



CITY OF MIAMI SPRINGS, FLORIDA

Mayor Xavier M. Garcia

**Vice Mayor Jennifer Ator
Councilwoman Grace Bain**

**Councilman Bob Best
Councilman George V. Lob**

Decorum: "Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the City Council, shall be barred from further audience before the City Council by the Mayor, unless permission to continue or again address the City Council is granted by the majority vote of the City Council members present. In accordance with the foregoing, the City Council has determined that racial or ethnic slurs, personal attacks and comments unrelated to City matters or issues constitute prohibited comments from the podium".

**AGENDA
REGULAR MEETING
Monday, February 25, 2013 – 7:00 p.m.
Council Chambers – City Hall
201 Westward Drive – Miami Springs**

1. **Call to Order/Roll Call**
2. **Invocation: Councilman Lob**

Salute to the Flag: Students from the Seventh Day Adventist Church will lead the audience in the Pledge of Allegiance and Salute to the Flag
3. **Awards & Presentations:**
 - A) **State Archery Tournament at the Community Center – Mark Bain**
4. **Open Forum:** Persons wishing to speak on items of general city business, please sign the register located on the speaker's stand before the meeting begins
5. **Approval of Council Minutes:**
 - A) **02-11-2013 – Regular Meeting**

6. Reports from Boards & Commissions:

- A) 02-11-2013 – Local Planning Agency – Minutes
- B) 02-13-2013 – Golf and Country Club Advisory Board – Cancellation Notice
- C) 02-14-2013 – Board of Parks and Parkways – Minutes
- D) 02-18-2013 – Revitalization and Redevelopment A-Hoc Committee – Cancellation Notice
- E) 02-19-2013 – Education Advisory Board – Minutes
- F) 02-21-2013 – Historic Preservation Board – Cancellation Notice
- G) 02-26-2013 – Ecology Board – Cancellation Notice

7. Public Hearings:

- A) Second Reading – Ordinance No. 1050-2013 – An Ordinance of the City Council of the City of Miami Springs Amending Chapter 150, “Zoning Code” of the Code of Ordinances, by Amending Section 150-165 “Abraham Tract District” to Provide for Zoning Regulations of Adult-Related Businesses; Establishing Intent and Purpose Related Thereto; Repealing all Ordinances or Parts of Ordinances in Conflict; Providing for Severability, Codification, and an Effective Date (First Reading: 01-11-2013 – Advertised: 02-13-2013)
- B) Second Reading – Ordinance No. 1051-2013 – An Ordinance of the City Council of the City of Miami Springs Amending the Code of Ordinances by Providing for Creation of Chapter 119 “Adult-Related Businesses Code”, to Provide for Licensing Requirements and Business Regulations for Adult-Related Businesses; Providing for Repeal of Article II of “Sex Related Business Activities” of Chapter 132 “Sex Offenses”; Establishing Intent and Purpose Related Thereto; Providing for Severability; Repealing all Ordinances or Parts of Ordinances in Conflict; Providing for Codification; Effective Date (First Reading: 01-11-2013 – Advertised: 02-13-2013)

8. Consent Agenda:

- A) Recommendation that Council Award a Purchase Order to Metro Express, Utilizing City of North Miami ITB# 2012-16 in the Amount of \$10,897.96, for Curb & Gutter Repair, Pursuant to Section 31.11 (E) (5) of the City Code.

9. Old Business:

- A) Appointments to Advisory Boards by the Mayor and Council Members
- B) Update by Mayor Garcia and Governmental Consultant Jose Fuentes from Becker and Poliakoff Regarding Various Items Including Annexation

9. **Old Business: (continued)**
 - C) Update Regarding Repairs of the Miami Springs Swimming Pool
10. **New Business:**
 - A) Recommendation that Council Approve an Extension of the Facility Agreement – Jazzercise
 - B) Recommendation from the Board of Parks and Parkways for the Yard of the Month for March and April 2013
 - C) Recommendation from the Board of Parks and Parkways to Consider Renovating the Marine Corps Memorial on Deer Run and Curtiss Parkway
 - D) Recommendation from the Board of Parks and Parkways to Issue a Proclamation in Recognition of the Landscaping at Harvest Moon
 - E) Resolution No. 2013-3572 – A Resolution of the City Council of the City of Miami Springs, Endorsing the 2012 South Florida Mayor’s Climate Action Pledge; Affirming Support for the Southeast Florida Regional Climate Change Compact; Agreeing to Consider Implementing the Regional Climate Action Plan in Whole or in Part as Appropriate for each Municipality, and Urging all Mayors of Miami-Dade County to Support the Mayor’s Climate Action Pledge; Effective Date
 - F) Recommendation that Council Extend Police Chief Peter G. Baan’s Employment Contract from its Current Termination of September 4, 2013 to December 31, 2014, his Final Day of Employment (DROP)
 - G) Consideration of Re-naming 59th Avenue from Where it Enters Miami Springs to Hunting Lodge Drive Father Carney Way
 - H) Recommendation to Honor Pastor Schmidt’s Long-Time Service to Miami Springs
11. **Other Business:**

None
12. **Reports & Recommendations:**
 - A) City Attorney
 - B) City Manager
 - C) City Council

13. Adjourn

If any person decides to appeal any decision of this Board with respect to any matter considered, s/he will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is made (F. S. 286.0105), all of which the City does not provide.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk, 201 Westward Drive, Miami Springs, Florida 33166. Telephone: (305) 805-5006, no later than (7) days prior to the proceeding.

Pursuant to Sec. 2-11.1 (S) of the Miami-Dade County Code and Miami Springs Code of Ordinances Chapter 33 - §33-20, all persons, firms or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the City Council; (2) any action, decision, recommendation of any City Board or Committee; or (3) any action, decision or recommendation of City personnel during the time period of the entire decision-making process on such action, decision or recommendation which will be heard or reviewed by the City Council, or a City Board or Committee shall register with the City before engaging in any lobbying activities on forms prepared for this purpose and shall state under oath his or her name, business address, the name and business address of each person or entity which has employed said registrant to lobby, and the specific issue on which he or she has been employed to lobby. A copy of the lobbyist registration form is available from the Office of the City Clerk.



DRAFT

City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, February 11, 2013, at 7:00 p.m.

1. Call to Order/Roll Call

The meeting was called to order at 7:04 p.m.

The following were present:

- Mayor Xavier M. Garcia
- Vice Mayor Jennifer Ator
- Councilwoman Grace Bain
- Councilman Bob Best
- Councilman George Lob

Also Present:

- City Manager Ronald K. Gorland
- Assistant City Manager/Finance Director William Alonso
- City Attorney Jan K. Seiden
- Chief of Police Peter G. Baan
- Planning and Zoning Director James H. Holland
- City Clerk Magalí Valls
- Deputy City Clerk Suzanne S. Hitaffer

2. Invocation: Mayor Garcia offered the invocation.

Salute to the Flag: Students from Miami Springs Middle School led the audience in the pledge of allegiance to the flag.

Mayor Garcia presented Certificates of Recognition to the students who participated.

3. Awards & Presentations:

3A) Presentation of the Yard of the Month Award for February 2013 to Anna Margarita Bello of 900 Quail Avenue

Mayor Garcia presented a Certificate of Recognition to the Bello-González Family of 900 Quail Avenue for their home being designated as the Yard of the Month for February 2013.

3B) Government Finance Officers Association – Presentation of Distinguished Budget Award to Assistant City Manager/Finance Director William Alonso

Mayor Garcia presented the Distinguished Budget Award to Assistant City Manager/Finance Director William Alonso.

Assistant City Manager/Finance Director Alonso explained that the Government Finance Officers Association (GFOA) is the organization that oversees the profession. There are three awards; one is for the budget, the second is for the Comprehensive Annual Financial Report (CAFR) and the third is for the Popular Annual Financial Report. The City receives all three awards every year.

This particular award is for the budget document that was completed for Fiscal Year 2012-2013, according to Mr. Alonso. The review is conducted by peers, based on set guidelines, and they decide if the award should be granted or not. In some cases, there have been deficiencies and the award is not made. The City has received this award for the past twenty years and all three awards for the past ten years.

Mr. Alonso gave credit to the entire Finance Department Staff for achieving the award, they are devoted to their work and this award would not be possible without their help.

4. Open Forum:

No speakers.

City Manager Ronald K. Gorland explained that Miami Springs Senior High School student Arlene Arrechea had requested to speak on behalf of the cheerleaders who are going to competition and she intended to request a contribution toward their trip expenses.

5. Approval of Council Minutes:

5A) 01-28-2013 – Regular Meeting

Minutes of the January 28, 2013 Regular Meeting were approved as written.

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

6. Reports from Boards & Commissions:

6A) 02-04-2013 – Zoning and Planning Board – Minutes

Minutes of the February 4, 2013 Zoning and Planning Board meeting were received for information without comment.

6B) 02-05-2013 – Code Enforcement Board – Cancellation Notice

Cancellation Notice of the February 5, 2013 Code Enforcement Board meeting was received for information without comment.

6C) 02-06-2013 – Architectural Review Board – Cancellation Notice

Cancellation Notice of the February 6, 2013 Architectural Review Board meeting was received for information without comment.

6D) 02-12-2013 – Recreation Commission – Cancellation Notice

Cancellation Notice of the February 12, 2013 Recreation Commission meeting was received for information without comment.

7. Public Hearings:

None.

8. Consent Agenda: (approved with one motion)

8A) Approval of City Attorney's Invoice for January 2013 in the Amount of \$12,980.25

There was no discussion regarding this item.

Vice Mayor Ator moved the consent agenda. Councilman Lob seconded the motion, which was unanimously carried on roll call vote.

8B) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure of \$84,236.88 to Diamond Contract Services for Janitorial Services, Pursuant to Section 31.11 (E) (6) (g) of the City Code, and Pursuant to the Contract Renewal Option Provided by the City's Existing Contract/Contract Vendor for an Additional One Year Period

The City Manager read the title of the consent agenda items.

Mayor Garcia commented that the bid is very impressive since it is the same price and the minimum wage had increased since the bid was awarded.

Vice Mayor Ator moved the consent agenda. Councilman Lob seconded the motion, which was unanimously carried on roll call vote.

8C) Recommendation that Council Award a Bid to Hector Turf Utilizing Florida State Contract Bid # 760-000-10-1, in the Amount of \$16,525.89, for Toro Sand Pro 3040 with Attachments Listed, Pursuant to Section 31.11 (E) (5) of the City Code

There was no discussion regarding this item.

Vice Mayor Ator moved the consent agenda. Councilman Lob seconded the motion, which was unanimously carried on roll call vote.

9. Old Business:

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

There were no advisory board appointments.

Vice Mayor Ator referred to the notice that was received today from Mary Ann Goodlett-Taylor announcing her resignation from the Historic Preservation Board.

Vice Mayor Ator pointed out that the Recreation Commission still needs to appoint a Chair so that person can also serve on the Memorial Committee.

City Manager Gorland said that the Recreation Commission is still missing a member and they wanted to wait to select a Chair until there is a full board.

Vice Mayor Ator stated that she would appoint someone to the Historic Preservation Board this week so that they can attend the next meeting on Thursday, February 21st.

Adjourn to Local Planning Agency Meeting at 7:17 p.m.

Reconvene City Council Meeting at 7:35 p.m.

10. New Business:

10A) First Reading – Ordinance No. 1050-2013 – An Ordinance of the City Council of the City of Miami Springs Amending Chapter 150, “Zoning Code” of the Code of Ordinances, by Amending Section 150-165 “Abraham Tract District” to Provide for Zoning Regulations of Adult-Related Businesses; Establishing Intent and Purpose Related Thereto; Repealing all Ordinances or Parts of Ordinances in Conflict; Providing for Severability, Codification, and an Effective Date

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

Susan L. Trevarthen, AICP, Attorney at Law, with the firm of Weiss Serota Helfman Pastoriza Cole & Boniske, P.L. said that it is appropriate for the City Council to visit the studies at this time, as summarized in the memo she provided and by access to the studies on the City’s website. The cases require that each Council member be asked individually what they have reviewed and what motivates their vote.

Attorney Trevarthen asked the Mayor and each Council member if they had reviewed the studies, the back-up and their findings and if they are motivated by the desire to control the adverse secondary impacts of these uses in voting on these ordinances.

Councilman Best, Councilwoman Bain, Mayor Garcia, Councilman Lob and Vice Mayor Ator individually responded that they had reviewed the studies, the back-up and their findings and they are motivated by the desire to control the adverse secondary impacts of these uses in voting on these ordinances.

Attorney Seiden stated that Council should acknowledge for the record that they, sitting as the Local Planning Agency, recommended approval of this ordinance to the City Council and it would be appropriate at this time for a motion.

Councilman Lob moved to approve Ordinance No. 1050-2013 on first reading. Vice Mayor Ator seconded the motion which was carried 5-0 on roll call vote.

10B) First Reading – Ordinance No. 1051-2013 – An Ordinance of the City Council of the City of Miami Springs Amending the Code of Ordinances by Providing for Creation of Chapter 119 “Adult-Related Businesses Code”, to Provide for Licensing Requirements and Business Regulations for Adult-Related Businesses; Providing for Repeal of Article II of “Sex Related Business Activities” of Chapter 132 “Sex Offenses”; Establishing Intent and Purpose Related Thereto; Providing for Severability; Repealing all Ordinances or Parts of Ordinances in Conflict; Providing for Codification; Effective Date

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

Councilman Lob moved to approve Ordinance No. 1051-2013 on first reading. Councilwoman Bain seconded the motion which was carried 5-0 on roll call vote.

To answer Vice Mayor Ator’s question, City Attorney Seiden stated that the effective date is immediately upon adoption. The second reading of the ordinance will be scheduled for the second meeting in February.

The Mayor and Council thanked Attorney Trevarthen for her excellent work.

10C) Approval of Audit Firm Selection Committee

City Manager Ronald K. Gorland stated that the City’s three-year contract with the external auditors Alberni, Caballero and Company, LLP had expired with the conclusion of the Fiscal Year 2012 audit. The City is currently in the process of preparing a Request for Proposals (RFP) for the upcoming Fiscal Years 2013, 2014 and 2015 financial statement audits.

In accordance with State of Florida Statutes, an audit firm selection committee must be appointed to go through the firm selection process and present Council with a recommendation, according to Mr. Gorland. During the last process in 2009, the Committee members were Assistant City Manager Ron Gorland, City Attorney Jan Seiden and Police Chief Pete Baan. He asked Council to approve the three appointments to make up the selection committee for 2013 as follows: City Manager Ron Gorland, City Attorney Jan Seiden and Police Chief Pete Baan. They are experienced in the selection process and provide both financial and legal expertise to the process.

Vice Mayor Ator moved to approve the recommendation of the Administration. Councilman Best seconded the motion which was carried 5-0 on roll call vote.

10D) Resolution No. 2013-3570 - A Resolution of the City Council of the City of Miami Springs, Florida; Relating to Earth Hour Participation on March 23, 2013; Urging Other Municipalities to Register and Participate in Earth Hour; Effective Date

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

Vice Mayor Ator recalled that there were some lights that were not turned off in the past due to safety issues and she wanted the City to be prepared to decide what lights will be turned off.

City Manager Gorland assured Council that preparations would be made to turn the lights off. The High School Anchor Club approached the City in the past and conducted the ceremony, which the City supported. He will contact them to see if they are interested again and the City will sponsor the event.

Councilman Best moved to adopt Resolution No. 2013-3570 with the understanding that the safety considerations will be upheld. Vice Mayor Ator seconded the motion which was carried 5-0 on roll call vote.

10E) Recommendation that Council Approve a Site Plan for the Hyatt Place Hotel at 3549 Le Jeune Road

City Manager Ronald K. Gorland stated that this is a recommendation for site plan approval for the Hyatt Place Hotel to be located at 3549 Le Jeune Road. The developer, Travelers Hotel Group, LLC is proposing the construction of a 135-room, six-story hotel on the site of the former Shoney's Restaurant. The ground floor level consists of a service core, motor lobby, and parking under the upper floors. The second level consists of guest amenities, registration, business functions and seven guest rooms. Among the amenities are an open pool and deck, a fitness center, a lounge and dining facilities. Floors three through six are devoted to 32 guestrooms per floor. LEED (Silver) certification will be sought. This will be the City's first green building and no variances to the Code are required.

City Manager Gorland referred to the Zoning Analysis, including parking landscaping, utilities and the unanimous recommendation of the Zoning and Planning Board, as outlined in the memorandum from Planning and Zoning Director Holland. Approval of the site plan is subject to the approval of the Miami-Dade Aviation Department, RER and other appropriate County agencies prior to building permit issuance. A further condition will be the proffering of a recorded covenant restricting the use of the hotel amenities to hotel employees and guests.

Planning and Zoning Director James Holland said that the Zoning and Planning Board unanimously recommended Council approval and everyone is very enthused about the project that has been in the works since last year.

City Attorney Jan K. Seiden stated that the project is consistent with the goals and intent for the Abraham District, which is to encourage large scale development on a wide range of compatible and complimentary uses that are not necessarily permitted in other parts of the City. There is a sliding scale between 1.0 and 3.0 for the floor area ratio (FAR) in this district and the allowable FAR for this site is 2.35, while they are proposing 1.78.

City Attorney Seiden explained that 78 parking spaces were required and will be provided. There are some additional spaces that will not be designated for handicap parking, but sufficient handicap parking is required by law and will be provided. The City Arborist reviewed the site plan for landscaping and he noted that the transplanting of three live oak trees is proposed. Under City policy, if the transplanting is unsuccessful, mitigation of the loss through replacement will be required.

City Attorney Seiden added that the Planning and Zoning Director has requested a Covenant Running with the Land in order to ensure that the hotel amenities will not be open to the public. There will be limited restaurant and food service availability and they will only be capable of dealing with in-house customers. If the amenities were open to the public, then more parking would be required. There are no problems seen with the proposed project and it solves the problem with one of the two parcels in the district that are unoccupied.

Mayor Garcia commented that some attendees at the Zoning and Planning Board meeting thought the "in-house" meant the hotel staff, but that is not the case and City Attorney Seiden clarified that hotel guests could invite relatives over to have a meal and it would not violate the Covenant. It means that the restaurant facility will not be open all the time to the general public.

Steven Marin with Travelers Hotel Group introduced Architect Israel Bigelman who presented a PowerPoint presentation describing the proposed project for a six-story, 135-room Hyatt Place Hotel to be located in the Abraham Tract.

Mr. Bigelman explained that they are seeking a Silver LEED certification for this project that will be the first of this kind in the City of Miami Springs. The hotel is under the required FAR and the number of floors allowed. There is a motor lobby on the ground floor and the main lobby is on the second floor with registration and public areas, including a breakfast area and kitchen, a pool with a nice deck and a covered patio. There is also a small meeting room and some guest rooms on that level. The remaining floors will have typical guest rooms and suites that are consistent with the Hyatt Place prototypes.

Mr. Marin commented that the lobby has different lounge style areas to encourage guests to come out of their rooms and congregate downstairs to work on their computers, meet new people or eat at the restaurant. In this case, the public space is very nice with greenery and water features in the pool, which the guests really enjoy. The bar area is meant to promote socializing and the front desk clerk is able to service the guests when they want food or beverage service. Renderings were displayed of the guest rooms that have a modern look.

To answer Vice Mayor Ator's question, Mr. Bigelman replied that the pool is on the second floor and there is parking underneath with enough headroom for the cars, while the garage has a higher headroom.

Mr. Marin pointed out a monumental staircase that will give guests the option of taking the stairs up to the second floor into the main lobby. He said that the view looking out to the pool will be covered with glass and there is a wide extensive view looking out past the green area and covered terrace out to the pool.

City Attorney Seiden stated that these types of hotels are entertained with commuter buses, which means that a lot of the parking will not be needed because guests are picked up at the airport and delivered back.

Mr. Marin said that the 24-hour shuttle would depart every hour and picks up throughout the hour. There is no schedule for pick-up; there is only drop-off from the hotel to the airport. He estimated that approximately 70% of the guests would come directly from the Airport.

The Mayor asked if the shuttle would provide guests with transportation to the inside of the City if they wanted to go to the market and Mr. Marin replied that there are exceptions and this practice is done at their current properties, but it is not a practice that they promote.

Mr. Marin mentioned that he opened the Comfort Suites on Minola Drive approximately fourteen months ago and it is a great plus for the City of Miami Springs. The hotel was rated number seven out of the top ten airport hotels in the United States by Trip Advisor, which is the voice of the consumer.

Councilman Lob moved to approve the site plan for the Hyatt Place Hotel at 3549 LeJeune Road. Councilman Best seconded the motion which was carried 5-0 on roll call vote.

Vice Mayor Ator asked what the timeline is after the site plan approval.

Mr. Holland explained that the next step is the development of the construction drawings in order to obtain a building permit that involves on-site engineering and the structural, electrical and mechanical drawings. The working drawings are underway and pending approvals from the County Fire Department, the Department of Regulatory and Economic Resources (RER), the Water and Sewer Department (WASA) and the Aviation Department.

Mr. Marin added that all the approvals mentioned by Mr. Holland were already in the process, including the Federal Aviation Administration (FAA). The completion target date is June 2014.

10F) Approval of Interlocal Agreement with Miami-Dade County for Shuttle Bus Service

City Manager Ronald K. Gorland stated that the Administration recommends approval of the Interlocal agreement between Miami-Dade County and the City of Miami Springs for the provision of public Transportation services since the shuttle bus has been a good service for the City of Miami Springs. The service is used by senior citizens and students, as well as guests from the local hotels and it is working very well.

City Attorney Jan K. Seiden added that without this agreement the City would not be able to qualify for Citizens Independent Transportation Trust (CITT) funds.

Councilman Best commented that when the shuttle service was first implemented it seemed that not many people were using the bus, but in the last few months he sees that the bus is almost full and the ridership has increased.

Vice Mayor Ator said that there was some discussion about changing the route or the hours of the shuttle bus and she asked for an update.

City Manager Gorland responded that the route had been altered a couple of times and it is pending another adjustment to include the Curtiss Mansion parking lot. There has not been a problem with the bus company making an exception to the route for people with special needs and the hotels have been working with the City to advertise the service that is working very well.

Mayor Garcia asked if once the route is altered to include the Curtiss Mansion if there could be a new map circulated in the form of a flyer or if there could be signage at the bus stop locations and the City Manager agreed.

Councilman Best mentioned that in the past there was some discussion about the shuttle service to the Metrorail station in Hialeah, but there were problems with the liability insurance. He asked if this is something that could be considered going forward.

Mayor Garcia asked the Administration to look into going outside of the city to the Metrorail stations.

City Attorney Seiden clarified that the purpose of the Interlocal agreement and the shuttle bus agreement is to provide transportation to other means of transportation.

The City Manager agreed to look into the possibility of using the shuttle bus outside of the city to connect with the Metrorail stations. The problem with changing the route is that the bus circulates for only one hour and it must go to Virginia Gardens. A test was done in the past by extending the service to the Abraham Tract and it was a problem because it extended the one hour time period.

Councilman Lob recalled that one of the issues was that the shuttle was not allowed to overlap an existing Miami-Dade County bus route for a certain amount of distance.

City Attorney Seiden mentioned that the shuttle bus might get stopped at a railroad crossing and that might be the problem.

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

10G) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure in an Amount not to Exceed \$8,000.00 to NGF Consulting, Inc., for Professional Consulting Services Related to the Continued Operation of the Golf and Country Club, Pursuant to Section 31.11 (E) (6) (g) of the City Code

City Manager Ronald K. Gorland read the title of the recommendation.

The City Manager explained that NGF Consulting, Inc. is highly recommended by John Foy who is the USGA Southeastern Regional turf consultant, to provide professional golf course management expertise. The firm will assist the City in identifying ways to improve the operating structure, recommend additional marketing strategies and provide insight regarding what profit/loss is really possible for the Golf Course. The price quotation is very fair based on what they are proposing to do.

City Manager Gorland recommended moving as quickly as possible due to the current situation at the Golf Course. He trusts NGF Consulting, Inc. based on previous contacts with the firm over the years. The cost is \$7,500, plus \$500.00 maximum travel cost as outlined in the contract and funding would come from the designated fund balance for pool improvements.

City Manager Gorland explained that the current situation at the Golf Course must be dealt with and he would welcome alternatives from people who are well respected in the golf community. The expectation for the Golf Course over the last nine years was for it to break even and that might have been too ambitious even though the community was aware of this when they voted for the City to acquire the property. The Golf Course has cost the City a great deal of money over the years and the current configuration is different than previous configurations. Before the downturn in the economy the loss was \$125,000 and since that time there has been less play, which is not the fault of the Golf Course.

City Manager Gorland explained that the City should know what the alternatives are and what the expectations should be for the Golf Course, keeping in mind that it is 217 acres while the typical municipal course is only 100 acres with a driving range of 20 acres. The competing golf courses that have less operating costs are also losing money. The results of the study will also dictate the type of management configuration that is needed.

Councilman Best stated that the cost of operating the Golf Course has been a problem over the years and the return on the investment does not seem to be there. He said that the 217 acres is twice the size of most PGA courses that are about 135 or 140 acres. The increasing cost of fertilizer, fuel and labor causes the City to have to finance the operation more every year. The residents in the City are not supporting the membership and the way to fix the problem would be to obtain a large hotel that would offer a golf course package, redesign the course and turn the remaining land into a park and recreation use.

Councilman Lob commented that he spoke with the City Manager today about the same idea that Councilman Best mentioned.

City Manager Gorland said that several management models had been considered over the years and the current loss is approximately \$300,000, which might not be the entire problem, but it is consistent. Currently, less than 5% of the play is from local residents and the fee is only \$5.00 per round. An RFP was conducted years ago and the only bidder for taking over the Golf Course operation was Sunburst Hotels and it was subject to the condition that they would not accept any risk of loss.

Councilman Best reiterated his idea for the Golf Course operation and asked the Administration to look into the possibility.

Councilman Lob asked what the approximate cost would be to redesign the Golf Course in order to reduce it to 120 acres.

City Manager Gorland replied that the rough estimate was \$7MM to redesign an 18-hole golf course on 110 acres, plus another \$3MM for parks, walking paths and sports fields with parking and landscaping. He said that when properties are placed for sale in the Airport Golf District there is an idea to vacate part of Eldron Drive and allow a hotel to be built in that area that could operate the Golf Course.

Mayor Garcia said that he appreciated the ideas brought forward but Council must decide if they are willing to approve the recommendation to let the professionals determine how the operation can be improved. The Golf Course is losing approximately \$300,000 on a yearly basis and \$8,000 would be money well spent in order to get ideas from the professionals.

Councilman Best moved the item. Councilwoman Bain seconded the motion.

Vice Mayor Ator asked how the historic designation of the Golf Course would impact the plan suggested by Councilman Best.

City Attorney Seiden explained that there is a specific historic designation that was designed for the Golf Course that requires no approvals. The bigger problem is the Charter Amendment that restricts the use of the Golf Course property.

Councilman Best assumed that if half of the 217 acres were delegated to recreation and park use it would be in accordance with the Charter amendment.

Attorney Seiden said that no hotel would be willing to take on the Golf Course operation and it would have to be sold, which is against the Charter amendment.

City Manager Gorland commented that there was some hope that arrangements could be made with a hotel whereby they would operate the Golf Course under an arrangement similar to the one with Carlos Santana for the Food and Beverage operation. The current bond issue could be redone to allow for more flexibility but the land could only be used for recreational facilities.

Councilman Best said that the main idea of the Charter amendment was to protect the Golf Course property from being developed and the City Attorney agreed that the Charter prohibits any sale of the property.

Councilman Lob mentioned that funds were set aside for the pool renovations that will eventually have to be done. He asked if there were funds available from somewhere else in the budget to pay for NGF since there is a savings for the Golf Professional's salary.

City Manager Gorland replied that there might be some savings from the Golf Professional's salary, but funds are being used for the services of Jim Caudle who is teaching customer service to the Staff and it is beginning to pay off. This should be finished by August at the latest. Staff was brought in to fill vacant positions and there probably will not be any excess funds.

Vice Mayor Ator said that there is a designated fund balance for the pool renovations and the work could not be done this year because more funds were necessary. The work will have to be done soon.

The City Manager explained that the pool could not be resurfaced and engineers were brought in to prepare a report for the pool that has structural problems. The City will then put out a Request for Proposals (RFP) for the renovation work and the cost could easily be \$350,000.

Councilman Lob expressed his concern with using funds designated for the pool renovation.

The motion was carried 4-1 on roll call vote, with Vice Mayor Ator casting the dissenting vote.

City Attorney Seiden read the Charter provision that states that no portion of the Miami Springs Golf and Country Club shall be leased for any single period in excess of five years, rezoned, sold, otherwise conveyed without first being approved and authorized by a majority of the qualified electors voting in an election to consider such actions.

Attorney Seiden said that making a deal with a major player to operate the Golf Course for the City at their cost, on a lease basis, would never happen.

10H) Resolution No. 2013-3571 – A Resolution of the City Council of the City of Miami Springs; Requesting the Withdrawal of the City’s Indefinite Deferral of the County’s Consideration of the City’s Pending Annexation Application; Authorizing the County’s Immediate Review and Consideration of the City’s Pending Annexation Application; Effective Date

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

Councilman Lob moved to adopt Resolution No. 2013-3571. Councilwoman Bain seconded the motion.

Mayor Garcia clarified that the resolution will appeal the last resolution that was sent to the County and City Attorney Seiden said that it would remove it from the table.

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

City Attorney Seiden said that the County requested adoption of this resolution and the City Clerk would send a certified copy with a cover letter from the Mayor or the City Manager to either the County Attorney or the Commission Chairwoman.

11. Other Business:

None.

12. Reports & Recommendations:

12A) City Attorney

None.

12B) City Manager

Jet Fuel Pipeline

City Manager Ronald K. Gorland referred to a News Release from Everglades Pipe Line Company, L.P. regarding the jet fuel pipeline that is proposed to be under Ludlam Road. He explained that City Staff has been in contact with Buckeye Partners who contacted the City for a permit.

Mr. Gorland read the following statement from David Boone, Right of Way Department, for Buckeye Partners, L.P.:

“A news article posted in the online version of the Miami Herald (www.miamiherald.comRiver CitiesGazettesection) on February 5, 2013 stated: ‘A proposed pipeline underneath Miami Springs would serve as the sole source of jet fuel to Miami International Airport.’

