



City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** at the Community Center in the Rebeca Sosa Theatre on Monday, September 26, 2011, at 7:00 p.m.

1. Call to Order/Roll Call

The meeting was called to order at 7:06 p.m.

The following were present:

Mayor Xavier M. Garcia
Vice Mayor Bob Best
Councilwoman Jennifer Ator
Councilman Dan Espino
Councilman George V. Lob

Also Present:

City Manager James R. Borgmann
Assistant City Manager Ronald K. Gorland
City Attorney Jan K. Seiden
Chief of Police Peter G. Baan
Finance Director William Alonso
Comptroller Alicia E. González
Public Works Director Robert T. Williams
City Planner James H. Holland
Golf Director Michael W. Aldridge
Recreation Director Omar L. Luna
Building & Zoning Office Supervisor Harold "Tex" Ziadie
Elderly Services Director Karen Rosson
City Clerk Magalí Valls

2. Invocation: Mayor Garcia offered the invocation.

Salute to the Flag: Students from Miami Springs Elementary School Safety Patrol led the audience in the Pledge of Allegiance.

3. Awards & Presentations:

3A) Recognition of Achievement of MSSH Math Team by the Chamber – Proclamation

Miami Springs Airport Area Chamber of Commerce President Francisco Arguelles and Donna Wood-Beney presented Certificates of Achievement to the members of the Miami Springs Senior High School Mu Alpha Theta Math Club. They also recognized Principal Thomas Ennis, former math teacher Libby Manning, math teacher Sam Koski and club sponsor Lisa Weaver Koski.

Mr. Koski stated that the Club should be much stronger this year and the ninth graders come to the school every morning at 6:30 a.m. to be coached by the seniors.

Ms. Wood-Beney urged everyone to support the Math Club and their fund raising activities.

Mayor Garcia presented a proclamation in recognition of their continued success and outstanding achievements in local, state and national math competitions. He proclaimed Monday, September 26, 2011 as “Miami Springs Senior High Mu Alpha Theta Day”.

4. Open Forum:

Public Works Department

June Malden of 100 Palmetto Drive spoke about the Public Works Department and the employees that work very hard. She is against privatizing the department and urged Council to make the right decision.

Longevity Pay

Police Department Administrative Specialist II Leah Cates, who is also a resident, spoke on behalf of the employees regarding the loss of their longevity pay. She explained that the employees need the funds, especially the single parents. Many employees are working at the top of the salary range and have not received an increase since 2008. She said that it is personal, not politics.

5. Approval of Council Minutes: (5A and 5B approved with one motion)

5A) 09-06-2011 – Workshop Meeting

Minutes of the September 6, 2011 Workshop Meeting were approved as written.

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

5B) 09-12-2011 – Regular Meeting

Minutes of the September 12, 2011 Regular Meeting were approved as written.

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

6. Reports from Boards & Commissions:

6A) 09-22-2011 – Code Review Board – Cancellation Notice

Cancellation Notice of the September 22, 2011 Code Review Board meeting was received for information without comment.

6B) 10-03-2011 – Zoning and Planning Board – Cancellation Notice

Cancellation Notice of the October 3, 2011 Zoning and Planning Board meeting was received for information without comment.

7. Public Hearings:

7A) Resolution No. 2011-3522 – A Resolution of the City Council of the City of Miami Springs, Florida Adopting the Final Levying of Ad Valorem Taxes for General Operations for the City of Miami Springs for the Fiscal Year 2011-2012; Providing for an Effective Date

City Attorney Jan K. Seiden read the resolution in its entirety.

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

Councilman Lob moved to approve Resolution No. 2011-3522. Councilman Espino seconded the motion.

Councilman Espino clarified for the record that even though there is an 8.3% increase from the roll back rate, the debt service for the Golf Course was incorporated into the millage rate that was previously a separate millage rate.

Vice Mayor Best asked Council to reconsider reinstating the longevity pay for the employees because it would not affect the millage rate. He added that it would benefit those employees that have worked for the City for many years and are counting on the pay.

Councilwoman Ator agreed with Vice Mayor Best. She explained that the issue is related to the next agenda item.

The motion carried 5-0 on roll call vote.

7B) Resolution No. 2011-3523 – A Resolution of the City Council of the City of Miami Springs, Florida Adopting the Final General Fund, Special Revenue Funds, Debt Service Fund, and Enterprise Fund Budgets for the Fiscal Year 2011-2012; Authorizing the City Manager to Proceed with Implementation of Service Programs and Projects; Prohibiting Unauthorized Liabilities and Expenditures of Funds; Providing for an Effective Date

City Attorney Jan K. Seiden read the resolution in its entirety.

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

Councilman Espino moved Resolution No. 2011-3523. Councilman Lob seconded the motion.

Vice Mayor Best reiterated that he would like to discuss reinstating the longevity pay for those employees that were expecting to receive it.

Councilwoman Ator does not want to cut the pay for the Senior Staff or Department Heads who are the ones that motivate and continue to be responsible for the day-to-day work in the City. She asked about the budget surplus for the Fiscal Year ending 2010-2011.

Finance Director Alonso explained that he would know the amount of the budget surplus around the third week in October. He said that projections show that the Police Department's budget would come in with an approximate \$150,000 to \$200,000 surplus. The overall surplus is estimated to be \$250,000.

To answer Councilwoman Ator's question, Finance Director Alonso clarified that if Council wanted to reconsider the longevity pay and the 3% pay cut during the year they could approve a budget amendment.

Mayor Garcia asked what the deficit amount was at the beginning of the budget process.

Finance Director Alonso replied that the deficit was approximately \$500,000.

Mayor Garcia stated that the Department Heads called him to make it a point that they were okay with the 3% reduction. He did not solicit or call the Department Heads; they wanted him to know that they were okay with the pay cut and they did not want to put any pressure on Council. He does not want the public perception to be that Council enforced this policy. The two top earners voluntarily offered to take the 3% reduction, which he appreciates.

