impression that the evacuation would take place several years in the future. He wondered if the County would have to rule on the contiguity issue in regard to either city.

Vice Mayor Garcia advised that the railroad is actively looking to move its vehicles from the area, and the process could start at any time.

Attorney Seiden replied that one of the purposes of annexation is to eliminate “pockets” and “enclaves” so this is an issue that has to be addressed; the County would have to make a ruling at some point concerning the rail yard. If the terminal were to lose its current designation, the area should become available to the city that is contiguous to it. The City may be required to amend its application and ask for a definitive opinion.

Councilman Youngs agreed with Councilman Dotson. It made no difference to him whether they considered this a contiguity issue or part of the Interlocal Agreement, but the City’s proposal should ask for clarification.

Councilman Dotson was concerned with the contiguity issue for several reasons. If the City’s Charter states that the City cannot annex any property that is not contiguous, then regardless of what the County says, the City could not proceed.

Attorney Seiden explained that by definition, contiguity skips over areas defined as “public necessity” and goes to the next adjacent area. By the County or the City’s interpretation, the area would be considered contiguous; the legal definitions would not change.

Mayor Bain thought that the most important part of the negotiations should be the City’s strategy to annex the parcel of land that would best benefit the City. He noted that the areas west of the Palmetto Expressway were out of the question because Doral and Medley were already there. The City should simplify its application by asking for what is most practical. He saw no reason that the City could not ask to approach N. W. 36<sup>th</sup> Street as the south border for parcels 6 and 7, or that the City should keep the Palmetto Expressway as its west border.

The Mayor stated that the application could be amended to request that the rail yard become part of Miami Springs should it lose its “non public use” designation, and add parcel 9, the MIC.

Mayor Bain was under the impression that it was the Town of Medley's wishes to square off the town by annexing land to the north. His intention is to have Council confirm the parcels that the City is interested in and present the proposal. Once Council makes a decision on a concrete area, the numbers can be analyzed to see if the proposal will work or not.

Councilman Dotson felt that there was no contiguity without the railroad property. He would be willing to support the idea only if it was legal to include that property in the Interlocal Agreement and the City would be able to annex it some time in the future when it becomes available.

Councilman Youngs asked Councilman Dotson if he was not comfortable with the proposal even though the border of Miami Springs physically touches the area it wants to annex. He explained that he was referring to the area between the rail yard and N. W. 74<sup>th</sup> Street. The area is about 450 feet wide from north to south where the two canals come together at the intersection of N. W. 74<sup>th</sup> Street and North Royal Poinciana. If the City were to annex that corner there would still be physical contiguity in the strictest sense of the word, even if the rail yard were excised. His suggestion again would be to ask the County Attorney for an opinion so the City would not be derailed by a third party or a change of heart from the County. He asked Councilman Dotson if having that opinion on file in the application would solve his concerns.

Councilman Dotson replied that he would still be concerned, but he reiterated that he would be willing to vote for the proposal if the County would guarantee that the City could annex the railroad property, which runs for almost two miles along Ludlam Road. There is no comparison between the two areas; one would have to drive out and around through Medley to 72<sup>nd</sup> Avenue to get to the rest of the property, or out N. W. 66<sup>th</sup> Avenue in Virginia Gardens. Either situation does not promote his idea of what contiguity should be in a community.

Vice Mayor Garcia pointed out that it was similar to the separation between the City and the Abraham tract, which does bring in a good amount of tax revenue.

Councilman Dotson replied that he was in favor of the Abraham Tract, but that area is right across the street and not a problem.

Mayor Bain does not understand how the amount of feet would make a difference for the purpose of defining contiguity and how it could stop the City's annexation application from going forward. He is pursuing what is good for the entire City and would like to move forward by setting boundaries that would be practical for the County and all the cities involved.

Mayor Bain would like to make a proposal for N. W. 36<sup>th</sup> Street as the boundary on the north and the Palmetto Expressway on the west, and to accommodate Medley with whatever they need to expand their Town Hall and he would also include the MIC in the application. He is waiting for the meeting with the County and the other cities to get the questions answered in order to be able to move forward.

Councilman Best would also recommend annexing down to N. W. 36<sup>th</sup> Street and the MIC as well.

City Manager Borgmann clarified that the area highlighted in yellow on the map is being designated to Miami Springs and shown on the sheet as Section 6.

Mayor Bain stated that he would like to go forward with the annexation application, the Interlocal Agreement and then proceed to analyze the numbers including revenues and cost of services.

