



City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, October 26, 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 Dan Espino
- Councilwoman Jennifer Ator
- Councilman Bob Best
- Councilman George V. Lob

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 William Alonso
- Public Works Director Robert T. Williams
- City Clerk Magalí Valls

2. Invocation: Vice Mayor Espino offered the invocation.

Salute to the Flag: The audience participated.

3. Awards & Presentations:

3A) Officer of the Month Award for September 2009 – Detective Jerry V. Balester

Chief of Police Peter G. Baan asked Lieutenant Mike Cole and Detective Jerry V. Balester to come forward.

Lieutenant Mike Cole stated that Detective Balester demonstrates a quality approach to his cases that often result in a conviction. One particular case involved a marijuana grow house that was discovered in the City in 2007. Through thorough investigative techniques, Detective Balester was able to identify a suspect by a single fingerprint on a light bulb and a CVS receipt, which was crucial evidence and the suspect was found guilty on all charges.

Lieutenant Cole explained that a more recent case involved an armed robbery and kidnapping at a local business in Miami Springs. Through advanced investigative techniques, a suspect was tracked to Jacksonville, Florida. Detective Balester interviewed the suspect and obtained a complete video confession to the offense, which will likely result in a conviction.

Detective Balester is a very thorough and tenacious investigator, according to Lieutenant Cole. The quality of his work continually reflects high professional standards. He is to be commended for a job well done.

Officer Balester introduced his wife and children and thanked the Mayor and Council.

3B) Status of Community Center Construction by B. W. Sprague

Construction Manager Bill Sprague reported that the Community Center building is progressing and the last panel was set on the outside perimeter. The interior plumbing, electrical, and mechanical rough-in is in place and ongoing, the metal studs are being erected for the individual walls in the administrative area and the stairways are being formed. The roof joists are in place and the decking is going down with a pour on the roof scheduled for Wednesday.

In speaking with the contractor today, the roof should begin the middle of November, along with the outside windows, according to Mr. Sprague. They are also forming the interior track in the gym. He is very pleased with the progress and workmanship. The contractor is meeting or exceeding the schedule and making sure that everything is done according to the plans. There is a contract schedule and a work schedule and their intent is to beat the contract schedule.

Mr. Sprague explained that the remainder of the asbestos abatement would begin on Monday, November 2nd and demolition of the existing gym will immediately follow in approximately three to four weeks. The water utility line was tapped on both ends and there is a new gas line that will be installed.

Mr. Sprague said that figuring the total cost to date, including all contingencies, there is approximately \$100,000 remaining in the project that has not been spent. The worksheet indicates changes that were made after the programming of the project that were not included, i.e. the water main extension, gas line extension and Florida Power and Light expenses, which total approximately \$106,000.

Mr. Sprague explained that other items that were accounted for out of the contingency were the

purchase of the gym equipment, the generator, the revision of the drop off area and a canopy around the building. Additional electrical and information technology outlets were included per Staff's recommendations that will make the building more functional. The landscape and irrigation design was completed, as well as the design for the drop off area and a generator enclosure. He added that buying out the irrigation and landscaping resulted in a savings of \$33,000 over the original contractor's price and buying out of the gym equipment saved \$145,000.

The generator comes with a soundproof enclosure and they are evaluating the worth of surrounding it with a wall, according to Mr. Sprague. A new flagpole can be purchased for approximately \$5,000 with lighting to allow the flag to remain up at night. An energy management system would cost about \$35,000, which would control the A/C throughout the building and the gym. It would also read the humidity that is important for the wood floor in the gym. He estimates that the system would pay for itself in five years.

Mr. Sprague stated that a security monitoring and alarm system was not included in the original program, which is now being considered for a value of \$20,000. Changes were requested for the theatre that cost approximately \$5,500 and asbestos abatement for the gym was approximately \$14,000.

Mr. Sprague explained that once the gymnasium is taken down a fence must be installed around the pool, above and below the pool deck. The new gym and community center communication with the pool was not considered and should be addressed, which would cost approximately \$1,500. The relocation of power from the existing recreation center in order to be able to allow the pool to remain operating will begin this week. The lightning protection warning system will be relocated to the pool and then back to the Community Center roof once it is up. The cost of relocating staff to the trailer outside of the pool is another factor.

City Manager Borgmann informed Mr. Sprague that there are plans to relocate staff to the pool office and the trailer will be moved out.

Mr. Sprague stated that he estimated the cost of the worst case scenarios because he did not want to come back later with additional costs. Soft cost items for his fees, the engineering and concrete testing will come from the contingency.

In summary, the total cost for the completion of the project, including \$106,000 for the unforeseen utilities and deducting a grant of \$41,000 for the electrical, will result in a shortfall of \$125,000, considering all the additional items. This amount does not include any additional funds received by the City for the Community Center.

Mr. Sprague answered Council's questions to their satisfaction and explained the details of the demolition of the existing building.

To answer the Mayor's question, City Manager Borgmann stated that the City of Hialeah is offering the use of one of their swimming pools so that the swim teams can continue to practice.

Maintenance of the City's pool will be scheduled while it is closed.

City Manager Borgmann clarified that \$337,500 was received from Congressman Lincoln Díaz-Balart and \$250,000 was received from the State. The project is over funded, which means the grant funds must be returned if they are not spent.