Mayor Garcia said that although there might be a potential \$250,000 surplus, the amount that Council was asked to cut this year was over \$500,000 and this means that unless something changes there is going to be a deficit next year. He does not foresee the economic situation or real estate market improving overnight. Miami Springs was one of a few municipalities that had a 1% increase in property values and still had a shortfall due to the cost of living increases.

Mayor Garcia commented that Council did not say that the longevity pay cut would be a permanent cut. He is still actively looking for ways to reduce expenditures without affecting services. He said that it was part of his campaign promise to reduce taxes without affecting the quality of services.

To answer the Mayor's question, Finance Director Alonso stated that longevity is based on the fiscal year from October 1st to September 30th. During Fiscal Year 2011-2012 all employees will miss one longevity payment. The employees who are due to receive longevity pay in October, November and December already received their payments at the beginning of Fiscal Year 2010-2011.

City Manager Borgmann explained that the employee who spoke at the last Council meeting had not received her first longevity payment because she just became eligible. She was counting on the payment and now she will not receive the benefit on the very first opportunity.

Finance Director Alonso clarified that only two employees were affected and will lose the first year of their longevity for eight years service.

Mayor Garcia asked what the total amount would be if Council decided to give longevity only for the remainder of this calendar year.

City Manager Borgmann responded that twelve employees were affected and the amount was approximately \$17,000 for the three months, not including Department Heads or Police Officers.

Finance Director Alonso reiterated that the twelve employees already received their payments during this fiscal year.

Mayor Garcia emphasized that he is not in favor of giving any pay raises or longevity because there are 13,800 residents to look out for and they are the ones that pay the taxes. He did not vote to give raises because many residents are losing their jobs. He added that no City employees are losing their jobs and that is the most important point.

City Manager Borgmann clarified that total longevity compensation for the full year is approximately \$38,000.

Councilman Espino stated that the pay reduction was a difficult decision that was made on justified grounds. There are many people in the City that are losing their jobs and they were not asked to take a pay cut; they did not have that option. He knows that people expect a certain amount of money, but bonuses, merit increases and cost of living adjustments are discretionary funds that are either approved or not approved on a year-to-year basis.

Councilman Espino explained that the fact that no jobs were cut is a testament to Council's hard work. Everyone is making adjustments and he is committed to not granting merit or longevity increases.

Councilwoman Ator disagreed that the Department Heads' pay should be cut by 3% and somehow the discussion changed to merit increases and cost of living increases. She asked the Finance Director when he would know the amount of the budget surplus, and if it is \$250,000 could Council revisit the 3% reduction and the answer was "yes". She reiterated that Council could revisit it at the end of October.

Councilwoman Ator stated that it is not about cost of living or merit increases; it is about longevity for employees who have worked for the City between eight and forty years. Many of the dedicated employees are at the top of their salary ranges. She understands that some Department Heads had called the Mayor about the 3% decrease.

Mayor Garcia responded that all the Department Heads had called him.

Councilwoman Ator said that the 3% reduction would begin to affect the employees' pension and right now there is a budget surplus. She said that every single person might have contacted the Mayor and now she is going to check with those people. Clearly the longevity is an issue and it does not send a good message to cut the pay of the Department Heads when they are the ones that are the motivators and they are held responsible.

Mayor Garcia clarified that those employees taking the 3% pay cut are the ones that are making more than \$85,000 to \$100,000. He agrees that it is a difficult position, but he has spoken to residents who are losing jobs and their homes and it is not right to consider giving bonuses. He appreciates the work that the employees do, but there are more than 13,000 residents to consider.

Councilman Lob stated that it had been said that the decisions Council makes would be "politics as usual." He explained that it is not easy for him considering that he is a worker like everyone else. He does not own his own company and has not received a raise in four years. He knows it is not easy to lose something that the employees are looking forward to receiving. He said that Council was elected to do what is best for the City.

Councilman Lob noted that the budget is balanced and there is a surplus, but next year is unknown. He works for an investment firm and the stock market is up and down. Council must make sure that the services provided to the citizens today can be provided in the future. He might agree to revisit the 3% pay cut once the budget surplus is known, but not right now.

Councilman Espino understands that there might be a surplus from one year to the next, but it is not really a surplus because the funds are tax dollars. Council is entrusted with the tax payers' dollars; they are not a surplus. The goal is to make the City as efficient as possible so that the residents know that their dollars are being used discretely. This is the third year he has been steadfast about not giving bonuses.

Vice Mayor Best stated that he is aware of economic markers and cannot determine what will happen in the future. The charge of the City Council is to balance the budget and this has been achieved; there is a surplus and it is not right to take away from employees. He said that Council had always come together as a team and to target select employees is not right.

The motion carried 3-2 on roll call vote with Vice Mayor Best and Councilwoman Ator casting the dissenting votes.

7C) Resolution No. 2011-3524 – A Resolution of the City Council of the City of Miami Springs Approving and Adopting the City Employee “Pay Plan” for Fiscal Year 2011-2012; Reserving the Right and Authority to Amend or Supplement the Plan; Effective Date

City Attorney Jan K. Seiden read the resolution in its entirety.

City Attorney Seiden explained that last year a number of employee benefit ordinances were modified and one modification was to Section 34-19 (B). This Section requires Council to adopt the pay plan that is currently in existence as part of the budget process. He clarified that there are no changes and it is simply a matter of practicality and a requirement of the Code.

City Manager Borgmann stated that in the past the pay plan was approved as part of the budget and two years ago it became a separate issue in order to be completely transparent. The pay plan is the same as last year and it does not reflect the 3% decrease for Department Heads since it does not change the pay range; it is a temporary one-year reduction in pay.

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

8. Consent Agenda: (8A through 8E approved with one motion)

Councilwoman Ator removed 8F from the Consent Agenda.