The Mayor explained that the County should give all the pertinent information to the municipalities so they can analyze the numbers in order to know if annexation will benefit the cities or not. Then the analysis can be presented to the citizens so that they understand what annexation means.

Vice Mayor Garcia stated that there were issues regarding the land surrounding the MIC and he tried to speak as many people as possible that know about the potential annexation. The only people that mentioned that Section 9 is not available are the people who are interested in annexing that area. He explained that the new area that the City is proposing to annex is less than the amount of land initially requested in the application, which shows good faith that the City is willing to compromise with the other cities.

Vice Mayor Garcia stated that a letter was received notifying the City to forward all correspondence to the Flagler Group regarding the bike path funding and the agreement.

City Manager Borgmann confirmed that he did receive a letter notifying the City that there was a change of ownership and from now on all correspondence will be directed to the Flagler Group.

Vice Mayor Garcia felt that the letter was an indication that the FEC is working to turn the rail yard over to the development group. The FEC has been looking for a property to move the vehicles to another location and the City must stay on top of what happens to that land and include it in the application for annexation.

City Manager Borgmann stated that sometimes a rumor is repeated to the extent that it almost seems true. He has heard that the car facility is moving to West Palm Beach and the trailer on flat car facility is being shifted up the coast toward Cocoa Beach, but he has not seen anything in writing.

To answer Councilman Dotson's question, City Attorney Seiden clarified that the City is not contending for the land west of the Palmetto in Section 15 because it was in the original request and the County turned it down.

Councilman Youngs stated that the County made proposals and compromises and Section 15 was deemed for geographic reasons to be more suitable for annexation by Doral and Medley. He said that the task for this meeting is to arrive at a position for Miami Springs, which would be a solution that involves a compromise with the three cities and a decision must be made regarding Area 5 or Section 15. He would recommend that Council identify and prioritize the deal breaking points for the City.

City Attorney Seiden clarified that Section 15 was taken off the table when the area moved further south so that Virginia Gardens received more southerly property below N. W. 36<sup>th</sup> Street, which opened up the area for Miami Springs. The terminal ordinance is another argument which will go away once the terminal goes away because the only reason the ordinance was enacted was to protect the FEC property. He felt that if Virginia Gardens were to receive the land south of N. W. 36<sup>th</sup> Street it would make sense for Miami Springs to extend to 36<sup>th</sup> Street.

Attorney Seiden said that he attended a luncheon when the Virginia Gardens' attorney mentioned that Virginia Gardens was prepared to offer Miami Springs N. W. 41<sup>st</sup> Street and he responded that he had no authority to discuss the matter, but that Miami Springs was pretty adamant about 36<sup>th</sup> Street because it seems fair based on the amount of property being offered to the other cities. The attorney also mentioned that the Virginia Gardens application contemplates the FEC rail yard portion south of 36<sup>th</sup> Street.

To answer Councilman Dotson's question, City Manager Borgmann said that the current map was delivered by County Commissioner Rebeca Sosa on March 24, 2008.

Councilman Youngs asked Council not to lose track of what is considered as a tax base because the maps could be deceiving. The tax base between N. W. 36<sup>th</sup> and 41<sup>st</sup> Street is the "lion's" share of the tax base for that entire section.

City Manager Borgmann stated that it is the first block of 36<sup>th</sup> Street going north.

Councilman Youngs explained that the goal is to annex land with a sufficient tax base that makes annexation feasible. The numbers for Area 9 could almost double the size of the tax base of Miami Springs and make a commercial/residential ratio of 50/50, which would be a tremendous financial achievement for the residents of Miami Springs. Virginia Gardens is attempting to annex land that would increase its tax base by three or four times.

City Manager Borgmann said that Section 6 is designated for Miami Springs and the 2007 property tax roll puts the assessed value at \$816 million. The assessed value for Section 7 is \$888 million, which is what the County is proposing for Virginia Gardens. If the land for Miami Springs extended to 36<sup>th</sup> Street, the number would change to approximately \$921 million.

Councilman Youngs reiterated that the tax base increase should be sufficient to do justice for Miami Springs as well as leave enough land for Virginia Gardens so that they would have a similar increase in their tax base. A number of officials have made the warranty to different County Commissioners that Miami Springs would look after Virginia Gardens. The question to be answered is if Miami Springs is looking to increase its tax base by adding commercial property. The current Virginia Gardens proposal at 41<sup>st</sup> Street would give Virginia Gardens more than 50% of the land, increasing their tax base by three or four times.