Everglades Pipe Line Company, L.P., an operating subsidiary of Buckeye Partners, L.P., wishes to clarify that the Everglades Pipe Line Company L.P. is conducting a feasibility assessment of potential options to improve service delivery to the Miami International Airport by way of relocating a small section of the existing pipeline and no decision has been made to alter the current pipeline or construct any new pipelines at this location. Should Everglades Pipe Line Company L.P. reach the conclusion that a pipeline relocation would be desirable, Everglades will work with the appropriate governmental officials and regulatory agencies to understand the best path forward.

As part of continuous improvement efforts, Buckeye’s affiliates frequently identify and evaluate options to improve the safe, reliable and low cost delivery of energy transportation services to our customers. The Everglades pipeline study is one example among many of Buckeye’s efforts to examine opportunities for continuous improvement in the delivery of energy services.”

Mr. Gorland said that this is a step in the right direction, but it does not mean that they have dropped the idea for the pipeline because they asked the City for a permit and that is different from a feasibility study. This is not definitive from the City’s standpoint and the Administration is going to stay on top of the matter and adamantly oppose the jet fuel line down Ludlam Drive. He will keep Council posted as there are more developments and he appreciates the efforts by everyone to bring this matter to the attention of the County Commissioners, especially Commissioner Sosa who has been very responsive.

City Attorney Seiden spoke with Planning and Zoning Director Holland in an effort to reach the right person to speak with DERM. Mr. Holland contacted Attorney Howard Nelson who provided the appropriate contact person so that a meeting can be arranged to discuss the matter.

City Manager Gorland said that the current pipeline is on the other side of the retaining wall on the FEC property and they want to move it to the street on Ludlam. Originally it was thought that this was a County issue, but they made it very clear that it is a City street.

In response to Councilman Best’s question about the jet fuel services to the Fort Lauderdale Airport, Mayor Garcia clarified that Everglades Pipe Line is the same company that provides services to Fort Lauderdale.

Mayor Garcia added that the City reached out to Commissioner Sosa and there was a 2-1/2 hour meeting in her office. She contacted the Airport who knew nothing about this proposal and this is not a County driven issue to increase the flow of jet fuel. A call was received from Daniel Mangum who wanted to make sure that the letter was received and he asked him to contact the City Attorney. Mr. Mangum assured him that there is no set project and this type of feasibility study is conducted in all areas that they service. He said that they do not have a plan at this time. The City has his contact information since he has been communicating with Planning and Zoning Director Jim Holland.

Councilman Best commented that the County's position about not being involved is in contradiction to their position in the past for previous projects on Ludlam Drive.

Mayor Garcia reiterated that the County officials, including the Aviation Department are not aware of this proposal. He asked the Administration to follow up with Mr. Mangum.

Events

City Manager Gorland urged everyone to check the City's website for a list of events that are going on in Miami Springs and to provide their e-mails in order to be on the new e-mail contact list.

12C) City Council

Silver Ball

Vice Mayor Ator reported that she attended the All Angels Silver Ball at the Miami Springs Golf and Country Club that was very successful. She thanked Carlos Santana for hosting the event.

"Taste of the Springs"

Vice Mayor Ator mentioned that many tickets were sold for the "Taste of the Springs" event that was held at the Optimist Club on Sunday, February 10th. There were not as many vendors as in the past, but everyone had a good time.

Yoga at the Curtiss Mansion

Vice Mayor Ator went to the Yoga class at the Curtiss Mansion. Participants can pay as they go or they can pay for a certain number of classes. The class is held in a lovely location in the Curtiss Mansion.

Farmers Market

Vice Mayor Ator reminded everyone that the Farmers Market is still going on at All Angels. She heard from vendors that it has not been as busy the last few weeks and she encourages people to attend.

Movie Night

Vice Mayor Ator reported that All Angels Movie Night is Friday, February 15th, and since her husband Bill's birthday is on Monday, February 18th he selected the movies "Lion King" and "The Replacements" and they will have birthday cake.

Valentine's Event

Vice Mayor Ator announced that everyone is welcome to attend the All Angels Valentine's event on Sunday, February 16th with a blessing of all couples, including a Mass and a brunch.

Pelican Playhouse

Vice Mayor Ator reported that Pelican Playhouse would be holding a Murder Mystery Dinner at 6:00 p.m. on Saturday, February 23rd at the Rebeca Sosa Theatre. The tickets for the event are \$35.00 and the proceeds will benefit the Pelican Playhouse and the Mu Alpha Theta Math Club.

Pastor Schmidt

Vice Mayor Ator could not attend Pastor Schmidt's funeral as she was out of town. She understands that it was a very nice service that was well attended and he will be missed.

New Hotel

Councilwoman Bain said that she is very excited about the new hotel that is wonderful and hopefully one of many to come in the future.

Police Department

Councilwoman Bain noticed the Police presence by the schools and at the Circle to enforce speeding over the bridge and around the Circle.

Crime Prevention Presentation

Councilwoman Bain urged residents to attend the Miami Springs Police Department's Residential Crime Prevention and Public Safety Presentation on Tuesday, February 19, at 6:30 p.m. at the Miami Springs Community Center.

Thank You

Councilwoman Bain thanked and congratulated Assistant City Manager/Finance Director William Alonso and his Staff for their services.

Thank You

Councilman Best thanked Council for a delightful discussion over very interesting issues.

Good Night

Councilman Lob wished everyone a good night.

Daddy/Daughter Date Night

Mayor Garcia reminded everyone of the Daddy/Daughter Date Night, which his daughter looks forward to every year on Saturday, February 16th. Tickets are sold out and there is a waiting list.

Crime Prevention Presentation

Mayor Garcia reiterated that the Miami Springs Police Department is hosting a Residential Crime Prevention and Public Safety Presentation on Tuesday, February 19, at 6:30 p.m.

Senior Exemption

Mayor Garcia reported that he, County Commission Chair Rebeca Sosa and Property Appraiser Carlos López-Cantera would be hosting a Senior Homestead Exemption town hall meeting on Thursday, February 21st at 6:30 p.m. in the Rebeca Sosa Theater at the Community Center. Participants will learn new information that will help qualified seniors lower their property taxes, which is good for the County and the City.

Police Department

Mayor Garcia said that residents are happy to see the Police motorcycle officers back on the streets and they are the “welcoming committee” who remind motorists who cut through the City that they should not be speeding. He thanked the Police Department.

13. Adjourn.

There being no further business to be discussed the meeting was adjourned at 9:02 p.m.

Zavier M. Garcia
Mayor

ATTEST:

Magalí Valls, CMC
City Clerk

Approved as _____ during meeting of:

Transcription assistance provided by Suzanne S. Hitaffer.

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.



DRAFT

City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, February 11, 2013, at 7:00 p.m.

1. Call to Order/Roll Call

The meeting was called to order at 7:04 p.m.

The following were present:

- Mayor Xavier M. Garcia
- Vice Mayor Jennifer Ator
- Councilwoman Grace Bain
- Councilman Bob Best
- Councilman George Lob

Also Present:

- City Manager Ronald K. Gorland
- Assistant City Manager/Finance Director William Alonso
- City Attorney Jan K. Seiden
- Chief of Police Peter G. Baan
- Planning and Zoning Director James H. Holland
- City Clerk Magalí Valls
- Deputy City Clerk Suzanne S. Hitaffer

2. Invocation: Mayor Garcia offered the invocation.

Salute to the Flag: Students from Miami Springs Middle School led the audience in the pledge of allegiance to the flag.

Mayor Garcia presented Certificates of Recognition to the students who participated.

3. Awards & Presentations:

3A) Presentation of the Yard of the Month Award for February 2013 to Anna Margarita Bello of 900 Quail Avenue

Mayor Garcia presented a Certificate of Recognition to the Bello-González Family of 900 Quail Avenue for their home being designated as the Yard of the Month for February 2013.

3B) Government Finance Officers Association – Presentation of Distinguished Budget Award to Assistant City Manager/Finance Director William Alonso

Mayor Garcia presented the Distinguished Budget Award to Assistant City Manager/Finance Director William Alonso.

Assistant City Manager/Finance Director Alonso explained that the Government Finance Officers Association (GFOA) is the organization that oversees the profession. There are three awards; one is for the budget, the second is for the Comprehensive Annual Financial Report (CAFR) and the third is for the Popular Annual Financial Report. The City receives all three awards every year.

This particular award is for the budget document that was completed for Fiscal Year 2012-2013, according to Mr. Alonso. The review is conducted by peers, based on set guidelines, and they decide if the award should be granted or not. In some cases, there have been deficiencies and the award is not made. The City has received this award for the past twenty years and all three awards for the past ten years.

Mr. Alonso gave credit to the entire Finance Department Staff for achieving the award, they are devoted to their work and this award would not be possible without their help.

4. Open Forum:

No speakers.

City Manager Ronald K. Gorland explained that Miami Springs Senior High School student Arlene Arrechea had requested to speak on behalf of the cheerleaders who are going to competition and she intended to request a contribution toward their trip expenses.

5. Approval of Council Minutes:

5A) 01-28-2013 – Regular Meeting

Minutes of the January 28, 2013 Regular Meeting were approved as written.

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

6. Reports from Boards & Commissions:

6A) 02-04-2013 – Zoning and Planning Board – Minutes

Minutes of the February 4, 2013 Zoning and Planning Board meeting were received for information without comment.

6B) 02-05-2013 – Code Enforcement Board – Cancellation Notice

Cancellation Notice of the February 5, 2013 Code Enforcement Board meeting was received for information without comment.

6C) 02-06-2013 – Architectural Review Board – Cancellation Notice

Cancellation Notice of the February 6, 2013 Architectural Review Board meeting was received for information without comment.

6D) 02-12-2013 – Recreation Commission – Cancellation Notice

Cancellation Notice of the February 12, 2013 Recreation Commission meeting was received for information without comment.

7. Public Hearings:

None.

8. Consent Agenda: (approved with one motion)

8A) Approval of City Attorney's Invoice for January 2013 in the Amount of \$12,980.25

There was no discussion regarding this item.

Vice Mayor Ator moved the consent agenda. Councilman Lob seconded the motion, which was unanimously carried on roll call vote.

8B) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure of \$84,236.88 to Diamond Contract Services for Janitorial Services, Pursuant to Section 31.11 (E) (6) (g) of the City Code, and Pursuant to the Contract Renewal Option Provided by the City's Existing Contract/Contract Vendor for an Additional One Year Period

The City Manager read the title of the consent agenda items.

Mayor Garcia commented that the bid is very impressive since it is the same price and the minimum wage had increased since the bid was awarded.

Vice Mayor Ator moved the consent agenda. Councilman Lob seconded the motion, which was unanimously carried on roll call vote.

8C) Recommendation that Council Award a Bid to Hector Turf Utilizing Florida State Contract Bid # 760-000-10-1, in the Amount of \$16,525.89, for Toro Sand Pro 3040 with Attachments Listed, Pursuant to Section 31.11 (E) (5) of the City Code

There was no discussion regarding this item.

Vice Mayor Ator moved the consent agenda. Councilman Lob seconded the motion, which was unanimously carried on roll call vote.

9. Old Business:

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

There were no advisory board appointments.

Vice Mayor Ator referred to the notice that was received today from Mary Ann Goodlett-Taylor announcing her resignation from the Historic Preservation Board.

Vice Mayor Ator pointed out that the Recreation Commission still needs to appoint a Chair so that person can also serve on the Memorial Committee.

City Manager Gorland said that the Recreation Commission is still missing a member and they wanted to wait to select a Chair until there is a full board.

Vice Mayor Ator stated that she would appoint someone to the Historic Preservation Board this week so that they can attend the next meeting on Thursday, February 21st.

Adjourn to Local Planning Agency Meeting at 7:17 p.m.

Reconvene City Council Meeting at 7:35 p.m.

10. New Business:

10A) First Reading – Ordinance No. 1050-2013 – An Ordinance of the City Council of the City of Miami Springs Amending Chapter 150, “Zoning Code” of the Code of Ordinances, by Amending Section 150-165 “Abraham Tract District” to Provide for Zoning Regulations of Adult-Related Businesses; Establishing Intent and Purpose Related Thereto; Repealing all Ordinances or Parts of Ordinances in Conflict; Providing for Severability, Codification, and an Effective Date

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

Susan L. Trevarthen, AICP, Attorney at Law, with the firm of Weiss Serota Helfman Pastoriza Cole & Boniske, P.L. said that it is appropriate for the City Council to visit the studies at this time, as summarized in the memo she provided and by access to the studies on the City’s website. The cases require that each Council member be asked individually what they have reviewed and what motivates their vote.

Attorney Trevarthen asked the Mayor and each Council member if they had reviewed the studies, the back-up and their findings and if they are motivated by the desire to control the adverse secondary impacts of these uses in voting on these ordinances.

Councilman Best, Councilwoman Bain, Mayor Garcia, Councilman Lob and Vice Mayor Ator individually responded that they had reviewed the studies, the back-up and their findings and they are motivated by the desire to control the adverse secondary impacts of these uses in voting on these ordinances.

Attorney Seiden stated that Council should acknowledge for the record that they, sitting as the Local Planning Agency, recommended approval of this ordinance to the City Council and it would be appropriate at this time for a motion.

Councilman Lob moved to approve Ordinance No. 1050-2013 on first reading. Vice Mayor Ator seconded the motion which was carried 5-0 on roll call vote.

10B) First Reading – Ordinance No. 1051-2013 – An Ordinance of the City Council of the City of Miami Springs Amending the Code of Ordinances by Providing for Creation of Chapter 119 “Adult-Related Businesses Code”, to Provide for Licensing Requirements and Business Regulations for Adult-Related Businesses; Providing for Repeal of Article II of “Sex Related Business Activities” of Chapter 132 “Sex Offenses”; Establishing Intent and Purpose Related Thereto; Providing for Severability; Repealing all Ordinances or Parts of Ordinances in Conflict; Providing for Codification; Effective Date

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

Councilman Lob moved to approve Ordinance No. 1051-2013 on first reading. Councilwoman Bain seconded the motion which was carried 5-0 on roll call vote.

To answer Vice Mayor Ator’s question, City Attorney Seiden stated that the effective date is immediately upon adoption. The second reading of the ordinance will be scheduled for the second meeting in February.

The Mayor and Council thanked Attorney Trevarthen for her excellent work.

10C) Approval of Audit Firm Selection Committee

City Manager Ronald K. Gorland stated that the City’s three-year contract with the external auditors Alberni, Caballero and Company, LLP had expired with the conclusion of the Fiscal Year 2012 audit. The City is currently in the process of preparing a Request for Proposals (RFP) for the upcoming Fiscal Years 2013, 2014 and 2015 financial statement audits.

In accordance with State of Florida Statutes, an audit firm selection committee must be appointed to go through the firm selection process and present Council with a recommendation, according to Mr. Gorland. During the last process in 2009, the Committee members were Assistant City Manager Ron Gorland, City Attorney Jan Seiden and Police Chief Pete Baan. He asked Council to approve the three appointments to make up the selection committee for 2013 as follows: City Manager Ron Gorland, City Attorney Jan Seiden and Police Chief Pete Baan. They are experienced in the selection process and provide both financial and legal expertise to the process.

Vice Mayor Ator moved to approve the recommendation of the Administration. Councilman Best seconded the motion which was carried 5-0 on roll call vote.

10D) Resolution No. 2013-3570 - A Resolution of the City Council of the City of Miami Springs, Florida; Relating to Earth Hour Participation on March 23, 2013; Urging Other Municipalities to Register and Participate in Earth Hour; Effective Date

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

Vice Mayor Ator recalled that there were some lights that were not turned off in the past due to safety issues and she wanted the City to be prepared to decide what lights will be turned off.

City Manager Gorland assured Council that preparations would be made to turn the lights off. The High School Anchor Club approached the City in the past and conducted the ceremony, which the City supported. He will contact them to see if they are interested again and the City will sponsor the event.

Councilman Best moved to adopt Resolution No. 2013-3570 with the understanding that the safety considerations will be upheld. Vice Mayor Ator seconded the motion which was carried 5-0 on roll call vote.

10E) Recommendation that Council Approve a Site Plan for the Hyatt Place Hotel at 3549 Le Jeune Road

City Manager Ronald K. Gorland stated that this is a recommendation for site plan approval for the Hyatt Place Hotel to be located at 3549 Le Jeune Road. The developer, Travelers Hotel Group, LLC is proposing the construction of a 135-room, six-story hotel on the site of the former Shoney's Restaurant. The ground floor level consists of a service core, motor lobby, and parking under the upper floors. The second level consists of guest amenities, registration, business functions and seven guest rooms. Among the amenities are an open pool and deck, a fitness center, a lounge and dining facilities. Floors three through six are devoted to 32 guestrooms per floor. LEED (Silver) certification will be sought. This will be the City's first green building and no variances to the Code are required.

City Manager Gorland referred to the Zoning Analysis, including parking landscaping, utilities and the unanimous recommendation of the Zoning and Planning Board, as outlined in the memorandum from Planning and Zoning Director Holland. Approval of the site plan is subject to the approval of the Miami-Dade Aviation Department, RER and other appropriate County agencies prior to building permit issuance. A further condition will be the proffering of a recorded covenant restricting the use of the hotel amenities to hotel employees and guests.

Planning and Zoning Director James Holland said that the Zoning and Planning Board unanimously recommended Council approval and everyone is very enthused about the project that has been in the works since last year.

City Attorney Jan K. Seiden stated that the project is consistent with the goals and intent for the Abraham District, which is to encourage large scale development on a wide range of compatible and complimentary uses that are not necessarily permitted in other parts of the City. There is a sliding scale between 1.0 and 3.0 for the floor area ratio (FAR) in this district and the allowable FAR for this site is 2.35, while they are proposing 1.78.

City Attorney Seiden explained that 78 parking spaces were required and will be provided. There are some additional spaces that will not be designated for handicap parking, but sufficient handicap parking is required by law and will be provided. The City Arborist reviewed the site plan for landscaping and he noted that the transplanting of three live oak trees is proposed. Under City policy, if the transplanting is unsuccessful, mitigation of the loss through replacement will be required.

City Attorney Seiden added that the Planning and Zoning Director has requested a Covenant Running with the Land in order to ensure that the hotel amenities will not be open to the public. There will be limited restaurant and food service availability and they will only be capable of dealing with in-house customers. If the amenities were open to the public, then more parking would be required. There are no problems seen with the proposed project and it solves the problem with one of the two parcels in the district that are unoccupied.

Mayor Garcia commented that some attendees at the Zoning and Planning Board meeting thought the "in-house" meant the hotel staff, but that is not the case and City Attorney Seiden clarified that hotel guests could invite relatives over to have a meal and it would not violate the Covenant. It means that the restaurant facility will not be open all the time to the general public.

Steven Marin with Travelers Hotel Group introduced Architect Israel Bigelman who presented a PowerPoint presentation describing the proposed project for a six-story, 135-room Hyatt Place Hotel to be located in the Abraham Tract.

Mr. Bigelman explained that they are seeking a Silver LEED certification for this project that will be the first of this kind in the City of Miami Springs. The hotel is under the required FAR and the number of floors allowed. There is a motor lobby on the ground floor and the main lobby is on the second floor with registration and public areas, including a breakfast area and kitchen, a pool with a nice deck and a covered patio. There is also a small meeting room and some guest rooms on that level. The remaining floors will have typical guest rooms and suites that are consistent with the Hyatt Place prototypes.

Mr. Marin commented that the lobby has different lounge style areas to encourage guests to come out of their rooms and congregate downstairs to work on their computers, meet new people or eat at the restaurant. In this case, the public space is very nice with greenery and water features in the pool, which the guests really enjoy. The bar area is meant to promote socializing and the front desk clerk is able to service the guests when they want food or beverage service. Renderings were displayed of the guest rooms that have a modern look.

To answer Vice Mayor Ator's question, Mr. Bigelman replied that the pool is on the second floor and there is parking underneath with enough headroom for the cars, while the garage has a higher headroom.

Mr. Marin pointed out a monumental staircase that will give guests the option of taking the stairs up to the second floor into the main lobby. He said that the view looking out to the pool will be covered with glass and there is a wide extensive view looking out past the green area and covered terrace out to the pool.

City Attorney Seiden stated that these types of hotels are entertained with commuter buses, which means that a lot of the parking will not be needed because guests are picked up at the airport and delivered back.

Mr. Marin said that the 24-hour shuttle would depart every hour and picks up throughout the hour. There is no schedule for pick-up; there is only drop-off from the hotel to the airport. He estimated that approximately 70% of the guests would come directly from the Airport.

The Mayor asked if the shuttle would provide guests with transportation to the inside of the City if they wanted to go to the market and Mr. Marin replied that there are exceptions and this practice is done at their current properties, but it is not a practice that they promote.

Mr. Marin mentioned that he opened the Comfort Suites on Minola Drive approximately fourteen months ago and it is a great plus for the City of Miami Springs. The hotel was rated number seven out of the top ten airport hotels in the United States by Trip Advisor, which is the voice of the consumer.

Councilman Lob moved to approve the site plan for the Hyatt Place Hotel at 3549 LeJeune Road. Councilman Best seconded the motion which was carried 5-0 on roll call vote.

Vice Mayor Ator asked what the timeline is after the site plan approval.

Mr. Holland explained that the next step is the development of the construction drawings in order to obtain a building permit that involves on-site engineering and the structural, electrical and mechanical drawings. The working drawings are underway and pending approvals from the County Fire Department, the Department of Regulatory and Economic Resources (RER), the Water and Sewer Department (WASA) and the Aviation Department.

Mr. Marin added that all the approvals mentioned by Mr. Holland were already in the process, including the Federal Aviation Administration (FAA). The completion target date is June 2014.

10F) Approval of Interlocal Agreement with Miami-Dade County for Shuttle Bus Service

City Manager Ronald K. Gorland stated that the Administration recommends approval of the Interlocal agreement between Miami-Dade County and the City of Miami Springs for the provision of public Transportation services since the shuttle bus has been a good service for the City of Miami Springs. The service is used by senior citizens and students, as well as guests from the local hotels and it is working very well.

City Attorney Jan K. Seiden added that without this agreement the City would not be able to qualify for Citizens Independent Transportation Trust (CITT) funds.

Councilman Best commented that when the shuttle service was first implemented it seemed that not many people were using the bus, but in the last few months he sees that the bus is almost full and the ridership has increased.

Vice Mayor Ator said that there was some discussion about changing the route or the hours of the shuttle bus and she asked for an update.

City Manager Gorland responded that the route had been altered a couple of times and it is pending another adjustment to include the Curtiss Mansion parking lot. There has not been a problem with the bus company making an exception to the route for people with special needs and the hotels have been working with the City to advertise the service that is working very well.

Mayor Garcia asked if once the route is altered to include the Curtiss Mansion if there could be a new map circulated in the form of a flyer or if there could be signage at the bus stop locations and the City Manager agreed.

Councilman Best mentioned that in the past there was some discussion about the shuttle service to the Metrorail station in Hialeah, but there were problems with the liability insurance. He asked if this is something that could be considered going forward.

Mayor Garcia asked the Administration to look into going outside of the city to the Metrorail stations.

City Attorney Seiden clarified that the purpose of the Interlocal agreement and the shuttle bus agreement is to provide transportation to other means of transportation.

The City Manager agreed to look into the possibility of using the shuttle bus outside of the city to connect with the Metrorail stations. The problem with changing the route is that the bus circulates for only one hour and it must go to Virginia Gardens. A test was done in the past by extending the service to the Abraham Tract and it was a problem because it extended the one hour time period.

Councilman Lob recalled that one of the issues was that the shuttle was not allowed to overlap an existing Miami-Dade County bus route for a certain amount of distance.

City Attorney Seiden mentioned that the shuttle bus might get stopped at a railroad crossing and that might be the problem.

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

10G) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure in an Amount not to Exceed \$8,000.00 to NGF Consulting, Inc., for Professional Consulting Services Related to the Continued Operation of the Golf and Country Club, Pursuant to Section 31.11 (E) (6) (g) of the City Code

City Manager Ronald K. Gorland read the title of the recommendation.

The City Manager explained that NGF Consulting, Inc. is highly recommended by John Foy who is the USGA Southeastern Regional turf consultant, to provide professional golf course management expertise. The firm will assist the City in identifying ways to improve the operating structure, recommend additional marketing strategies and provide insight regarding what profit/loss is really possible for the Golf Course. The price quotation is very fair based on what they are proposing to do.

City Manager Gorland recommended moving as quickly as possible due to the current situation at the Golf Course. He trusts NGF Consulting, Inc. based on previous contacts with the firm over the years. The cost is \$7,500, plus \$500.00 maximum travel cost as outlined in the contract and funding would come from the designated fund balance for pool improvements.

City Manager Gorland explained that the current situation at the Golf Course must be dealt with and he would welcome alternatives from people who are well respected in the golf community. The expectation for the Golf Course over the last nine years was for it to break even and that might have been too ambitious even though the community was aware of this when they voted for the City to acquire the property. The Golf Course has cost the City a great deal of money over the years and the current configuration is different than previous configurations. Before the downturn in the economy the loss was \$125,000 and since that time there has been less play, which is not the fault of the Golf Course.

City Manager Gorland explained that the City should know what the alternatives are and what the expectations should be for the Golf Course, keeping in mind that it is 217 acres while the typical municipal course is only 100 acres with a driving range of 20 acres. The competing golf courses that have less operating costs are also losing money. The results of the study will also dictate the type of management configuration that is needed.

Councilman Best stated that the cost of operating the Golf Course has been a problem over the years and the return on the investment does not seem to be there. He said that the 217 acres is twice the size of most PGA courses that are about 135 or 140 acres. The increasing cost of fertilizer, fuel and labor causes the City to have to finance the operation more every year. The residents in the City are not supporting the membership and the way to fix the problem would be to obtain a large hotel that would offer a golf course package, redesign the course and turn the remaining land into a park and recreation use.

Councilman Lob commented that he spoke with the City Manager today about the same idea that Councilman Best mentioned.

City Manager Gorland said that several management models had been considered over the years and the current loss is approximately \$300,000, which might not be the entire problem, but it is consistent. Currently, less than 5% of the play is from local residents and the fee is only \$5.00 per round. An RFP was conducted years ago and the only bidder for taking over the Golf Course operation was Sunburst Hotels and it was subject to the condition that they would not accept any risk of loss.

Councilman Best reiterated his idea for the Golf Course operation and asked the Administration to look into the possibility.

Councilman Lob asked what the approximate cost would be to redesign the Golf Course in order to reduce it to 120 acres.

City Manager Gorland replied that the rough estimate was \$7MM to redesign an 18-hole golf course on 110 acres, plus another \$3MM for parks, walking paths and sports fields with parking and landscaping. He said that when properties are placed for sale in the Airport Golf District there is an idea to vacate part of Eldron Drive and allow a hotel to be built in that area that could operate the Golf Course.

Mayor Garcia said that he appreciated the ideas brought forward but Council must decide if they are willing to approve the recommendation to let the professionals determine how the operation can be improved. The Golf Course is losing approximately \$300,000 on a yearly basis and \$8,000 would be money well spent in order to get ideas from the professionals.

Councilman Best moved the item. Councilwoman Bain seconded the motion.

Vice Mayor Ator asked how the historic designation of the Golf Course would impact the plan suggested by Councilman Best.

City Attorney Seiden explained that there is a specific historic designation that was designed for the Golf Course that requires no approvals. The bigger problem is the Charter Amendment that restricts the use of the Golf Course property.

Councilman Best assumed that if half of the 217 acres were delegated to recreation and park use it would be in accordance with the Charter amendment.

Attorney Seiden said that no hotel would be willing to take on the Golf Course operation and it would have to be sold, which is against the Charter amendment.

City Manager Gorland commented that there was some hope that arrangements could be made with a hotel whereby they would operate the Golf Course under an arrangement similar to the one with Carlos Santana for the Food and Beverage operation. The current bond issue could be redone to allow for more flexibility but the land could only be used for recreational facilities.

Councilman Best said that the main idea of the Charter amendment was to protect the Golf Course property from being developed and the City Attorney agreed that the Charter prohibits any sale of the property.

Councilman Lob mentioned that funds were set aside for the pool renovations that will eventually have to be done. He asked if there were funds available from somewhere else in the budget to pay for NGF since there is a savings for the Golf Professional's salary.

City Manager Gorland replied that there might be some savings from the Golf Professional's salary, but funds are being used for the services of Jim Caudle who is teaching customer service to the Staff and it is beginning to pay off. This should be finished by August at the latest. Staff was brought in to fill vacant positions and there probably will not be any excess funds.

Vice Mayor Ator said that there is a designated fund balance for the pool renovations and the work could not be done this year because more funds were necessary. The work will have to be done soon.

The City Manager explained that the pool could not be resurfaced and engineers were brought in to prepare a report for the pool that has structural problems. The City will then put out a Request for Proposals (RFP) for the renovation work and the cost could easily be \$350,000.

Councilman Lob expressed his concern with using funds designated for the pool renovation.

The motion was carried 4-1 on roll call vote, with Vice Mayor Ator casting the dissenting vote.

City Attorney Seiden read the Charter provision that states that no portion of the Miami Springs Golf and Country Club shall be leased for any single period in excess of five years, rezoned, sold, otherwise conveyed without first being approved and authorized by a majority of the qualified electors voting in an election to consider such actions.

Attorney Seiden said that making a deal with a major player to operate the Golf Course for the City at their cost, on a lease basis, would never happen.

10H) Resolution No. 2013-3571 – A Resolution of the City Council of the City of Miami Springs; Requesting the Withdrawal of the City’s Indefinite Deferral of the County’s Consideration of the City’s Pending Annexation Application; Authorizing the County’s Immediate Review and Consideration of the City’s Pending Annexation Application; Effective Date

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

Councilman Lob moved to adopt Resolution No. 2013-3571. Councilwoman Bain seconded the motion.

Mayor Garcia clarified that the resolution will appeal the last resolution that was sent to the County and City Attorney Seiden said that it would remove it from the table.

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

City Attorney Seiden said that the County requested adoption of this resolution and the City Clerk would send a certified copy with a cover letter from the Mayor or the City Manager to either the County Attorney or the Commission Chairwoman.

11. Other Business:

None.

12. Reports & Recommendations:

12A) City Attorney

None.

12B) City Manager

Jet Fuel Pipeline

City Manager Ronald K. Gorland referred to a News Release from Everglades Pipe Line Company, L.P. regarding the jet fuel pipeline that is proposed to be under Ludlam Road. He explained that City Staff has been in contact with Buckeye Partners who contacted the City for a permit.