8A) Recommendation that Council Approve an Expenditure to Computer Electric, Inc., the Lowest Responsible Proposer, in an Amount not to Exceed \$3,167.00 for ADA Compliant Door Operators at the Community Center, pursuant to Section 31.11 (C) (2) of the City Code

City Manager Borgmann read the title of the awards.

City Manager Borgmann explained that the ADA compliant door was not a requirement for the original construction of the building and since there have been problems with the door the decision was made to make it an automated door to accommodate the disabled that attend events in the building. Council approval is required for the funding since it is not a budgeted item.

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

City Manager Borgmann explained that Items 8B, 8C and 8D all relate to the Fiscal Year 2011-2012 budget.

8B) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure in an Amount not to Exceed \$9,000.00, for M. Jurado & Associates, for Annual Costs of Mechanical Plan Reviews and Inspections on an “As Needed” Basis, pursuant to Section 31.11 (E) (6) (g) of the City Code

There was no discussion regarding this item.

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

8C) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure in an Amount not to Exceed \$40,000.00, for AMA Consulting, for Annual Costs of Building and Roofing Inspections on an “As Needed” Basis, pursuant to Section 31.11 (E) (6) (g) of the City Code

There was no discussion regarding this item.

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

8D) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure in an Amount not to Exceed \$16,000.00, for Lonsdale Associates, for Annual Costs of Structural Plan Reviews on an “As Needed” Basis, pursuant to Section 31.11 (E) (6) (g) of the City Code

There was no discussion regarding this item.

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

8E) Recommendation that Council Authorize an Expenditure in an Amount not to Exceed \$1,200.00 to Yamaha Motor Corporation for the Lease of Golf Carts per the Existing Lease Agreement, pursuant to Section 31.11 (E) (6) (2) of the City Code

There was no discussion regarding this item.

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

8F) Recommendation that Council Approve an Expenditure of \$2,521.00 to CTM Brochure for Advertising Materials, as a Sole Source Provider, pursuant to Section 31.11 (E) (6) (c) of the City Code

City Manager Borgmann read the title of the recommendation.

Golf Director Mike Aldridge explained that this item is related to the additional advertising for the Golf Course that was approved in June for brochures, maps and bi-lingual maps.

To answer Councilwoman Ator's question, Mr. Aldridge clarified that the purchase order for \$9,000 was approved in October 2010. They are standard brochures that are placed in the hotels from Broward County down to the lower Keys. The Spanish map was distributed to the discount Golf Houses, the Airport, the Miami Zoo and other attractions.

Councilwoman Ator asked if the additional funds were for additional maps or a new type of map.

Golf Director Aldridge responded that the funds are for additional maps to be distributed in additional areas for a fee of \$385.00 per month for each area.

Mr. Aldridge advised Council that a contract was signed with the Business Bureau and he will not be using the brochures as of January 1, 2012. The agreement includes the placement of brochures in 80,000 hotel rooms and advertisements on the lobby televisions.

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

Councilman Espino asked for update on the sale of Groupon coupons and Mr. Aldridge clarified that 440 coupons had been sold.

9. Old Business:

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

Mayor Garcia **re-appointed** Michael Dominguez to the Golf and Country Club Advisory Board for a full 2-year term ending on July 31, 2013.

9B) Strategic Plan Status

City Manager Borgmann stated that on September 19th he met with Bill Busutil and the Department Heads to kick-off the strategic planning process. Mr. Busutil provided documents outlining a starting point for moving forward into the public input phase. Following the timeline provided it looks like a plan could be in place no later than mid-December.

Bill Busutil thanked Council for selecting him to assist in preparing the strategic plan that is very important to him both personally and professionally. At the kick-off meeting with the Department Heads there was an agreement made on several of the general parameters and how to move forward.

The planning horizon for the strategic plan was agreed to be a five year plan that would be formally revisited every two years, according to Mr. Busutil. He explained that the components of the plan were discussed and it was decided to include all components that typically appear on strategic plans. In regard to the logistics for input, it was decided to have input from all elements in the community.

Councilman Espino asked about the five-year vision and whether or not it would be an “area specific” vision or a more macro perspective on the City overall.

Mr. Busutil stated that input would come from different sources; he would first meet individually with each Council member to get their ideas on every single component of the plan: mission, vision, goals, objectives, key performance indicators and strategies. In addition, there will be three community forums in order to get input from the residents. Two forums will be held in the evenings to accommodate those residents who work during the day. One of the forums will be held during the lunch hour at the Senior Center. In addition to the general community forums, a separate forum is planned for the business community.

Mr. Busutil explained that work sessions will be held with the City Manager and his management team and with selected employees in order to get input, including input on the vision. Typically the vision is a community-wide vision; it is not a single vision of one department, but an overall vision for the City.

Councilwoman Ator asked when Mr. Busutil anticipates holding the separate forum for the business community.

Mr. Busutil responded that a meeting is planned for Tuesday, September 27th to discuss the dates and times for the forums. He pointed out that the Rebeca Sosa Theatre is a great location and they would check on the room availability. He said that two to four weeks is the best lead time for planning and publicizing a community forum and they will be planning the outreach this week. He estimated that the forums could be held within two to three weeks after the outreach.

Mr. Busutil advised Council that they would attend each of the forums and once they begin, the process should be unfiltered and unencumbered for the people who attend. He would facilitate directly with the attendees.

Mr. Busutil suggested that Council be observers and not active participants and that is why he is meeting individually with each member in order to get their input.

Councilwoman Ator asked what would be the best time of day for the business forum in order to achieve the best attendance.

The best business forums have been held at 6:00 p.m., according to Mr. Busutil. This would be toward the end of the work day at a time that is convenient.

To answer Councilman Lob's question, Mr. Busutil explained that each forum would last from 90-minutes to two hours. Several tables would be set up with approximately six seats at each table. A question is posed to the group and every person at each table responds to the same question. There are discussions at each table and he facilitates at each one.