Mayor Bain asked if the FEC Rail Yard is included in the City's application, and City Attorney Seiden explained that a long time ago the railroad officials were annoyed and their attorney came to the City requesting a specific exclusion in the City's application. The City agreed to include the rail yard and if it was not needed for contiguity purposes, then it could be excluded while it maintained its character as a rail yard.

Mayor Bain stated again that he would like to resubmit the City's application to the County Commission for Section 6 south to N. W. 36<sup>th</sup> Street, including Section 9 and the rail yard.

Councilman Best agreed with Mayor Bain that Section 9 should be included in the application, as well as Section 5 if it is still on the table. He was of the opinion that the more land requested would show the County that the City is serious about annexation.

Councilman Youngs stated that the current County ordinance says that in order to have a successful annexation, there must be support and a resolution from the governing municipal body of adjacent municipalities. By including Section 5, which is desired by both Medley and Doral, it would mean that three cities are vying for the land. The proposal is that Doral and Medley would pass resolutions supporting the Miami Springs' annexation if Miami Springs allows them to divide Area 5. Doral is not taking a position on the dividing line between Miami Springs and Virginia Gardens, but they would generally pass a resolution so that the cities support each other for the various annexations.

Councilman Youngs explained that it would make sense for the City to give up Area 5 if it is conditioned upon Medley and Doral supporting the City's application. He reiterated that the idea is to have Medley and Doral supporting Miami Springs with respect to Area 9 and the rest of the application in exchange for reducing the size of the current application to exclude Area 5.

Councilman Youngs continued to state that in terms of tax base and commercial residential balance, Doral and Medley would be financially secure until the end of time. Annexation for Miami Springs and Virginia Gardens is a matter of need for long term financial survival. The matter of which city needs Area 5 is not the issue, it is a matter of compromise in order to achieve annexation.

Councilman Dotson stated that there needs to be some conclusive negotiations with the other cities. If two cities cannot agree then there is an arbitration process.

City Attorney Seiden responded that the arbitration process does not apply to Miami Springs. He would love for the City to have the opportunity to pay an independent arbitrator to take the case instead of having to present it to thirteen County Commissioners who have their own political motivations.

In response to Councilman Best's comment about Section 5, City Attorney Seiden said that if the City were to demand this section, it would probably not engender any good will with the County Staff and it would do more harm than good from a negotiating stance.

Councilman Best stated that his idea was to use Section 5 as a negotiating point.

City Manager Borgmann said that the negotiating point should be that if the County is not letting Miami Springs go west of the Palmetto then they should agree to the request to go south to N. W. 36<sup>th</sup> Street.

Vice Mayor Garcia stated that if Virginia Gardens would agree with Miami Springs on the southern boundary as N. W. 36<sup>th</sup> Street then the County would not have an issue.

Attorney Seiden explained that there are only two issues on the table for the four cities involved which is N.W. 36<sup>th</sup> Street for Virginia Gardens and Medley for the 74<sup>th</sup> Street Connector. The only matter left is the impact of the FEC terminal ordinance and how to deal with those issues.

Councilman Dotson asked if there is any hope of negotiating with the railroad in regard to zoning control and contiguity. He said that no other city in the County had given up their zoning and land use authority.

Attorney Seiden stated that the City made an agreement when it annexed the Abraham Tract to never zone that property for anything other than commercial/industrial use. There are certain ramifications to negotiations in that regard. He felt that it would be an easier process if the City could get an answer from FEC, but they have been very secretive about their plans. They have turned over the property to Flagler Development which is the real estate development arm of the FEC and this seems to indicate that they have development plans.

City Attorney Seiden reiterated that once FEC loses the character of the property as a protected area by virtue of the terminal ordinance they most likely would not have a choice. It would seem far fetched to create an enclave area in an area that has just been annexed.

City Manager Borgmann said that the desire to keep the zoning status quo has more to do with the County not having to go through a Comprehensive Plan amendment process. He believes that the County would want to keep the area commercial, which is also the City's desire.

Discussion ensued regarding an old letter from former County Manager Joe Ruiz about commercial and residential infill. The City Manager felt that the County was making a generic statement about trying to get infill back so that there would not be undeveloped properties.

City Attorney Seiden agreed with Councilman Dotson that if the property were annexed and controlled by the City, another entity should not dictate the zoning. The City must have assurances that if the FEC area is no longer protected under the terminal ordinance that the ordinance would not apply any more.

City Manager Borgmann added that the terminal ordinance probably includes the MIC; it might not just be specific to FEC.

City Attorney Seiden stated that if the City was fortunate enough to get the sections that there would have to be an understanding in the Interlocal Agreement.

