



City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, December 10, 2012, 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 Zavier M. Garcia
- Vice Mayor Jennifer Ator
- Councilwoman Grace Bain
- Councilman Bob Best
- Councilman George Lob

Also Present:

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

2. Invocation: Councilman Lob offered the invocation.

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

Mayor Garcia presented baseball caps to the students who participated.

3. Awards & Presentations:

3A) Yard of the Month Award – December 2012 – Clifford and Merilynn Kleinhample – 190 Shadow Way

Mayor Garcia presented a Certificate of Sincere Appreciation to Clifford and Merilynn Kleinhample and thanked them for keeping Miami Springs beautiful.

3B) Certificate of Sincere Appreciation to Gene Duffy as a Former Member of the Police and Firefighters Retirement System Board

In the absence of former Police Chief Gene Duffy, Mayor Garcia recognized him as a former member of the Police and Firefighters' Retirement System board who served for twenty-six years.

3C) Presentation by Bryan Reardon of Energy Systems Group

City Manager Ronald K. Gorland read the memo as follows:

"A few months ago, the City was approached by Mr. Bryan Reardon of Energy Systems Group (ESG) regarding the performance of a feasibility study to determine if they could recommend a project that would save the City money in energy and operating costs.

ESG completed the feasibility study and they determined that the savings would be approximately \$125,000 per year and that this amount was more than enough to fund the cost of the project.

Mr. Reardon is here tonight to provide Council with some background on how the project would work, funding sources, continued monitoring of results after project completion, and to answer any questions you may have."

City Manager Gorland stated that the reason this is being brought to Council is to receive permission to enter into the first phase of this particular arrangement.

Bryan Reardon of Energy Systems Group presented a PowerPoint presentation to Council and the Administration. He explained that ESG is one of the State term contracted energy services companies that work with governmental entities to help identify self funding projects where they use energy savings to help pay for the cost of the work over a period of time.

Mr. Reardon stated that many Florida municipalities are familiar with certain challenges such as aging facilities and infrastructures, declining tax and revenue base and the demand for greater services with fewer resources. ESG looks to provide creative and integrated solutions where they can create a partnership with their customers and analyze their consumption of resources, primarily utility and operating expenses, to identify opportunities where improving those facilities infrastructures will result in measurable reductions in the cost of energy use and the cost of the operations and maintenance of that equipment.

Mr. Reardon said that this project will monetize those savings to pay for the cost of the upgrades upfront so that they are not coming from the City's budget. By doing this, ESG will look across the board between the City's supply and utilization and taking that information and developing projects and programs that can be implemented to achieve the goals of the City.

Mr. Reardon commented that the process that this project is done through is known as performance contracting or energy performance contracting. It is encouraged under Florida Statute §489.145 and it typically finds opportunities of energy and operational savings and a correlating reduction in carbon and other emissions between 20%-40% of the systems.

There is no upfront cost to the customer for doing these projects and the work is funded through a tax exempt financing mechanism that is tied to the statute.

Mr. Reardon stated that the cost of the financing is paid off over time out of the savings that is derived from the project. One of the benefits of this program is an in-company Energy Systems Group. ESG is an engineering firm and a contract construction management firm. When they come into a community and do a project, they work with staff to subcontract the labor and the installation work for the project with local companies and contractors in the area.

Mr. Reardon said that the savings associated with the work is used to pay off the cost of the work that is guaranteed by ESG and they would provide a third party guaranteed bond. After the work is implemented, there is a repayment period where the cost of operations and electricity has been reduced. Some of the reductions will be used to pay off the cost of the work through the tax exempt financing. By statute, the cash flow has to be at least minimally cash flow positive on an annual basis.

Mr. Reardon commented that once the work has been paid off, the entire savings are retained by the City moving forward. Some of the conservation measures that are included in these types of projects include facility upgrades, LED traffic and street lighting, water infrastructure, renewable energy, landfill natural gas applications, alternative fuel vehicles and energy star and LEED certifications.