Mr. Busutil said that he makes sure that no one person is dominating the discussion and everyone participates. Each person is asked to respond with their favorite ideas for each question in order to get a visual consensus and those ideas are identified that are determined to be the consensus. The ideas are categorized and tabulated so that he can draft alternative mission and vision statements, detailed goals and objectives, performance indicators, etc. in a draft document. The document will be posted on the City website so that the public can respond and it will come back to Council for formal adoption.

Councilman Espino asked if all areas would be addressed. His hope is to get information for all areas and the needs for the community.

Mr. Busutil explained that a certain amount of time is assigned to each question. The overall purpose of the City will be addressed and that will provide information for the mission. The public will be asked to visualize what they think the City will look like five years from now. They will also be asked to identify the most important service areas that should be provided by the City and what are the most important challenges and opportunities.

Mr. Busutil added that surveys will be mailed after the forums take place to those who could not attend the forums. When he speaks with Council he will be asking the same questions so that there will be consistent responses.

City Manager Borgmann stated that each forum will have a sign-in sheet so that the same people do not come to multiple meetings trying to push an agenda or point of view.

Mr. Busutil noted that people will sign up to attend one of the three forums and once they attend one forum they cannot attend another. This will allow a broad range of input.

To answer Councilman Espino's question, Mr. Busutil explained that the survey questions would be broad and open ended. The survey will have enough space to write the responses and there will be postage paid return envelopes, with a deadline to respond.

10. New Business:

10A) Resolution No. 2011-3525 – A Resolution of the City Council of the City of Miami Springs Authorizing the Placement of Six Foot Tall Painted or Decorated Fiberglass Eagle Statues in the Public and Private Right-of-Ways of the City; Endorsing the Exhibition of the Eagle Statues as a Local Charitable Activity for the Benefit of the Schools in the City; Conditioning the Placement and Exhibition of the Eagle Statues Upon the Issuance of Appropriate City Permits and the Execution of All Required Hold Harmless and Indemnification Documentation; Distribution of all Funds Received from the Auction of the Eagle Statues to be Made by the City Council; Effective Date

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

Attorney Seiden stated that the resolution was requested at the last meeting in regard to the presentation made by the advertising company. He was not informed of the number of eagles and that determination would be made as the project continues.

City Attorney Seiden explained that Section 2 authorizes the placement in private or public right-of-ways; Section 3 recognizes the City's endorsement as a public art program and a charity event for the benefit of the schools within the City; Section 4 specifically conditions the placement and the condition of the statues upon the issuance of appropriate permits and the execution of all required hold harmless and indemnification documentation. Most importantly, the City will be the entity who imposes the additional requirement that the distribution of all funds received from the auctions will go through the City Council.

Councilman Lob moved to adopt resolution No. 2011-3525. Councilman Espino seconded motion.

Vice Mayor Best asked about the revenue distribution and which schools would receive funding.

City Attorney Seiden responded that Council will have full discretion on the distribution of the funds based on the amount of funds raised.

The motion carried 4-1 on roll call vote with Councilwoman Ator absent at roll call.

10B) First Reading – Ordinance No. 1027-2011 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance 102-01, Re-Occupancy Certification, by Adding Thereto Provisions Offering an Additional “Informational Inspection” for Purchasers of Residential Properties Subject to Re-Occupancy Inspections; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date

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

Attorney Seiden stated that the intent of the ordinance is to provide a method and process by which purchasers have the option of attaining additional information regarding the code status of the subject properties. He referred to Section 4 (a) through (e) explaining that the additional inspection shall only be cursory in nature; shall identify only those violations that are readily observable during the visit to the property or an examination of the survey and shall not include any records examination or invasive property inspections. The process is informational only and shall not constitute any type of warranty or guaranty to the prospective purchaser of the property and the information is not intended to be a substitute for the prospective purchaser's due diligence inspections of the subject property.

City Attorney Seiden explained that the form will be submitted at the same time that the application for the re-occupancy certification is submitted.

Councilman Lob said that he heard concerns from local realtors that seem to be legitimate. He was told that the re-occupancy certification is done at the end of the process after all financial aspects of the sale are taken care of. He said that it might impose a burden if there are violations.

City Attorney Seiden mentioned that he is very familiar with the standard real estate contracts as they exist and most of the sales transactions are done "as is, with right of inspections". The contract authorizes the prospective purchaser to apply for financing and at the same time, there is normally ten to twenty days for the purchaser to inspect the property in its entirety. Recertification should be one of the very first steps in the process during the due diligence period. The purchaser would hire an inspection company and this normally happens within the window.

Councilman Espino said that an intelligent buyer should be getting inspections to evaluate the property, the same as a title company does. He does not understand why the City is participating in the process of home inspections. He realizes that it is limited to code violations, but a survey should indicate encroachments, and since the code has changed over the years, many of the old homes may have code violations. He is uncomfortable with the proposed ordinance and there are other provisions in place that achieve the same solution without making the City an active participant in a real estate transaction.

City Attorney Seiden explained that the title inspection inspects for title; an inspection company inspects the services of the unit. A surveyor would not see encroachments and there is a slight loophole in the middle of the inspection process. He admits that this process may be painful to real estate brokers because it may identify readily observable violations that are not otherwise noticed.

City Attorney Seiden said that the purpose of the legislation is to identify a problem that can be reasonably addressed and the ordinance provisions will help new citizens coming into the community that would not be available to them otherwise.

Councilman Espino commented that it might also hurt the seller of a home, especially because of how difficult it is to sell a home right now under the current market conditions.

City Attorney Seiden gave examples of violations that are readily observable. He explained that it does not include electric, water, roofing or any mechanical items. It is related to cursory inspections.

Councilman Espino asked if Code Compliance would be prohibited from enforcing the violations.

City Attorney Seiden stated that the framework of the ordinance provides that the City cannot gain information or make code cases by the use of the ordinance. The purpose of the ordinance is to protect the buyer and if there is a violation, they can approach the seller to correct the violation.