Mr. Gorland read the following statement from David Boone, Right of Way Department, for Buckeye Partners, L.P.:

“A news article posted in the online version of the Miami Herald (www.miamiherald.comRiver CitiesGazettesection) on February 5, 2013 stated: ‘A proposed pipeline underneath Miami Springs would serve as the sole source of jet fuel to Miami International Airport.’

Everglades Pipe Line Company, L.P., an operating subsidiary of Buckeye Partners, L.P., wishes to clarify that the Everglades Pipe Line Company L.P. is conducting a feasibility assessment of potential options to improve service delivery to the Miami International Airport by way of relocating a small section of the existing pipeline and no decision has been made to alter the current pipeline or construct any new pipelines at this location. Should Everglades Pipe Line Company L.P. reach the conclusion that a pipeline relocation would be desirable, Everglades will work with the appropriate governmental officials and regulatory agencies to understand the best path forward.

As part of continuous improvement efforts, Buckeye’s affiliates frequently identify and evaluate options to improve the safe, reliable and low cost delivery of energy transportation services to our customers. The Everglades pipeline study is one example among many of Buckeye’s efforts to examine opportunities for continuous improvement in the delivery of energy services.”

Mr. Gorland said that this is a step in the right direction, but it does not mean that they have dropped the idea for the pipeline because they asked the City for a permit and that is different from a feasibility study. This is not definitive from the City’s standpoint and the Administration is going to stay on top of the matter and adamantly oppose the jet fuel line down Ludlam Drive. He will keep Council posted as there are more developments and he appreciates the efforts by everyone to bring this matter to the attention of the County Commissioners, especially Commissioner Sosa who has been very responsive.

City Attorney Seiden spoke with Planning and Zoning Director Holland in an effort to reach the right person to speak with DERM. Mr. Holland contacted Attorney Howard Nelson who provided the appropriate contact person so that a meeting can be arranged to discuss the matter.

City Manager Gorland said that the current pipeline is on the other side of the retaining wall on the FEC property and they want to move it to the street on Ludlam. Originally it was thought that this was a County issue, but they made it very clear that it is a City street.

In response to Councilman Best’s question about the jet fuel services to the Fort Lauderdale Airport, Mayor Garcia clarified that Everglades Pipe Line is the same company that provides services to Fort Lauderdale.

Mayor Garcia added that the City reached out to Commissioner Sosa and there was a 2-1/2 hour meeting in her office. She contacted the Airport who knew nothing about this proposal and this is not a County driven issue to increase the flow of jet fuel. A call was received from Daniel Mangum who wanted to make sure that the letter was received and he asked him to contact the City Attorney. Mr. Mangum assured him that there is no set project and this type of feasibility study is conducted in all areas that they service. He said that they do not have a plan at this time. The City has his contact information since he has been communicating with Planning and Zoning Director Jim Holland.

Councilman Best commented that the County's position about not being involved is in contradiction to their position in the past for previous projects on Ludlam Drive.

Mayor Garcia reiterated that the County officials, including the Aviation Department are not aware of this proposal. He asked the Administration to follow up with Mr. Mangum.

Events

City Manager Gorland urged everyone to check the City's website for a list of events that are going on in Miami Springs and to provide their e-mails in order to be on the new e-mail contact list.

12C) City Council

Silver Ball

Vice Mayor Ator reported that she attended the All Angels Silver Ball at the Miami Springs Golf and Country Club that was very successful. She thanked Carlos Santana for hosting the event.

"Taste of the Springs"

Vice Mayor Ator mentioned that many tickets were sold for the "Taste of the Springs" event that was held at the Optimist Club on Sunday, February 10th. There were not as many vendors as in the past, but everyone had a good time.

Yoga at the Curtiss Mansion

Vice Mayor Ator went to the Yoga class at the Curtiss Mansion. Participants can pay as they go or they can pay for a certain number of classes. The class is held in a lovely location in the Curtiss Mansion.

Farmers Market

Vice Mayor Ator reminded everyone that the Farmers Market is still going on at All Angels. She heard from vendors that it has not been as busy the last few weeks and she encourages people to attend.

Movie Night

Vice Mayor Ator reported that All Angels Movie Night is Friday, February 15th, and since her husband Bill's birthday is on Monday, February 18th he selected the movies "Lion King" and "The Replacements" and they will have birthday cake.

Valentine's Event

Vice Mayor Ator announced that everyone is welcome to attend the All Angels Valentine's event on Sunday, February 16th with a blessing of all couples, including a Mass and a brunch.

Pelican Playhouse

Vice Mayor Ator reported that Pelican Playhouse would be holding a Murder Mystery Dinner at 6:00 p.m. on Saturday, February 23rd at the Rebeca Sosa Theatre. The tickets for the event are \$35.00 and the proceeds will benefit the Pelican Playhouse and the Mu Alpha Theta Math Club.

Pastor Schmidt

Vice Mayor Ator could not attend Pastor Schmidt's funeral as she was out of town. She understands that it was a very nice service that was well attended and he will be missed.

New Hotel

Councilwoman Bain said that she is very excited about the new hotel that is wonderful and hopefully one of many to come in the future.

Police Department

Councilwoman Bain noticed the Police presence by the schools and at the Circle to enforce speeding over the bridge and around the Circle.

Crime Prevention Presentation

Councilwoman Bain urged residents to attend the Miami Springs Police Department's Residential Crime Prevention and Public Safety Presentation on Tuesday, February 19, at 6:30 p.m. at the Miami Springs Community Center.

Thank You

Councilwoman Bain thanked and congratulated Assistant City Manager/Finance Director William Alonso and his Staff for their services.

Thank You

Councilman Best thanked Council for a delightful discussion over very interesting issues.

Good Night

Councilman Lob wished everyone a good night.

Daddy/Daughter Date Night

Mayor Garcia reminded everyone of the Daddy/Daughter Date Night, which his daughter looks forward to every year on Saturday, February 16th. Tickets are sold out and there is a waiting list.

Crime Prevention Presentation

Mayor Garcia reiterated that the Miami Springs Police Department is hosting a Residential Crime Prevention and Public Safety Presentation on Tuesday, February 19, at 6:30 p.m.

Senior Exemption

Mayor Garcia reported that he, County Commission Chair Rebeca Sosa and Property Appraiser Carlos López-Cantera would be hosting a Senior Homestead Exemption town hall meeting on Thursday, February 21st at 6:30 p.m. in the Rebeca Sosa Theater at the Community Center. Participants will learn new information that will help qualified seniors lower their property taxes, which is good for the County and the City.

Police Department

Mayor Garcia said that residents are happy to see the Police motorcycle officers back on the streets and they are the “welcoming committee” who remind motorists who cut through the City that they should not be speeding. He thanked the Police Department.

13. Adjourn.

There being no further business to be discussed the meeting was adjourned at 9:02 p.m.

Zavier M. Garcia
Mayor

ATTEST:

Magalí Valls, CMC
City Clerk

Approved as _____ during meeting of:

Transcription assistance provided by Suzanne S. Hitaffer.

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.



DRAFT

City of Miami Springs, Florida

The Miami Springs City Council met in regular session on Monday, February 11, 2013 and during the meeting sat as the Local Planning Agency. The meetings were held in the Council Chambers at City Hall, beginning at 7:17 p.m.

1. Call to Order/Roll Call

The following were present:

Mayor Xavier M. Garcia
Vice Mayor Jennifer Ator
Councilwoman Grace Bain
Councilman Bob Best
Councilman George V. Lob

Also Present:

City Manager Ronald K. Gorland
City Attorney Jan K. Seiden
Chief of Police Peter G. Baan
Assistant City Manager/Finance Director William Alonso
Planning and Zoning Director James H. Holland
City Clerk Magalí Valls
Deputy City Clerk Suzanne S. Hitaffer

2. Local Planning Agency Discussion Regarding Approval and Authorization of Proposed Adult-Use Related Ordinances as Follows:

1. Zoning Ordinance [Section 150-165(D)]
2. Business Regulation Ordinance (New Chapter Section 119; Repealing Sections 132-10 through 132-99).

City Attorney Jan K. Seiden explained that the first two items deal with two ordinances that were contracted to be prepared for the City involving adult uses. The first ordinance deals with zoning ordinance references and the second is a business regulation ordinance also related to adult uses. Attorney Susan L. Trevarthen will discuss the various studies during this part of the meeting and once this meeting is adjourned, it will be reconvened to the City Council meeting where Council will be asked to vote on the first readings of the zoning ordinance and the adult business code regulations.

City Attorney Seiden felt that it was important to do this way so that the record is clear should anyone come back later to find out why these ordinances were considered by the City and eventually adopted as to the thinking of the Council and the support that the Council is giving for the various theories that support the ordinances that were prepared.

Susan L. Trevarthen, AICP, Attorney at Law, with the firm of Weiss Serota Helfman Pastoriza Cole & Boniske, P.L. stated that the first discussion is on the zoning regulations and it is what the L.P.A needs to make a recommendation on. The business regulations are listed for information because she finds that people are often interested in what is in the business regulations and when they see the zoning regulations they have many questions.

Ms. Trevarthen commented that the reason why there is more of a process associated with this is because she is engaging in the act of regulating uses that are protected by the first amendment. The U.S. Constitution has been construed by the Federal Courts over time to find that these uses have first amendment protection. The cases associated with regulating in this area have very detailed requirements. The zoning regulation, like many, seeks to regulate adult uses through zoning and distancing.

Ms. Trevarthen said that this ordinance selects the Abraham Tract District as the zoning district that is affected. She has worked with Planning and Zoning Director Holland, City Attorney Seiden and staff to develop the zoning strategy that is reflected in the document. The outcome is a requirement for spacing that exists between both future adult uses that may locate in this area between each other and also between those uses that are deemed to be protected uses.

Ms. Trevarthen explained that Ordinance No. 1050-2013 provides for the distances which are 300 feet between each adult use and 500 feet from the protected uses which include residential, religious and school uses that are deemed to be appropriate to be separated from these uses. The studies that Council received go to different aspects of justifying this approach to regulating the use. There is a memo attached to the backup that was distributed to Council that explains the studies and serves as a guide through the studies, which deal with negative impacts that have been identified over time in many jurisdictions as being associated with these types of uses and how different regulations can aid in minimizing the negative impacts.

Ms. Trevarthen stated that sitting as the Local Planning Agency, Council needs to make a finding that this is appropriate and decide whether to recommend it to the City Council as consistent with the Comprehensive Plan.

Mayor Garcia asked if the distance requirements between an adult use and a school could be extended and Ms. Trevarthen replied that the proposed spacing takes into account several items such as balancing the zoning districts in which the City wants these uses to locate with the spacing requirement so that they are left with the ability to have a use locate. She worked with Planning and Zoning Director Holland and optimized what could be done within the framework of the limits of the Abraham Tract District. She noted that there is not a spacing from across the municipal boundary and therefore these distances are being measured from within the City.

City Attorney Seiden commented that insofar as this particular ordinance is concerned, it is formatted in a way that would fit directly into Subsection D of the already existing Abraham Tract District boundary regulations that were established and previously reserved.

Councilman Lob made moved to give the City Council guidance to approve Ordinance No. 1050-2013. Councilman Best seconded the motion which was carried 5-0 on roll call vote.

City Attorney Seiden explained that Ms. Trevarthen is going to discuss Ordinance No. 1051-2013.

Ms. Trevarthen stated that Ordinance No. 1051-2013 is a business regulation for adult uses. This regulation is more detailed and consists of all aspects of the business of operating an adult use. The City Attorney had begun the process several years ago by providing Council with the most valuable regulations that are consistent with the Constitution. She has included additional business regulations that are informed by those that have been upheld by the Federal Courts who have jurisdiction over Florida.

Ms. Trevarthen said that the ordinance addresses important governmental interests such as preventing the spread of diseases, avoiding opportunities for criminal activity associated with the use and preventing persons who have either violated licenses associated with these kinds of uses or previously had relevant convictions preventing them from being in control of these uses. The ordinance is also very specific regarding the layout of the facility and the reason for that is to enable better police protection.

Vice Mayor Ator asked about the definition of the adult mini-motion picture theatre and if the 50 person maximum was a standard definition and Ms. Trevarthen responded that the reason for all of these regulations is to remember the purpose which is to be as all-encompassing as possible so that there is not a use that attempts to define itself outside the scope of this regulation.

City Attorney Seiden mentioned that the Chapter 132 that is being repealed and replaced by Chapter 119 was a product of one particular case that was in the City when a former City Manager and City Attorney took a harsh stance in regard to an old establishment on 36th Street called Doc Watson's.

3. Adjourn.

There being no further business to be discussed the Local Planning Agency meeting was adjourned at 7:33 p.m. and reconvened to the Regular Council meeting.

Zavier M. Garcia
Mayor

ATTEST:

Magalí Valls, CMC
City Clerk

Approved during meeting of: ____

Transcription provided by Elora R. Sakal.

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.



*Golf and Country Club Advisory Board
Cancellation Notice*

The Golf and Country Club Advisory Board meeting scheduled for Wednesday, February 13, 2013 was canceled due to lack of a quorum.

Suzanne Hitaffer
Deputy City Clerk

cc: City Council
City Manager
Assistant City Manager/Finance Director
City Attorney
City Clerk
Golf and Country Club Advisory Board Members
Omar Luna, Golf Director
Sandy Pell, Golf Superintendent
Post



DRAFT

City of Miami Springs, Florida

The Board of Parks and Parkways held a regular meeting on Thursday, February 14, 2013 at 7:00 p.m. in the City Hall Council Chambers.

1. Call to Order/ Roll Call

The meeting was called to order at 7:04 p.m.

The following were present:

Chairman Eric Richey
Vice Chairman Jean Ansbaugh
Lynne V. Brooks*
Tammy K. Johnston
Irene Priess

*Arrived at 7:06 p.m.

Also Present:

Public Works Director Tom Nash
Board Secretary Elora R. Sakal

2. Approval of Minutes

Minutes of the January 10, 2013 meeting were approved as written.

Board member Priess moved to approve the minutes. Board member Johnston seconded the motion which was carried unanimously on voice vote.

3. Old Business:

a) Westward Drive Bike Path

Public Works Director Nash explained that he has not received any further information since their last discussion. A package was sent to an entity for grant funding and he has not heard back as to what direction it is going. He said that he cannot speculate on what direction it is going until he receives some prices and information.

*Board member Brooks arrived at this time.

b) Edging the Path on the Golf Course

Chair Richey stated that he recommended that the bike path through the Golf Course be edged so that the edges do not deteriorate under moisture conditions. The job was completed but there were a couple of areas that were not edged to the back of the asphalt.

Mr. Nash commented that those areas are in progress of being fixed.

c) Hedges in front of Rae's Tae Kwon Do

Mr. Nash commented that the hedges have been trimmed by Raydel Landscaping.

d) Median on Curtiss Parkway

Mr. Nash clarified that the islands belong to Virginia Gardens. Miami-Dade County Aviation in conjunction with a previous Council received a grant to re-landscape the islands from Le Jeune Road to the overpass in Virginia Gardens and worked to get the four islands on Curtiss Parkway included into the project. Public Works removed some black olive trees that were in that location and other trees and landscape were added. The agreement was that Virginia Gardens would maintain the grass, trash and debris, Miami-Dade County Aviation would maintain the hedges and the plant material and Public Works would maintain the oak trees.

Mr. Nash said that he has been in contact with Miami-Dade Aviation and they have already started working on N.W. 36th Street and will work their way into that area. Public Works has already taken care of the oak trees a few months ago.

Chair Richey would like to put this item on the next agenda.

e) Butterfly Garden

Board member Brooks commented that she would like to give Mr. Nash a list of plant names and see what the prices would be for them.

Mr. Nash stated that he will have to know the layout of the project and how much plant material and what specific materials will be needed.

Board member Brooks noted that the project would be done in sections instead of doing it all at once because it is such a large project.

Chair Richey asked if this project is going to be done in-house or if Board member Brooks is looking for external funding and Mr. Nash responded that he is not certain.

Chair Richey commented that the previous Butterfly Garden was privately funded.

Vice Chair Ansbaugh commented that the previous Butterfly Garden funds were collected at a Springs Festival. The City did not pay for the project.

Vice Chair Ansbaugh asked if the City was going to pay for the project and Mr. Nash replied

that the Board would have to speak with the City Manager or they could go through their Board Liaison.

Chair Richey suggested that Board member Brooks personally speak with the City Manager regarding the funding for the Butterfly Garden project.

Mr. Nash commented that a dollar amount would need to be created to present to the City Manager before speaking with him.

Chair Richey clarified that Board member Brooks would come up with a proposal for the entire project to present to the City Manager.

4. New Business:

a) Yard of the Month: March and April

Chair Richey asked for all those in favor of 108 Truxton Drive being the March Yard of the Month and by consensus the Board members agreed.

Chair Richey asked for all those in favor of 1291 Redbird Avenue being the April Yard of the Month and by consensus the Board members agreed.

5. Other Business:

Vice Chair Ansbaugh would like to recognize Harvest Moon for their efforts in landscaping.

Chair Richey stated that he and Vice Chair Ansbaugh would like to recommend that Council recognize and present a proclamation to Harvest Moon. They have produced and maintained their landscaping for many years.

Vice Chair Ansbaugh made a recommendation to Council to recognize and deliver a proclamation in recognition of the landscaping at Harvest Moon. Board member Brooks seconded the motion which was carried unanimously on voice vote.

Chair Richey would like to discuss the work that has been done by Raydel Landscaping and the trimming that they have been doing throughout the City at the next meeting. He personally feels that the work that is being done is high quality work.

Chair Richey would like to put Raydel Landscaping as an agenda item on the next agenda.

Discussion ensued from Mr. Nash regarding a presentation he gave at a previous City Council Meeting about the practice of Raydel Landscaping along with photos and explanations of how and why trees are trimmed a specific way and solutions that they plan to organize to improve the trees, streets and sidewalks so that vehicles and pedestrians can access those areas.

Mr. Nash commented that the City passed the inspection for the grant at the dog park and the reimbursement money should be received in the near future.

Mr. Nash said that Raydel has trimmed approximately 700 trees since October of last year.

Chair Richey commented that some residents feel that the trees are being trimmed too much when in deed they are not. A mistake was made in the past by purchasing more trees for less

instead of fewer trees for more of a cost because the trees that were purchased were not of great quality.

Mr. Nash mentioned that an oak tree on Curtiss Parkway is an eminent danger and will have to be removed.

Chair Richey recommended publishing something in the Gazette regarding the tree and Mr. Nash responded that he attempted to speak with Rhonda Calvert but nothing came about it.

To answer Board member Priess' question, Public Works Director Nash said that the tree is in the walkway.

Chair Richey would like to ask Council to consider renovating the Marine Corps Memorial on Deer Run and Curtiss Parkway to bring it up to aesthetic standards.

Chair Richey suggested building a retaining wall around the memorial and filling it in and planting giant liriopse.

Board member Brooks commented that she already picked her yard for the month of May. The address is 651 Falcon Avenue. Board Secretary Elora Sakal stated that she would put this item on next agenda for recommendation to Council.

Vice Chair Ansbaugh would like to know if she can recommend that approximately fifteen small flowering trees be planted at the park on Lake Drive and Morningside. She recommended a plant called euphorbia poinsettia. It blooms white and pink flowers during certain times of the year.

Mr. Nash commented that if the costs are low, he suggested using that park for Arbor Day this year and using the euphorbia poinsettia to plant. Mr. Nash asked if that plant would fall under the category for Arbor Day as a tree, shrub or hedge and Vice Chair Ansbaugh suggested planting a combination of the euphorbia poinsettias and a tree.

Chair Richey feels that it would be a great idea and asked Mr. Nash if there was anything that they would need to do and Mr. Nash responded that they will need to create a layout, the amount of plants needed and the total cost.

Mr. Nash stated that if it could be done for a low amount of money and set up before the Arbor Day event which usually takes place anywhere from January to May.

Chair Richey said that he and Vice Chair Ansbaugh will put the information together and give it to Mr. Nash within a week.

Vice Chair Ansbaugh suggested that Board member Brooks have a Booth for donations for the Butterfly Garden at the Springs River Festival and Board member Brooks said that she will work something out to have that at the festival.

6. Adjournment:

There was no further business to be discussed and the meeting was adjourned at 7:44 p.m.

Respectfully submitted,

Elora R. Sakal
Secretary to the Board

Approved as _____ during meeting of: _____

Words ~~stricken through~~ have been deleted. Underscored words represent changes. All other words remain unchanged.

"The comments, discussions, recommendations and proposed actions of City Citizen Advisory Boards do not constitute the policy, position, or prospective action of the City, which may only be established and authorized by an appropriate vote or other action of the City Council".



City of Miami Springs, Florida

CANCELLATION NOTICE

The Revitalization and Redevelopment Ad-Hoc Committee Meeting of February 18, 2013 has been canceled in advance.

Elora R. Sakal

Board Secretary

cc: Mayor and Council
City Manager
Assistant City Manager/Finance Director
City Attorney
City Clerk
Revitalization and Redevelopment Board Members
Post



DRAFT

CITY OF MIAMI SPRINGS, FLORIDA

The Miami Springs Education Advisory Board met at 6:30 p.m., on Tuesday, February 19, 2013 in the City Hall Council Chambers.

The meeting was called to order at 6:30 p.m.

1. Call to Order/Roll Call

The following were present: Chair Dr. John Salomon
Vice Chair Dr. Mara Zapata
Caridad Hidalgo
Kim Werner

Absent: Michael G. Hunter

Also Present: Deputy City Clerk Suzanne Hitaffer

The Chairman welcomed newly appointed member Caridad Hidalgo and asked her to introduce herself to the Board.

Board member Hidalgo stated that she recently moved to Miami Springs but she has been active in the City with youth sports for more than 20-years and she works at Miami Springs Middle School.

2. Approval of Minutes: January 15, 2013 Regular Meeting

Minutes of the January 15, 2013 meeting were approved as written.

Vice Chair Dr. Zapata Board moved to approve the minutes as written and Board member Werner seconded the motion, which carried unanimously on voice vote.

3. Individual School Reports:

Mother Keedy of All Angels Academy reported on the Silver Ball that was a great success. The school held the Daughters of the American Revolution (DAR) essay contest and a 5th grade student was the winner. Last week the school celebrated the Chinese New Year, Mardi Gras, Valentine's Day and the students observed Ash Wednesday. Today the school celebrated its 100th day and Presidents' Day where the 1st and 2nd graders dressed up as different Presidents.

Mother Keedy announced that tomorrow is the Spelling Bee and on Wednesday the 5th graders are making presentations to the Parents Association. The school is going on a field trip to the Seaquarium on February 26th and on March 16th the school is hosting a National History Fair at the Community Center.

Chair Dr. Salomon asked for an update on the iPads and Mother Keedy responded that they do not have them yet but the program is coming along. There will be a conference on Thursday regarding some of the technical aspects of the iPad and the teachers have been attending workshops. She explained that the children will each have an iPad and the information on the iPad will belong to the students and their parents will be importing the textbook information into the iPad.

To answer the Board's questions, Mother Keedy replied that any school in Miami-Dade County can participate in the National History Fair and she understands that ten schools have elected to participate. She is unsure of what time the event will begin but she believes that it is sometime in the morning.

Miami Springs Elementary Principal Sally Hutchings stated that she would be reporting for Miami Springs Elementary and for Springview Elementary on behalf of Principal Dovale. She announced that Benjamin Jarrell and Benet Sieg were recognized for scoring first place in the District Science and Invention Contest; 5th grade student Damien Estevez' artwork of a portrait of Harriett Tubman will be on display at the School Board for the month of March.

Ms. Hutchings said that FCAT Writing is on February 26th and the school is preparing for the test. The Accelerated Reader (AR) students that made the top 90% were awarded an ice cream party and those that met their goals attended a board game and snack party for which the PTA sponsored a Valentine's Day dance to afford those functions. The winter interims have finished and the results are out. The school improvement plans are being finalized for the mid-year and there was strength in the areas of reading and writing and a slight weakness in mathematics. A bi-weekly schedule was implemented in the computer labs for Kindergarten and up to work with the research based program success maker.

Ms. Hutchings commented that the quarterly honor roll begins tomorrow and it will continue throughout the rest of the week. The students from the Principal's Honor Roll have already been treated to a complimentary lunch at Treat's Cafe. Enrollment is up with four students; 3rd grade students are going to the Museum of Contemporary Art on Thursday; the PTA is selling Domino's Pizza coupon books for \$10 and they will host a Book Fair in March.

Ms. Hutchings explained that ELL Tutoring is ongoing and the Bi-lingual Department has been provided with an opportunity for a program called Cultural Activities through Story Telling Academy (CASTA), for 28 newly identified immigrant students that will begin on February 26th. The new Dade Partner is All American Recycling. She has ordered an outdoor speaker so that the Physical Education teacher can hear the announcement for any code reds.

Chair Dr. Salomon asked about the issue with the playground regarding the sand and Ms. Hutchings said that the issue has not been resolved yet.

Region Superintendent Richard Vidal clarified that several schools in the District have also had issues with the playgrounds and they are closing down due to lack of funding. With funds from the Bond referendum it is hoped that the playground issues will be resolved in the summer.

Ms. Hutchings reported that the Office Employee of the Year is Terri Carnaval Fernandez and Support Staff Personnel of the Year is Vanessa Hare. Ms. Fernandez is now representing the Central Region office. Springview's AR celebration was hosted for the second nine-week period with an ice cream party. Pre-K and Kindergarten teachers incorporated reading and language arts lessons with math lessons as they celebrated the 100th day of school.

Ms. Hutchings commented that Springview 5th graders hosted their annual friendship dance which was a great success and raised \$640 for the end of the year activities for 5th grade. Principal Dovale has been conducting professional development for teachers in grades K-5 on the use of technology and science instruction, as well as reading and math instruction. Class pictures were taken on February 7th. Ms. Dovale is conducting data chats with the staff and students to discuss the winter interim assessment results.

Ms. Hutchings continued reporting for Springview Elementary stating that the FAIR testing is under way and is going smoothly. Progress Reports went home today with the students and the District is encouraging parents to sign up for paperless report cards and progress reports. The school has secured several grants through the Bi-lingual Program, one of them being the ELL which involves 60 students and CANA which involves 23 students. She currently has approximately 83 students who are doing FCAT reading and math tutoring.

Miami Springs Middle School Principal Javier Perez welcomed Ms. Hidalgo to the Board. He reported that the school has begun an articulation process with the Elementary Schools and the High School. The numbers are a little higher for the incoming 6th graders and there is a smaller 8th grade class this year. The winter interim assessment scores are out and there was a tremendous improvement in all areas except 6th grade math which is being addressed.

Mr. Perez commented that Saturday Academy before and after school tutoring has been ongoing and averaging over 200 students every Saturday. Last week they held their African-American luncheon. A door decorating contest was also held for the students and teachers. They will be holding a Movie under the Stars event on March 16th that will be advertised to invite the entire community. A walking and running club has been created at the school and they have signed up for the Corporate Run this year.

Mr. Perez stated that the girls' softball team won the north division today and the team will be playing next week in the County finals. The track team has qualified for the playoffs that will take place tomorrow and the boys' softball team also qualified for the playoffs and will be playing on Thursday. There will be an iPrep math course beginning in the 2013-2014 school year. All of the District Middle Schools qualified for the iPrep through a grant and construction of the program will begin as soon as FCAT is finished; the program will be open to all students.

Chair Dr. Salomon asked what the costs will be for the Movie under the Stars event and Mr. Perez replied that it will be \$2 per ticket and the clubs will be selling food to raise funds.

Chair Dr. Salomon asked how the Christ Fellowship beautification project went and Mr. Perez responded that the project is ongoing and the work they have done on approximately seven rooms is tremendous, both inside and outside. Approximately 150 plants were brought in and they will continue working on a paint project on Saturday, as well as working to update the auditorium with the sound system and lighting.

To answer the Chair's question, Mr. Perez stated that the articulation process is on their PowerPoint presentation and forms will be given to all of the students to take home to the parents.

Board member Werner asked how the iPrep was going to affect the teachers and Mr. Perez replied that there are going to be two full-time teachers and an hourly teacher in the lab at all times. The Principal will pick the teachers and it is a process where the teacher elects to teach the program. He noted that the iPrep will look the same as the other iPreps at other schools.

Miami Springs Senior High School Principal Anna Rodriguez introduced intern Principal Adam Kosnitzky who stated that he has been an Assistant Principal for the District for eight years and is happy to be a part of the Miami Springs' family.

Ms. Rodriguez commented that the school has a Twitter account. The PTSA hosted a beautification project and 60 students painted the parking lot bumpers garnet and gold. She also reported that the tutoring program is expanding; the Mu Alpha Theta Math Club students scored 10th in the State; the HOSA team is going to State in the upcoming weeks.

Mr. Kosnitzky reported on the sports programs stating that one of the wrestlers finished 4th in the State and the girls softball team is undefeated. He noted that the results for the winter interim assessments came back very well and there were improvements in every area from the prior winter interim.

4. PTA/PTSA Reports

There were no PTA/PTSA Reports to be discussed.

5. Education Advisory Board Goals

a) Education Compact

Chair Dr. Salomon stated that he had sent an email to Lubby Navarro asking her to attend the meeting in order to continue the Compact discussion and she advised him that she could not attend because she was going to be in Tallahassee.

b) School Visits

Chair Dr. Salomon asked board members to visit the schools with their respective Council member.

6. Youth Advisory Council Update

Chair Dr. Salomon announced that Vice Chair Dr. Zapata has offered to undertake the Youth Advisory Council and continue the work of former Board member Sami.

Vice Chair Dr. Zapata said that she had been visiting some of the schools and she would touch base with the Principals about the Youth Council and see what suggestions they have. She does not want to delay the Youth Advisory Council any further because it is important to learn more about how the students can be civically engaged in the community.

7. Other

Board member Werner said that she had been thinking about her role on the Education Advisory Board and the Board's partnership with the Principals, as leaders in the community. She commented on the success of a presentation called iChoose that was done at the High School. She mentioned the Anti-bullying program and suggested that something of that nature could be held at the Rebeca Sosa Theatre for each of the schools that the community would respond to.

Board member Werner reported that the Village of Pinecrest hosted the movie "Bully" with the support of School Board member Dr. Lawrence Feldman. She suggested that the movie could be shown at the Miami Springs Community Center and that the Central Region could also host the movie for the Principals and Assistant Principals. She added that District 5 School Board member Susie Castillo's campaign literature indicated that bullying prevention was a topic she would be focusing on and she imagines that Board member Castillo would offer her support. She added that City Manager Ronald Gorland had been very supportive of her requests in the past.