Mayor Bain asked Mr. Sprague to prepare a prioritized list of all items he recommended for completion of the Community Center.

City Manager Borgmann referred to the top five items in Mr. Sprague's memorandum, including the energy management and security monitoring system, which were not committed to, but should be considered before the building is finished. He added that there were a few items that will be negotiated with the contractor because they should have been included in the original price.

In conclusion, Mr. Sprague explained that his goal is to bring the numbers down and he wanted Council to be aware of all the possibilities and the total cost.

4. Open Forum:

No speakers.

5. Approval of Council Minutes:

5A) 10/12/2009 – Regular Meeting

Minutes of the October 12, 2009 Regular Meeting were approved as written.

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

6. Reports from Boards & Commissions:

6A) 10/06/2009 – Architectural Review Board – Minutes

Minutes of the October 6, 2009 Architectural Review Board were received for information without comment.

6B) 10/13/2009 – Recreation Commission – Minutes

Minutes of the October 13, 2009 Recreation Commission meeting were received for information

without comment.

6C) 10/15/2009 – Historic Preservation Board – Minutes

Minutes of the October 15, 2009 Historic Preservation Board meeting were received for information without comment.

6D) 10/22/2009 – Code Review Board – Cancellation Notice

Cancellation Notice of the October 22, 2009 Code Review Board meeting was received for information without comment.

6E) 11/11/2009 – Golf and Country Club Advisory Board – Cancellation Notice

Cancellation Notice of the November 11, 2009 Golf and Country Club Advisory Board meeting was received for information without comment.

6F) 11/17/2009 – Education Advisory Board – Rescheduling Notice

Rescheduling Notice of the November 17, 2009 Education Advisory Board meeting was received for information without comment.

City Attorney Jan K. Seiden stated that a notice of appeal was received for one of the Board of Adjustment cases, but it was not filed on time. The person who wanted to appeal was notified that it was not filed timely and the City will return the fee.

Attorney Seiden explained that this was a case in which the Board of Adjustment had granted the Applicant an extension of 90-days to remove the construction or to get permission from the Building Department to retrofit it appropriately. If the Applicant fails to work this out she can come back and request a different type of variance.

7. Public Hearings:

None.

8. Consent Agenda:

8A) Recommendation that Council Approve an Expenditure of \$88,296 to Sungard HTE, Inc. for Application Service Provider (ASP) Service, as a Sole Source Provider, Pursuant to

Section 31.11 (E) (6) (c) of the City Code

City Manager Borgmann read the title of the award.

To answer Councilman Lob's question, Assistant City Manager Gorland responded that there was a service level agreement.

Councilwoman Ator moved the item. Vice Mayor Espino seconded the motion, which carried 5-0 on roll call vote.

8B) Recommendation that Council Approve an Expenditure of \$206,598.00 to General GMC Truck Sales, Utilizing Florida Sheriffs Bid # 09-17-0908, as provided in Section 31.11 (E) (5) of the City Code to Purchase an Automated Sanitation Truck for the Public Works Department

City Manager Borgmann read the title of the award.

Councilwoman Ator moved the item. Vice Mayor Espino seconded the motion, which carried 5-0 on roll call vote.

8C) Recommendation that Council Approve an Expenditure of \$123,260.97 to Rechten International Trucks, Inc., Utilizing Florida Sheriffs Association County Contract # 09-17-0908, as provided in Section 31.11 (E) (5) of the City Code to Replace Current Lightning Loader

City Manager Borgmann read the title of the award.

Councilwoman Ator moved the item. Vice Mayor Espino seconded the motion, which carried 5-0 on roll call vote.

9. Old Business:

9A) Appointments to Advisory Boards by the Mayor and Council Members

None.

9B) Discussion Regarding the James Medical Center Property; Encroachment on Golf Course (Discussed: 10/12/2009)

Mayor Bain stated that this item was tabled at the last meeting and subsequently, he visited the property with City Manager Borgmann to inspect the boundary lines.

City Attorney Jan K. Seiden stated that the survey of the property was available for review and the owners did a very good job of marking the lines of demarcation for the various boundaries.

Antonio Longoria, Jr. of 627 Eldron Drive stated that he is not a licensed surveyor, but does have extensive construction experience. He was able to find the survey markers and the property line is very close to his markings.

Mayor Bain explained that now he has a better understanding of the boundary lines. Since the bridle path belongs to the property, the lot would have to be reconfigured and his recommendation is for the City to take back the property.

Mr. Longoria stated that the aerial photograph shows the owner's offer, which is for the City to reclaim the portion labeled Section "A" totaling 3,300 square feet and for the City to provide a covenant of title for Sections "B" and "C". Even though the bridle path is involved and there is a clearance of approximately 20-feet from the property line to the nearest parking space, it would destroy twenty-four parking spaces.

Mr. Longoria said that there is no way to salvage the parking on the north side of the property and maintain compliance with the City Code. The property would be left with approximately nine usable spaces and the loss of parking spaces would impact the taxable value of the property by 21%. The heirs are offering to pay taxes on Sections "B" and "C" to allow some compensation in lieu of a lease. This proposal is based on the advice of legal counsel in regard to the sale of the property in the future.

Mr. Longoria explained that heirs have given their notice of intent to salvage the property. The question becomes how the City would reclaim the property and who is responsible for the new survey, construction, demolition and new curbing. These are all considerations that would have to be worked out with the City Manager. He said that the timeline is also important as there are several marketing plans available.