Councilman Lob asked what would be done with the information if the sale does not go through.

City Attorney Seiden clarified that nothing can be done with the information that is placed in the street file. The City is prohibited by the ordinance for prosecuting a violation based upon the cooperative system.

Councilman Espino stated that if a violation is found and reduced to a piece of paper the City is prohibited from citing it in the future.

City Attorney Seiden explained that if a Code Compliance Officer had never seen the file and was prepared to take that position, he or she would be able to proceed with the citation.

City Manager Borgmann gave an example of a homeowner who replaces windows in order to improve their property for potential sale and does not obtain a permit. He asked how that would apply to the process.

The City Attorney said that work that is done without a permit would be readily observable. He added that the inspection will be done on a case-by-case basis and the purpose is to solve problems, not for enforcement. He explained that the ordinance would not solve every problem that exists, but it could make the property sellers more cognizant of the potential problems and they might make some repairs or code corrections.

Councilwoman Ator commented that she attends most of the Code Enforcement meetings and people always say that a violation existed when they purchased the home. She is not an expert in reviewing plans or surveys and there was one case where the survey showed an obvious violation.

City Attorney Seiden referred to a case where there was an illegal structure and when the owner tried to obtain a permit to rebuild it she was told the structure was illegal. She did not know about the violation when she purchased the house or it would have been solved.

Councilman Lob asked if the re-occupancy certification allows an inspection inside and outside of the home.

Building and Zoning Office Supervisor Harold “Tex” Ziadie explained that a re-occupancy certification inspection involves going through the entire interior and exterior of the house looking for violations that reconfigured the property to multi-family. There is a slight hole in the ordinance because there might be code violations, not related to reconfiguration of the home, and the provisions in the ordinance do not allow Code Compliance to cite the violations.

City Attorney Seiden clarified that the person purchasing the property can “opt out” of the additional inspection and if they do, the information is placed in the street file.

Mr. Ziadie stated that he has been doing re-occupancy certifications for eight years and it is not that common to find other violations. Normally, the violations cannot be seen from outside the home.

Vice Mayor Best said that the City would be making an offer to conduct the inspection and a real estate broker supports the seller or the buyer. He felt that the proposed language in the ordinance would be beneficial and if it does not work it can be repealed.

Mr. Ziadie explained that outside real estate agents might not be aware of the re-occupancy inspection and they find out at the last minute before the closing on the property.

Councilman Lob said that modifying a single-family home to make it a rental property is readily visible and the real estate agent should tell the seller that they cannot sell the house in its current condition; this cannot be done in regard to obvious code violations.

To answer Councilman Lob’s question, Mr. Ziadie responded that the inspection would not take any additional time since the inspection can be done during the re-occupancy certification.

Councilman Espino said that he is not comfortable with the ordinance because it is governing to the specific, not the general. Many homes may not have this situation and the legislation is creating a mechanism.

City Attorney Seiden explained that the ordinance would protect those prospective purchasers of residential properties in the City and give them confidence that there are no code violations when they buy the house.

Councilman Lob asked if any other cities have the same ordinance provision.

City Attorney Seiden responded that he was not aware if any other cities had similar legislation.

Mayor Garcia asked the Administration to check with other cities before the second reading of the ordinance.

To answer Councilwoman Ator's question, City Attorney Seiden stated that only four or five other cities have provisions for the certificate of re-occupancy, including the City of North Miami, Hialeah, and one or two others down south. He clarified that it is beneficial for the City and it solves the problem of illegal rental structures.

Vice Mayor Best moved to approve Ordinance No. 1027-2011 on first reading. Councilwoman Ator seconded the motion, which carried 4-1 with Councilman Espino casting the dissenting vote.

Councilman Lob stated that if the ordinance passes on second reading he would like notice to be given to all the local realtors.

(Mayor Garcia called for a five-minute recess at 9:09 p.m.)

10C) 13 South Royal Poinciana Boulevard Property Redevelopment

City Manager Borgmann stated that the apartment building at 13 South Royal Poinciana Boulevard had been undergoing renovation for several years to enlarge the rooms and sell them as condos. As the economy declined, the renovation came to a standstill and only recently ramped up again. During the hiatus in construction the owners decided to leave the building as rental units.

In recent discussions with the owner's representatives, the City has been presented with a request and an offer that Council should know about and act upon, according to City Manager Borgmann. Staff believes the request to be reasonable and in the best interest of the City.

The City Manager referred to an aerial photograph showing a very large tree in front of the building and a small building towards the rear of the property that is owned by the City that is used for storage. The Ficus/Banyan tree has done serious damage to the surrounding infrastructure and the right-of-way that it inhabits is controlled by Miami-Dade County. The building owner has applied for a County permit to remove the tree and the City Staff has no objection to its removal. They are requesting to remove and rebuild the City's storage building to the west and they have offered to pave the alley that can be used for ingress and egress.

City Manager Borgmann said that with Council's direction, the City Attorney could draft the necessary legal documents that require a formal vote of approval.

Discussion ensued regarding a replacement tree.

By consensus, Council directed the City Attorney to draft the necessary legal documents.

10D) Recommendation that Council Award RFP # 05-10/11 to BB&T, the Lowest Responsible Proposer, for City Banking Services, Pursuant to Section 31.11 (E) (2) of the City Code

City Manager Borgmann stated that every year the City evaluates the best possible value for the banking services. The proposal was sent out and after the various banking groups made presentations it was determined that BB&T is the best proposal.

Finance Director Alonso stated that the City had not done a Request for Proposal (RFP) for banking services for awhile because Wachovia had always been the best deal. When Wachovia became Wells Fargo they began raising fees and charging for FDIC insurance.

Finance Director Alonso explained that four proposals were received and a committee was formed that reviewed the proposals. The committee determined that BB&T offered the best plan and the recommendation is to go with BB&T for the next three years with two optional one-year renewals.