Board member Werner stated that Lilly Medina of the Anti-Defamation League's "No Place for Hate" campaign was going to attend the meeting tonight but she could not make it and she would like to save this topic for the next meeting. She emphasized that Miami Springs can become a community of respect with one school being trained as a "No Place for Hate" school and Ms. Medina will be speaking more about this topic.

Board member Werner asked if the meeting minutes would serve as the Board's report to Council and Chair Dr. Salomon responded that the minutes are presented to Council for their review.

Board member Werner suggested that the Education Advisory Board or one representative of the Board could go to the City Council meeting.

Chair Dr. Salomon asked how an item would be placed on the City Council agenda and the Clerk of the Board responded that it would require a motion from the Board to support Ms. Werner's recommendation and to appoint her to speak on behalf of the Board.

To answer Board member Werner's question, the Clerk of the Board advised her that she could speak at the Council meeting as a resident of Miami Springs.

Vice Chair Dr. Zapata noted that Miami Springs and Springview Elementary are both trained in the "No Place for Hate" through the character education initiative of Miami-Dade County. She is not sure about the Middle School or the High School.

Board member Werner commented that once the City has a "No Place for Hate" school the community event will allow Miami Springs to be a "Community of Respect" which would only be the second in the State.

Vice Chair Dr. Zapata asked if the training would be for the teachers or to have the students engage in the Anti-Defamation League curriculum activities.

Board member Werner responded that an Anti-Defamation trainer would go to the school to train the staff or the students. She explained that there is some flexibility, but the program requires funding if it is not part of a grant.

8. Adjourn

There was no further business to discuss and the meeting adjourned at 7:07 p.m.

Respectfully Submitted,

Suzanne Hitaffer
Clerk of the Board

Transcription assistance by Elora R. Sakal.

Approved as written at meeting of:

The comments, discussions, recommendations and proposed actions of City Citizen Advisory Boards do not constitute the policy, position, or prospective action of the City, which may only be established and authorized by an appropriate vote or other action of the City Council.



City of Miami Springs, Florida

CANCELLATION NOTICE

The Historic Preservation Board Regular Meeting of Thursday, February 21, 2013 was canceled in advance.

Suzanne Hitaffer
Secretary to the Board

cc: Historic Preservation Board Members
Mayor and Council
City Manager
City Attorney
City Clerk



Ecology Board

Cancellation Notice

The Ecology Board Meeting of Tuesday, February 26, 2013 has been canceled in advance.

Elora R. Sakal
Board Secretary

cc: Mayor and Council
City Manager
Assistant City Manager/Finance Director
City Attorney
Ecology Board Members
Public Works Director
Post

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:



PUBLIC HEARING

Before the undersigned authority personally appeared O.V. FERBEYRE, who on oath says that he or she is the VICE PRESIDENT, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

The Miami Springs City Council will conduct a public hearing at their regular meeting on Monday, February 25, 2013, at 7:00 p.m. in the Council Chambers at City Hall, 201 Westward Drive, Miami Springs, Florida regarding the following proposed ordinances:

CITY OF MIAMI SPRINGS
PUBLIC HEARING 2/25/2013

ORDINANCE NO. 1050-2013 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CHAPTER 150, "ZONING CODE" OF THE CODE OF ORDINANCES, BY AMENDING SECTION 150-165 "ABRAHAM TRACT DISTRICT" TO PROVIDE FOR ZONING REGULATIONS OF ADULT-RELATED BUSINESSES; ESTABLISHING INTENT AND PURPOSE RELATED THERETO; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

in the XXXX Court,
was published in said newspaper in the issues of

ORDINANCE NO. 1051-2013 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING THE CODE OF ORDINANCES BY PROVIDING FOR CREATION OF CHAPTER 119 "ADULT-RELATED BUSINESSES CODE," TO PROVIDE FOR LICENSING REQUIREMENTS AND BUSINESS REGULATIONS FOR ADULT-RELATED BUSINESSES; PROVIDING FOR REPEAL OF ARTICLE II "SEX-RELATED BUSINESS ACTIVITIES" OF CHAPTER 132 "SEX OFFENSES;" ESTABLISHING INTENT AND PURPOSE RELATED THERETO; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; EFFECTIVE DATE

02/13/2013

Anyone wishing to offer verbal or written comment regarding the proposed ordinances may do so at the public hearing. Copies of the proposed ordinances are posted for public review on the bulletin board located next to the elevator on the first floor at City Hall.

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida, each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper

Magali Valls, CMC, City Clerk

If any person decides to appeal any decision of this Board with respect to any matter considered, s/he will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is made (F. S. §286.0105).

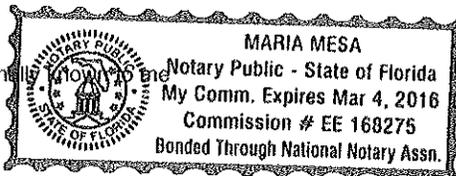
Sworn to and subscribed before me this

13 day of FEBRUARY, A.D. 2013

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk, 201 Westward Drive, Miami Springs, Florida 33166. Telephone: 305.805.5006, no later than seven days prior to the proceeding.
2/13 13-3-236/2032578M

(SEAL)

O.V. FERBEYRE personally



\$111.67

RIVER CITIES GAZETTE
Dolphin Publishing Company
PUBLISHED WEEKLY
MIAMI-DADE-FLOIDA

STATE OF FLORIDA)
COUNTY OF DADE)

ss:

Before the undersigned authority personally appeared

Thomas N. Curtis

who on oath says that he/she is

Publisher

of the River Cities Gazette, a weekly newspaper published at Miami in Dade County, Florida; that the attached copy of advertisement was published in said newspaper in the issue(s) of

FEBRUARY 14TH, 2013

Affiant further says that the said the River Cities Gazette is a newspaper published at Miami, in the said Dade County, Florida, and that the said newspaper has heretofore been continuously published in said Dade County, Florida for a period of one year preceding the first publication of the attached copy of advertisement; that the said newspaper has been entered as second class mail matter each week; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

[Signature]

Sworn to and subscribed before me this 14TH day of

FEBRUARY A.D. 2013

[Signature]

My commission Expires:

\$140.00

MARIA ESTEVEZ
NOTARY PUBLIC
STATE OF FLORIDA
Comm# DD095192
Exp# 06/19/2014



CITY OF MIAMI SPRINGS, FLORIDA PUBLIC HEARING

The Miami Springs City Council will conduct a public hearing at their regular meeting on Monday, February 25, 2013, at 7:00 p.m. in the Council Chambers at City Hall, 201 Westward Drive, Miami Springs, Florida regarding the following proposed ordinances:

ORDINANCE NO. 1050-2013 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CHAPTER 150, "ZONING CODE" OF THE CODE OF ORDINANCES, BY AMENDING SECTION 150-165 "ABRAHAM TRACT DISTRICT" TO PROVIDE FOR ZONING REGULATIONS OF ADULT-RELATED BUSINESSES; ESTABLISHING INTENT AND PURPOSE RELATED THERETO; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

ORDINANCE NO. 1051-2013 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING THE CODE OF ORDINANCES BY PROVIDING FOR CREATION OF CHAPTER 119 "ADULT-RELATED BUSINESSES CODE," TO PROVIDE FOR LICENSING REQUIREMENTS AND BUSINESS REGULATIONS FOR ADULT-RELATED BUSINESSES; PROVIDING FOR REPEAL OF ARTICLE II "SEX-RELATED BUSINESS ACTIVITIES" OF CHAPTER 132 "SEX OFFENSES;" ESTABLISHING INTENT AND PURPOSE RELATED THERETO; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; EFFECTIVE DATE

Anyone wishing to offer verbal or written comment regarding the proposed ordinances may do so at the public hearing. Copies of the proposed ordinances are posted for public review on the bulletin board located next to the elevator on the first floor at City Hall.

Magali Valls, CMC, City Clerk

If any person decides to appeal any decision of this Board with respect to any matter considered, s/he will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is made (F. S. §286.0105).

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk, 201 Westward Drive, Miami Springs, Florida 33166. Telephone: 305.805.5006, no later than seven days prior to the proceeding.

Published, February 14, 2013

\$140.00

ORDINANCE NO. 1050-2013

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CHAPTER 150, "ZONING CODE" OF THE CODE OF ORDINANCES, BY AMENDING SECTION 150-165 "ABRAHAM TRACT DISTRICT" TO PROVIDE FOR ZONING REGULATIONS OF ADULT-RELATED BUSINESSES; ESTABLISHING INTENT AND PURPOSE RELATED THERETO; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Miami Springs, Florida ("City Council") recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the City's regulations are current and consistent with the needs of the City and the requirements of law; and

WHEREAS, the City Council finds that adult-related businesses require special supervision and regulations to protect and preserve the health, safety and welfare of the employees, patrons and neighbors of adult-related businesses and the citizens of the City; and

WHEREAS, based on the evidence and testimony which has been presented to the City Council, and based upon the findings incorporated in:

1. The "Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas);
2. The "Crime-Related Secondary Effects – Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas);
3. "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California);
4. "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio);

5. "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City's Attorney's Office, Denver, Colorado (January 1998);
6. "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997);
7. "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996);
8. "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996);
9. "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994);
10. The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado);
11. "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); and
12. "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005;

the City Council finds that there is convincing documented evidence that adult-related businesses, because of their very nature, have deleterious effects on existing and future business establishments and residential areas, causing increased crime and the deterioration of property values; and

WHEREAS, the City Council finds that adult-related businesses, because of their very nature, have serious objectionable operational characteristics; and

WHEREAS, the City Council finds that the regulation of the location of adult-related businesses is necessary to prevent undesirable adverse secondary impacts on surrounding areas; and

WHEREAS, the City Council desires to minimize and control these adverse secondary impacts and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of adjacent areas; and deter the spread of blight; and

WHEREAS, the City Council, although concerned about these adverse secondary impacts, upholds constitutionally protected speech and expression and does not desire to infringe on or censor constitutionally protected speech and expression; and

WHEREAS, the City Council desires to enact a content neutral ordinance that addresses only the adverse secondary impacts of adult-related businesses; and

WHEREAS, pursuant to §150-130 of the Code of Ordinances, the City Council, sitting in its capacity as the Local Planning Agency, has reviewed this Ordinance and recommends its approval; and

WHEREAS, the City Council finds that this Ordinance is consistent with the City’s Comprehensive Plan; and

WHEREAS, the City Council has determined that it is in the best interests of the City and its citizens to provide for regulations of adult-related businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA:

Section 1. Recitals. That the preceding “Whereas” clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment. That Section §150-165 “Abraham Tract District” of Chapter 150 “Zoning Code” of the Code of Ordinances is hereby amended to read as follows:

CHAPTER 150. ZONING CODE

Section 150-165. Abraham Tract District.

D. Adult-related business regulations.

Reserved

(1) Purpose, authority and findings.

(a) Purpose. In the development and enforcement of this subsection 150-165D., "Adult-related business regulations," the City recognizes that adult-related businesses, because of their very nature, have serious objectionable characteristics and have a deleterious effect upon adjacent business and residential areas. It is desirable, therefore, to protect the well-being of the youth of the City from the objectionable operational characteristics of these adult-related businesses by locating them away from residential areas and public facilities used frequently by minors, such as schools, religious facilities, parks, instructional schools serving minors, and day care centers. The City finds that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied, and encourages criminal sexual behavior.

In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor the effect of this subsection to:

- (i) inhibit freedom of speech or the press; or
- (ii) limit or restrict the content of any communicative materials, including sexually oriented materials; or
- (iii) restrict or deny access by adults to sexually oriented materials protected by the First Amendment; or
- (iv) deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; or
- (v) regulate obscenity, which is regulated by general law (Chapter 847, Florida Statutes).

This subsection balances the legitimate governmental purposes of the City against the above-described constitutional rights, by imposing incidental, content-neutral place, time, and manner regulations of adult-related businesses without limiting alternative avenues of communication. The regulations deemed necessary to control the undesirable effects arising from these businesses are set forth in this subsection. Licensing and operational regulations for these uses are in Chapter 132 of this Code.

(b) Authority. This subsection is enacted pursuant to the City's home rule power to enact regulations to protect the public health, safety and general welfare of the City's residents, and Chapters 163 and 166, Florida Statutes.

(c) Findings. Based on the evidence and testimony presented before the City Council, and on the findings incorporated in:

I. "Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas);

Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas);

III. "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California);

IV. "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio);

V. "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City's Attorney's Office, Denver, Colorado (January 1998);

VI. "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997);

VII. "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996);

VIII. "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996);

IX. "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994);

X. The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado);

XI. "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); and

XII. "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005;

the City Council finds as follows:

(i) Establishments exist or may exist within the City where books, magazines, motion pictures, videos, prints, photographs, periodicals, records, novelties, and devices that depict, illustrate, describe, or relate to

specified sexual activities are possessed, displayed, exhibited, distributed, and sold.

(ii) Establishments exist or may exist within the City where:

a. The superficial tissues of one person are manipulated, rubbed, stroked, kneaded, or tapped by a second person, accompanied by the display or exposure of specified anatomical areas; forms of commercial gain, perform or are presented while displaying or exposing specified anatomical areas; or

c. Lap dancing occurs.

(iii) The activities described in subsections (c)(i) and (ii) occur at establishments for the purpose of making a profit and, as such, are subject to regulation by the City in the interest of the health, safety, and general welfare of City residents.

(iv) The competitive commercial exploitation of such nudity and seminudity is adverse to the public's interest, quality of life, tone of commerce, and total community environment.

(v) The commercial exploitation of nudity and seminudity consists of the use of nude and seminude entertainment in connection with or for the promotion of the sale of goods or services, and the receipt of money by the person engaging in nude or seminude entertainment in exchange for or as consideration for nude or seminude performance by such individuals.

(vi) The commercial exploitation of nude and seminude acts, exhibitions, and nude entertainment occurs frequently at commercial establishments either selling or allowing consumption of alcoholic beverages on the premises.

(vii) There is a direct relationship between the consumption of alcoholic beverages and the nude and seminude activities mentioned above, and an increase in criminal activities, disturbances of the peace and good order of the community. The occurrence of these activities is hazardous to the health and the safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole.

(viii) The combination of the sale and consumption of alcoholic beverages with the performance of nude and seminude acts, exhibitions and entertainment is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the City.

(ix) To promote and preserve the public peace and good order and to safeguard the health, safety, and welfare of the community and its

citizens, it is necessary and advisable for the City to prohibit certain forms of nude and seminude acts, exhibitions, entertainment, and commercial establishments at which alcoholic beverages are, or are available to be, sold or consumed.

(x) There is a direct relationship between the display or depiction of specified anatomical areas as defined in this subsection and an increase in criminal activities and disturbances of the peace and good order of the community, and the occurrence of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce, and total community environment in the City.

(xi) When the activities described in subsections (c)(i) and (ii) take place in establishments within the City, other activities that are illegal or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property.

(xii) When the activities described in subsections (c)(i) and (ii) are present in establishments within the City, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, foster an atmosphere that promotes crime, and ultimately lead residents and businesses to move to other locations.

(xiii) The establishments used for the activities described in subsections (c)(i) and (ii) are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaisons of a casual nature.

(2) Definitions.

The following words, terms and phrases, when used in this subsection D., shall have the meanings ascribed to them in this subsection D.(2), except where the context clearly indicates a different meaning.

"Adult bookstore/adult novelty store/adult video store" shall mean an adult-related business which offers adult material for sale or rent for commercial gain, or having such materials as a substantial percentage or significant portion of its sale or stock in trade, or an establishment with a substantial or significant portion or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, or actual sales. A substantial or significant portion of its stock in trade shall be deemed to occur when: (1) forty (40) percent or 600 square feet (whichever is less) of the floor area of the establishment contains the items listed above; or (2) the items listed above comprise at least forty (40) percent of the value of the stock in trade of the

establishment.

“Adult booth” or “booth” shall mean a small enclosed or partitioned area inside an adult-related business that is:

- (a) Designed or used for the viewing of adult material by one or more persons;
and
- (b) Accessible to all persons, regardless of whether a fee is charged for access.

The term "adult booth" includes but is not limited to a "peep show" booth, or other booth used to view "adult material." The term "adult booth" does not include a foyer through which a person can enter or exit the establishment, or a rest room.

“Adult dancing establishment” shall mean an establishment where employees display or expose specified anatomical areas to others, regardless of whether the employees actually engage in dancing.

“Adult domination/submission parlor” shall mean an adult-related business specializing in bondage, sadomasochism, humiliating activities or other similar activities which depicts, describes or relates to the "specified sexual activities" or "specified anatomical areas," as defined below.

"Adult entertainment" shall mean any action intended to amuse which is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing or less than completely and opaquely covering specified anatomical areas, lap dancing or similar activities.

“Adult-related business” shall mean:

(a) Any adult theater, adult mini motion picture theater, adult bookstore/adult novelty store/adult video store, adult motel, adult domination/submission parlor, encounter studio/modeling studio, or adult dancing establishment as these uses are defined in this subsection; or any other establishment or business operated for commercial gain where any employee, operator or owner exposes his or her specified anatomical area for viewing by patrons, including but not limited to massage establishments, whether or not licensed pursuant to Chapter 480, Florida Statutes, tanning salons, modeling studios, or lingerie studios.

(b) Any establishment where an action is taken which is intended to amuse and which is distinguished or characterized by an emphasis on adult entertainment or material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing, or less than completely and opaquely covering, specified anatomical areas, or similar activities.

(c) An adult-related business shall include the entire site or premises on which

the adult-related business is located, including the exterior and interior of the establishment, or any portion thereof, upon which the activities or operations described in subsection (a) and (b) above are being conducted for commercial gain.

(d) Excluded from this definition are any educational institutions, as defined herein, where the exposure of specified anatomical areas is associated with a curriculum or program.

(e) An establishment that possesses an adult-related business license is presumed to be an adult-related business.

"Adult material" shall mean one (1) or more of the following, regardless of whether it is new or used:

(a) Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, video cassettes, slides or other visual representations; recordings or other audio materials; and novelties or devices that have, as their primary or dominant theme, subject matter depicting, exhibiting, illustrating, describing, or relating to specified sexual activities or specified anatomical areas, as defined below; or

(b) Instruments, novelties, devices, or paraphernalia, which are designed for use in connection with specified sexual activities, excluding bona fide birth control devices.

"Adult mini motion picture theater" shall mean an enclosed building (with theatre style seating or viewing booths) with a capacity of less than fifty (50) persons regularly used for presenting adult material, for observation by patrons therein, which activity requires the exclusion of minors under Chapter 847, F.S. The viewing or adult "booth" referenced in this definition is defined as a small enclosed or partitioned area inside the theater designed or used for the viewing of adult material by one or more persons, which is accessible to all persons, regardless of whether a fee is charged for access. A "booth" shall not include a foyer through which a person can enter or exit the establishment, or a rest room.

"Adult motel" shall mean a hotel, motel, boarding house or rooming house or other place of temporary lodging presenting adult material by means of closed circuit television, for observation by patrons therein.

"Adult motion picture theater" or "adult theater" shall mean an enclosed building with a capacity of 50 or more persons regularly used for presenting adult material for observation by patrons therein, which material may not be exposed to minors under Chapter 847, F.S. Theaters designed to allow the outdoor viewing of adult material are not permitted. An establishment which has adult booths is considered to be an adult theater.

"Alcoholic beverage" shall mean any beverage containing more than 1 percent of alcohol by weight, measured in the manner described in § 561.01(4)(b), F.S., and successor provisions thereto.

"Day care center" shall mean a nonresidential facility that provides supervision and care of children under the age of 18 for periods of less than twenty-four (24) hours a day.

"Encounter studio/modeling studio" shall mean an establishment offering nude or semi-nude encounter/modeling sessions, sessions between opposite or same sex adult individuals, nude dance/photo sessions, or sexual consultations, which have as their dominant or primary theme matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below.

"Establishment" shall mean the site or premises on which the adult-related business is located, including the interior of the premises, or portion of it, upon which certain activities or operations are being conducted for commercial gain.

"Instructional school" shall mean a premises or site upon which a business offers instruction for gymnastics, martial arts, dance, or any other similar skill activities.

"Lap dance" or "lap dancing", also known as a "straddle dance," "face dance," "friction dancing," or "flash dance," shall mean the use by an employee, whether clothed or partially or totally nude, of a part of his or her body to touch, massage, rub, stroke, caress, or fondle the genital or pubic area of a person while at the establishment, or the touching of the genital or pubic area of an employee by a person while at the establishment. It shall be a "lap dance" regardless of whether the "touch" or "touching" occurs while the employee is displaying or exposing a specified anatomical area. It shall also be a "lap dance" regardless of whether the "touch" or "touching" is direct or through a medium. However, incidental touching shall not constitute lap dancing.

"Massage establishment" shall mean:

(1) Any shop, parlor, establishment or place of business wherein all of any one (1) or more of the following named subjects and methods of treatments are administered or practiced: body massage either by hand or by any mechanical or electrical apparatus or device (excluding fever therapy), applying such movements as stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage, or tapotement.

(2) Provided, however, that, for the purpose of this chapter, the term "massage establishment" shall not include any massage establishment wherein at least fifty (50) percent of the employees on duty full time during the hours that the establishment is open for business are State of Florida licensed massage therapist or other licensed professional listed in the preceding sentence.

(3) Nothing in this chapter shall be construed as applying to state licensed massage therapists, barbers, cosmetologists, manicurists, pedicurists, occupational therapists, physical therapists, physical therapists' assistants, midwives, practical nurses, agents, servants or employees in licensed hospitals, nursing homes or other licensed medical institutions, licensed physicians, osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners, or their agents, servants

or employees acting in the course of such agency, service or employment under the supervision of the licensee.

"Patron" shall mean any natural person other than an employee, operator, licensee, or governmental officer while such persons are performing duties pursuant to this Code or other law.

"School," for purposes of this subsection, includes premises or a site upon which there is a day care center, nursery school, pre-kindergarten, elementary school, middle school, high school, or library.

"Specified anatomical areas" shall mean:

(a) Less than completely and opaquely covered:

(i) Human genitals and pubic region; or

(ii) Cleavage of the human buttocks; or

(iii) That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola, including the areola; this definition shall include the entire lower portion of the human female breast, but shall not include a portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not so exposed; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" shall mean:

(a) Human genitals in a state of sexual stimulation, arousal, or tumescence; or

(b) Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sexual intercourse or sodomy; or

(c) Fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast; or

(d) Excretory functions as part of or in connection with the activities set forth in subsections (a)—(c).

(3) Supplemental regulations.

(a) Permitted locations. No adult-related business use shall be established, operated or maintained within the City except on property located within the Abraham Tract District. The zoning district regulations for any other zoning district in the City shall not be construed to permit the establishment, operation or

maintenance of any adult-related business use. In no event shall an adult-related business use be established, operated or maintained within the City in which a person shall be allowed to expose specified anatomical areas to public view. Except as otherwise provided by this Code, adult-related business uses may have accessory uses that are incidentally and customarily associated with the principal adult-related business use.

(b) *Required distances.* No adult-related business use shall be established, operated or maintained within the following specified distances of any of the following uses located within the City:

(i) 300 feet from any other adult-related business use.

(ii) 500 feet from any residentially zoned district or any parcel which is used for single-family or multi-family residential use.

(iii) 500 feet from any religious facility.

(iv) 500 feet from any public or private school which caters to the instruction of children under the age of 18.

(v) 500 feet from any day care center or instructional school whose primary use caters to the care or instruction of children under the age of 18.

(vi) 500 feet from any park.

(c) *Measurement of required distances.* The minimum required distances in subsection D.(3)(b) shall be measured by following a straight line from any portion of the building used by the adult-related business use, to the nearest point of a parcel located in the City containing one of the uses listed in subsection D.(3)(b)(ii) – (vi). The minimum required distance between adult-related business uses shall be measured by following a straight line between the respective portions of the buildings used by the two adult-related business uses.

(d) *Survey required.* For purposes of establishing the required distances between adult-related business uses and the uses listed in subsection D.(3)(b), an applicant for a license for an adult-related business pursuant to Code Chapter 119, “Adult-Related Businesses Code,” Article II. “Adult-Related Business Licensing” shall furnish a certified survey from a registered surveyor. Such survey shall indicate the distance between the adult-related business use and any of the uses listed in subsection D.(3)(b), as measured in accordance with the requirements of subsection D.(3)(c). In case of any dispute, the measurement scaled by the Planning and Zoning Director shall govern.

(e) *Strict compliance required.* No adult-related business use shall be established, operated or maintained within the City unless it is in compliance with the Code and any other local, state, or federal law. No variance shall be granted to any requirement of this subsection D.

(f) *Review of applications for adult-related business uses.* Notwithstanding any other section of this Code applicable to adult-related businesses, applications to establish an adult-related business use shall be reviewed as follows:

(i) The Planning and Zoning Director shall review all of the information submitted to determine the conformity of the application with this subsection.

(ii) The submitted application will be reviewed for completeness within twenty (20) business days, and any corrections, revisions or deficiencies shall be provided to the applicant within that twenty-day period.

(iii) Upon resubmittal of corrected plans, the Planning and Zoning Director shall have ten (10) business days to review the resubmittal and provide any corrections, revisions or deficiencies to the applicant. This process shall continue until the applicant has submitted a complete application or demands that the application be reviewed as is, without further revision.

(iv) If the applicant fails to provide additional information requested by the Planning and Zoning Director, or respond indicating the time that the information will be provided, within forty (40) days of the date of the request, the application shall be deemed withdrawn by the applicant. The applicant shall be entitled to one forty (40) day extension of this timeframe, upon request made within the original forty (40) day timeframe.

(v) The Planning and Zoning Director shall approve or deny the application within forty (40) days of the City's receipt of the complete application, or the date that the applicant demands review as submitted. The Planning and Zoning Director's decision shall be based upon whether the application complies with the requirements of this subsection. Written notice of the decision shall be provided to the applicant, in the form of an approval or a notice of denial. Any notice of denial shall describe the applicant's appeal rights, and be provided to the applicant within ten (10) business days of the decision.

Section 3. Severability. That, if any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 4. Conflicts. That all Ordinances or parts of Ordinances, and all sections and parts of sections, in conflict herewith are repealed to the extent of such conflict.

Section 5. Codification. That the codifiers are hereby directed to codify this Ordinance in accordance with their discretion and their prior codification of the City of Miami Springs Code of Ordinances.

Section 6. Effective Date. That this Ordinance shall take effect in the manner provided by law.

PASSED AND ADOPTED by the City Council of the City of Miami Springs, Florida, this 25th day of February, 2013.

The motion to adopt the foregoing Ordinance was offered on second reading by _____, seconded by _____, and on roll call the following vote ensued:

Vice Mayor Ator	_____
Councilman Best	_____
Councilwoman Bain	_____
Councilwoman Lob	_____
Mayor Garcia	_____

Zavier M. Garcia
Mayor

ATTEST :

Magali Valls, CMC
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Jan K. Seiden, Esquire
City Attorney

First Reading: 02-11-2013
Second Reading: 02-25-2013

Words ~~stricken through~~ shall be deleted. Underscored words constitute the amendment proposed. Words remaining are now in effect and remain unchanged.

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida



PUBLIC HEARING

STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

The Miami Springs City Council will conduct a public hearing at their regular meeting on Monday, February 25, 2013, at 7:00 p.m. in the Council Chambers at City Hall, 201 Westward Drive, Miami Springs, Florida regarding the following proposed ordinances:

Before the undersigned authority personally appeared O.V. FERBEYRE, who on oath says that he or she is the VICE PRESIDENT, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

ORDINANCE NO. 1050-2013 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CHAPTER 150, "ZONING CODE" OF THE CODE OF ORDINANCES, BY AMENDING SECTION 150-165 "ABRAHAM TRACT DISTRICT" TO PROVIDE FOR ZONING REGULATIONS OF ADULT-RELATED BUSINESSES; ESTABLISHING INTENT AND PURPOSE RELATED THERETO; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

CITY OF MIAMI SPRINGS
PUBLIC HEARING 2/25/2013

ORDINANCE NO. 1051-2013 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING THE CODE OF ORDINANCES BY PROVIDING FOR CREATION OF CHAPTER 119 "ADULT-RELATED BUSINESSES CODE," TO PROVIDE FOR LICENSING REQUIREMENTS AND BUSINESS REGULATIONS FOR ADULT-RELATED BUSINESSES; PROVIDING FOR REPEAL OF ARTICLE II "SEX-RELATED BUSINESS ACTIVITIES" OF CHAPTER 132 "SEX OFFENSES;" ESTABLISHING INTENT AND PURPOSE RELATED THERETO; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; EFFECTIVE DATE

in the XXXX Court,
was published in said newspaper in the issues of

Anyone wishing to offer verbal or written comment regarding the proposed ordinances may do so at the public hearing. Copies of the proposed ordinances are posted for public review on the bulletin board located next to the elevator on the first floor at City Hall.

02/13/2013

Magali Valls, CMC, City Clerk

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida, each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

If any person decides to appeal any decision of this Board with respect to any matter considered, s/he will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is made (F. S. §286.0105).

Sworn to and subscribed before me this

13 day of FEBRUARY, A.D. 2013

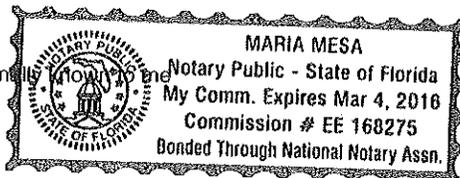
In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk, 201 Westward Drive, Miami Springs, Florida 33166. Telephone: 305.805.5006, no later than seven days prior to the proceeding.