Mr. Longoria mentioned that Dr. James gave back a lot to the community and he paid taxes on the property. The removal of the encroaching property would affect the value of the property as a business. He said that available parking is a big issue in the business community and it is a component that must be protected whether Council decides to take the property back or not. He would like the City to consider the value of the twenty-four parking spaces.

Mr. Longoria referred to his proposal and a concept drawing of a possible skate park that he felt deserves consideration.

Councilman Best asked City Attorney Seiden if the City would be best served by reclaiming the 3,300 square feet and taking advantage of the proposed tax incentive for Sections "B" and "C".

City Attorney Seiden explained that it would be Council's decision; it is not a legal question. The property has never been taxed because the City is exempt, which means that the Property Appraiser's office would have to determine the taxable value and it would be very difficult to square off the property according to the lines. It is a public/private issue and certainly the property would be destroyed from a financial standpoint if the City takes back the encroaching property. There would not be enough parking, according to the Code, but the City could take that into consideration based on the facts and circumstances of the case.

Councilman Best was not sure if Council had enough information to make a proper decision.

Councilman Lob was curious to know if by letting the heirs keep Section "B" if it would generate more taxes in the sale of the property that would benefit the City.

Councilwoman Ator stated that an easement for the use of the property would require that the encroaching property remain parking, which limits the use and the true value of the property. It would require whoever purchases the property to keep the same structure or put a different structure on the property and leave the parking. She firmly believes that the City should request the surrender of the property back to the City.

Attorney Seiden said that if Council is inclined to grant an easement, he would require the conditions. He explained that someone could approach the City at a future date and ask that the conditions be removed.

Mayor Bain agreed with Attorney Seiden that a future Council could remove the conditions.

Attorney Seiden said that the reality is that a private citizen would be benefiting from City property.

Mr. Longoria explained that the heirs cannot wait indefinitely. The demolition of the property would have to take place as soon as possible because they would have to proceed with surveying the property. He said that in checking with the heirs' attorney, it would be possible to tax the property as a revenue producing device on behalf of the City. They tried to reach a "middle of the road" agreement that would provide green space, ensure space for future commercial property and bring tax revenue to the City.

Mr. Longoria said that they would surrender the property immediately as long as they know what the procedures will be so that they can prepare the property for sale in another fashion. He said that comments were received from people who want another medical clinic and they have done everything possible to keep a viable use for the property, which is impossible without the parking. **Councilwoman Ator moved to require surrender of the encroaching property to the City. Vice Mayor Espino seconded the motion.**

Mayor Bain thanked Mr. Longoria and the heirs for their cooperation. He said that it is difficult to debate the issue in public, they were straight forward and it is appreciated.

On roll call vote the motion carried 5-0.

9C) Discussion Regarding Site Selection for the Skate Park

Assistant City Manager Gorland stated that elevating the skate park pad at flood prone Stafford Park could cost approximately \$100,000 and because potential sites can impact the dimensions and usage, it is important to the success of the Request for Proposals (RFP) that the skate park site be determined prior to the RFP being issued.

Assistant City Manager Gorland presented the following for Council's consideration and discussion:

1. Skate park designers normally advise that they be co-located with other recreation facilities due to the need for water, restrooms, supervision, traffic/parking patterns and consideration to potential noise levels.
2. Options such as supervised versus unsupervised facility, insurance, ramps, skater age limitations, usage rules, hours of operations, etc. are under review and will be brought to the attention of Council at a later date because they are not critical to the RFP process.
3. Size considerations include 75' x 75' (5,600 sq. ft.) which is the smallest size the City should consider; 100' x 100' (10,000 sq. ft.) is advised as the best compromise size suited to the City of Miami Springs; 120' x 120' (14,400 sq. ft.) is considered the optimum size the City should consider because it would offer beginner space and could be turned into two tennis courts at a later date.
4. All sites under consideration, with the exception of the tennis courts, are on leased property under long-term leases, with short-term break clauses.

Potential sites include:

- Stafford Park – flood level requires elevated pad costing approximately \$100,000.
- Rio Vista Park – has park shape and size restrictions; is located close to single and multi-family residences; has flooding issues requiring pad elevation.
- Peavy-Dove west end parking lot could not be lighted under long-time agreement with area residents.
- Behind the Library- there is more than enough space but requires relocation of the tennis courts.
- Various unused parking lots at the east-end of town – availability, cost, etc. not yet explored at this point.

To answer Councilwoman Ator's question, Assistant City Manager Gorland confirmed that the City owns the property at Rio Vista Drive, as well as the existing tennis courts. The Peavy-Dove property is owned by Miami-Dade County Water and Sewer Department and Stafford Park is leased from the School Board.

Norma Hall of 549 Mokena Drive thought that the proposal to utilize Dr. James' property would be better than Stafford Park. She presented a petition signed by forty-six people opposing the Stafford Park location because it is surrounded by single-family residents whose occupants would face increased traffic, noise and trash. Also, it is very near the children's playground and accessible to buses and cars bringing an influx of skaters from other areas. The proposed concrete addition could lead to more flooding in the area. She added that any site in the City would involve an increase in the liability insurance premium.