Councilman Youngs asked Council to make a decision about Area 5 (Section 15) because it is included in the current application on file with the County. One of the agreement points would be that the City would not seek to annex Area 5 if Medley and Doral would support the annexation application of Miami Springs and they would support the boundary east of the Palmetto running south to 36<sup>th</sup> Street.

Based on the analysis of the numbers and the tax base, Councilman Youngs felt it would only be fair for 36<sup>th</sup> Street to be the division between Virginia Gardens and Miami Springs.

Councilman Dotson agreed with Councilman Youngs that N. W. 36<sup>th</sup> Street would be the minimum request.

Councilman Youngs said that based on the 2005 numbers, eliminating Area 5 (Section 15) from the formula would have to be balanced by annexing the top half of Section 7 south of 36<sup>th</sup> Street in terms of the tax base.

Councilman Dotson agreed with Councilman Youngs that N. W. 36<sup>th</sup> Street would be a fair boundary for both Virginia Gardens and Miami Springs.

To answer Vice Mayor Garcia's question, City Manager Borgmann explained that the numbers do not consider Section 9 or the MIC area; however, the UMSA numbers indicate the area is very negative.

City Manager Borgmann said that in the future, once the MIC is completed, Section 9 would be a positive investment.

Vice Mayor Garcia added that depending on which municipality annexes which area, that would determine the vision for commercial development. He felt that it would be ideal for Miami Springs to annex the MIC area in order to improve the tax base. He emphasized that currently the City is 90% residential and annexation would add a commercial tax base, which is absolutely necessary to ease the financial pressure on the residents.

City Manager Borgmann said that a \$900,000 surplus would reduce the City's millage rate to 5.300.

Councilman Dotson asked to consider the mitigation that is estimated at \$336,000.

The City Manager stated that the City would receive the property taxes, but the County would keep the franchise and utility tax fees, totaling more than \$700,000. The County would keep the water and sewer systems.

Mr. Borgmann added that there are still some County funded projects in progress and the City must verify how many of those projects have been completed. At this point, he does not think that any unfinished projects would be turned over to Miami Springs. The list of projects is extensive, including FEMA and public works projects, but the list is over two years old.

City Manager Borgmann felt that it would be “over kill” for the County to keep \$700,000 and still charge the City \$335,000, but this point would have to be negotiated.

To answer Councilman Dotson’s question, the City Manager responded that no analysis had been done for Section 9 indicating the required police, public works or planning services because two years ago the County was saying that the MIC was off the table.

Councilman Youngs explained that the County had a formula for mitigation based on the average loss of revenue to the County, which was spread over the entire area, and they came up with a certain millage percentage. The highest seems to be 1.00 mill paid by Doral and Miami Lakes, while there were lesser mitigation amounts around the County based on the formula. Now would be the time to set the mitigation for Area 9 because it appears to be a loss at this time and the mitigation rate to Miami Springs should be zero, which would change with development as the property values increase.

Councilman Youngs said that it is important for the City to annex Area 9 and negotiate a blended mitigation rate, and none of this is resolved, but the City should insist that the other cities support Area 9 for Miami Springs.

Councilman Dotson recalled that mitigation was added for the area of N. W. South River Drive because of the cost of special police services.

City Manager Borgmann added that the cost for police service increased because the area was serviced by the special unit that also serves the airport.

Councilman Youngs explained that the County receives federal monies to support the police and the Airport Division received extra federal monies that included an extra allocation for the work they would have to police the general area around the rental car agencies in Area B. If this area was annexed, they would actually lose the funding.

City Attorney Seiden commented that mitigation is a big question mark in light of many factors. The County was able to win their lawsuit against the State in regard to Miami Lakes and Doral and their Home Rule Charter prevailed. Also, there are revenue demands because taxation is being limited to the County and when annexation is put before a thirteen member Commission, it might not be acceptable. He had assumed that the important issues would have been resolved at the Sunshine Meeting that Commissioner Sosa had said would happen, but not having this information leaves the City in the dark.

Attorney Seiden knows that Council would like a Statement of Position for the City, which is a good idea, but there are no guidelines regarding mitigation at this point.

Councilman Dotson would like to avoid any perpetuity for mitigation in the Interlocal Agreement. Before the court decision, the County indicated a willingness to terminate mitigation over a period of years.

Mitigation for the area to the west is estimated to be \$336,000 based on the net loss to UMSA, according to Mr. Borgmann.

Councilman Youngs stated that the mitigation is consistent with the formula for the incorporating cities, which was a certain millage rate percentage.

To answer Councilman Youngs' question, City Manager Borgmann responded that \$336,000 would be approximately 1/3 mill.