2/13

13-3-236/2032578M

(SEAL)

O.V. FERBEYRE personally



\$111.67

RIVER CITIES GAZETTE
Dolphin Publishing Company
PUBLISHED WEEKLY
MIAMI-DADE-FLOIDA

STATE OF FLORIDA)
COUNTY OF DADE)

ss:

Before the undersigned authority personally appeared

Thomas N. Curtis

who on oath says that he/she is

Publisher

of the River Cities Gazette, a weekly newspaper published at Miami in Dade County, Florida; that the attached copy of advertisement was published in said newspaper in the issue(s) of

February 14th, 2013

Affiant further says that the said the River Cities Gazette is a newspaper published at Miami, in the said Dade County, Florida, and that the said newspaper has heretofore been continuously published in said Dade County, Florida for a period of one year preceding the first publication of the attached copy of advertisement; that the said newspaper has been entered as second class mail matter each week; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

[Signature]

Sworn to and subscribed before me this 14th day of

February A.D. 2013

[Signature]

My commission Expires:

MARIA ESTEVEZ
NOTARY PUBLIC
STATE OF FLORIDA
Comm# DD995192
Expires 07/10/2014

\$140.00



CITY OF MIAMI SPRINGS, FLORIDA PUBLIC HEARING

The Miami Springs City Council will conduct a public hearing at their regular meeting on Monday, February 25, 2013, at 7:00 p.m. in the Council Chambers at City Hall, 201 Westward Drive, Miami Springs, Florida regarding the following proposed ordinances:

ORDINANCE NO. 1050-2013 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CHAPTER 150, "ZONING CODE" OF THE CODE OF ORDINANCES, BY AMENDING SECTION 150-165 "ABRAHAM TRACT DISTRICT" TO PROVIDE FOR ZONING REGULATIONS OF ADULT-RELATED BUSINESSES; ESTABLISHING INTENT AND PURPOSE RELATED THERETO; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE

ORDINANCE NO. 1051-2013 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING THE CODE OF ORDINANCES BY PROVIDING FOR CREATION OF CHAPTER 119 "ADULT-RELATED BUSINESSES CODE," TO PROVIDE FOR LICENSING REQUIREMENTS AND BUSINESS REGULATIONS FOR ADULT-RELATED BUSINESSES; PROVIDING FOR REPEAL OF ARTICLE II "SEX-RELATED BUSINESS ACTIVITIES" OF CHAPTER 132 "SEX OFFENSES;" ESTABLISHING INTENT AND PURPOSE RELATED THERETO; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; EFFECTIVE DATE

Anyone wishing to offer verbal or written comment regarding the proposed ordinances may do so at the public hearing. Copies of the proposed ordinances are posted for public review on the bulletin board located next to the elevator on the first floor at City Hall.

Magali Valls, CMC, City Clerk

If any person decides to appeal any decision of this Board with respect to any matter considered, s/he will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is made (F. S. §286.0105).

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the City Clerk, 201 Westward Drive, Miami Springs, Florida 33166. Telephone: 305.805.5006, no later than seven days prior to the proceeding.

Published, February 14, 2013

\$140.00

ORDINANCE NO. 1051-2013

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING THE CODE OF ORDINANCES BY PROVIDING FOR CREATION OF CHAPTER 119 “ADULT-RELATED BUSINESSES CODE,” TO PROVIDE FOR LICENSING REQUIREMENTS AND BUSINESS REGULATIONS FOR ADULT-RELATED BUSINESSES; PROVIDING FOR REPEAL OF ARTICLE II “SEX-RELATED BUSINESS ACTIVITIES” OF CHAPTER 132 “SEX OFFENSES;” ESTABLISHING INTENT AND PURPOSE RELATED THERETO; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; EFFECTIVE DATE.

WHEREAS, the City Council of the City of Miami Springs, Florida (“City Council”) recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the City’s regulations are current and consistent with the needs of the City and the requirements of law; and

WHEREAS, the City Council finds that adult-related businesses require special supervision and regulations to protect and preserve the health, safety and welfare of the employees, patrons and neighbors of adult-related businesses, and the citizens of the City; and

WHEREAS, based on the evidence and testimony which has been presented to the City Council, and based upon the findings incorporated in the following studies:

1. The “Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values” study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas);
2. The “Crime-Related Secondary Effects – Secondary Effects of “Off-Site” Sexually Oriented Businesses” study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas);
3. “Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney” by Richard McCleary, Ph.D. (2007)(Los Angeles, California);
4. “Survey of Findings and Recommendations of Sexually Oriented Businesses” by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio);
5. “A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver,” by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor’s

Office, and in consultation with the City's Attorney's Office, Denver, Colorado (January 1998);

6. "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997);
7. "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996);
8. "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996);
9. "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994);
10. The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado);
11. "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); and
12. "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005;

the City Council finds that there is convincing documented evidence that adult-related businesses, because of their very nature, have deleterious effects on existing and future business establishments and residential areas, causing increased crime and the deterioration of property values; and

WHEREAS, the City Council finds that adult-related businesses, because of their very nature, have serious objectionable operational characteristics; and

WHEREAS, the City Council finds that the regulation of the operation of adult-related businesses is necessary to prevent undesirable adverse secondary impacts on surrounding areas; and

WHEREAS, the City Council desires to minimize and control these adverse secondary impacts and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of adjacent areas; and deter the spread of blight; and

WHEREAS, the City Council, although concerned about these adverse secondary impacts, upholds constitutionally protected speech and expression and does not desire to infringe on or censor constitutionally protected speech and expression; and

WHEREAS, the City Council desires to enact a content-neutral ordinance that addresses only the adverse secondary impacts of adult-related businesses; and

WHEREAS, the City Council has determined that it is in the best interests of the City and its citizens to adopt this Ordinance in order to provide for regulations of adult-related businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA:

Section 1. Recitals. That the preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment. That Chapter 119 "Adult-Related Businesses Code" is hereby created to read as follows:

CHAPTER 119. ADULT-RELATED BUSINESSES CODE

ARTICLE I. GENERAL PROVISIONS

Sec. 119-01. Title.

This Chapter shall be known and may be cited as the "Miami Springs Adult-Related Businesses Code."

Sec. 119-02. Authority.

This Chapter is enacted pursuant to the City's power to enact regulations to protect the public health, safety, and general welfare of the residents of the City; Chapter 166, F.S.; and the City's authority to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment of the Constitution of the United States.

Sec. 119-03. Findings.

Based on the evidence and testimony presented before the City Council and on the findings incorporated in:

I. "Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas);

II. "Crime-Related Secondary Effects – Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas);

III. "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California);

IV. "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio);

V. "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City's Attorney's Office, Denver, Colorado (January 1998);

VI. "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997);

VII. "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996);

VIII. "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996);

IX. "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994);

X. The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado);

XI. "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); and

XII. "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005;

the City Council finds as follows:

(1) Establishments exist or may exist within the City where books, magazines, motion pictures, videos, prints, photographs, periodicals, records, novelties, and devices that depict, illustrate, describe, or relate to specified sexual activities are possessed, displayed, exhibited, distributed, and sold.

(2) Establishments exist or may exist within the City where:

(a) The superficial tissues of one person are manipulated, rubbed, stroked, kneaded, or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;

(b) Dancers, entertainers, performers, or other individuals, who, for forms of commercial gain, perform or are presented while displaying or exposing specified anatomical areas; or

(c) Lap dancing occurs.

(3) The activities described in subsections (1) and (2) occur at establishments for the purpose of making a profit and, as such, are subject to regulation by the City in the interest of the health, safety, and general welfare of City residents.

(4) The competitive commercial exploitation of such nudity and seminudity is adverse to the public's interest, quality of life, tone of commerce, and total community environment.

(5) The commercial exploitation of nudity and seminudity consists of the use of nude and seminude entertainment in connection with or for the promotion of the sale of goods or services, and the receipt of money by the person engaging in nude or seminude entertainment in exchange for or as consideration for nude or seminude performance by such individuals.

(6) The commercial exploitation of nude and seminude acts, exhibitions, and nude entertainment occurs frequently at commercial establishments either selling or allowing consumption of alcoholic beverages on the premises.

(7) There is a direct relationship between the consumption of alcoholic beverages and the nude and seminude activities mentioned above, and an increase in criminal activities, disturbances of the peace and good order of the community. The occurrence of these activities is hazardous to the health and the safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole.

(8) The combination of the sale and consumption of alcoholic beverages with the performance of nude and seminude acts, exhibitions and entertainment is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the City.

(9) To promote and preserve the public peace and good order and to safeguard the health, safety, and welfare of the community and its citizens, it is necessary and advisable for the City to prohibit certain forms of nude and seminude acts, exhibitions, entertainment, and commercial establishments at which alcoholic beverages are, or are available to be, sold or consumed.

(10) To preserve the public peace and good order, and to safeguard the health, safety, and welfare of the community and its residents, it is necessary and advisable to

regulate and restrict the conduct of owners, operators, agents, employees, entertainers, performers, patrons, spectators, and persons on the premises of the commercial establishment subject to this Chapter.

(11) There is a direct relationship between the display or depiction of specified anatomical areas as defined in this Chapter and an increase in criminal activities and disturbances of the peace and good order of the community, and the occurrence of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce, and total community environment in the City.

(12) When the activities described in subsections (1) and (2) take place in establishments within the City, other activities that are illegal or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property.

(13) When the activities described in subsections (1) and (2) are present in establishments within the City, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, foster an atmosphere that promotes crime, and ultimately lead residents and businesses to move to other locations.

(14) Physical contact between employees exhibiting specified anatomical areas and customers within establishments at which the activities described in subsections (1) and (2) occur poses a threat to the health of both and may lead to the spread of communicable, infectious, and social diseases.

(15) To preserve and safeguard the health, safety, and general welfare of the people of the City, it is necessary and advisable for the City to regulate the conduct of owners, managers, operators, agents, employees, entertainers, performers, and customers at establishments where the activities described in subsections (1) and (2) occur.

(16) The potential dangers to the health, safety, and general welfare of the residents of the City from the activities described in subsections (1) and (2) occurring at establishments without first obtaining a license under this Chapter are so great as to require the licensure of such establishments before they are permitted to operate.

(17) "Lap dancing" does not contain an element of communication, and is therefore conduct rather than expression.

(18) "Lap dancing" in establishments poses a threat to the health of the participants and promotes the spread of communicable, infectious, and social diseases.

(19) Adult-related businesses are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaisons of a casual nature.

(20) The concern over sexually transmitted diseases is a legitimate health concern of the City that demands reasonable regulation of adult-related businesses in order to protect the health and well-being of the citizens.

(21) The prevention of sexual contact between patrons and employees at adult dancing establishments is unrelated to the suppression of free expression, but serves to address the concerns raised in the findings contained in this Chapter. Although the dancer's erotic message may be slightly less effective from four (4) feet away, the ability to engage in the protected expression is not significantly impaired.

(22) Separating dancers from patrons, and prohibiting dancers and patrons from engaging in sexual fondling and caressing in adult dancing establishments, would reduce the opportunity for prostitution transactions and thus should help to deter prostitution.

(23) To preserve and safeguard the health, safety, and general welfare of the people of the City, it is necessary and advisable for the City to obtain sufficient information regarding the owners of establishments where the activities described in subsections (1) and (2) occur in order to preclude the involvement of organized crime.

(24) Removal of doors on adult booths and requiring sufficient lighting in adult theaters advances the substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring at adult theaters.

(25) Requiring that the facilities of adult theaters be constructed of materials that are easy to clean, that the facilities be cleaned on a regular basis, and that the employees cleaning the facilities take reasonable precautions to avoid contact with possible disease-transmitting media is reasonably related to the protection of both employees and patrons from sexually transmitted diseases.

(26) Licensing is a legitimate, reasonable means of accountability to ensure that operators of adult-related businesses comply with the reasonable regulations within this Chapter and the location requirements of the zoning code, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

Sec. 119-04. Rules of construction.

This Chapter shall be construed liberally to accomplish its purpose of licensing and regulating adult-related businesses.

Sec. 119-05. Purpose.

In the development and enforcement of Chapter 119 "Adult-Related Businesses Code," the City recognizes that adult-related businesses, because of their very nature,

have serious objectionable characteristics, and have a deleterious effect upon the adjacent business and residential areas. It is desirable, therefore, to protect the well-being of the youth of the City from objectionable operational characteristics of these adult-related businesses by locating them away from residential areas and public facilities used frequently by minors such as schools, religious facilities, parks, instructional schools serving minors, and day care centers. The City finds that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied, and encourages criminal sexual behavior.

In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor the effect of this Chapter to:

- (a) inhibit freedom of speech or the press; or
- (b) limit or restrict the content of any communicative materials, including sexually oriented materials; or
- (c) restrict or deny access by adults to sexually oriented materials protected by the First Amendment; or
- (d) deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

This Chapter balances the legitimate governmental purposes of the City against the above-described constitutional rights, by imposing incidental, content-neutral place, time, and manner regulations of adult-related businesses without limiting alternative avenues of communication. The regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this Chapter.

Section 119-06. Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

“Adult book store/adult novelty store/adult video store” shall mean an adult-related business which offers adult material for sale or rent for commercial gain, or having such materials as a substantial percentage or significant portion of its sale or stock in trade, or an establishment with a substantial or significant portion or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, or actual sales. A substantial or significant portion of its stock in trade shall be deemed to occur when: (1) forty (40) percent or 600 square feet (whichever is less) of the floor area of the establishment contains the items listed above; or (2) the items listed above comprise at least twenty-five (40) percent of the value of the stock in trade of the establishment.

“Adult booth” or “booth” shall mean a small enclosed or partitioned area inside an adult-related business that is:

- (a) Designed or used for the viewing of adult material by one or more persons; and
- (b) Accessible to all persons, regardless of whether a fee is charged for access.

The term "adult booth" includes but is not limited to a "peep show" booth, or other booth used to view "adult material." The term "adult booth" does not include a foyer through which a person can enter or exit the establishment, or a rest room.

"Adult dancing establishment" shall mean an establishment where employees display or expose specified anatomical areas to others, regardless of whether the employees actually engage in dancing.

"Adult domination/submission parlor" shall mean an adult related business specializing in bondage, sadomasochism, humiliating activities or other similar activities which depicts, describes or relates to the "specified sexual activities" or "specified anatomical areas," as defined below.

"Adult entertainment" shall mean any action intended to amuse which is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing or less than completely and opaquely covering specified anatomical areas, lap dancing or similar activities.

"Adult-related business" shall mean:

(1) Any adult theater, adult mini motion picture theater, adult bookstore/adult novelty store/adult video store, adult motel, adult domination/submission parlor, encounter studio/modeling studio, or adult dancing establishment as these uses are defined in this Chapter; or any other establishment or business operated for commercial gain where any employee, operator or owner exposes his or her specified anatomical area for viewing by patrons, including but not limited to massage establishments, whether or not licensed pursuant to Chapter 480, Florida Statutes, tanning salons, modeling studios, or lingerie studios.

(2) Any establishment where an action is taken which is intended to amuse and which is distinguished or characterized by an emphasis on adult entertainment or material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing, or less than completely and opaquely covering, specified anatomical areas, or similar activities.

(3) An adult-related business shall include the entire site or premises on which the adult-related business is located, including the exterior and interior of the establishment, or any portion thereof, upon which the activities or operations described in subsection (1) and (2) above are being conducted for commercial

gain.

(4) Excluded from this definition are any educational institutions, as defined herein, where the exposure of specified anatomical areas is associated with a curriculum or program.

(5) An establishment that possesses an adult-related business license is presumed to be an adult-related business.

"Adult material" shall mean one (1) or more of the following, regardless of whether it is new or used:

(a) Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, video cassettes, slides or other visual representations; recordings or other audio materials; and novelties or devices that have, as their primary or dominant theme, subject matter depicting, exhibiting, illustrating, describing, or relating to specified sexual activities or specified anatomical areas, as defined below; or

(b) Instruments, novelties, devices, or paraphernalia, which are designed for use in connection with specified sexual activities, excluding bona fide birth control devices.

"Adult mini motion picture theater" shall mean an enclosed building (with theatre style seating or viewing booths) with a capacity of less than fifty (50) persons regularly used for presenting adult material, for observation by patrons therein, which activity requires the exclusion of minors under Chapter 847, F.S. The viewing or adult "booth" referenced in this definition is defined as a small enclosed or partitioned area inside the theater designed or used for the viewing of adult material by one or more persons, which is accessible to all persons, regardless of whether a fee is charged for access. A "booth" shall not include a foyer through which a person can enter or exit the establishment, or a rest room.

"Adult motel" shall mean a hotel, motel, boarding house or rooming house or other place of temporary lodging presenting adult material by means of closed circuit television, for observation by patrons therein.

"Adult motion picture theater" or *"adult theater"* shall mean an enclosed building used for presenting adult materials for observation by patrons or any material which may not be exposed to minors under Chapter 847, F.S. Theaters designed to allow the outdoor viewing of adult material are not permitted. An establishment which has adult booths is considered to be an adult theater.

"Alcoholic beverage" shall mean any beverage containing more than 1 percent of alcohol by weight, measured in the manner described in § 561.01(4)(b), F.S., and successor provisions thereto.

"Day care center" shall mean a nonresidential facility that provides supervision and care of children under the age of 18 for periods of less than twenty-four (24) hours a day.

“Educational institution” shall mean any premises or site upon which there is an institution of learning, whether public or private, which conducts regular classes, courses of study, or both, required for accreditation by or membership in the State Department of Education of Florida, Southern Association of Colleges and Secondary Schools, or the Florida Council of Independent Schools. This term also includes art galleries and museums open to the public; or special institution of learning.

“Encounter studio/modeling studio” shall mean an establishment offering nude or semi-nude encounter/modeling sessions, sessions between opposite or same sex adult individuals, nude dance/photo sessions, or sexual consultations, which have as their dominant or primary theme matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below.

“Establishment” shall mean the site or premises on which the adult-related business is located, including the interior of the establishment, or portion of it, upon which certain activities or operations are being conducted for commercial gain.

“Instructional school” shall mean a premises or site upon which a business offers instruction for gymnastics, martial arts, dance, or any other similar skill activities.

“Lap dance” or *“lap dancing”* also known as a "straddle dance," "face dance," "friction dancing," or "flash dance," shall mean the use by an employee, whether clothed or partially or totally nude, of a part of his or her body to touch, massage, rub, stroke, caress, or fondle the genital or pubic area of a person while at the establishment, or the touching of the genital or pubic area of an employee by a person while at the establishment. It shall be a "lap dance" regardless of whether the "touch" or "touching" occurs while the employee is displaying or exposing a specified anatomical area. It shall also be a "lap dance" regardless of whether the "touch" or "touching" is direct or through a medium. However, incidental touching shall not constitute lap dancing.

“Licensed premises” See *“Establishment.”*

“Licensee” shall mean a person who has or is required to have an adult-related business license.

“Massage establishment” shall mean:

(1) Any shop, parlor, establishment or place of business wherein all of any one (1) or more of the following named subjects and methods of treatments are administered or practiced: body massage either by hand or by any mechanical or electrical apparatus or device (excluding fever therapy), applying such movements as stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage, or tapotement.

(2) Provided, however, that, for the purpose of this Chapter, the term "massage establishment" shall not include any massage establishment wherein at least fifty (50) percent of the employees on duty full time during the hours that the establishment is open for business are State of Florida licensed

massage therapist or other licensed professional listed in the preceding sentence.

(3) Nothing in this Chapter shall be construed as applying to state licensed massage therapists, barbers, cosmetologists, manicurists, pedicurists, occupational therapists, physical therapists, physical therapists' assistants, midwives, practical nurses, agents, servants or employees in licensed hospitals, nursing homes or other licensed medical institutions, licensed physicians, osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners, or their agents, servants or employees acting in the course of such agency, service or employment under the supervision of the licensee.

"Nudity, full" shall mean the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.

"Patron" shall mean any natural person other than an employee, operator, licensee, or governmental officer while such persons are performing duties pursuant to this Code or other law.

"Principal stockholder" shall mean an individual, partnership or corporation that owns or controls, legally or beneficially, thirty-three (33) percent or more of a corporation's capital stock and includes the officers, directors, and principal stockholders of a corporation that is a principal stockholder under this Chapter; provided, that if a corporation is registered with the Securities and Exchange Commission or pursuant to Chapter 517, Florida Statutes, and its stock is for sale to the general public, it shall not be considered to have any principal stockholders.

"Private performance" shall mean the display or exposure of any specified anatomical area by an employee of an adult-related business to a person other than another employee while the person is in an area not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons outside the area.

"Specified anatomical areas" shall mean:

- (1) Less than completely and opaquely covered:
 - a. Human genitals and pubic region; or
 - b. Cleavage of the human buttocks; or

c. That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola, including the areola; this definition shall include the entire lower portion of the human female breast, but shall not include a portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not so exposed; and

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"*Specified criminal offense*" shall mean:

- (1) A conviction under § 60.05, F.S. (Nuisance Abatement);
- (2) A conviction under Chapter 480, F.S. (Massage Practice);
- (3) A conviction under Chapter 561, F.S. (Beverage Law: Administration) or Chapter 562, F.S. (Beverage Law: Enforcement); or
- (4) A judgment against or conviction under Chapter 823, F.S. (Public Nuisances).

"*Specified sexual activities*" shall mean:

- (1) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (2) Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sexual intercourse or sodomy; or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast; or
- (4) Excretory functions as part of or in connection with the activities set forth in subsections (1)—(3).

Sec. 119-07. Regulation of obscenity subject to state law.

It is not the intent of the City Council to legislate with respect to matters of obscenity. These matters are regulated and preempted by general law.

Sec. 119-08. Regulation of massage establishments subject to state law.

It is not the intent of the City Council to legislate, limit, or conflict with respect to matters pertaining to massage establishments that are regulated by state agency, the department of business and professional regulation, board of massage, and by general law (Chapter 480, F.S.).

ARTICLE II. ADULT-RELATED BUSINESS LICENSING

Sec. 119-12. Adult-related business license.

(a) No adult-related business shall be allowed to operate without first having been issued an adult-related business license by the Department of Building and Code Compliance pursuant to this Chapter.

(b) Adult-related business licenses referred to in this Chapter shall be licenses limited to the following classifications:

- (1) Adult bookstore/adult novelty store/adult video store;
- (2) Adult theater;
- (3) Adult dancing establishment;
- (4) Adult domination/submission parlor;
- (5) Adult motel;
- (6) Encounter studio/modeling studio;
- (7) Massage establishment; or
- (8) Any other adult-related business use as defined in this Chapter.

(c) An adult-related business license for a particular adult-related business shall be limited to one (1) classification of license.

(d) An adult-related business may hold more than one (1) classification of adult-related business license.

(e) No adult-related business license shall be issued to any establishment engaging in any display of full nudity, as defined in this Chapter.

Sec. 119-13. Administration.

The ultimate responsibility for the administration of this Chapter is vested in the City Council. Several agencies have been delegated responsibility pursuant to the provisions outlined in this Chapter:

(1) The Building and Code Compliance Director or designee shall be the "business licensing section" responsible for issuing the official notice of the grant, denial, revocation, renewal, suspension, or cancellation of adult-related business licenses for existing or proposed adult-related businesses.

(2) The Chief of Police or designee is responsible for verifying information contained in an application for an adult-related business license by means of a criminal background check, and for inspecting a proposed, licensed, or unlicensed establishment in the City in order to ascertain whether it is in compliance with applicable Articles and criminal statutes, and for enforcing applicable ordinances and criminal statutes, including those provisions set forth in Articles II and III of this Chapter.

(3) The Building Official or designee is responsible for inspecting a proposed establishment for which a license is being sought in order to ascertain whether it complies with or is complying with Article III of this Chapter and all applicable building codes, statutes, ordinances, and regulations in effect in the City. The Building Official or designee shall compare and certify that all aspects of the submitted floor plan, site plan, and certified survey accurately depict the actual structure, and comply with the provisions of this Chapter.

(4) The Fire Department is responsible for the inspection of licensed premises or a proposed establishment to ascertain whether it complies with or is complying with Article III and all applicable fire codes, statutes, ordinances, and regulations in effect in the City.

(5) The Planning and Zoning Director or designee is responsible for ascertaining whether a proposed establishment for which a license is being sought complies with §150-165 of the City Code, the applicable portions of Article III, and all applicable zoning regulations in effect in the City.

(6) Any employee of the agencies referenced in subsections (2) through (5) above who is authorized by the person in charge of the agency shall at any reasonable hour, when the agency has reasonable cause to believe that a violation of this Chapter may exist, have access to and shall have the right to inspect the premises of all licensees under this Chapter for compliance with any or all of the applicable codes, statutes, ordinances, and regulations in effect in the City and within the responsibilities of their respective agencies as outlined in this Chapter.

Sec. 119-14. Application.

(a) *Filing.* A person desiring to operate an adult-related business shall file with the business licensing section a sworn license application on a standard application form supplied by the business licensing section.

(b) *Contents.* The application shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

a. An individual, his or her legal name, aliases, and date of birth, driver's license number or a state or federally issued identification card number;

b. A partnership, the full and complete name of the partners, dates of birth, driver's license numbers or state or federally issued identification card numbers of all partners, and all aliases used by all of the partners, whether the partnership is general or limited, and, if in existence, a copy of the partnership agreement; or

c. A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, driver's license numbers or state or federally issued identification card numbers of all officers, directors and principal stockholders, and all aliases used, the capacity of all officers, directors, and principal stockholders, and, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process; and

(2) The application shall list the current local and legal domiciliary residential addresses of all individual applicants, partners in a partnership application, and the principal stockholders of the corporation in a corporation application; for purposes of this subsection, principal stockholders are natural persons and not corporate or other legal entities; when the principal stockholder is a corporate or other legal entity, the application must trace back the ownership through layers of corporate organization to the eventual principal stockholder who is a natural person; and

(3) If the applicant intends to conduct business under a name other than that of the applicant, the applicant shall state the establishment's fictitious name and the county of registration under § 865.09, F.S., all legal names, dates of birth, addresses and all aliases used by all interested persons; and

(4) Whether the applicant, or other individuals listed pursuant to subsection (1) above, has within the five-year period immediately preceding the date of the application, ever been convicted of a specified criminal offense and, if so, the specified criminal offense involved, the date of conviction, and the place of conviction; and

(5) Whether the applicant, or other individuals listed pursuant to subsection (1) above, has (i) had a previous license issued under this Chapter suspended or revoked, or by court order, been required to cease operation, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation, and (ii) whether the applicant, or any other individuals listed pursuant to subsection (1), has been a partner in a partnership or an officer, director or principal stockholder of a corporation whose license issued under this Chapter has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation; and

(6) Whether the applicant, or other individuals listed pursuant to subsection (1) above, holds other licenses under this Chapter and, if so, the names and locations of such other licensed establishments; and

(7) The single classification of license for which the applicant is filing and the general nature of adult-related business for which the applicant is seeking a license, including a statement concerning the degree to which the anticipated

activities at the adult-related business meet the definitions of the enumerated adult-related business classifications listed in the definitions section (§119-06); such a characterization shall serve as an initial basis for the permitted activities allowed under the license issued as well as a basis for the fee charged; and

(8) The location of the proposed establishment, including a legal description of the property site, and a legal street address; and

(9) The names of all employees, dates of birth, and aliases used for the proposed establishment, if known, or, if currently unknown, a statement to that effect; and

(10) The applicant's mailing address, residential address and residential telephone number (if any); and

(11) A site plan and certified survey drawn to appropriate scale of the proposed establishment including, but not limited to, all property lines, rights-of-way, and the location of buildings, parking areas and spaces, curb cuts, and driveways and shall state and indicate on the survey that the distance and location requirements of §150-165 have been satisfied; and

(12) A floor plan drawn to appropriate scale of the proposed establishment including, but not limited to:

a. All windows, all doors, all entrances and exits; and

b. Proposed seating arrangement; and

c. All fixed structural interior features including, but not limited to, doors, aisles, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, counters, platforms, and similar structures; and

d. All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size; and

(13) The name, address and phone number of the person whom the building official should contact to schedule the inspection; and

(14) The phone number and address of the existing or proposed establishment; and

(15) The name, phone number and address of the manager; and

(16) A detailed security plan; and

(17) A notarized, signed, and sworn statement that the information within the application is truthful, independently verifiable, and complete and that the photocopies of the attached driver's licenses or state or federally issued identification cards are true and correct copies of the originals.

(c) *Copies.* In addition to the requirements of subsection (b) above, the applicant shall supply a minimum of five (5) copies of the application, or more as may be required, to the business licensing section.

(d) *Completeness.* An application shall not be considered complete until the application satisfies the requirements of subsection (b) and subsection (c)(1) above.

(1) The Building and Code Compliance Director shall review all of the information submitted to determine the conformity of the application with this subsection.

(2) The submitted application will be reviewed for completeness within twenty (20) business days following receipt, and any corrections, revisions or deficiencies shall be provided to the applicant within that twenty-day period.

(3) Upon resubmittal of corrected plans, the Building and Code Compliance Director shall have ten (10) business days to review the resubmittal and provide any corrections, revisions or deficiencies to the applicant. This process shall continue until the applicant has submitted a complete application or demands that the application be reviewed as is, without further revision.

(4) If the applicant fails to provide additional information requested by the Building and Code Compliance Director, or respond indicating the time that the information will be provided, within forty (40) days of the date of the request, the application shall be deemed withdrawn by the applicant. The applicant shall be entitled to one forty (40) day extension of this timeframe, upon request made within the original forty (40) day timeframe.

(e) *Application fee.* Each application shall be accompanied by a nonrefundable fee to be established by resolution of the City Council to recoup the costs related to administering the licensing program. If the application for a license is approved and a license is granted, half of the application fee shall be applied as a credit towards the annual license fee required for the first year pursuant to subsection 119-17(f).

(f) *Rejection of application.* In the event the business licensing section is notified by one of the agencies listed in subsections 119-13(2) through (5) above, that the applicant has not satisfied the application requirements for a proposed establishment, the applicant shall be notified of such fact within the time frame specified in this Chapter with a detailed list of reasons and the application shall be denied.

Sec. 119-15. Investigation of application.

(a) Upon receipt of a complete application filed properly with the business licensing section and upon payment of the nonrefundable application fee, the business licensing section shall send the attached photocopies of the application to the Chief of Police, the Fire Department, Building Official, and Planning and Zoning Director. Each agency shall promptly conduct an investigation of the applicant and the proposed establishment in accordance with its responsibilities outlined in Article III. At the conclusion of its investigation, each agency shall indicate on the photocopy of the application whether the application satisfies each requirement of this Chapter, and shall date and sign the application.

(b) Any of the foregoing reviewers shall recommend denial of an application if one (1) or more finds that the proposed establishment will be in violation of a provision of Article III or of any building, fire, or zoning code, statute, ordinance or regulation. If the application fails to satisfy this Code or any building, fire or zoning code, statute, ordinance or regulation, the reviewer shall state specifically its reasons on a separate letter attached to the photocopy of the application.

Sec. 119-16. Administrative review.