Vice Mayor Best asked if the decision was based on the earnings credit of 0.85% versus 0.30% and Mr. Alonso responded affirmatively.

Councilman Lob commented that four banks submitted bids and there were only two evaluations.

Finance Director Alonso explained that the banking committee reviewed all four bids and selected the top two for presentations.

City Attorney Seiden informed Council of a new State law that does not allow public viewing of presentations. He explained that if Council were to select two or three companies to make presentations, the public is not allowed to attend. It would be the same as an Executive Session that is held in private, recorded and is subject to public records requests subsequent to the final decision making process.

Councilman Espino moved to award the RFP to BB&T for City Banking Services. Councilman Lob seconded the motion which carried 5-0 on roll call vote.

10E) Cell Tower Issue: Potential Sale of Leases and Construction of a New Tower

City Manager Borgmann stated that in January 2007, the City was approached by a company that offered a one-time, lump sum payment for the leases on the cellular tower. He provided information going back to that date showing the typical analysis that was undertaken in order to determine the future value of the leases and how many years, at various interest rates it would take to break even. On average, it was about a 10-15 year period before the City would lose revenue. However, with interest rates being at all-time lows, the period would be shortened considerably. Council rejected the concept at that time.

City Manager Borgmann explained that he was approached by two new groups regarding cellular towers. The first wants to enter into an agreement similar to the one in 2007 to purchase the leases. The second company wants to construct a new tower on the Golf Course and he wanted to see if there is any interest in either proposal. Staff recommended against the sale in 2007, on the basis of terminating a consistent revenue stream. This was prior to the economic down turn in 2008.

As far as a new tower is concerned, placing one on the Golf Course would create a 50/50 revenue split with the City of Miami, according to Mr. Borgmann. This is a provision that was put in the sale contract for the Golf Course in 1997, although this may not be applicable due to the amount of improvements that were put into the course.

City Attorney Seiden stated that it is based on a proportionate amount of space, as opposed to 273 acres and it is not as favorable.

City Manager Borgmann explained the reason why the 50/50 split was placed in the sale agreement. The City made it very clear to the City of Miami that the property would never be re-zoned for development.

Discussion ensued regarding stealth towers and what transpired in the past before the cellular tower was placed in the City.

City Attorney Seiden commented that the City was sued in federal court because the citizens did not want a tower anywhere in the City and the law required placement of at least one. The final locations for consideration at that time were City Hall, the tennis courts, or the current site in the yacht basin along the canal. He has not recently checked the law, but does not think it is a requirement for another tower. He added that there were many objections to the Golf Course area the last time.

Mayor Garcia stated that he would approve of giving direction to the Administration to gather more information.

By consensus, Council directed the Administration to keep the current tower leases and bring back additional information for a new siting.

11. Other Business:

11A) Maintenance of Property – Roof Cleaning Discussion (MS Code 93-13)

City Manager Borgmann stated that Code Compliance recently began a sweep of homes in regard to excessive mildew on roofs.

Building and Zoning Office Supervisor Harold “Tex” Ziadie presented a PowerPoint presentation regarding the maintenance of property code provision. He said that the August Gazette notified residents of the sweep. He presented examples of red clay roofs and white tile roofs that were clean, moderate and severely mildewed. He noted that no notices are being sent to homes with asphalt shingle roofs. He advised Council that 107 notices were sent out and ten to twelve have complied.

Vice Mayor Best stated that this is going to be a decision from Code Compliance in terms of if they feel a roof qualifies for a violation or not.

Mr. Ziadie explained how they would determine which homes would need to clean their roofs.

Councilman Espino commented that he is certainly in agreement with Code Enforcement. He advised Council that additional code enforcement had originally begun with commercial properties and that the sweeps should begin with commercial properties.

Mr. Ziadie announced that Code Compliance is doing both commercial and residential enforcement. He said that the initial sweeps on the commercial properties were focusing on maintenance of property and illegal window signs.

Councilman Espino asked how much time property owners have to meet the standards. Mr. Ziadie replied that they have thirty days from the initial citation and then if a second citation is given, they receive an additional thirty days to meet the standards.

Councilman Espino suggested including that language into the initial citation to further soften the approach.

Mayor Garcia asked how Code Compliance determines which sweeps to conduct.

Mr. Ziadie responded that generally the sweeps are based on the biggest issues in the City.

Councilman Lob expressed his concern with the possible situations that could occur during the process of cleaning the roofs.

Vice Mayor Best commented that where the mildew is existent, it is a safety hazard as well as a health hazard.

City Attorney Seiden asked Council to give clear direction to the Administration in regard to this item and how it should be handled.

Councilman Espino stated that he would like to see the establishment of a threshold that Code Compliance can explain to the residents. He personally would like to see enforcement continue and that residents are advised of the time in which they have to comply, and that they can be given an extension to the customary 30-days.

City Attorney Seiden advised Council that establishing a threshold is a difficult task, unless there is a picture that can be published. He noted that it should be left up to judgment of the department because it is their job.

Councilman Espino explained that if someone is noticed they might disagree with the citation. For purposes of education, the residents could be told that it is about maintenance of property and a property value issue and that they have a certain time to comply.

City Attorney Seiden said that he did not have a problem with the timeline. Council can direct the Administration, through Tex Ziadie, to establish a standard as part of his professional evaluation of the condition of roofs.

Councilwoman Ator stated that Mr. Ziadie could put together a similar slide show and place it on the City website so that the residents can see color photographs of roofs that constitute a violation. She felt that the pictures would help educate the residents and perhaps Mr. Ziadie could come back with a series of pictures at the next Council meeting. The information could be on the home page of the website, in the River Cities Gazette every week for a month and this would be a way to resolve the notice to the residents.

Councilwoman Ator moved to have Tex Ziadie present a slideshow with a series of pictures to install on the website showing the standards for roofs that need cleaning. Councilman Lob seconded the motion.