Todd Lewis of 573 Miller Drive stated that most points had been addressed by the previous speaker regarding the Stafford Park location. He was concerned about the ongoing costs related to the proposed skate park, including insurance, supervision, transportation, parking, etc. He would rather have a facility that is geared more to team sports, rather than an individual sport. He does not feel that Stafford Park is a good location.

Vince Rodríguez of 564 Miller Drive agreed with his neighbors on most of the points that were made. He said that he is involved in construction and the skate park would be a large facility that would generate a lot of noise, in addition to noise from the pump station, baseball field and playground. He is opposed to the Stafford Park location due to the lack of parking, increased traffic, etc.

Jorge Álvarez of 548 Miller Drive agreed with previous comments that were made. He added that there is a need for more security at Stafford Park, especially at night. He is also concerned about the traffic in the alley and on the street, as cars go through his front yard and kids throw rocks and trash.

Councilwoman Ator stated that she had never been a proponent of the Stafford Park location. She is concerned because the City does not own the property and the School Board could take it back. She is also uncomfortable about the idea of unsupervised teenagers and the close proximity to N. W. 36th Street.

Vice Mayor Espino is not in favor of the Stafford Park site either. He spoke to consultants at the Florida League of Cities Conference who told him that \$100,000 for raising the grade at that location is a very conservative estimate and that expense would take away from the project.

Vice Mayor Espino has always been a proponent of the Peavy-Dove site because there is a recreation complex at that site. In terms of the lighting issue, he does not feel that it is appropriate for kids to be skating late at night. He suggested that a long-term plan would be to install lighting to make it a more viable recreation complex with baseball fields, a dog park, Tot-lot and skateboard park. He does not like the areas in the east end of town because they are isolated with more traffic. He has never been a proponent of moving the tennis courts.

Councilwoman Ator was concerned about the parking plan at the Peavy-Dove site, which is used by the High School, and the area is full of cars when there are four T-ball games going on. She expressed her reasons for supporting Rio Vista Park.

Councilman Lob does not think that parking will be a problem because the kids would ride their skateboards to the location.

Councilman Best asked if parking at the Peavy-Dove site would infringe on the High School parking.

Councilman Lob said that there is a huge visitor parking area that is empty.

Councilman Best also expressed his concern about the ability to construct on land that is not owned by the City. He has always been a proponent of the tennis court location because the City owns the land and there is limited resident exposure. He would like a cost analysis of building a skate park behind the Library at the existing tennis court location.

Mayor Bain understands the fact that no one wants a skateboard park next to their home. He does not like the idea of locating the park next to the High School. The location on North Royal Poinciana will also abut residential homes and in the past when he mentioned the possible tennis court location he got a lot of feedback from the surrounding residents.

Mayor Bain said that there are many empty parking lots on the east side of the City and he does not know why there is opposition to that area because kids drive to skateboard parks throughout the County. He said that this option would be less expensive because the foundation already exists. He contacted José Abreu about the property that is owned by the Federal Aviation Administration (FAA).

City Manager Borgmann felt that the probability of using the FAA property is very slim because they are asking County agencies to move off their properties.

Mayor Bain said that there is a lot of extra space at the new hotel site where the Wachovia Bank was located. He added that there is lighting at that location. Council will have to decide on a location, get estimates and go forward.

City Manager Borgmann pointed out that someone would have to supervise the facility, which is another expense to be considered as part of the operating costs.

Mayor Bain suggested that registration fees could be charged or there might be other means of supporting the program.

Councilman Best said that Council had touched on many issues, including the safety of the location, which is paramount. The lighting issue is another factor that would be solved by utilizing the existing tennis court location, as well as the safety of the kids.

Mayor Bain added that the tennis court location has restroom facilities and parking for the skateboard park that could be located back by the library and racquetball court. A wall could be installed to help keep the noise level down and there is a possibility of installing outdoor basketball courts. He would like to obtain a price for a tennis court facility at the Golf Course.

To answer Vice Mayor Espino's question, City Manager Borgmann stated that it would cost approximately \$500,000 for six tennis courts at the Golf Course. They would be located behind the Pro Shop to the right of the Driving Range. The players would pay in the Pro Shop before entering the facility.

Councilwoman Ator said that she would also like to explore the idea of relocating the tennis courts to the Golf Course.

Councilman Lob felt that the tennis courts could benefit the Country Club and the Golf Course because the sports go together. He knows it would be an added expense, but would like to look into the feasibility of moving the tennis courts.

City Manager Borgmann stated that it might be easier to install skateboard equipment at the existing tennis courts. He explained that every time the existing tennis courts are resurfaced it costs approximately \$25,000 and they begin to deteriorate within a few months due to the poor condition of the foundation. Also, there is only one regulation size court out of the five.

City Manager Borgmann said that the minimum number of tennis courts would be five and six would be better for regulation matches. He felt that a new tennis facility would draw tournaments.

Councilman Lob stated that there might be outside funding or grants available for tennis courts.

The Mayor would like an idea of how a 100' x 100' skateboard park would fit inside the existing tennis court area, including equipment and sound proofing. He suggested that the City could put out an RFP for the new tennis courts.

Councilman Lob asked the Administration if they could contact Miami-Dade County Water and Sewer to find out if they would approve of a skateboard park on their property.

City Manager Borgmann explained that in past years the Miami-Dade Water and Sewer Department was not crazy about the City installing impervious surfaces on their property, which could be a drawback, although they may have changed their mind.