(a) The date of the filing of the complete application shall be the date the applicant furnishes the fully completed and sworn application, the application fee, and the required number of copies. The reviewers shall conduct and complete an investigation of the application within twenty-one (21) days of receipt of the complete application. If a provision of this Chapter, any building, fire, zoning, or any other applicable code, statute, ordinance or regulation is found to be applicable to the applicant who is in violation of any such provision, the respective reviewer shall notify the business licensing section of the violation, state the reasons, and offer suggestions for correction. Upon receipt of notice of a violation from a reviewer, the business licensing section shall wait until day twenty-one (21) for the review from the other agencies. Then, the business licensing section shall notify the applicant of the denial in writing within thirty (30) days of receipt of the complete application. All communications regarding approval or denial shall be issued by and through the business licensing section. Oral statements issued directly or independently by the reviewers shall not be deemed to create a reliance or estoppel situation as to the provisions of this Chapter.

(b) The business licensing section shall issue or deny an application for an adult-related business license within forty (40) days from the date of the filing of a complete application, or from the date that the applicant demands review as submitted as the case may be. Upon the expiration of the forty-day period without issuance of a decision, the applicant may demand a license and begin operating the establishment for which a license is sought.

(c) If the applicant has satisfied the requirements of this Chapter, the business licensing section shall notify the applicant in writing, and issue the license to the applicant upon payment of the appropriate annual license fee provided in subsection 119-17(f), with credit as provided in subsection 119-14(e).

(d) The business licensing section shall deny the application upon notification by one of the reviewers that:

(1) The application violates or fails to meet the provisions of this Chapter, any building, fire, zoning, or any other applicable code, statute, ordinance or regulation;

(2) The application contains material false information, or information material to the decision was omitted; failure to list an individual required to be listed, and whose listing would result in a denial, is presumed to be “material false

information” for purposes of denial of the application; the certification that the licensee owns, possesses, operates and exercises control over the proposed or existing adult-related business is a “material representation” for purposes of this section;

(3) The applicant, or other individuals listed pursuant to subsection 119-14(b)(1) has a license under this Chapter, or has had a license under this Chapter, which has been suspended or revoked;

(4) The granting of the application would violate a statute or ordinance, or an order from a court of law that effectively prohibits the applicant from obtaining an adult-related business license; or

(5) An applicant, or any other individual required to be listed, has been convicted of a specified criminal offense;

a. For which:

i. Less than two (2) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or

ii. Less than five (5) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or

iii. Less than five (5) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or a combination of misdemeanor offenses occurring within any twenty-four-month period.

b. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

c. An applicant who has been convicted of a specified criminal offense may qualify for an adult-related business license only when the time period set forth above has elapsed, and if his or her civil rights have been restored.

(e) If a person applies for a license at a particular location within a period of one (1) year from the date of denial of a previous application for a license at the location, and there has not been an intervening change in the circumstances material to the decision regarding the former reason(s) for denial, the application shall not be accepted for consideration.

Sec. 119-17. License.

(a) *Contents.* An adult-related business license shall state on its face the name of the licensee, the business name, local residential and legal domiciliary residential address of the licensee, the name of the establishment, the street address of the establishment, the classification of the license, a twenty-four-hour working phone number, the date of issuance, and the date of expiration.

(b) *Term.* All licenses issued under this Chapter shall be annual licenses which shall commence running on October 1, on which date they shall have been paid for, and shall expire on September 30 of the following year. If a license is issued after October 1, but prior to March 31 of the following year, the applicant shall pay the prorated license fee. If a license is issued after March 31, but prior to October 1 of the same year, the applicant shall pay one-half ($\frac{1}{2}$) the appropriate license fee.

(c) *Renewal.* Licenses shall be entitled to renewal annually subject to the provisions of this Chapter. Before the October 1 expiration date, the annual license may be renewed by presenting the license for the previous year, by paying the appropriate license fee, and by updating the information supplied with the latest application or certifying that the information supplied previously remains unchanged.

(d) *Expiration.* A license shall expire for failure to obtain a renewal pursuant to this Chapter by October 1. An expired license may be renewed no later than November 30 of the same year upon:

- (1) The submission of an affidavit stating that the establishment has not been operated as an adult-related business from the date of expiration of the license;
- (2) The payment of the appropriate license fee; and
- (3) Payment of a penalty of ten (10) percent of the appropriate license fee for the month of October and, if renewed after October 31, an additional penalty of five (5) percent of the appropriate license fee for the month of November.

(e) *Cancellation.* All licenses not renewed by November 30 shall be deemed expired by the business licensing section unless such license is involved in litigation. The applicant may reapply for an adult-related business license. Upon the payment of the application fee, satisfaction of the application requirements, and payment of the license fee, operation of the adult-related business may continue.

(f) *Annual license fees.* The annual license fees under this Chapter for an adult-related business shall be set by resolution of the City Council.

(g) *Collection of fees.* The business licensing section shall be responsible for the collection of the application and annual license fees pursuant to this Chapter.

Sec. 119-18. Transfer of license.

(a) A licensee shall not transfer his or her license to another person, or surrender possession, control, or operation of the licensed establishment to such other person.

(b) A licensee shall not transfer his or her license to another location.

(c) An attempted transfer of a license either directly or indirectly in violation of this section is declared void and, in that event, the license shall be deemed abandoned, and the license shall be forfeited.

Sec. 119-19. Changed name.

No licensee may change the name of an adult-related business unless and until he or she satisfies all of the following requirements:

(a) Provides the business licensing section with thirty (30) days' notice in writing of the proposed name change;

(b) Pays to the business licensing section a change-name fee to be set by resolution of the City Council; and

(c) Complies with § 865.09, F.S., the Florida Fictitious Name Statute.

Sec. 119-20. Enforcement.

(a) *Suspension.*

(1) *Violation of regulations.* In the event a licensed adult-related business is operating in violation of a building, fire, or zoning code, statute, ordinance or regulation, whether federal, state, or local, or the respective requirements of Article III, the appropriate agency shall notify promptly a code enforcement officer, who shall notify the licensee of the violation. The licensee shall have ten (10) business days in which to correct the violation. If the licensee fails to correct the violation within ten (10) business days, the agency shall notify a code enforcement officer, who shall schedule a hearing before the code enforcement board. If the code enforcement board determines that a licensed establishment is in violation of a building, fire, or zoning statute, code, ordinance, or regulation, whether federal, state, or local, or the respective general requirements of §119-23, the code enforcement officer shall notify the business licensing section, which shall forthwith suspend the license and shall notify the licensee of the suspension. The suspension shall remain in effect until the code enforcement officer notifies the business licensing section in writing that the violation of the provision in question has been corrected. Nothing in this section shall take away other enforcement powers of the code enforcement board or any other agency provided by the City Code or statute.

(2) *Illegal transfer.* Upon the written notification by one of the agencies that a licensee is engaged in a license transfer contrary to §119-18, the business licensing section shall officially suspend the license and notify the licensee of the suspension. The suspension shall remain in effect until all of the requirements of this section have been satisfied and a new license has been issued by the business licensing section.

(3) *Violations of Article III of this Chapter.*

a. In the event two (2) or more convictions for violations of the rules and regulations within Article III or of any health code, statute or regulation occur within a two-year period, the business licensing section shall, upon notification of the date of the second conviction, suspend the license and notify the licensee of the suspension. The suspension shall remain in effect for a period of sixty (60) days.

b. In the event one (1) or more convictions for violations of the rules and regulations of Article III or of any health code, statute or regulation occur within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for sixty (60) days under subsection a. above, the business licensing section shall, upon notification of the date of the first conviction, suspend the license again and notify the licensee of the suspension. The time during which the license was previously suspended for sixty (60) days shall not be included within the two-year period. The suspension shall remain in effect for a period of ninety (90) days.

c. In the event one (1) or more convictions for violations of a rule or regulation of Article III or of any health code, statute or regulation occur within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for ninety (90) days under subsection b. above, the business licensing section shall, upon notification of the date of the first conviction, suspend the license again and notify the licensee of the suspension. The time during which the license was previously suspended for ninety (90) days shall not be included within the two-year period. The suspension shall remain in effect for a period of one hundred eighty (180) days.

d. The renewal of, or new application for, a license pursuant to this Chapter shall not defeat the terms of this section.

(4) *Effect of suspension.* If a license is suspended, all operations within the adult-related business shall cease for the period of the suspension, and the license shall be suspended for the suspension period. The State of Florida, Division of Alcoholic Beverages and Tobacco and the Department of Business and Professional Regulation shall be notified of the suspension, and no other person shall be allowed to operate an adult-related business at that location for a period of one hundred eighty (180) days.

(5) *Effective date of suspension.* All periods of suspension shall begin fifteen (15) calendar days after the date the business licensing section mails the notice of suspension to the licensee, or on the date the licensee surrenders his or her license to the business licensing section, whichever occurs first.

(b) *Revocation.*

(1) *False information.* In the event it is learned or found, or upon sufficient cause determined that a license was granted based upon false information, misrepresentation of fact, or mistake of fact by the licensee or his or her agent, the respective agency that has knowledge of the false information shall notify the business licensing section. The business licensing section shall notify the licensee in writing of the business licensing section's intent to revoke the license. The licensee shall have ten (10) days from the date of receipt of the notification to request a hearing. The hearing shall be scheduled before the code enforcement board. If the licensee does not request a hearing, the license shall be considered revoked ten (10) days after the receipt of the notification. If the licensee does request a hearing, the license shall remain in effect during the pendency of the action before the code enforcement board.

(2) *Convictions for violations of Article III.* In the event one (1) or more convictions for violations of Article III or of any applicable health code, statute or regulation occur within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for a period of one hundred eighty (180) days pursuant to subsection (a)(4), the business licensing section shall forthwith revoke the license and notify the licensee of the revocation. The time during which the license was previously suspended for one hundred eighty (180) days shall not be included within the two-year period.

(3) *Effect of revocation.* If a license is revoked, the licensee shall not be allowed to obtain another adult-related business license for a period of two (2) years, and no license shall be issued during that time period to another person for the location and premises upon which the adult-related business was situated.

(4) *Effective date.* The revocation shall take effect fifteen (15) calendar days after the date the business licensing section mails the notice of revocation to the licensee, or on the date the licensee surrenders his or her license to the business licensing section, whichever occurs first.

Sec. 119-21. Records and reports; consent.

(a) Each licensee shall keep such records and make such reports as may be required by the business licensing section and the agencies to implement this Chapter and to carry out its purpose.

(b) By holding a license under this Chapter, the licensee shall be deemed to have consented to the provisions of this Chapter and to the exercise by the applicable agencies of their respective responsibilities under this Chapter.

ARTICLE III. ADULT-RELATED BUSINESSES: BUSINESS REGULATION

Sec. 119-23. General requirements.

Each adult-related business shall observe the following general requirements:

- (1) Conform to all applicable building statutes, codes, ordinances, and regulations, whether federal, state, or local; and
- (2) Conform to all applicable fire statutes, codes, ordinances, and regulations, whether federal, state, or local; and
- (3) Conform to all applicable health statutes, codes, ordinances, and regulations, whether federal, state, or local; and
- (4) Conform to all applicable zoning regulations and land use laws, whether state or local, including but not limited to §150-165 of the Land Development Code (location restrictions); and
- (5) Keep the original of the adult-related business license posted in a conspicuous place at the establishment at all times, which license shall be available for inspection upon request at all times by the public; and
- (6) Opaquely cover each nonopaque area through which a person outside the establishment may otherwise see inside the establishment; and
- (7) Maintain a continuously updated compilation of the required records.

Sec. 119-24. Hours of operation.

(1) It shall be unlawful for an operator of an adult-related business to allow such establishment to remain open for business, or to allow an employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 3:00 a.m. and 7:00 a.m. on all days.

(2) It shall be unlawful for an employee of an adult-related business to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 3:00 a.m. and 7:00 a.m. on all days.

Sec. 119-25. Alcoholic beverages prohibited.

(1) No alcoholic beverages shall be sold, served, or consumed in an adult-related business.

(2) No person or employee shall expose to public view his or her specified anatomical areas, or simulation thereof, in an establishment selling, serving, or allowing the consumption of alcoholic beverages.

(3) No person maintaining, owning or operating an establishment selling, serving or allowing the consumption of alcoholic beverages shall allow a person or employee to expose to public view his or her specified anatomical areas, or simulation thereof, within the establishment.

(4) No person maintaining, owning or operating an establishment selling, serving or allowing the consumption of alcoholic beverages shall allow the exposure to public view of specified anatomical areas, or the simulation thereof, within the establishment.

(5) No person shall cause and no person maintaining, owning or operating an establishment selling, serving or allowing the consumption of alcoholic beverages shall allow the exposition of graphic representation, including pictures or projection of film, which depicts specified anatomical areas engaged in specified sexual activities, or other sexual acts prohibited by law, or simulation thereof, within the establishment.

Sec. 119-26. Supplementary requirements; prohibitions.

(1) *Adult theater.* In addition to the general requirements for an adult-related business contained in this Article, an adult theater shall comply with the following special requirements:

(a) If the adult theater contains a hall or auditorium area, the area shall comply with each of the following provisions:

1. Have individual or separate seats, not couches, benches, beds, or the like, to accommodate the maximum number of persons who may occupy the area; and
2. Have a continuous main aisle alongside of the seating areas in order that each person seated in the areas shall be visible from the aisle at all times; and
3. Have a sign posted in a conspicuous place at or near each entrance way to the hall or auditorium area listing the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the auditorium area; and
4. Have premises equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 1 foot-candle as measured at floor level; and
5. It shall be the duty of the licensee, the owners, and operator and it shall also be the duty of any agents and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises; and
6. Have an AIDS crisis sign visible to all patrons on the side of the door that opens and allows patrons to enter the theater.

(b) Furnishing of adult theaters:

1. Each adult theater subject to this Article shall cover the floor of areas accessible to patrons with smooth and nonpermeable flooring material which can withstand frequent effective cleaning in accordance with subsection (1)(c)3. Carpeting of any type is prohibited; and
2. Each adult theater shall use smooth and non-permeable upholstery material which can withstand frequent cleaning in accordance with paragraph (1)(c)3. to cover furniture permitted by this Chapter for use of patrons; and

3. Each adult theater shall have, in areas accessible to patrons, interior wall surfaces which can withstand frequent cleaning in accordance with paragraph (1)(c)3; and
4. Each adult theater shall use only those shades, blinds and vertical blinds which can withstand frequent cleaning in accordance with paragraph (1)(c)3. Draperies are prohibited.

(c) Sanitation:

1. All areas of each adult theater which are accessible to patrons shall be maintained in a clean and sanitary condition. The surfaces of all floors, furniture, counter tops, shades, blinds, vertical blinds, doors and walls of areas accessible to patrons shall be cleaned in accordance with paragraph (1)(c)3;
2. All floors, furniture, counter tops, shades, blinds, vertical blinds, doors and walls of areas accessible to patrons of adult theaters subject to this Chapter shall be renovated or be replaced as needed. All furniture must be kept free from holes and rips; and
3. Any individual cleaning or sanitizing of the areas accessible to patrons shall be accomplished a minimum of 1 time each 24 hours with a 1:10 bleach solution (1 part bleach to 10 parts water), mixed daily, as recommended by the U.S. Center for Disease Control as a precaution for the prevention of transmission of the HIV virus and other diseases. A copy of the approved procedure shall be kept on file at the adult theater and a copy shall be provided to each person cleaning or sanitizing the areas accessible to the patrons. Each such individual shall certify that he or she has read and understood the procedure. Records of the sanitation performed on the premises as required herein shall be kept and maintained on the premises and posted in a conspicuous place. The signed copy of the sanitation procedure executed by each sanitation employee and the sanitation record referenced above shall be kept as a part of the records of the adult theater, and open for inspection by the applicable agencies.

(2) *Adult dancing establishment.* In addition to the general requirements for an adult-related business contained in this Article, an adult dancing establishment shall observe the following special requirements:

- (a) It shall have a stage provided for the display or exposure of specified anatomical areas by an employee to a person other than another employee consisting of a permanent platform (or other similar permanent structure) raised a minimum of 18 inches above the surrounding floor and encompassing an area of at least 100 square feet; and
- (b) The exposure by an employee of specified anatomical areas, or simulation thereof, to public view shall be restricted to the stage required above; and nonemployees or patrons shall not be allowed closer than 4 feet to the stage edge when an employee exposes those anatomical areas; and

(c) The establishment provides at least two (2) security officers consisting of sworn law enforcement officers or identified security personnel if the occupant capacity is less than or equal to 150 persons, and an additional sworn law enforcement officer or identified security personnel for each additional increase of occupant capacity of 100 persons. The security officers or personnel shall be granted unfettered access to all parts of the establishment in order to monitor the interior and exterior of the establishment; and

(d) The establishment provides at least 1 responsible person under the supervision of a manager to check identification at the door to ensure that minors do not enter; and

(e) In all areas in which a private performance shall occur:

1. The private performance area shall be at least 100 square feet in size; and
2. Have a permanently open entrance way not less than 7 feet wide and not less than 7 feet high, which entrance way will never be closed or partially closed by a curtain, door or other partition which would be capable of wholly or partially obscuring a person situated in the area; and
3. Have a wall-to-wall, floor-to-ceiling partition of solid construction without holes or openings, which partition may be completely or partially transparent and which partition separates the employee from the person viewing the display; and
4. Have, except for the entrance way, walls or partitions of solid construction without holes or openings in such walls or partitions; and

(f) Sign. All adult dancing establishments shall post in a conspicuous area at least 1 sign which states that patrons may not touch employees and that drugs are prohibited.

(g) Food service.

1. No person shall cause and no person maintaining, owning or operating an establishment storing, preparing, serving, selling, or allowing the consumption of food shall allow the exposition of graphic representation, including pictures or projection of film, which depicts specified anatomical areas engaged in specified sexual activities, or other sexual acts prohibited by law, or simulation thereof, within the establishment.
2. Notwithstanding the foregoing, any person maintaining, owning or operating an adult-related business may sell, serve or allow the consumption of customary bar snacks on the premises.

Sec. 119-27. Violations of Chapter.

It shall be unlawful for a person to be an operator of an adult-related business which does not satisfy all of the requirements of Article III of this Chapter.

Sec. 119-28. Allowing employee to engage in prohibited acts.

It shall be unlawful for an operator of an adult-related business to knowingly, or with reason to know, allow an employee:

- (1) To engage in a lap dance with a person at the establishment; or
- (2) To contract or otherwise agree with a person to engage in a lap dance with a person at the establishment; or
- (3) To contract or otherwise agree with a person to engage in specified sexual activity at the establishment; or
- (4) To display or expose a specified anatomical area while simulating a specified sexual activity with another person at the establishment, including with another employee; or
- (5) To allow a person, excluding another employee, to touch a portion of the clothed or unclothed body of the employee below the neck and above the knee, excluding that part of the employee's arm below the wrist, referred to as the hand; or
- (6) To engage in a private performance unless such employee is in an area that complies with the special requirements set forth in §119-26(2)(e); or
- (7) To intentionally touch the clothed or unclothed body of a person at the adult-related business, excluding another employee, at a point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist, referred to as the hand.
- (8) To display or expose at the establishment a specified anatomical area unless such employee is continuously positioned away from a person other than another employee, and unless such employee is in an area as described in §119-26(2).

Sec. 119-29. Engaging in prohibited activity.

It shall be unlawful for an employee of an adult-related business:

- (1) To engage in a lap dance with a person at an establishment; or
- (2) To contract or otherwise agree with a person to engage in a lap dance with a person at an establishment; or
- (3) To contract or otherwise agree with a person to engage in specified sexual activity at the establishment; or
- (4) To display or expose at the establishment a specified anatomical area unless such employee is continuously positioned away from a person other than another employee, and unless such employee is in an area as described in §119-26(2); or
- (5) To display or expose a specified anatomical area while simulating a specified sexual activity with another person at the establishment, including with another employee; or
- (6) To engage in a private performance unless such employee is in an area which complies with the special requirements set forth in §119-26(2)(e); or
- (7) To intentionally touch the clothed or unclothed body of a person at the adult-related business, excluding another employee, at a point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist, referred to as the hand; or

(8) To allow a person, excluding another employee, to touch a portion of the clothed or unclothed body of the employee below the neck and above the knee, excluding that part of the employee's arm below the wrist, referred to as the hand.

Sec. 119-30. Advertising prohibited activity.

It shall be unlawful for an operator of an adult-related business to advertise the presentation of an activity prohibited by an applicable state statute or local ordinance.

Sec. 119-31. Specified criminal offense.

It shall be a violation of this Code if the operator is convicted or is adjudged guilty of a specified criminal offense that occurred at the establishment.

Sec. 119-32. Minors prohibited.

It shall be unlawful for an operator of an adult-related business to knowingly, or with reason to know, allow:

- (1) Admittance to the establishment of a person under 18 years of age; or
- (2) A person under 18 years of age to remain at the establishment; or
- (3) A person under 18 years of age to purchase goods or services at the establishment; or
- (4) A person to work at the establishment as an employee who is under 18 years of age.

Sec. 119-33. Touching of employee by nonemployee.

It shall be unlawful for a person in an adult-related business, other than another employee, to intentionally touch the unclothed or clothed body of an employee at a point below the neck and above the knee of the employee, excluding that part of the employee's arm below the wrist, referred to as the hand.

Sec. 119-34. Use of rest rooms or dressing rooms.

(1) Notwithstanding any provision of this Code to the contrary, it shall not be unlawful for an employee of an adult-related business to expose a specified anatomical area during the employee's bona fide use of a rest room, or during the employee's bona fide use of a dressing room, which is accessible only and restricted to employees.

(2) The restrictions of this Article also apply to all rest rooms and dressing rooms.

(3) Notwithstanding any provision of this Code to the contrary, it shall not be deemed unlawful for a person to expose a specified anatomical area during that person's bona fide use of a rest room.

Sec. 119-35. Violation subject to prosecution.

A violation of any requirement of this Article may be prosecuted by the City Attorney in a court of competent jurisdiction and/or before the City Code Enforcement Board in accordance with Article VIII "Code Enforcement Board" of Chapter 32.

Sec. 119-36. Miscellaneous.

(a) *Appeal process.* Subject to Article II, after a denial of an application for a license, or a notice of suspension or revocation of a license, the aggrieved party may timely file a notice of appeal with any court of competent jurisdiction in accordance with applicable law and court rules.

(b) *Notice.* A notice required under this Chapter shall be accomplished by sending a written notification by certified mail, return receipt requested, to the mailing address set forth on the application for the license. This mailing address shall be considered the correct mailing address unless the business licensing section has been otherwise notified in writing by certified mail, return receipt requested, by the licensee of the new address. The licensee shall have the burden of proving the business licensing section received the new address.

(c) *Immunity from prosecution.* The City or an agency of the City shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon an adult-related business while acting within the scope of its authority under this Chapter.

(d) *Enforcement of this Chapter.* The City Council, Chief of Police, or state attorney may bring suit in any court of competent jurisdiction to restrain, enjoin, or otherwise present the violation of this Chapter.

Section 2. Repeal. That Chapter 132 "Sex Offenses", Article II "Sex-Related Business Activities" is hereby repealed as follows:

CHAPTER 132. SEX OFFENSES

* * *

~~ARTICLE II. SEX-RELATED BUSINESS ACTIVITIES~~

~~Sec. 132-10. - Definitions.~~

~~For the purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~(A) *Licensee.* Person having or required to have a City license in full force and effect to operate a business within the City.~~

~~(B) *Sex-related business activity or use.* A commercial activity or use which takes place in taverns, stores, shops, and places of public entertainment, accommodation, amusement, massage, or manipulation, wherein there is offered to the public for any~~

~~type of consideration, sexual conduct or the display of materials emphasizing or involving sexual conduct, or the display of specified anatomical areas, and which:~~

- ~~(1) Provides entertainment, with or without services of foods or alcoholic drink, depicting sexual conduct or the display of any specified anatomical areas, or~~
- ~~(2) Displays either in person or by visual media, films, books, magazines, photographs, paraphernalia, or materials that depict or describe sexual conduct or the display of any specified anatomical areas, or~~
- ~~(3) Provides massage, alcohol rub, administration of vapors, electric or magnetic treatments, or any other treatment or manipulation of the human body or parts thereof in connection with sexual conduct or the display of any specified anatomical area without medical or health purposes, or~~
- ~~(4) Provides treatment, manipulation, or the exposing of specified anatomical areas without medical or health purposes, or~~
- ~~(5) Provides places where three or more persons, not all members of the same family, gathered for the purpose of engaging in sexual conduct or for the exposing of specified anatomical areas, or~~
- ~~(6) Provides places where a person or persons display anatomical areas so as to permit themselves to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by a person paying a consideration or gratuity or purchasing alcoholic drinks or food.~~

~~(C) Sex-related businesses. Including but not limited to the following:~~

- ~~(1) Establishments displaying on its premises either in person or by visual media including films, books, magazines, or photographs, a person or product presenting material distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.~~
- ~~(2) Massage parlors where for any form of consideration or gratuity a massage, alcohol rub, administration of vapors, electrical or magnetic treatment, or any other treatment or manipulation of the human body occurs as a part of or in conjunction with sexual conduct or specified anatomical areas.~~
- ~~(3) Places where for any form of consideration or gratuity three or more person not all members of the same family may congregate, assemble, or associate for the purpose of engaging in sexual conduct or exposing specified anatomical areas.~~
- ~~(4) Places where for any form of consideration or gratuity a person or persons displaying specified anatomical areas are observed, sketched, drawn, photographed, painted, sculptured, or similarly depicted to or by a person paying such consideration or gratuity.~~
- ~~(5) Adult book stores. An establishment having as a portion of its stock in trade, books, magazines, films for sale or viewing on the premises by use of motion picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or uses or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.~~
- ~~(6) Adult motion picture theater. An enclosed building with a capacity or 50 or more persons having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to~~

~~specified sexual activities or specified anatomical areas for observation by patrons therein.~~

~~(7) Adult mini-motion picture theater. An enclosed building with a capacity for less than 50 persons used for presenting materials distinguished or characterized by an emphasis or matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.~~

~~(8) Adult entertainment cabaret. A public or private establishment which is licensed to serve food or alcoholic beverages, which features topless or bottomless dancers, strippers, male or female impersonators, or similar entertainers.~~

~~(D) *Sexual activity or use.* Includes conduct or the display of materials on any land within the City which may be viewed by the public for any type of consideration or gratuity involving:~~

~~(1) The fondling or touching of human or animal genitals, pubic regions, buttocks, or female breasts.~~

~~(2) Sex acts, actual or simulated, including intercourse, oral copulation, sodomy, masturbation, and the display of excretory functions as part of or in connection with these activities.~~

~~(3) The display of specified anatomical areas.~~

~~(E) *Specified anatomical areas.*~~

~~(1) Less than completely and opaquely covered human or animal genitals, pubic regions, buttocks, or the female breasts below a point immediately above the top of the areola, and~~

~~(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.~~

~~(F) *Specified criminal act.* Includes any violation of this Code; soliciting for prostitution; pandering; prostitution; keeping a house of ill fame; lewd and lascivious behavior; exposing minors to harmful materials; possession of obscene materials; transporting obscene materials; sale or possession of a controlled substance or narcotic; or any felony under the laws of the State of Florida, the United States, or any other state.~~

~~Sec. 132-11. - Regulations.~~

~~Any person, firm, corporation, or association who establishes, operates, or engages in a sex-related activity or use either separately or from or as a part of any licensed business or use within the City shall:~~

~~(A) Conduct the business activity or use in such manner so as not to violate the laws of the State of Florida relating but not limited to:~~

~~(1) Sexual battery (F.S.A. Chapter 794).~~

~~(2) Prostitution (F.S.A. Chapter 796).~~

~~(3) Adultery and fornication (F.S.A. Chapter 798).~~

~~(4) Crime against nature; indecent exposure (F.S.A. Chapter 800).~~

~~(5) Obscene literature; profanity (F.S.A. Chapter 847).~~

~~(B) Comply with all laws of the State of Florida and ordinances, rules, and regulations of Metropolitan Dade County and the City and propounded thereunder.~~

~~(C) Engage in sex-related business activity or use only in B-2 commercial zoned districts provided:~~

~~(1) No sex-related business activity or use shall be allowed within 1,000 feet of another existing sex-related business activity or use. Distance shall be measured from the main entrance of the proposed sex-related business to the main entrance of the existing sex-related business by the most direct pedestrian route.~~

~~(2) No sex-related business activity or use shall be located within 200 feet of any zoning district which is zoned for residential use. Distance shall be measured from the main entrance of the sex-related business to the boundary of the district zoned for residential use by the most direct pedestrian route.~~

~~(3) No sex-related business activity or use shall be located within 500 feet of the preexisting school or place of worship. Distance shall be measured from the main entrance of the sex-related business activity or use to the main entrance of the school or place of worship by the most direct pedestrian route.~~

~~(D) File with the City Manager a "notice of intent" to establish, operate, conduct, or maintain a sex-related business or use within the City at any location where such use is permitted 30 days prior to the filing of any application for an occupational license for the business use associated with the sex-related business. The notice of intent to establish a sex-related use shall be filed on forms to be prepared and made available by the City Manager and shall set forth under oath the following information:~~

~~(1) The names and addresses of all persons having any proprietary interest in the business to be licensed in connection with the sex-related use.~~

~~(2) The names and addresses of stockholders of any corporation as well as names and addresses of the officers and directors thereof.~~

~~(3) An exact description of the nature of the sex-related use in such detail as shall permit the City Manager to determine whether or not the use violates any of the laws of the State of Florida or of the City in relation thereto.~~

~~(4) A statement executed by a person who assumes the responsibility for the operation and conduct of the sex-related business:~~

~~(a) That the sex-related business activity shall not during the license year violate the laws of the State of Florida or the ordinances of the City, and~~

~~(b) That in the event the person is no longer employed or associated with the conduct of the sex-related business a notice thereof shall be filed with the City Manager within five days by the business.~~

~~(5) A drawing or survey showing the main entrance of the business and its distance by pedestrian travel to any residential district, school, or church, and any other sex-related use.~~

~~(6) A statement describing, or a photograph showing, the proposed exterior of the building in which the sex-related use will take place.~~

~~(7) A statement by the person responsible for the operation and conduct of the sex-related business that no person having an interest in the business to be licensed in connection with the sex-related use has been convicted of a specified criminal act within five years of the date of the notice of intent.~~

~~(8) The maximum number of patrons or customers which the place of operation of the sex-related business is designed to accommodate.~~

~~(9) A description of the method of conduct of the licensed business in connection with the sex-related use including:~~

~~(a) Hours of operation of the sex-related business.~~

~~(b) Whether or not alcoholic beverages are served and if so the time during which they are served.~~

~~(10) The names and addresses and number of employees and attendants at the place of operation of the sex-related business. In the event such employees and attendants are from time to time changed at such place of business, notice of the names and addresses of new employees shall be given to the chief of police and the City Manager within three days.~~

~~(11) Such other information as the chief of police and City Manager shall find reasonably necessary to effectuate the purpose of this section and to arrive at a fair determination of whether the terms of this Code relating to the business have been complied with.~~

~~(12) If alcoholic beverages are served by the licensed business, a statement setting forth the number of the beverage license and a statement acknowledging that the applicant has knowledge of the provisions of this section prohibiting the conduct of any sex-related business activity or use during the hours when alcoholic beverages are permitted to be sold.~~

~~(E) Where a conflict in distance limitation exists between any two or more sex-related business uses, the first use or activity established, if otherwise in compliance with the terms of this subchapter, shall be deemed conforming and the conflicting activity or use shall terminate as provided herein.~~

~~Sec. 132-12. - Alcoholic beverage licenses.~~

~~Notwithstanding the hours of business during which the sale of alcoholic beverages is permitted by this Code for businesses licensed under the beverage laws of the State of Florida to sell alcoholic beverages, the sale of alcoholic beverages and consumption thereof on the licensed premises is prohibited during the hours when any sex-related business activity or use takes place on the licensed premise.~~

~~Sec. 132-13. - Exterior display.~~

~~Each sex-related business shall have only one main entrance through which customers shall pass, exclusive of emergency doors. No sex-related business activity or use shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas from any public way or from any property not a sex-related business activity or use. This provision shall apply to any display, decoration, sign, show window, main entrance, or other opening.~~

~~Sec. 132-14. - Nonconforming or unlawful activities or uses.~~

~~(A) All sex-related business activities and uses contrary to the provisions of this subchapter in existence on the effective date of this subchapter shall terminate within one year. Whenever such activity or use has been discontinued for a period of more than 30 days, it shall not thereafter be reestablished and all future activity and use shall be in conformity with the provisions of this subchapter.~~

~~(B) No sex-related business activity or use existing at the time of passage of this subchapter may be extended or increased contrary to the terms of this subchapter.~~

~~(C) No sex-related business activity or use in existence on the effective date of this subchapter shall become or continue as a public or private nuisance.~~

~~(D) Nothing herein contained shall validate or render lawful any sex-related business activity or use existing at the effective date of this subchapter which is unlawful or contrary to the laws, rules, or regulations of the United States, the State of Florida, Dade County, and the City.~~

~~Sec. 132-15. - Filing of notice of intent.~~

~~The annual filing of the "notice of intent" to conduct a sex-related business is declared to be a material representation and necessary in order for the City to determine whether or not such sex-related activity is permitted at the location of the business license.~~

~~(A) Failure to file a notice as required shall be grounds for revocation of any license of any business upon whose premises the sex-related activity occurs. Proceedings for suspension or revocation shall be in accordance with the ordinances of the City relating thereto. In the event it is found by the City Manager that a licensee has failed to give notice as required herein prior to the use of any licensed premises or a sex-related business, the license of the business shall be suspended for a period of one calendar year from the date of the entry of the order of the manager or in the event of an appeal, then from the date of the denial of the appeal by the City Council.~~

~~(B) Lack of knowledge of the provisions of this Code and the "notice of intent" or failure to give timely notice as required herein shall not constitute a defense in any proceeding to revoke or suspend the license of any business. Further, all businesses presently existing as nonconforming to the requirements of this Code relating to sex-related business shall, notwithstanding the nonconforming nature of the business, be required to file the notice of intent to comply.~~

~~Sec. 132-99. - Penalty.~~

~~Any person, firm, or corporation violating any of the provisions of §§ 132-11—132-15 shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not exceeding \$500.00 or imprisoned not exceeding 60 days or both, in the discretion of the county court. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.~~

Section 4. Severability. That, if any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 5. Conflicts. That all Ordinances or parts of Ordinances, and all sections and parts of sections, in conflict herewith are repealed to the extent of such conflict.