Councilwoman Ator added that there could be examples of clean roofs, slightly mildewed roofs that will not be cited and very bad roofs with a lot of mildew. There should be more education on the bad roofs.

Mayor Garcia asked not to use photographs of actual residential homes and Mr. Ziadie replied that he can crop the image to where it is only the roof being shown in the picture.

Vice Mayor Best suggested that using language such as “reasonable or excessive build-up” would solve the problem.

Councilman Espino explained that he wants the residents to understand what Code Compliance is looking for as opposed to simply saying “mildew on a roof.” Pictures on the website would be fine.

Assistant City Manager Gorland stated that pictures would be brought back to the next meeting.

The motion carried 5-0 on roll call vote.

11B) Discussion of Background Checks for Individuals Working with the Sports and Cultural Programs in Miami Springs (Requested by Mayor Garcia)

Nery Owens of 332 Payne Drive advised Council that the last sweep of roofs was in 2004, when she was cited for a dirty roof. She hired a local fireman to clean the roof and the water pressure was so high that the roof developed a lot of roof leaks and she has since replaced the roof.

Ms. Owens believes that background checks are needed for any person dealing with children, and there might be a Florida Law that requires fingerprinting. She stated that the Optimist classes and background checks should be taught by the Community Policing Department. She recommended that the landscape around the Pine trees on the blocks of Chippewa and Apache should be maintained so that there is a clear vision of the area. She urged that the Community Policing Department should be involved in the process in order to save funds.

Councilman Lob stated that the issue comes up every few years. The Optimist Club has a league rule for training the coaches and volunteers that work with kids. He added that the soccer league does a background check for everyone involved in the program; it is mandatory and football has the same requirement. There are different requirements for different sports and the training must be done by the organizations that run the league. The coaches and assistant coaches, as well as the parents, must go through a background check.

City Manager Borgmann explained that Councilman Lob had asked what had been the outcome of the discussions regarding this issue in the past. The only thing he can remember was that the Optimist Club was falling behind a little and the question was raised of whether the City should take over football and the idea of a Police Athletic League was discussed, but it never gained any traction. There was some resistance to the City's request for a list of the approved people.

Mayor Garcia said that there is a minor issue because the City does not have a list of those people who were approved after going through the background check. He said that the list should be a requirement because the parks belong to the City. He asked if any Council member had an issue with every youth league supplying a list of all the approved volunteers.

City Attorney Seiden stated that the threshold question is who runs the program and he has always been told that either the Optimist Club or the Little League organizations run the programs and use the City facilities. He agreed that everyone should be fingerprinted.

City Attorney Seiden explained that the step that must be part of the process is to ensure that what each organization does meets the standards that are imposed upon the City by the State of Florida.

Mayor Garcia explained that there is a general consensus of Council that each organization should provide the City with a list of approved volunteers. There are set standards imposed by the State of Florida and there should be confirmation that the organizations are following the proper standards.

Councilman Lob said that in the past, all Optimist leagues had requirements that were more stringent than what is required by the State or the County, although they did not require fingerprinting.

Mayor Garcia emphasized that it does not matter what organization is sponsoring a sport; there must be a policy in place to require a list before the season begins.

City Attorney Seiden added that everyone on the approved list must be given a visible identification badge that they must wear when they are on the field.

Mayor Garcia stated that he would like to know all the requirements and for the Administration to prepare a report for Council showing the City's requirements for background checks and fingerprinting compared to the various sports organizations' requirements for the same.

Vice Mayor Best commented that the requirements should be standardized for all leagues and it would be an asset for the Community Policing Department to be involved.

Councilman Lob reiterated that each league has their own standards and the last time this was addressed their requirements were more stringent than what was required by the City. He does not feel that it should be a requirement to go through the City's Police Department.

Vice Mayor Best stated that the Community Policing Department could assist in the formation of a standard.

Mayor Garcia would like to place a matter for discussion on the next agenda in regard to City agreements with the baseball, football and soccer programs, the same as the Pelican Playhouse, the Tennis Professional, Jazzercise, etc. He asked if there was a consensus to support his request.

Assistant City Manager Gorland stated that the Administration had been working with the City Attorney on an agreement. He said that there was communication he received a few weeks ago.

City Attorney Seiden stated that there are rules and regulations for the parks and recreation facilities and this same approach could be used for the various sports leagues that could be combined and attached to a formatted agreement. In addition to the formatted agreement, within the agreement itself, there could be language outlining the usage of the fields and facilities and what is expected of the program when using City facilities. The only difference is that there would be no monetary component.

Mayor Garcia emphasized that the City spends funds for field maintenance and the referees, and this is not specified in an agreement. He would like to continue doing this and would like it outlined in an agreement, along with the rules and regulations.

City Attorney Seiden explained that the Recreation Director had advised him of problems that had come up in regard to not receiving advance notice of changes or activities. This would all be specified in an agreement and brought to Council for final approval, the same as any contract.

12. Reports & Recommendations:

12A) City Attorney

None.

12B) City Manager

Brain Walk

City Manager Borgmann reported that the Pilot Club would hold a “Brain Walk” on Saturday, October 1st to promote awareness of Alzheimer’s.

Pumpkin Patch

City Manager Borgmann announced that the Harvest Fest Pumpkin Patch will begin setting up on October 1st and the event will begin on October 13th.

Cancer Walk

City Manager Borgmann stated that on Saturday, October 8th, the Cancer Walk would be held from 7:00 to 11:00 a.m.

Karaoke Kids Competition

City Manager Borgmann reported that the Karaoke Kids competition will be held in the Gazebo at the Circle on Saturday, October 8th from 12:00 to 3:00 p.m.

Car Show

City Manager Borgmann announced the City will sponsor a Car Show on Saturday, October 8th from 6:00 to 10:00 p.m.