Councilman Lob was of the opinion that Stafford Park would not be a reasonable location due to the cost of raising the elevation and the fact that the School Board owns the property.

Mayor Bain stated that he would like to schedule a meeting with the hotel owners.

Further discussion ensued regarding the proposed locations for the skateboard park.

Vice Mayor Espino asked to prioritize the locations. He felt that most of the discussion had been about the location behind the Library, Peavy-Dove and Rio Vista Park.

Council **requested** a cost analysis for three locations: behind the Library, Peavy-Dove and Rio Vista Park.

(Mayor Bain called for a five-minute recess)

10. New Business:

10A) Consideration of Request to Donate Funds to the CATS Organization

City Manager Borgmann had pulled this item.

10B) Approval of Budget Transfers Within Departments According to Section 9.04 (1) of the City Charter

Finance Director Alonso explained that the budget transfers were through the end of Fiscal Year 2008-2009.

Mayor Bain said that he appreciated the back up documentation itemizing the items, but it would have been helpful to include the amount on each line on the first page.

To answer Councilwoman Ator's question, Finance Director Alonso explained that some departments had funds left in the budget for carpeting and the leftover funds in this year's budget would probably be unused.

Councilwoman Ator moved the item. Councilman Lob seconded the motion, which carried 5-0 on roll call vote.

10C) Discussion Regarding Amending Code Section 150.041 – R1A District (D) Front Yard Required to Include Special Porte-Cochere Exception

City Manager Borgmann stated that Council had requested further discussion of amending Code Section 150.041 to have the porte-cochere exception rule included in the R-1A District as a result of a recent appeal. Currently the provision is included in the R-1B, R-1C and R-1D District and this is an opportunity for Council to decide if they want the City Attorney to present it in ordinance form for the first reading at the next meeting.

City Attorney Seiden stated that there was another case that brought up the porte-cochere provision,

but that case was tremendously different from the recent appeal because it involved a double lot that was 150 feet wide. The biggest concern was one street with different frontages on each side of the street. He said that a number of people registered complaints because of the character of the neighborhood in the R-1A District with 10,000 square foot lots and under those circumstances there was no need for a special exception.

Attorney Seiden commented that it is virtually impossible to prove hardships in variance cases because the standards are harsh. If something is not detrimental to the character of the neighborhood and might not have a true hardship, then the Board of Adjustment might look at the case differently. He would agree with the Vice Mayor that in the recent case the applicant did not have a hardship.

City Attorney Seiden explained that if Council is inclined to grant those types of variances in the future the proper way to do it is by legislation, not on a case by case basis.

Councilman Lob moved to include the verbiage for porte-cochere in the R-1A District.

Councilwoman Ator explained that Council is giving direction for the process to begin.

City Attorney Seiden clarified that Council would instruct the City Attorney to prepare an ordinance for first reading that would include the language for porte-cochere exception, that is included currently in the R-1B, R-1C, and R-1D section to include R-1A.

To answer Councilwoman Ator's question, City Attorney Seiden explained that notice would be given on second reading, but it could be given on first reading also. In this particular case, there should be certainty that everyone in an R-1A District specifically receives a notice, not just the 360 square foot yard area; it should be at least a mile because it would be a character changing event for those neighborhoods.

To answer the Mayor's question, Attorney Seiden said that if a condition could be described on one side of a street that is different from the other side it would justify the granting of a variance. For example, geographically the lot is misshapen or the house is built in an incorrect area, but unless all houses on one side of a street and the other are totally consistent, then it would not be possible to make an exception for a certain area.

City Attorney Seiden explained to Mayor Bain that exceptions could be made for the entire district, but not individual properties within the district.

Councilman Lob withdrew his motion.

Councilman Best said that he inspected the area on Hunting Lodge Drive and thought that an exception could be based on setbacks for three houses in a row.

City Attorney Seiden responded that it would not be an appropriate standard. The different property owners would take advantage of the shorter front setbacks and it would never end.

Councilman Best was of the opinion that a porte-cochere is an architectural feature to the house.

City Attorney Seiden said that there were areas with intermittent vacant lots and in order to maintain the character of the neighborhood they used a formula, but now that it is built-out the provision should no longer apply. He would like to remove that provision and establish a standard for the district. He suggested doing a survey of front yards in R-1A District and establishing a standard of so many feet. It is a highly characteristic neighborhood and if Council changes the setback, it would open up the change for all properties.

Councilwoman Ator would like the residents living in the entire R-1A District to have an opportunity to give their input.

City Attorney Seiden reiterated that notification could be given on first reading, although public comment is not often taken on first reading. He said that Council could request an agenda item for discussion on the next agenda before he drafts the ordinance.

Mayor Bain clarified that he wanted the City Attorney to draft the ordinance without delay. Council owes it to the people who requested the variance.

City Attorney Seiden requested to change the procedure and publish a notice prior to the first reading, explaining what Council is considering and ask for public comment. He offered to draft the notice.

Mayor Bain asked to calculate the standard front yard footage for the R-1A properties.

City Attorney Seiden clarified that he would prepare the same provision for the R-1A District that applies to the other districts. He explained that Council could ask the Planning Department to produce the front yard setbacks for all the properties in the R-1A District in order to develop an average.

The City Attorney stated that no motion was required. He will produce the notice and the ordinance.