Section 6. Codification. That the codifiers are hereby directed to codify this Ordinance in accordance with their discretion and their prior codification of the City of Miami Springs Code of Ordinances.

Section 7. Effective Date. This Ordinance shall take effect in the manner provided by law.

PASSED AND ADOPTED by the City Council of the City of Miami Springs, Florida, this 25th day of February, 2013.

The motion to adopt the foregoing Ordinance was offered on second reading by _____, seconded by _____, and on roll call the following vote ensued:

Vice Mayor Ator	_____
Councilman Best	_____
Councilwoman Bain	_____
Councilwoman Lob	_____
Mayor Garcia	_____

Zavier M. Garcia
Mayor

ATTEST :

Magali Valls, CMC
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Jan K. Seiden, Esquire
City Attorney

First Reading: 02-11-2013
Second Reading: 02-25-2013

Words ~~stricken through~~ shall be deleted. Underscored words constitute the amendment proposed. Words remaining are now in effect and remain unchanged.



CITY OF MIAMI SPRINGS
Public Works
345 N Royal Poinciana Blvd
Miami Springs, FL 33166-5259
Phone: (305) 805-5170
Fax: (305) 805-5195

Agenda Item No.

City Council Meeting of:

02-25-2013

TO: Honorable Mayor Garcia and Members of the City Council
VIA: Ronald Gorland, City Manager 
FROM: Thomas Nash, Public Works Director 
DATE: February 21, 2013

RECOMMENDATION:

Recommendation that Council award a purchase order to Metro Express, utilizing City of North Miami ITB# 2012-16 in the amount of \$ 10,897.96, for curb & gutter repair, pursuant to Section §31.11 (E)(5) of the City Code.

DISCUSSION: The repair will be at 5175 NW 36th St for the curbing leading to the storm drain. The curbing is a safety concern and the cracks disrupt the flow of water to the storm drain.

COST: \$ 10,897.96

FUNDING: Storm water repairs
440-3901-539-4600

PROFESSIONAL SERVICES APPROVAL: 



Metro Express, Inc.
State Wide General Engineering Contractors
CGCO50965- E-201301

Licensed
 Insured
 Bonded

PROPOSAL

Quote No. 021913-001

Date: 2/19/2013

To:	City of Miami Springs Public Works Department 345 N Royal Poinciana Blvd Miami Springs FL 33166-5259		
Contact	Lazaro Garaboa	Phone: 305-805-5170	Fax: 305-805-5195
Job:	5175 NW 36 ST South Dr and NW 36th ST Additional Work		

We hereby propose to furnish all labor, material and equipment subject to terms and conditions as follows:

The job will include and be limited to the following:

	<u>Unit</u>	<u>Qty</u>	<u>UP</u>	<u>Total</u>
Mobilization/Demobilization	LS	1	1500	1,500.00
Concrete Sidewalk 4"	SF	327	4.00	1,308.00
Concrete Curb and Gutter type "F"	LF	91	18.00	1,638.00
Adjust MH cover	EA	1	400.00	400.00
minimun Milling Job	EA	1	3500.00	3,500.00
Asphalt Paving 1"	SY	303	12.00	3,639.96
Minimun Thermoplastic Striping Job	EA	1	1000.00	1,000.00
RPM	EA	20	6.00	120.00
MOT	EA	1	600.00	600.00
			TOTAL	\$10,897.96

Notes:

- **All other job not listed above will be billed at additional charge.
- **Price do not include any permit (to be obtained by others), MOT, surveying, tree removal, valve adjustment, testing, layout, marking, painting, as-built, regrading, landscaping, etc
- **Not responsible for area not ready, cars or any other obstacle in the area of work.
- **All work to be performed in regular daily operation hours during weekdays.

We hereby propose to furnish labor and materials, complete in accordance with above specifications, for the sum showm above, with payment to be made within 30 days after work completed.

THIS PROPOSAL SUBJECT TO ACCEPTANCE WITHIN 30 DAYS AND IS VOID THREATER AT THE OPTION OF METRO EXPRESS INC.

Authorized Signature: A.F.

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are hereby accepted. You are authorized to do work as specified. Payment will be made as outiline above and interest charges may be charged upon deliquent accounts.

ACCEPTED BY: _____
 name signature

DATE: _____

CITY OF NORTH MIAMI BEACH - PURCHASE ORDER

VENDOR'S COPY

CITY OF NORTH MIAMI BEACH
 PW-STREETS
 17011 NE 19 AVENUE
 NORTH MIAMI BEACH, FL 33162



PUBLIC SERVICES BLDG
 17050 NE 19TH AVENUE
 NO MIAMI BCH FL 33162

METRO EXPRESS INC
 9442 NW 109 STREET
 MEDLEY, FL 33178

REQ: 063267 BY:jac

FLA. SALES TAX EXEMPTION NO. 85-8012740150C-3

PLEASE REFER TO REVERSE SIDE FOR TERMS & CONDITIONS

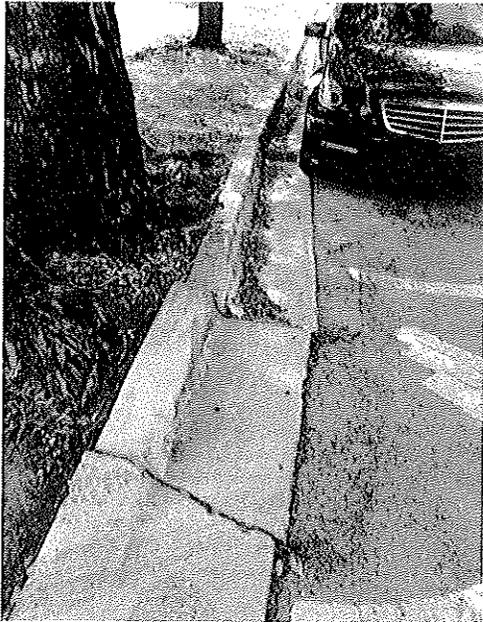
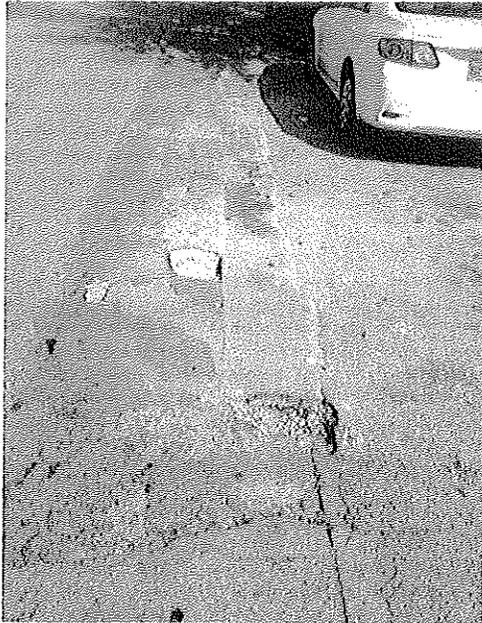
P.O. NUMBER	086085
THIS PURCHASE ORDER NUMBER MUST APPEAR ON ALL PACKAGES, INVOICES, AND RELATED CORRESPONDENCE.	
DATE OF P.O.	12-19-2012
VENDOR NO.	516634
ORDERING DEPT.	PW-STREETS
QUESTIONS? (305)	948-2936
DELIVER BEFORE:	
DELIVERY REQUIRED:	INSIDE
FREIGHT:	FOB Destination
	CITY OF NMB
	ITB 2012-16

ITEM	QUANTITY	DESCRIPTION	U/M	UNIT PRICE	EXTENDED PRICE
1	1	ALLEYWAY IMPROVEMENT PROJECT, PHASE 2A NMB Acct:390820-534830 NMB Proj:951301-633921	LS	230,000.00	230,000.00
2	1	NE 156-159 STREETS & 12-14 AVENUE (5 ALLEYS) ALLEYWAY IMPROVEMENT PROJECCT NMB Acct:400821-538830 NMB Proj:951301-633922	OR	43,000.00	43,000.00
				TOTAL	293,000.00

PURCHASING AGENT

DEPARTMENT DIRECTOR skm 12-11-2012	FINANCE DIRECTOR mdf 12-13-2012	ACCOUNTING mnm 12-18-2012	PURCHASING tir 12-19-2012
--	---	-------------------------------------	-------------------------------------

REMARKS:





CITY OF MIAMI SPRINGS
OFFICE OF THE CITY CLERK
201 Westward Drive
Miami Springs, FL 33166-5259
Phone: 305.805.5006
Fax: 305.805.5028

TO: Honorable Mayor Garcia and Members of the City Council
FROM: Magalí Valls, City Clerk
DATE: February 13, 2013
SUBJECT: PENDING BOARD APPOINTMENTS

The following appointments are pending:

<u>APPOINTMENT COUNCILMEMBER</u>	<u>CURRENT MEMBER</u>	<u>NEW TERM EXPIRES</u>	<u>ORIGINAL APPOINTMENT DATE</u>	<u>LAST APPOINTMENT DATE</u>
<u>Board of Adjustment</u>				
Mayor Xavier M. Garcia	Francisco Fernández	04-30-2015	10-14-1991	11-28-2011
<u>Architectural Review Board</u>				
Councilwoman Bain - Group II	Joe Valencia	10-31-2014	02-27-2012	02-27-2012
<u>Civil Service Board</u>				
Councilwoman Bain - Group II	Carrie Figueredo	06-30-2015	08-24-2009	08-24-2009
Councilman Best – Group I	Rob Youngs	06-30-2015	01-11-2010	01-11-2010
<u>Code Review Board</u>				
Mayor Xavier M. Garcia	Connie Kostyra*	04-30-2015	VACANT	VACANT
<u>Disability Advisory Board</u>				
Mayor Xavier M. Garcia	Charlene Anderson*	12-31-2013	VACANT	VACANT
Councilwoman Bain - Group II	Peter Newman*	12-31-2013	VACANT	VACANT
<u>Ecology Board</u>				
Councilman Best – Group I	Martin Crossland*	04-30-2015	VACANT	VACANT
Councilman Lob – Group III	Dr. Mara Zapata*	04-30-2013	VACANT	VACANT
Vice Mayor Ator – Group IV	Ann Trina Aguila*	04-30-2013	VACANT	VACANT

<u>APPOINTMENT COUNCILMEMBER</u>	<u>CURRENT MEMBER</u>	<u>NEW TERM EXPIRES</u>	<u>ORIGINAL APPOINTMENT DATE</u>	<u>LAST APPOINTMENT DATE</u>
<u>Golf and Country Club</u>				
Vice Mayor Ator – Group IV	Mark Trowbridge *	07-31-2013	VACANT	VACANT
<u>Historic Preservation Board</u>				
Mayor Xavier M. Garcia	Sydney Garton**	01-31-2016	11-08-1993	02-08-2010
Vice Mayor Ator – Group IV	M. A. Goodlett-Taylor**	01-31-2016	VACANT	VACANT
<u>Recreation Commission</u>				
Councilman Best – Group I	Jim Caudle*	04-30-2015	01-14-2013	01-14-2013
<u>Revitalization & Redevelopment Ad-Hoc Committee</u>				
Councilman Best – Group I	Arturo Rábade*	N/A	N/A	N/A
Vice Mayor Ator – Group IV	Todd Stiff*	N/A	VACANT	VACANT

* Connie Kostyra resigned on April 28, 2011.
 Charlene Anderson resigned on June 6, 2011.
 Peter Newman resigned on August 1, 2009.
 Dr. Mara Zapata resigned from the Ecology Board to become a member of the Education Advisory Board.
 Mark Trowbridge resigned on August 20, 2012.
 Martin Crossland resigned on January 9, 2013.
 Ann Trina Aguila resigned on January 9, 2013.
 Todd Stiff resigned from the Revitalization & Redevelopment Ad-Hoc Committee to become the alternate member of the Board of Adjustment/Zoning & Planning Board
 Jim Caudle resigned on January 31, 2013.
 Arturo Rábade was removed by Councilman Best on January 28, 2013.
 Mary Ann Goodlett-Taylor resigned on February 11, 2013.

** Historic Preservation Board – Council confirmation required per §153.11 of the City Code of Ordinances: “..... No board member who shall have served three consecutive terms of office shall be eligible to serve an additional term of office for 2 years thereafter, unless the appointment for any additional term shall be confirmed by a majority of the council.....”

cc: City Manager
 Assistant City Manager/Finance Director
 City Attorney
 Affected Board Members



CITY OF MIAMI SPRINGS
City Manager
201 Westward Drive
Miami Springs, FL 33166-5259
Phone: (305) 805-5010
Fax: (305) 805-5040

Agenda Item No. 9B

City Council Meeting of:

02-25-2013

TO: Honorable Mayor Garcia and Members of the City Council

FROM: Ronald Gorland, City Manager

DATE: February 21, 2013

Mayor Garcia and Jose Fuentes, our governmental consultant, will provide an update of the following, all of which have had a significant amount of activity recently:

1. Fuentes Group merger with Becker and Poliakoff
2. Buckeye/Everglades Pipeline status
3. FEC Discussions
4. Annexation Developments

CITY OF MIAMI SPRINGS



Recreation Department
1401 Westward Drive
Miami Springs, FL 33166-5289
Phone: (305) 805-5075
Fax: (305) 805-5077

TO: Honorable Mayor Garcia and Members of the City Council

VIA: Ron Gorland, City Manager *Ron Gorland*

FROM: Omar Luna, Recreation Director *Omar Luna*

DATE: February 20, 2013

SUBJECT: Recommendation that the City renews its management contract with Jazzercise, Inc., for the use of the Multi-Purpose Room at the Community Center for exercise sessions.

Jazzercise is a very popular program in Miami Springs that provides our community with an opportunity for our residents to stay fit and healthy.

Proposed agreement is for one year from April 1, 2013 through March 31, 2014 for the right to utilize the Multi-Purpose Room on the first floor of the Community Center on Monday's and Wednesday's afternoons from 5:45 P.M. to 7:05 P.M., Tuesday's and Thursday's from 4:45 P.M. to 8:05 P.M., and Saturday mornings from 9:50 A.M. to 11:05 P.M.

Jazzercise agrees to pay the City monthly user fee of four hundred dollars (\$400.00) which is due, in advance, on the first of each month commencing April 1, 2012 and ending with final payment on March 31, 2014.

Brenda and Tatiana Knight and the Jazzercise coaches do an excellent job of providing our Community with a professional program. They also have a great working relationship with the Recreation Department. It is recommended that we continue to work together with Jazzercise, Inc., by approving the attached agreement.

FACILITY AGREEMENT

THIS AGREEMENT is entered into this 1st day of April, 2013 by and between the CITY OF MIAMI SPRINGS, a Florida Corporation, hereinafter referred to as "City", and Brenda Knight, a licensed franchisee of "Jazzercise", Inc., hereinafter referred to as "Jazzercise";

W I T N E S S E T H:

WHEREAS, "Jazzercise" has approached the City to solicit authorization to utilize the Multi-Purpose Room in the Community Center to conduct classes on Monday thru Thursday evenings and Saturday morning; and

WHEREAS, the Recreation Department of the City is desirous of providing the widest variety of recreational and educational activities for citizens on a continuing basis; and,

WHEREAS, the City Council of the City of Miami Springs has reviewed and discussed the proposal of the "Jazzercise" program and has determined that, subject to the terms and conditions of this Agreement, it is in the best interests of the City and its citizens to authorize the limited usage of the Miami Springs Community Center for the purposes proposed;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the mutual sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

USE OF PREMISES

The City of Miami Springs hereby grants to "Jazzercise" the right to utilize the multi-purpose room on the first floor of the Community Center on Monday's and Wednesday's afternoons from 5:45 P.M. to 7:05 P.M., Tuesday's and Thursday's from 4:45pm 8:05pm., and Saturday mornings from 9:50am to 11:05am., for the operation of a program known as "Jazzercise" upon the terms and conditions set forth herein. Notwithstanding the foregoing, the City reserves the right to utilize the areas being provided to "Jazzercise" upon reasonable advance notice for City related or sponsored activities, so long as a suitable alternate facility location is provided.

PAYMENTS FOR USAGE

"Jazzercise" agrees to pay the City a monthly use fee of four hundred dollars (\$400.00) which is due, in advance, on the first of each month commencing April 1, 2013 and ending with final payment on March 31, 2014. Payments received more than 10 days after the due date will be subject to a twenty dollar (\$20.00) per day late payment fee.

MAINTENANCE OF PREMISES

"Jazzercise" agrees to clean and maintain the area used for its activities so that it is returned to the City in the same condition as received. In the event that "Jazzercise" does not comply with this clean up and maintenance provision, "Jazzercise" agrees to reimburse the City for the actual costs incurred in cleaning the facility following its usage.

ACCEPTANCE OF AGREEMENT

"Jazzercise" hereby accepts this agreement granted by the City for the use of multi-purpose room on the first floor of the Community Center for the operation of and "Jazzercise" program upon the terms and conditions set forth herein.

TERM OF AGREEMENT

This Agreement shall be for a period of one (1) year beginning on April 1, 2013 and continue through March 31, 2014.

RENEWAL OF AGREEMENT

This Agreement may be renewed upon the mutual consent and agreement of the parties hereto.

TERMINATION OF AGREEMENT

This Agreement may be terminated by either party hereto, without cause, by providing the other party written notice thereof by certified mail, return receipt requested, or by hand delivery, to be effective thirty (30) days from receipt of said written notice.

INSURANCE

"Jazzercise" shall, at all times during the term hereof, maintain insurance coverage in the amount of \$1,000,000, which shall also name the City as an additional insured under the policy. All such insurance, including renewals, shall be subject to the approval of the City for adequacy of protection and evidence of such coverage shall be furnished to the City on Certificates of Insurance indicating such insurance to be in force and effect and providing that it will not be cancelled during the performance of the services under this Agreement without thirty (30) calendar days prior written notice to the City. Completed Certificates of Insurance shall be filed with the City prior to the performance of services hereunder, provided, however, that "Jazzercise" shall, at any time, upon request, file duplicate copies of the policies of such insurance with the City.

HOLD HARMLESS AND INDEMNIFICATION

In addition to the aforementioned required insurance coverage to be provided to the City, "Jazzercise" shall hold the City, including its officials, employees and representatives, harmless and indemnify it against all claims, demands, damages, actions, causes of actions, liability, costs, expenses, and attorney's fees arising out of, or resulting from, injury to or death of persons, or damage to or loss of property, sustained on or about the licensed premises, arising from the services, acts, actions, omissions or failures to act of "Jazzercise" or of any of its employees, agents, representatives, invitees, or guests. Additionally, the protections provided by this provision shall also include any costs, expenses, or legal fees the City may incur in establishing that "Jazzercise" or its insurer are responsible to provide protection, coverage, and representation to the City, its officials, employees, and representatives for any incident that may occur during the term hereof.

PROHIBITED ACTIVITIES

"Jazzercise" shall not use the premises for any inappropriate or unlawful purpose and shall comply with all State, County and City laws, statutes, ordinances, policies, rules and regulations applicable now, or in the future, to the operation of "Jazzercise" and the premises. "Jazzercise" shall not permit any offensive, or dangerous activity, nor any nuisance or other conduct in violation of the public policy of the City, county or state on the premises.

NONDISCRIMINATION

"Jazzercise" represents and warrants to the City that it does not and will not engage in discriminatory practices and that there shall be no discrimination in connection with the performance of this Agreement on account of race, color, sex, religion, age, handicap, marital status or national origin. "Jazzercise" further covenants that no otherwise qualified individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Agreement.

ASSIGNMENT

This Agreement shall not be assigned, in whole or in part, without the prior written consent of the City Manager, which may be withheld or conditioned, in the City Manager's sole and exclusive discretion.

ATTORNEY FEES AND COSTS

If either party to this Agreement initiates litigation to enforce any provisions hereof or for damages on account of any breach of this Agreement, the prevailing party in any such litigation, and any appeals there from, shall be entitled to recover from the other party, in addition to any damages or other relief granted as a result of such litigation, all costs and expenses of such litigation and reasonable attorney's fee as fixed by the court.

NOTICES

All notices or other communications required under this agreement shall be in writing and shall be given by hand-delivery or by registered or certified U.S. mail, return receipt requested, addressed to the other party at the following address or to such other address as a party may designate for notice:

NOTICES TO BE GIVEN TO CITY SHALL BE ADDRESSED AS FOLLOWS:

CITY OF MIAMI SPRINGS
Attention: Ronald K. Gorland, City Manager
201 Westward Drive
Miami Springs, FL 33166

NOTICES TO BE GIVEN TO JAZZERCISE SHALL BE ADDRESSED AS FOLLOWS:

Brenda Knight
20 Deer Run
Miami Springs, Fla. 33166

MISCELLANEOUS PROVISIONS

A. That this Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

B. That title and paragraph headings contained herein are for convenient reference and are not a part of this Agreement.

C. That should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such law, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

D. That this Agreement constitutes the sole and entire understanding between the parties hereto. No modification or amendment hereto shall be valid unless in writing and executed by properly authorized representatives of the parties hereto.

E. That this Agreement shall be binding upon the parties hereto, their heirs, executors, legal representatives, successors or assigns.

F. That "Jazzercise" has been procured and is being engaged to provide services to the City as an Independent Contractor, and not as an agent or employee of the City. Accordingly, "Jazzercise" shall not attain, nor be entitled to, any rights or benefits under the Civil Service or Pensions Ordinances of the City, nor any rights generally afforded civil services or non-civil service employees. "Jazzercise" further understands that Florida Worker's Compensation benefits available to employees of the City are not available to it, and it agrees to provide workers' compensation insurance for any employee or agent rendering services.

IN WITNESS WHEREOF, we have set our hands and seals on the day and year first above written.

(THIS SPACE INTENTIONALLY LEFT BLANK)

WITNESSES:

Print Name: _____

Print Name: _____

By: _____

Brenda Knight

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this _____ day of April, 2013, by Brenda Knight, who is personally known to me or has produced _____ as identification, and did take an oath.

Notary Public, State of Florida

COMMISSION:

WITNESSES:

CITY OF MIAMI SPRINGS

Print Name: _____

By: _____
RONALD K. GORLAND,
City Manager

Print Name: _____

ATTEST: _____
Magali Valls, CMC
City Clerk

STATE OF FLORIDA

COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this _____ day of _____, 2013, by RONALD K. GORLAND, City Manager and Magali Valls, City Clerk of the City of Miami Springs, Florida. They are personally known to me or have produced _____ as identification, and did take an oath.

Notary Public, State of Florida

COMMISSION:

O:\3\Contracts\Jazzercise - Facility Agreement - 04-01-2013.doc
City Clerk's Office - 2/5/2013



**CITY OF MIAMI SPRINGS
OFFICE OF THE CITY CLERK**

201 Westward Drive
Miami Springs, FL 33166-5259
Phone: 305.805.5006
Fax: 305.805.5028

TO: Ronald K. Gorland, City Manager

VIA: Magalí Valls, City Clerk

FROM: Elora R. Sakal, Board Secretary

DATE: February 15, 2013

SUBJECT: **Board of Parks and Parkways Board Recommendation**

Based on their actions taken at their meeting of February 14, 2013, the Board of Parks and Parkways Board members would like to bring the following recommendation to the attention of the City Council:

“Approval of the Yard of the Month for the month of March: 108 Truxton Drive

Approval of the Yard of the Month for the month of April: 1291 Redbird Avenue”

Attachments: Excerpts of Minutes



**CITY OF MIAMI SPRINGS
OFFICE OF THE CITY CLERK**
201 Westward Drive
Miami Springs, FL 33166-5259
Phone: 305.805.5006
Fax: 305.805.5028

TO: Ronald K. Gorland, City Manager
VIA: Magalí Valls, City Clerk
FROM: Elora R. Sakal, Board Secretary
DATE: February 15, 2013
SUBJECT: Board of Parks and Parkways Recommendation

Based on their actions taken at their meeting of February 14, 2013, the Board of Parks and Parkways Board members would like to bring the following recommendation to the attention of the City Council:

“Chair Richey would like to ask Council to consider renovating the Marine Corps Memorial on Deer Run and Curtiss Parkway to bring it up to aesthetic standards.”

Attachments: Excerpts of Minutes



CITY OF MIAMI SPRINGS
OFFICE OF THE CITY CLERK
201 Westward Drive
Miami Springs, FL 33166-5259
Phone: 305.805.5006
Fax: 305.805.5028

TO: Ronald K. Gorland, City Manager
VIA: Magalí Valls, City Clerk
FROM: Elora R. Sakal, Board Secretary
DATE: February 15, 2013
SUBJECT: Board of Parks and Parkways Recommendation

Based on their actions taken at their meeting of February 14, 2013, the Board of Parks and Parkways Board members would like to bring the following recommendation to the attention of the City Council:

“Vice Chair Ansbaugh made a recommendation to Council to recognize and deliver a proclamation in recognition of the landscaping at Harvest Moon. Board member Brooks seconded the motion which was carried unanimously on voice vote.”