Green Market

City Manager Borgmann received notification from the Chamber of Commerce that they are planning to hold the Green Market on Saturday, November 5th, the weekend of November 12th and 13th and on Saturday November 19th.

Veteran's Day

City Manager Borgmann stated that Friday, November 11th is Veteran's Day and although the City has not recognized this day in the past, the Administration would like to plan an event to celebrate the day in recognition and appreciation of the country's veterans. He asked Council to let him know of any ideas they might have for a program.

City Auditors

City Manager Borgmann reported that the City's auditors have begun the annual audit process.

Sea Grape Tree

City Manager Borgmann advised Council that the sea grape tree in front of the library had been removed.

Pelican Playhouse

City Manager Borgmann said that the Pelican Playhouse production of the "The Fantastiks" was very good, although he did not have an opportunity to see it.

Elevator Repair

City Manager Borgmann announced that the City Hall elevator repair is not scheduled to begin until late October after the materials are received and all meetings can be held at City Hall during the month of October. The Council meetings in November and December will have to be held at the Community Center depending on the speed of the repairs and the Advisory Boards will be asked not to schedule meetings unless they have pressing business.

Police Dog

City Manager Borgmann was informed by Chief of Police Baan that the Police Department has a new police dog in training.

12C) City Council

Pelican Playhouse

Councilwoman Ator saw the Pelican Playhouse production of “The Fantastiks” and it was fantastic. She congratulated the Pelican Players and is looking forward to the next musical.

All Angels Bingo Night

Councilwoman Ator announced that All Angels Church held a Bingo Night that was a huge success. They are planning to hold the event on the second Saturday of every month at the Church.

Pool Parties

Councilwoman Ator had attended four parties at the City’s swimming pool in the last month, including her son’s. She said that the pool is getting a lot of business from her son’s friends and the lifeguards are doing a great job.

Softball Opening Day

Councilwoman Ator announced that she threw the opening pitch at the Softball Opening Day on Saturday, September 24th. She explained that the game schedule is being formulated and the next home game will not be until November due to limited field space.

Vice Mayor Best moved to extend the meeting to 11:15 p.m. Councilman Lob seconded the motion, which carried 4-1 on voice vote with Councilwoman Ator casting the dissenting vote.

Radio Show

Councilwoman Ator spoke on Raquel Regalado’s radio show about Miami Springs and the Circle events. The show is on everyday at 3:00 p.m.

Optimist Club

Councilwoman Ator was told that the Optimist Club will serve hot dogs at the City Halloween event.

Veteran's Day

Councilwoman Ator stated that she put the City in contact with the Daughter's of the American Revolution and the Optimist Club in regard to the Veteran's Day ceremony.

Relay for Life

Councilwoman Ator reported that the Cancer Relay for Life will hold a 5-K walk on Saturday, October 8th.

Rosh Hashanah

Councilwoman Ator said that Rosh Hashanah is coming up and she wished those of the Jewish faith Happy New Year.

Relay for Life

Councilman Espino reported that the Relay for Life kick-off was held on Tuesday, September 20th at the Miami Springs Golf and Country Club that was very well attended. He is honored to be the Honorary Chair of the event this year and was able to secure confirmation from Medley Mayor Rodriguez of their involvement. The 5-K walk/run will be held on Saturday, October 8th at the Circle and the "Bark for Life" event is scheduled for Saturday, October 22nd at the Dog Park.

Chief Financial Officer Jeff Atwater

Councilman Espino had the opportunity of hosting State of Florida Chief Financial Officer Jeff Atwater and they visited many economic groups in Miami-Dade County. He received a lot of good information and is looking forward to involving his office in the push for economic development. He said that if Council has any ideas to let him know because Mr. Atwater is planning to visit again and he will try to facilitate a meeting.

Lighting at the Gazebo

Vice Mayor Best thanked the Administration for addressing the lighting issue at the Gazebo and also for the signage.

Senior Report

Vice Mayor Best had the opportunity to speak at the Senior Center last week to a full house which he loves to do. The seniors had a lot of questions and Karen Rosson runs a wonderful program.

Pelican Playhouse

Vice Mayor Best thanked everyone who attended the Pelican Playhouse production of “the Fantastiks”. He said that it was the first musical and it was more difficult than a dramatic production because of the singing, dancing and musicians. He gave credit to Director Ralph Wakefield and the cast.

Pelican Playhouse

Councilman Lob unfortunately could not attend the Pelican Playhouse production and he heard many good comments about it.

Event List

Mayor Garcia advised the City Manager that he likes the event list that he sent to Council as it is very helpful.

City Website

Mayor Garcia distributed a report showing the number of visits to the City Website and the content performance for the “Rec Buzz”. The report indicates that only 246 people viewed the content during a one-month period.

City Manager Borgmann will forward Council an explanation from the Information Technology Department of the various definitions in the report.

Mayor Garcia said that the report shows that there needs to be an improvement in the attempt to promote the City’s website.

City Manager Borgmann explained that the majority of visits to the website appear to be people looking for employment.

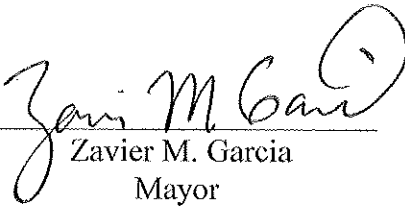
Mayor Garcia added that most of the website use is the City staff checking their internal e-mails and it is important to promote City events.

Annual Budget

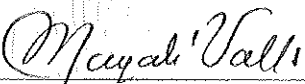
Mayor Garcia congratulated Staff for the wonderful job they did in preparing the Fiscal Year 2011-2012 Annual Budget.

13. Adjourn.

There being no further business to be discussed the meeting was adjourned at 11:11 p.m.


Zavier M. Garcia
Mayor

ATTEST:


Magali Valls, CMC
City Clerk



Approved during meeting of: 10-10-2011.

Transcription assistance provided by Suzanne S. Hitaffer and Elora R. Sakal.