10D) Ordinance No. 985-2009 – First Reading – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 93-12, Non-Exclusive Waste Removal Franchise for Private Haulers; by Adding the Requirement of Providing Recycling Services to Multi-Family Residential and Commercial Properties in the City; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date

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

Attorney Seiden stated that he and the City Manager had a comprehensive discussion because this is

an issue that Councilwoman Ator brought up on different occasions. They are trying to find a solution that might be helpful to the City and an answer to the question. This could be one way to proceed, although there are pros and cons to the proposed ordinance.

The obvious advantage is that the people who have private haulers who are franchised by the City, they would be required to provide recycling service to their customers. The disadvantage is that the City is dealing with private companies and the requirement might cause the companies not to renew their franchises and if this happens the commercial and multi-family properties would have less competitive haulers to choose from.

City Attorney Seiden said that Public Works Director Williams could check with the various haulers in the City to see if they provide recycling service or would be willing to provide that service.

Mayor Bain stated that he would not vote for the proposed ordinance. The County has established this requirement. He would like to know what haulers offer this service and how many commercial and multi-family properties are in compliance with the County ordinance.

City Manager Borgmann explained that Council had taken action to require the County to enforce their ordinance in the City. The proposed ordinance would require City enforcement to ensure that any company with a franchise must offer recycling service. The County is enforcing recycling against the businesses; the City would be going against the franchise.

City Attorney Seiden suggested conducting a survey of private haulers to see if they provide the service.

Councilman Lob moved to table the ordinance. Councilman Best seconded the motion, which carried 4-1 on roll call vote, with Councilwoman Ator casting the dissenting vote.

10E) Resolution No. 2009-3464 – A Resolution of the City Council of the City of Miami Springs Authorizing the City Manager to Apply for a 2010 Edward Byrne Memorial Justice Assistance Grant from the Federal Drug Control and System Improvement Program, Through the Office of Grants Coordination, Justice Assistance Grant Administration for Miami-Dade County; Authorizing the City Manager to Execute Grant Contracts and Agreements, Execute Contracts and Agreements to Accomplish Grant Funding Purposes, Expend Funding for Established and Authorized Purposes, Receive and Expend Additional Funding that Might Become Available, Execute Amendatory Application Documentation, and to Exercise all Contractual Rights, Authorizations and Privileges Available to the City; Effective Date

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

Chief of Police Peter G. Baan explained that the grant process had already begun and this would be a

ministerial action to show that Council approves and the City Manager is authorized to execute the required documents. He clarified that it is not a cash matching grant and funds will be utilized to upgrade the Police Department records system.

Councilwoman Ator moved to adopt the resolution. Councilman Best seconded the motion, which carried 5-0 on voice vote.

10F) Discussion Regarding Applications for Downtown Event Grants

City Manager Borgmann stated that other cities were asked if they had grant applications and examples were received from the Town of Bay Harbor Islands and Miami Lakes.

City Manager Borgmann said that the Miami Lakes' form was reviewed and Staff believes it contains all the pertinent questions that should be asked to evaluate an event and the sponsoring organization. He believes that more space could be allocated for the answers to those questions germane to improving the Downtown business district.

City Manager Borgmann stated that if this form, with changes suggested by Council is approved, then a method of evaluating the application must be determined. The applications could be evaluated by Staff and recommendations presented to Council for approval or Council might prefer to review and approve applications at a Regular or Special Council meeting. He asked to consider what type of grading scale should be used in the evaluation, criteria in case of a tie, and the history or performance of the organization if they request funding in subsequent years.

City Manager Borgmann suggested that there should be a deadline on applications each year so that all grants are awarded at the same time. A deadline would assist the organizing group to adjust their budgets or cancel, postpone or downsize events. The financial statements of organizations could be used as award criteria since it is public money and caution should be exercised that organizations that receive funding are viable.

The City Manager requested direction from Council as to the procedures for evaluating the requests.

Councilman Lob asked if the Administration contacted the Town of Miami Lakes to see how they evaluate the applications.

Vice Mayor Espino said that he intended the applications to go through the Administration and to Council for final approval. He felt that the process could spur a number of Downtown events.

Councilman Lob felt that a limit should be set for the amount of funds allocated per grant.

City Manager Borgmann commented that the Springs River Festival, Fourth of July activities and the Cancer Relay for Life were excluded.

Council requested that the Administration follow up with Bay Harbor and Miami Lakes to

determine criteria used in evaluating applications.

Mayor Bain asked if Council would be considering supplemental grants or grants for funding the cost of the entire event.

Council agreed that funds would be approved to supplement the cost of events in order to help them move forward.

City Manager Borgmann commented that there could be a reimbursable provision if the company makes a profit. By setting a deadline, it would assist organizations in adjusting their budget or to cancel, postpone or downsize an event.

Mayor Bain was of the opinion that the organization should bring the proposal forward to Council for approval and the City Manager would negotiate the terms. The date would be requested on a first come first serve basis, presentations would be made to Council and there should be a reimbursable provision if they make a profit.

Councilwoman Ator asked how the City could police how much the organization makes. The company or organization would be required to turn in a profit statement. She did not envision a long or involved process in order to assist or facilitate events that would bring people into the Downtown business district. There is \$10,000 in the budget and it would be hard to make the City Manager the decision maker. She would be interested in more specifics as to what the other cities do to evaluate the forms and for the City Manager to bring back a proposal.