Attachments: Excerpts of Minutes

RESOLUTION NO. 2013-3572

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, ENDORSING THE 2012 SOUTH FLORIDA MAYORS' CLIMATE ACTION PLEDGE; AFFIRMING SUPPORT FOR THE SOUTHEAST FLORIDA REGIONAL CLIMATE CHANGE COMPACT; AGREEING TO CONSIDER IMPLEMENTING THE REGIONAL CLIMATE ACTION PLAN IN WHOLE OR IN PART AS APPROPRIATE FOR EACH MUNICIPALITY, AND URGING ALL MAYORS OF MIAMI-DADE COUNTY TO SUPPORT THE MAYORS' CLIMATE ACTION PLEDGE; EFFECTIVE DATE

WHEREAS, Florida is considered one of the most vulnerable areas of the country to the consequences of global climate change with Southeast Florida being at the frontline to experience the impacts of a changing climate, especially sea level rise; and,

WHEREAS, in recognition of the need for immediate, coordinated and visionary action to address the impacts of a changing climate and provide for economic and environmental resilience in Southeast Florida, in 2010 the counties of Palm Beach, Broward, Miami-Dade and Monroe (Compact Partners) entered into the Southeast Florida Regional Climate Change Compact; and,

WHEREAS, further recognizing the role of State water managers and local governments in this regional initiative, the South Florida Water Management District and one municipal representative from each participating county were invited to participate in this early phase; and,

WHEREAS, in accordance with the Compact commitment and through a two year collaborative process involving nearly 100 subject matter experts representing public and private sectors, universities, and not-for-profit organizations, the Compact Partners developed the Regional Climate Action Plan (RCAP); and,

WHEREAS, the RCAP offers recommendations that provide the common integrated framework for a stronger and more resilient Southeast Florida, including:

- Providing the common framework for Sustainable Communities and Transportation Planning to be aligned across the region.
- Recognizing the need to protect and address vulnerable Water Supply,
- Management and Infrastructure and preserve fragile Natural Systems and Agricultural resources;
- Providing steps to move towards resilience and reducing emissions through exploring alternatives and decreasing the use of Energy and Fuel;
- Building upon strength as effective emergency responders and integrating climate change hazards in Risk Reduction and Emergency Management

Resolution No. 2013-3572

- Planning;
- Providing for effective Public Outreach initiatives to educate the public on the consequences of climate change and providing guidance for developing and influencing Public Policies related to climate change; and,

WHEREAS, recognizing that there are more than 100 municipalities within the region that will play an important role in the implementation of the RCAP, the Compact Partners included municipalities in the development of the RCAP; and,

WHEREAS, municipalities individually have been working to achieve sustainability, and the RCAP presents an opportunity to align these individual local efforts with the regional framework and vision; and,

WHEREAS, municipalities play a key role in the annual Regional Climate Leadership Summits, participated in RCAP Working Groups and now is the time to solidify local government support to advance the RCAP; and,

WHEREAS, the RCAP now serves as the foundation document of Climate Resilience Planning as part of the seven county Prosperity Plan in support for economic development; and,

WHEREAS, the RCAP does not provide a mandate but rather serves as a living guidance document with options that each regional and local government may align to their own plans and adopt and utilize based on their interests and vision for the future; and,

WHEREAS, the willingness of counties and municipalities to jointly develop and advocate for mutually beneficial agreements, policies and strategies intended to influence regional, state and national resilience efforts advances "Good Neighbor" relationships; and,

WHEREAS, in 2005 the U.S. Conference of Mayors adopted the U.S. Mayors' Climate Protection Agreement (Mayors' Agreement) that became a national model for effective collaboration and the framework for more than 1,000 municipalities throughout the nation to take actions to reduce global warming and address the impacts of a changing climate (climate disruption); and,

WHEREAS, in 2012 the need existed for Mayors within the region of Southeast Florida to collaborate on a renewed agreement that will advance regional climate action planning within Southeast Florida efforts while continuing to advance the national goals of the U.S. Mayors' Agreement; and,

WHEREAS, utilizing the U.S. Mayors' Agreement as a model for influencing regional climate policies and effective public outreach, all municipalities throughout the Southeast Florida region are invited to sign on to the 2012 South Florida Mayors' Climate Action Pledge and to collaborate on implementation of the RCAP starting today and for tomorrow.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS, FLORIDA:

Resolution No. 2013-3572

Section 1: That the City Council of the City of Miami Springs hereby endorses the 2012 South Florida Mayors' Climate Action Pledge.

Section 2: That the City Council of the City of Miami Springs affirms support for the Southeast Florida Regional Climate Change Compact.

Section 3: That the City Council of the City of Miami Springs agrees to consider integrating the Regional Climate Action Plan framework in whole or in part as appropriate for each municipality into existing and future municipal sustainability action plans, comprehensive plans and/or climate action plans where and when appropriate and financially feasible.

Section 4: That the City Council of the City of Miami Springs urges all Mayors within Miami-Dade County to join the 2012 South Florida Mayors' Climate Action Pledge.

Section 5: That the provisions of this Resolution shall be effective immediately upon adoption by the City Council.

(THIS SPACE INTENTIONALLY LEFT BLANK)

PASSED AND ADOPTED by the City Council of the City of Miami Springs, Florida, this 25th day of February, 2013.

The motion to adopt the foregoing resolution was offered by _____, seconded by _____, and on roll call the following vote ensued:

Vice Mayor Ator	“ _____ ”
Councilman Best	“ _____ ”
Councilwoman Bain	“ _____ ”
Councilman Lob	“ _____ ”
Mayor Garcia	“ _____ ”

Zavier M. Garcia
Mayor

ATTEST:

Magalí Valls, CMC
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Jan K. Seiden, Esquire
City Attorney

Resolution No. 2013-3572

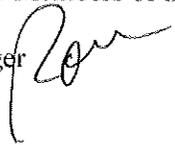


CITY OF MIAMI SPRINGS
City Manager
201 Westward Drive
Miami Springs, FL 33166-5259
Phone: (305) 805-5010
Fax: (305) 805-5040

Agenda Item No. 10 F

City Council Meeting of:

02-25-2013

TO: Honorable Mayor Garcia and Members of the City Council
FROM: Ronald Gorland, City Manager 
DATE: February 21, 2013

RECOMMENDATION:

Extend (Attachment "A") Police Chief Pete Baan's employment contract (Attachment "B") from its current termination of September 4, 2013 to December 31, 2014, his final day of employment (DROP).

Discussion:

This is recommended not only due to Chief Baan's outstanding service to our community, it is also in recognition of Police Chief Baan voluntarily entering the DROP effective January 1st, 2013 for a maximum of two years. While this request may seem to be a house-keeping issue, it represents our commitment to the Chief during his final approximately 22 months as the City's Police Chief, and our thanks for facilitating the initiation of our Police Chief succession planning and internal development of possible internal candidates to fill his position.

**EXTENSION OF
EMPLOYMENT AGREEMENT**

THIS AGREEMENT is entered into this ____ day of _____, 2013, by and between the CITY OF MIAMI SPRINGS, a Florida Municipal Corporation, hereinafter referred to as "CITY", and PETER G. BAAN, an individual residing in the County of Miami-Dade, State of Florida, hereinafter referred to as "BAAN";

W I T N E S S E T H:

WHEREAS, the City and BAAN previously entered into an Employment Contract for the hiring of BAAN as the Chief of Police for the City of Miami Springs on September 23, 2008; and,

WHEREAS, the parties hereto are desirous of extending the aforesaid Employment Contract for an additional period from September 4, 2013 until December 31, 2014, and;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the mutual sufficiency of which is hereby acknowledged, the City of Miami Springs and BAAN, hereby agree as follows:

1. That the term of the currently existing Employment Contract between the City and BAAN, which initially hired BAAN as the City of Miami Springs Chief of Police, is hereby extended until December 31, 2014.

2. That the terms and conditions of the existing original Employment Contract between the parties hereto shall, in all other respects and provisions, remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seals on the day and year first above written.

WITNESSES:

Print Name: _____

Print Name: _____

PETER G. BAAN

WITNESSES:

Print Name: _____

Print Name: _____

CITY OF MIAMI SPRINGS

A Florida Municipal Corporation

BY: _____

RONALD K. GORLAND, City Manager

ATTEST:

MAGALÍ VALLS, CMC, City Clerk

EMPLOYMENT CONTRACT

THIS EMPLOYMENT AGREEMENT is entered into this 23RD day of SEPTEMBER, 2008, between the CITY OF MIAMI SPRINGS, a municipal corporation, hereinafter referred to as "CITY", and Peter G. Baan, an individual residing in the County of Miami-Dade, State of Florida, hereinafter referred to as "Baan";

WITNESSETH:

WHEREAS, as a result of the retirement of the City's Chief of Police, a vacancy existed in the position; and,

WHEREAS, the City Manager offered the position of Chief of Police to Miami Springs Police Captain Peter G. Baan and he accepted the appointment; and,

WHEREAS, the parties hereto are desirous of memorializing the terms and conditions of employment of Baan as the new Chief of Police for the City of Miami Springs:

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the mutual sufficiency of which is hereby acknowledged, the City of Miami Springs and Peter G. Baan hereby agree as follows:

NATURE OF EMPLOYMENT

Baan is hereby hired as the Chief of Police of the City of Miami Springs Police Department. In this capacity, he shall exercise authority over the management of the Miami Springs Police Department, subject to the authority and approval of the City Manager, including the uniformed and non-uniformed personnel. Baan shall be responsible for all operational functions of the Police Department as may be provided, currently or as amended in the future, in the City Charter, Code of Ordinances, Departmental Rules, Regulations and Policies and Collective Bargaining Agreement with the Police Benevolent Association.

WORKPLACE

Baan shall perform all required contractual duties and responsibilities hereunder while at the City of Miami Springs Police Department and on an "as needed" and "on call" basis. The City shall provide an appropriate office for the Chief of Police within the department headquarters located within the City Hall.

WORK HOURS

Baan shall be required to work forty (40) hours each week for the City. Further, Baan shall be available on an "as needed" and "on call" basis for emergency and other situations reasonably requiring his presence. In addition, unless exceptional or emergency conditions exist, Baan shall not be required to perform any police duties and responsibilities other than as required of the Chief of Police.

COMPENSATION

Baan shall be compensated for his services in the annualized amount of \$99,500.00. This amount shall be payable bi-weekly in accordance with the City's current payroll system. For proration purpose, Baan's current hourly rate of pay shall be \$47.84.

Baan's salary shall be adjusted annually for merit increases on the anniversary date of this contract as may be deemed appropriate and budgeted and approved by the City Manager. It is acknowledged and agreed that the highest authorized annual salary for the Chief of Police is now \$110,334.00 and that no annual or merit increases may be authorized beyond that amount without specific City Council authorization to increase the top of the salary range for the Chief of Police. Baan shall also, at a minimum, receive the same annual percentage salary increase as is received by the members of the Dade County Police Benevolent Association (PBA) as provided in the current, and in any future, Collective Bargaining Agreement between the PBA and the City.

Further, Baan hereby waives the right to receive payment for overtime services at any rate of pay.

VACATIONS AND HOLIDAYS

During the term of this Agreement, Baan shall receive one vacation day for each month of service, which may be taken as they are accrued. Further, Baan shall receive the same annual holiday benefits provided in the current, and in any future, Collective Bargaining Agreement between the PBA and the City. In addition, if Baan is required to work any scheduled holiday, he shall be provided one additional day of vacation for each holiday worked.

SICK LEAVE/BEREAVEMENT

Baan shall be provided the same sick leave and bereavement leave as is provided in the current, and in any future, Collective Bargaining Agreement between the PBA and the City.

INSURANCE

The City will provide, at no cost to Baan, the same major medical, health, dental, vision, and life insurance coverage as is provided in the current, and in any future, Collective Bargaining Agreement between the PBA and the City. The aforesaid insurance coverage, with the exception of life insurance, will also be provided to Baan's qualified dependents on the same co-pay basis as is provided in the current, and in any future, Collective Bargaining Agreement between the PBA and the City.

PENSION

Baan shall receive such pension and/or retirement benefits as are provided in the current, and in any future, Collective Bargaining Agreement between the PBA and the City.

PROFESSIONAL LIABILITY INSURANCE

The City agrees to maintain a professional Liability insurance policy, or an equivalent policy, which provides coverage to Baan for claims for bodily injury, property damage, and personal injury, during the term of this Agreement. The amount of professional liability insurance coverage shall be determined in the sole and exclusive discretion of the City.

EDUCATION/CLOTHING ALLOWANCE

Baan shall receive the same educational reimbursement/payment and/or clothing allowance as is provided in the current, and in any future, Collective Bargaining Agreement between the PBA and the City.

PROFESSIONAL DEVELOPMENT COMMUNITY INVOLVEMENT

Baan shall submit all requests to attend conferences within his professional interests for approval by the City Manager. All requests shall include the cost of registration, travel, lodging, other costs, and a description of the educational/professional development content of said conference. The specific advanced authorization of the City Manager is required for attendance and cost reimbursement for each conference.

Further, the City shall pay the annual dues for professional association memberships which are within Baan's professional interest. The lists of said memberships shall be submitted to the City Manager for approval, and once approved; membership may be sustained and continued.

In addition, the City shall pay for attendance by Baan at monthly and/or annual Police Chiefs Association and FBI National Academy Associates meetings which have been previously approved, in advance, by the City Manager.

Since it is the intent of the City that Baan maintain a level of involvement in the community, the City shall reimburse Baan for all expenses reasonably associated with his involvement in organizations serving the community of the City of Miami Springs, as may be approved from time to time, in advance, by the City Manager.

DISABILITY

Baan shall be provided all applicable disability benefits provided by law and in the current, and in any future, Collective Bargaining Agreement between the PBA and the City.

OTHER EMPLOYMENT

Baan shall not be otherwise employed or perform any other services for any person, firm, or corporation while under contract with the City, unless such employment or services have been approved, in advance, by the City Manager.

AUTHORITY

During his employment with the City and pursuant to this Agreement, Baan shall be under the direct supervision and authority of the City Manager.

DURATION

Baan shall be retained pursuant to this Agreement for a period of five (5) years, commencing on September 4, 2008, and terminating on September 4, 2013. Notwithstanding the foregoing, it is acknowledged and agreed that Baan serves at the will and pleasure of the City Manager and may be terminated at any time in accordance with the provisions contained herein.

TERMINATION

IT IS MUTUALLY ACKNOWLEDGED AND AGREED that this Agreement, and the employment of BAAN as Chief of Police, may be terminated at any time, without cause, upon the providing of fourteen (14) days advance written Notice of Termination. Upon separation based upon a termination without cause, BAAN shall receive severance pay in a lump sum cash payment equivalent of ninety (90) days of base salary.

IT IS FURTHER MUTUALLY AGREED that the employment of BAAN as Chief of Police, may be terminated at any time, with cause, as may be determined in the sole and exclusive discretion of the City Manager. Any termination based upon cause may be immediate and without advance written notice and without the right to receive the above described severance payment upon separation.

CONSTRUCTION OF AGREEMENT

This Agreement shall be constructed and enforced in accordance with the laws of the State of Florida. Baan agrees to be subject to the jurisdiction of the Courts of Miami-Dade County, Florida and subject to service of process therein. Venue for any Litigation arising out of or in connection with the Agreement shall be in Miami-Dade County, Florida.

NOTICES

All Notices or other communications which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, addressed to the other party at the address indicated herein, or as the same may be changed from time to time. Such Notice shall be deemed given on the day on which it is received.

CITY

CITY OF MIAMI SPRINGS
ATTN: City Manager
201 Westward Drive
Miami Springs, FL 33166

BAAN

PETER G. BAAN
c/o Miami Springs Police Dept.
201 Westward Drive
Miami Springs, FL 33166

MISCELLANEOUS PROVISIONS

NO WAIVER: The failure to insist on the performance or observance of any one or more conditions or covenants of this Agreement shall not be construed as a waiver or relinquishment of the future performance of any such covenants or conditions and the obligations with respect to such future performance shall continue in full force and effect.

GENDER: The terms, City and Baan, as herein contained, shall include the singular and/or plural, the masculine, the feminine, and/or the neuter, the heirs, successors, executors, administrators, personal representatives and for assigns, wherever and whenever, the context so requires or admits.

CAPTIONS: Title and paragraph headings are for convenient reference and are not part of this Agreement. such captions shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions contained in this Agreement.

SEVERABILITY: Should any provision, paragraph, sentence, word, or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida or the United States, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform to such laws, or, if non-modifiable, then same shall be deemed severable, and, in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

ATTORNEY FEES: In the event of litigation arising out of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including fees for the services of paralegals and similar persons, and all such expenses and costs incurred by the prevailing party through all appellate levels.

ENTIRE AGREEMENT: This Agreement and its attachments contain the sole and entire Agreement, and supersedes all other prior written or oral agreements, between the parties with respect to the subject matter of this Agreement.

AMENDMENTS: This Agreement may be changed, amended, or modified only by an agreement in writing signed by the party against whom such change, amendments, or modifications is sought to be enforced.

IN WITNESS WHEREOF, the parties hereto have executed this Employment agreement on the dates specified below.

EXECUTED THIS 23rd DAY OF SEPTEMBER, 2008

ATTEST:
CITY CLERK:

CITY OF MIAMI SPRINGS,
A Florida Municipal Corporation

Magali Valls
Magali Valls, CMC

BY: *James R. Borgmann*
James R. Borgmann
City Manager

EXECUTED THIS 23rd DAY OF SEPTEMBER, 2008

WITNESSES:

CHIEF OF POLICE

Leah Q. Cox

Peter G. Baan
PETER G. BAAN

Francis N. Vaj



CITY OF MIAMI SPRINGS
City Manager
201 Westward Drive
Miami Springs, FL 33166-5259
Phone: (305) 805-5010
Fax: (305) 805-5040

Agenda Item No. 106

City Council Meeting of:

02-25-2013

(Handwritten mark)

TO: Honorable Mayor Garcia and Members of the City Council
FROM: Ronald Gorland, City Manager *(Signature)*
DATE: February 21, 2013

RECOMMENDATION:

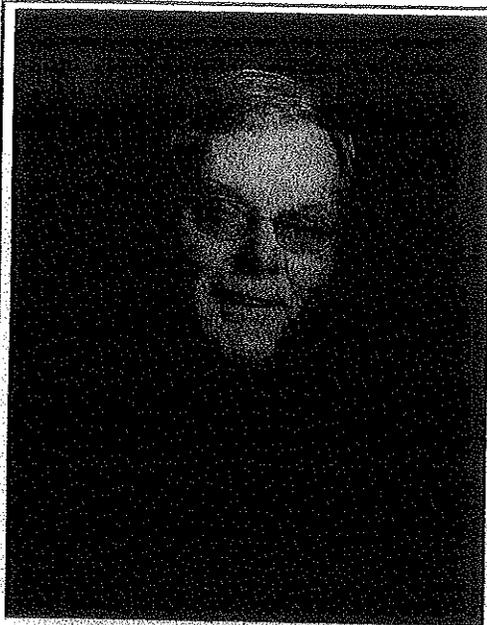
Consider re-naming 59th Avenue from where it enters Miami Springs to Hunting Lodge Drive
Father Carney Way

Discussion:

Father Carney had a significant impact on our residents and City during his long-time service at Blessed Trinity Church (attached). If Council is in agreement, this should be forwarded to the Memorial Committee for their recommendation.

Per the article in the Gazette (see attached), some of the pertinent background information is as follows:

- Priest for 44 years.
- Pastor at Blessed Trinity for past 30 years, since June 9, 1982.
- During his 30 years at Blessed Trinity he impacted many lives.
- The abundance of people at his funeral is a testimony to the effectiveness of his ministry as a priest.
- The marriage ministry was dear to his heart, also known as the Marriage Encounter.
- He was devoted to the children at Blessed Trinity Church and School.
- Born in Cleveland on July 10, 1942.
- Member of the first ordination class at St. Vincent de Paul Regional Seminary.
- Ordained by Miami's first archbishop, Coleman F. Carroll in 1968.
- Served in various capacities at Nativity Parish in Hollywood, Our Lady Queen of Martyrs, St. John the Baptist in Ft. Lauderdale, Church of the Little Flower in Coral Gables and Our Lady of the Lakes in Miami Lakes before coming to Blessed Trinity.



Father Joseph Carney, the longtime Blessed Trinity pastor, passed away on Jan. 2 at age 70. He had been suffering from pneumonia and battling leukemia.
Photo courtesy of The Florida Catholic

Remembering Father Carney

By **ANGIE AGUILA**
Gazette Writer

The parishioners of Blessed Trinity Catholic Church began the New Year with an ache in their heart as they learned that their longtime pastor, Rev. Joseph Carney, had died in the early morning hours of Jan. 2. Father Carney, 70, had been a priest for 44 years and pastor of Blessed Trinity for the past 30 years.

Throughout the month of December, Father Carney battled pneumonia and just a few

short weeks ago stood in front of the church and announced that he had been diagnosed with leukemia. That would be the last time Father Carney would address the Blessed Trinity congregation.

Approximately 500 people gathered to honor and remember Father Carney at the funeral Mass that took place the morning of Jan. 5. Blessed Trinity's massive field, which is well known for being filled with festival amusement rides during the month of November, was

now a parking lot that was filled to capacity. The large tent that holds Christmas trees during the month of December was transformed into a makeshift sanctuary, streaming live video for the overflow of people who couldn't fit inside the church. With a filled sanctuary, and a filled tent, still many others were content to just listen to the service on the speakers as they stood outside of the church doors.

Those who were able to

See **CARNEY**, page 6

CARNEY, from page 1

attend the service inside the sanctuary were among Father Carney's two brothers, Robert and Timothy Carney, and their families, along with many guests from the archdiocese, including two bishops and more than 50 priests.

"Grief is a difficult cross to bear. But as you see, you don't have to bear that cross alone," Rev. Deacon Dan Blaha said as he addressed the overflowing sanctuary.

Over the years in this small, unique community of Miami Springs and Virginia Gardens, the church and the school at Blessed Trinity have become just like a family to so many people. It is often referred to as a hidden gem where you'll discover many people who spent their childhood here and are now raising their families here.

Over his 30 years at Blessed Trinity, Father Carney impacted the lives of so many of those people. One of ministries that Father Carney held dear to his heart was the marriage ministry, also known as Marriage Encounter. He was also devoted to the children at Blessed Trinity Church and School.

"He was such a great boss to work for and I'm going to miss him so much," shared

longtime Miami Springs resident Debbie (Parke) Ayash, who is the media specialist for the school where she has worked at for the last 11 years. Ayash met Father Carney when she was just 15 years old and all three of her children attended BTS, with one child still in Pre-K. "He cared so much for our school, he was so involved. He was at every single faculty meeting. Just two weeks ago we were laughing and joking with him. He's going to be missed so much and by so many people."

Father Carney was born in Cleveland on July 10, 1942. He attended high school at the Borromeo Seminary at St. William School and eventually made his way to Miami where he attended high school at the John Vianney Seminary. He completed his first two years of college at St. John Vianney. He was a member of the first ordination class at St. Vincent de Paul Regional Seminary and was ordained by Miami's first archbishop, Coleman F. Carroll, in 1968.

Father Carney served in various capacities at Nativity Parish in Hollywood, Our Lady Queen of Martyrs and St. John the Baptist in Fort Lauderdale, Church of the Little Flower in Coral Gables, and Our



Father Carney in 1982

Lady of the Lakes in Miami Lakes before Blessed Trinity became his home when he was appointed as pastor on June 9, 1982.

"Father Carney never told you what you wanted to hear, he always told you what you needed to hear," said Miami Springs resident Irandis Diaz.

Diaz has worked as the "go-to" man at Blessed Trinity since 2000. Diaz was fortunate

enough to spend some quality time with Father Carney during his last few days.

"I was with him in the hospital when they gave him the news of how sick he was getting. He said to me 'Well, I have no regrets. If I had my life to live all over again, I'd do the same thing, I'd be a priest. That meant everything to me,'" shared Diaz. "He gave First Holy Communion to my wife when she was a little girl. He gave First Communion to my three sons, and as adult Father Carney gave me all of the sacraments and First Communion, too. He was a very, very special man."

Perhaps the abundance of people who gathered at his funeral service is a testimony to the effectiveness of Father Carney's ministry as a priest and is a true indication of just how special this man really was.

"Father Joe lived a life that was not for himself, but he lived a life for Him who died and rose," said Deacon Dan Blaha. "Father Carney and his ministry were truly a gift to this local church and community. His life was a true epiphany, a manifestation of God's love, God's closeness and of God's gentleness to every person who knew him."



CITY OF MIAMI SPRINGS
City Manager
201 Westward Drive
Miami Springs, FL 33166-5259
Phone: (305) 805-5010
Fax: (305) 805-5040

Agenda Item No. 10 H

City Council Meeting of:

02-25-2013

W

TO: Honorable Mayor Garcia and Members of the City Council
FROM: Ronald Gorland, City Manager *Ron*
DATE: February 21, 2013

RECOMMENDATION:

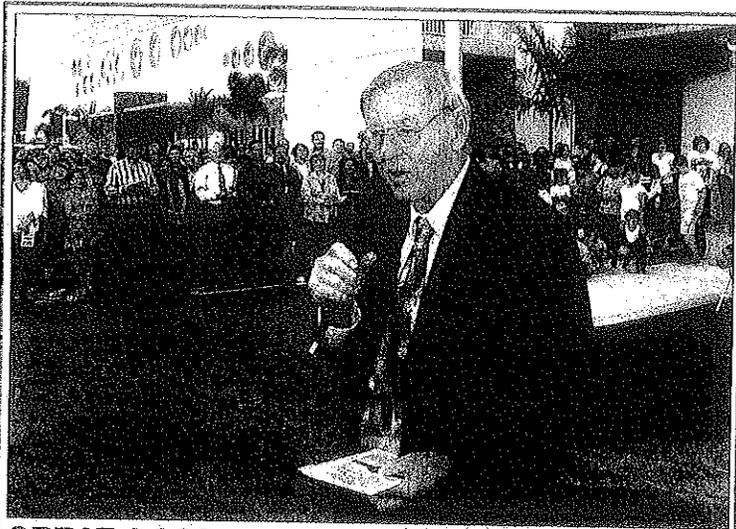
Honor Pastor Schmidt's long-time service to Miami Springs (attached).

DISCUSSION:

Suggest consideration should be given to naming a section of Curtiss Parkway in front of the Grace Lutheran Church. Alternatively, a section of Azure Way or Glen Way could be renamed. If Council is in agreement, this should be forwarded to the Memorial Committee for their recommendation.

Reverend Dr. Albert Schmidt

- Born in Baltimore on July 20, 1926.
- Graduated from Capital University in Bexley, Ohio and served as an intern in South Florida.
- Ordained in 1951 after graduating from Trinity Lutheran Seminary in Columbus, Ohio.
- Founded Grace Lutheran Church in 1951 and led the church until his retirement in 1989.
- He was very involved with the youth of the community, serving as the Juvenile Officer for the City of Miami Springs for approximately 14 years.
- He served as a member of the City's Recreation Commission for eleven years, helping to formulate a well-rounded recreation program for all ages.
- He will be remembered as a great spiritual leader; married over 10% of the citizens of Miami Springs and baptized and confirmed thousands.



GREAT LOSS: Rev. Dr. Albert Schmidt, seen here at the opening of the Miami Springs Community Center in 2010, passed away on Jan. 28. Pastor Schmidt founded Grace Lutheran church in 1951 and was its leader until his retirement in 1989. Gazette Photo/WALLY CLARK

Grace Lutheran mourns passing of Rev. Schmidt

By **ANGIE AGUILA**
Gazette Writer

The Miami Springs community and Grace Lutheran Church lost a good one last week. The Rev. Dr. Albert R. Schmidt, 86, went to bed on Monday, Jan. 28th and passed away peacefully in his sleep.

Schmidt was the longtime pastor at Grace Lutheran Church in Miami Springs. Although he retired as many years ago, Schmidt remained dearly loved and admired and stood as a pillar in our community.

A service to celebrate his life will be held this Saturday, Feb.

9 at Grace Lutheran Church, 254 Curtiss Pkwy., in Miami Springs. Visitation will be from 11 a.m. to 1 p.m. The memorial service begins at 1 p.m. and will be followed by a reception in Grace's Social Hall.

"Pastor Schmidt meant so much to so many people. He probably married over 10 percent of the citizens of Miami Springs. He baptized thousands, confirmed as many, counseled those in need and served as a probation officer to hundreds of troubled youth," said Rev. David E. Imhoff, pastor of Grace Lutheran Church. "He

led the way for we Lutherans to buy and operate Fair Havens Care Center across the street. People's lives were dramatically changed for the better due to his ministry efforts."

Schmidt was born in Baltimore on July 20, 1926. He graduated from Capital University in Bexley, Ohio, and served as an intern in South Florida. He was ordained in 1951 after graduating from Trinity Lutheran Seminary in Columbus, Ohio. Schmidt made Miami Springs his home and

See **SCHMIDT**, page 6

SCHMIDT, from page 1

would lead the church from 1951 until his retirement in 1989.

Schmidt was preceded in death by his wife of 51 years, Constance Sahlgren Schmidt, better remembered as Ms. Connie. They had four children — Mark, Laura, Matthew and Luke. Miami Springs was their home and their stomping ground. If you've lived in Springs for any amount of time, you know Pastor Schmidt or you know someone who knows him.

Schmidt founded Grace Lutheran in 1951, and under his leadership and contagious enthusiasm, the congregation grew quickly. Eventually, Schmidt and the congregation would end up building the beautiful church on Curtiss Parkway with plenty of room for his growing congregation. Over his life of service, Pastor Schmidt impacted countless people.

He will be remembered as a great spiritual leader.

"Pastor Schmidt truly cared about the people," said Mary Sue Cimino, a longtime member of the congregation who also served as secretary for Pastor Schmidt. "When something was wrong, he could tell. He was a wonderful pastor and a great preacher, too.

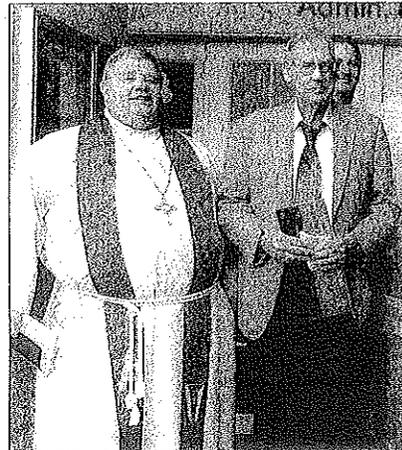
"The Lutheran church has deep roots from Germany and Scandinavia. Pastor Schmidt was just

the right person, at just the right time. He always welcomed people from different backgrounds and demographics. He was such a good fit.

"He was also very involved with the youth of our community. When kids got into trouble, they called him. He was open, loving, and so caring. He was the type of pastor that everyone wished they had. People were attracted to the Lutheran theology. We are saved by grace, it's not what we do, but by God's grace alone. Pastor Schmidt was able to convey that message. He didn't just preach it, he lived it."

Schmidt was a pastor to those who worshipped at Grace Lutheran Church, but he was so much more than that. He was a community man, a family man, a man of God. He was well known for his love of sports, whether it was fishing, golf, football or traveling. He was part of the Rotary Club in Miami Springs and mentored numerous young people who were on the path to serving in the ministry.

He showed love and grace to everyone that he met. Pastor Schmidt loved God, loved his family, and loved his church. He was a man that was full of love and full of grace. Pastor Schmidt was eager to share that love and amazing grace with others.



Pastor Schmidt (right) with current Grace Lutheran Church Pastor David Imhoff at the dedication of the administration building named after his daughter-in-law, Karla Wotberschmidt, in December 2012.