Councilman Youngs said that if the County is looking for revenue it might not be a bad time for the City to annex because it would reduce County Staff, overhead and expenses to provide the services to the area and they would still make a profit through mitigation.

Councilman Best mentioned that it would also be fair to discuss the 20/20 Plan for westward expansion. Relative to the negotiations with Virginia Gardens, it would seem that they would have some concern.

City Attorney Seiden explained that if the 20/20 Plan was on the table and the County was really concerned they could not have proposed the southern boundary for Virginia Gardens.

Councilman Dotson recalled there was a lot of previous discussion about pollution and there is no question that there had been a lot of pollution over time. He would like to reassure people who are concerned about pollution by finding a consultant who is knowledgeable, like environmentalist Joe Podgor, or someone from the Corp of Engineers who would outline exactly what is the pollution situation. There have been stories circulating about a flume of pollution that is working its way underground from the north area toward the City. It would seem wise to obtain information on this subject.

City Attorney Seiden suggested that the City request that someone from DERM meet with the City and educate them as to what is going on in those areas. DERM is independent, and that would be a good public relations move for the County.

City Manager Borgmann stated that the City paid a consultant and a law firm to research the situation so that the City could be reassured that it would not be responsible for cleaning up any pollution that was found, unless the City was the one who caused or transported the pollution. He felt that it would be in the best interests of the City to monitor the situation. Fifteen years ago there was pollution from a fuel spill at the airport that was affecting the City's water supply.

Councilman Dotson said that years ago maps were posted in City Hall listing areas that were polluted. He thought that DERM would be able to tell the City the current status of most of those areas.

Vice Mayor Garcia thought there was a possibility that the 20/20 plan proposed by the County could come about, and if it did, it would be a great disservice to Virginia Gardens. He asked if it was possible to relinquish the area back to Virginia Gardens in the event it was awarded to Miami Springs.

Attorney Seiden advised that there were ways of accomplishing that, but it could create a lot of problems in the future. He did not believe the County would have allowed the annexation process to proceed if it thought the 20/20 plan was still feasible or an alternative. The new maps show Virginia Gardens going all the way around. He was told that Virginia Gardens had requested the area up to the 94<sup>th</sup> Aero Squadron, though it had not been approved. There was no way to know what the County would ultimately decide to allow.

A discussion ensued regarding the various 20/20 plans submitted through the years and the areas they encompassed.

Attorney Seiden said that expanding the runways is a tremendous issue; expanding to the west would impact residential and commercial areas.

Councilman Youngs noted that the taxable value of the land right now is in between the two runways.

Attorney Seiden suggested that he and the Administration meet to discuss and prepare a position statement to be reviewed by the City Council and presented to the County.

City Manager Borgmann said that they may not be able to answer all the questions that the Council members have, but he thought that they all agreed that the City wanted to move forward. The minimum areas would be to N.W. 36<sup>th</sup> Street, N. W. 74<sup>th</sup> Street and the Palmetto Expressway to the east.

Mayor Bain wanted to make it clear he was in favor of section 6, including the rail yard, with the caveat that if the property becomes non-terminal, it will belong to Miami Springs. In his opinion, that was the most important section in the whole area, but he would also like to keep the MIC in consideration.

Attorney Seiden said that the Council seemed to be in agreement on most of the issues, with the exception of the contiguity concerns if the FEC property is not included in the proposal.

Councilman Youngs suggested that Miami Springs should make it known that it was opposed to the 20/20 plan if it would remove tax base from Virginia Gardens, and that some agreement could be reached with the other cities involved to support that position.

Attorney Seiden asked if the Council members agreed that they would oppose mitigation so long as the County intended to retain the franchise fees and utility taxes from the areas that would be annexed.

Council agreed that the franchise fees and utility taxes should constitute sufficient compensation.

Councilman Dotson said that he appreciated receiving the figures from the Police Department. Nevertheless, he would like to get more details and analysis on the rental facility proposed as well as public works and other expenses that might be incurred.

Councilman Youngs thanked the other Council members for their input. He felt that it was important for the City Council to present a unified front in favor of annexation, and that the City needed County Commissioner Rebeca Sosa as an advocate to help Miami Springs achieve its goal. He thought that the residents should have a chance to vote or voice an opinion on the annexation matter. It would be a significant change in Miami Springs to add that much commercial land to the boundaries of the City, but all of the issues should be resolved before the plan is presented.

**6) Adjourn**

There being no further business to be discussed the meeting was adjourned at 9:30 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: 8/11/2008.

Transcription assistance provided by S. Hitaffer and M. Newton