Vice Mayor Espino was of the opinion that it would be better for the City Manager to review the form. The requests should be objective in terms of Downtown events, and the City Manager would bring his recommendation to Council.

Mayor Bain said the City Manager has to make day-to-day decisions and there were some events that would have never taken place if the groups had not appeared before Council. He would like to hear the proposals.

Councilwoman Ator explained that it would not preclude an organization from appearing before Council after they have applied to plead their case.

Mayor Bain said that the City Manager would have to know how much would be allocated for each event, which must be determined by Council. The idea is to promote Downtown events and the City Manager must have criteria in order to make decisions.

City Manager Borgmann explained that the length of the event and the cost for police services would differ.

Mayor Bain explained that the All Angels Movie Night was possible because the Pastor gave a

presentation to Council and he had suggested assistance from outside sources.

Vice Mayor Espino said that there was no process in place and that is the issue.

Councilman Lob felt that applications should be presented to the City Manager first for his review and then the paperwork is submitted to Council for approval. He would suggest contacting Miami Lakes to find out what criteria they use.

City Manager Borgmann asked Council if they would approve of setting a deadline for all applications to be submitted so that they are rated at the same time. That way the funding is distributed appropriately.

Councilwoman Ator felt that it is hard for non-profit organizations to plan ahead for the year. She said that it would be unreasonable to set a deadline.

Vice Mayor Espino suggested setting a time frame for specific events, such as 60 or 90 days prior.

Councilwoman Ator said that she would approve of six months advance notice.

Councilman Lob explained it would depend on the procedures for funding. If the program is run like a grant there are normally deadlines once a year. Assisting local organizations might require different procedures.

Councilman Best commented that he likes the idea of an application, the process and a deadline of six months. Council should not lose track of the requests, which might happen if the requests go to the City Manager initially.

Councilman Lob agreed that Council should review all requests, but the City Manager should make sure that the application is complete and the proper procedures are followed before it is presented to Council.

City Manager Borgmann offered to contact the Town of Miami Lakes.

10G) Consideration of Waiver of Conflict of Interest for Law Firm of Bryant, Miller & Olive, P. A.

City Attorney Jan K. Seiden stated that as he was reviewing the first draft of the documents that were proposed to the City for TD Equipment Finance, Inc., he noticed that one member of the law firm that represents the lender is Jim Crossland who is the City's labor attorney. As a result, they require that the City provide a conflict of waiver. It is a matter of lending, not labor negotiations and he would like Council to authorize him to execute the waiver conflict so that they can represent TD Bank in this transaction.

To answer the Mayor's question, City Attorney Seiden clarified that the City's labor attorney is a member of Bryant, Miller, & Olive who also represents TD Bank. He requested a motion authorizing the City Attorney to execute the required Waiver of Conflict of Interest.

Vice Mayor Espino moved to authorize the City Attorney to sign the Waiver of Conflict of Interest. Councilman Lob seconded the motion, which carried 4-1 on roll call vote, with Councilwoman Ator casting the dissenting vote.

11. Other Business:

None.

12A) City Attorney

None.

City Clerk

City Clerk Magalí Valls asked and obtained authorization to reserve a table of ten for the Miami-Dade County League of Cities 56th Annual Installation Dinner at the cost of \$1,300 to be held on February 20, 2010 at 1111 Parrot Jungle Trail in Miami.

12B) City Manager

Basis 35 Drainage Improvements

City Manager Borgmann notified Council that he will be receiving the revised plan from PBS&J any day. They have been working closely with DERM. A Change Order will be needed for the existing contract in order to finish the job and the dollar amount should be okay because the project cost was less than estimated.

To answer the Mayor's question the City Manager said he will not accept any invoices from PBS&J for redoing their engineering work.

City Attorney Seiden said that it would depend on whether something was overlooked and fault driven, or if it was an additional requirement of DERM that would have been required to begin with and they failed to recognize, which would be a negligence of the engineers.

Comprehensive Plan Amendment

City Manager Borgmann informed Council that there is still a problem because the last map changed All Angels Church from the existing land use that it has had since 1958 to residential, which it was prior to 1958. It was a scrivener's error. The Map was colored wrong and they want to see the minutes when it was decided not to color the map the right color.

City Attorney Seiden said that the City Planner will send the maps and this should take care of the problem. If not, the text amendments will go forward and it should be approved with the text amendments.

Goodbye Party: Recreation Center

The City Manager reported that the party to say goodbye to the gym was fun.

Thank You

City Manager Borgmann would like to thank the principals and staff at the four public schools that made the continuation of the basketball program possible.

Webcasting

City Manager Borgmann said that the webcasting is being tested tonight on beta mode and as soon as the testing is complete they will go live.

Annexation

City Manager Borgmann said that he would wait for Vice Mayor Espino to give a report on annexation.

Shade Systems

City Manager Borgmann informed Council that the shade systems were ordered for the Tot-lots.

Tragedy

City Manager Borgmann reported that a tragedy occurred during the weekend and two 18-year olds overdosed; one died at the scene and the other is on life support. A fundraiser is planned at the Baptist Church to assist the families.

H1N1 Swine Flu Virus

City Manager Borgmann reported that the I.T. Manager might have H1N1 swine flue since his daughter had it.

Assistant I. T. Manager

City Manager Borgmann informed Council that a new Assistant I.T. Manager was found and an offer will be made to him soon.

Website Design

City Manager Borgmann reported that the Request for Proposals (RFP) for the new website design is ready. He asked if Council would like to have a liaison as part of the evaluation process.

Councilman Lob responded that he would like to see the RFP and Vice Mayor Espino agreed.

To answer Councilwoman Ator's question, Assistant City Manager Gorland explained that the plan was to finish the RFP this week.

Councilwoman Ator would like the Administration to send Council an e-mail when it is ready for review.

The City Manager will give Council a copy of the RFP when it is released to the public.

12C) City Council

Goodbye Party: Recreation Center

Vice Mayor Espino reported that the farewell party was good with great food, conversation and stories from all generations who used the Recreation Center. He asked about the sale of the floor and bleachers.

Assistant City Manager Gorland reported that sections of the gym floor will be cut and then it will be determined how to put them together for sale.

Annexation

Vice Mayor Espino reported that Commissioner Seijas proposed a moratorium on any boundary changes. He called Commissioner Sosa, Commissioner Jiménez and Commissioner Díaz' offices about exempting the annexation for the four cities. He is reaching out to the Government Outreach Coordinator, Mr. Fuentes, to seek his help as well.

City Attorney Seiden learned that Commissioner Seijas withdrew her status as a primary sponsor; Commissioner Barbara Jordan retained her status as a primary sponsor and Commissioner Jiménez is opposed because he feels that annexations that are pending should go through. A meeting is scheduled with the city attorneys from the four cities to develop a plan. It has been suggested that the four Mayors should each speak when the matter comes up.

Councilwoman Ator would like to know how all the County Commissioners voted on this issue.

City Attorney Seiden stated that the Commissioners Jiménez, Soto, Sosa and Díaz voted against transmission of the ordinance to the committee.

Curtiss Mansion

Vice Mayor Espino reported that the Curtiss Mansion restoration project is progressing well. All the walls on the inside are solid and the second floor is in place. He would like to have a tour during the next CMI meeting for Council to see the progress and the amount of work that has been completed.

Lost Dogs

Vice Mayor Espino said that the owner of the lost dogs had a very bad accident and the injuries do not allow her to take care of them. He and his wife are fostering the beagle pups and they are looking for good homes.

Civic Education Initiative

Vice Mayor Espino informed Council that he presented his civic education initiative titled “Focusing Academics on Civic Education” to the Education Advisory Board so that they can flush out the implementation and feasibility before it is presented to Council sometime in November. There was a unanimous consent vote on the concept and he will be meeting with the principals of each of the schools.

Blessed Trinity Carnival

Vice Mayor Espino announced that the Blessed Trinity Carnival will be held on November 5-7, 2009. For tickets or volunteer information, residents may call the Rectory.

Congratulations

Councilman Lob congratulated Carol Foster for securing another grant totaling \$136,000.

City Manager Borgmann also gave credit to Elderly Services Director Karen Rosson.

Optimist Golf Tournament

Councilman Lob reported that the Optimist Golf Tournament was great, it made some money, and people had a good time. He thanked everyone who supported the event.

Education Advisory Board

Councilman Lob reported that he attended the Education Advisory Board meeting and they made a few requests that he spoke to the City Manager about. The Board would like the swale fixed across the street from the High School and there is a Police matter that he will speak to Chief Baan about. It was a good meeting; they are doing a lot of great things.

Annexation

Councilman Best stated that the annexation matter is very critical and he applauds Vice Mayor Espino on his efforts. Any contact with the County Commissioners would be in the City's best interest.

Condolences

Councilman Best extended his condolences to the families and friends of the two 18-year old boys that the City Manager mentioned earlier.

Radio Talk Show

Councilman Best announced that he would speak on 880 AM radio with the City Manager and Finance Director Alonso on Tuesday, October 27th between 5:00 and 6:00 p.m. to talk about taxation.

Happy Halloween

Councilman Best wished everyone a happy and safe Halloween.

Building Official

Mayor Bain asked what the status is on the hiring of a full-time Building Official as he would like to

move forward.

The City Manager responded that he was waiting to determine what is going to happen with annexation. He knows that other cities had let employees go and the City could reach out to those to individuals.

Annexation

Mayor Bain reported that he spoke with County Commissioner Rebeca Sosa and José “Pepe” Díaz, Attorney Seiden, Jorge Fernández and Virginia Gardens Mayor Deno about annexation. He mentioned he did not like the idea of Sweetwater being involved in the City’s situation.

Mayor Bain would like to know how much the City has spent on annexation before he goes to the County Commission.

City Manager Borgmann will provide the information showing what was spent through March 2005.

The Mayor said that the City should negotiate with the County for a refund of the application fees if they are putting a moratorium on annexation. He said that Miami Springs held an election and the citizens are in favor of annexation.

City Manager Borgmann agreed with the Mayor. He commented that Commissioner Díaz also represents Sweetwater and the other three cities so Miami Springs must be careful how to approach this matter.

13. Adjourn.

There being no further business to be discussed the meeting was adjourned at 10:02 p.m.

Billy Bain
Mayor

ATTEST:

Magalí Valls, CMC
City Clerk

Approved as written during meeting of: 11/9/2009.

Transcription assistance provided by S. Hitaffer.