Mr. Reardon stated that from his visits and compiling research, he has been able to record what the annual savings would be for certain projects such as LED street lighting, Community Center lighting retrofit and new air conditioners for the Golf Course, Senior Center and City Hall.

Mr. Reardon explained that ESG has been in business for 18 years. In that time, ESG has done almost \$1.5 billion in these projects with customers across the country and approximately \$110MM in Florida alone. ESG is accredited in the National Association of Energy Services Companies (NAESCO) and is licensed in 29 states, the Virgin Islands and Puerto Rico. ESG has numerous awards for projects performed in the past.

Mr. Reardon said that the next step in this development process would be entering into an investment grade audit agreement. Data that has been gathered will be used to create full design documents for all of the projects being recommended. Detailed building modeling and engineering calculations would become the scope of work and the source of the guarantee for the ultimate project to validate the savings that were estimated which is done under the nature that there should be no up front cost for the project.

Mr. Reardon stated that if at the end of the study, it is realized that economically it did not work the way it was intended to, the City would not owe anything to ESG for the efforts. If the project that is created is feasible and for some reason a fair project is not negotiable, ESG requests that their costs be reimbursed for the study. He commented that the fixed cost is estimated to be approximately \$10,000. If the City decides that they do not want to enter into the contract or to implement the work for reasons beyond the merits of the project itself, the City would not owe ESG anything for their efforts.

Mayor Garcia asked how this proposal is different from other proposals the City has received in the past and City Manager Gorland replied that he liked the proposal, the work was checked and the company has good references. There were some general discussions that stood out from this company that did not stand out from others.

City Manager Gorland commented that something unique that ESG brought to him was the replacement of the HVAC System and the cooling system within City Hall. City Hall is a 60 year old building and there is no way of cleaning out the ducts other than replacing them. There have been many employee complaints from what has been coming out of the duct work. What ESG is offering is a different type of cooling system that will run through the duct work but will not occupy a lot of space inside of the duct work.

Mr. Reardon clarified that the system that is being recommended is a new system that has smaller air handler units that can be placed wherever they need to be. The refrigerant is a compressed refrigerant so it is able to go through tubing that is very small as opposed to the water pipes that are carrying the chilled water. Compressed tubes are much easier to find pathways to run through existing buildings.

Mr. Reardon said that \$960,000 is the bulk cost of the project. The savings from items such as the street lighting and the other work is what helps to pay off the higher cost in doing the HVAC System for City Hall. By bundling the quick payback items such as the street lighting and the lighting at the Community Center, it helps to offset the longer upfront cost of a heavier capital project.

Mr. Reardon commented that the costs are estimates at this point. ESG will go through the investment grade audit and the details of the design and then go through the subcontract and bidding process in order to obtain competitive bids on the equipment, as well as the local installers to work with. Another step is identifying major equipment and allowing the City to direct purchase the equipment in order to save the sales tax and be able to compress the cost of the project.

Mr. Reardon stated that these projects are typically an open book pricing model where the City will see the cost of the equipment and the cost of the sub-contractor labor and appropriate fees would be negotiated for the project management and for the overhead in profits for doing the work. These projects are typically selected through a review of qualifications of companies.

Councilwoman Bain asked how long it would take to see the savings and Mr. Reardon replied that the savings will be generated immediately as the new equipment is being installed.

Mr. Reardon explained that ESG would work with lenders in order to come back with approximately three financing packages for the City to evaluate the terms of the agreement. The cost of the funds when the projects start will be placed in an escrow account that the City would control and ESG would be paid out of those funds rather than from the City budget. Once the project has been completed and signed off and the City is generating those savings, the repayment period begins so that the City is making the repayments out of the savings.

Mr. Reardon continued by stating that once a year, ESG is required to provide the City a savings report that tracks the City's utility bills. ESG will then provide a report showing the baseline that is established and the investment grade audit that will show what was being spent before and after the project. If the City is not saving as much, or is not saving more than what was guaranteed, then the report will be submitted with a check for the difference.

City Manager Gorland mentioned that ESG's guarantee was very different and he asked Mr. Reardon to expand his comments on the guarantee that goes with this agreement regarding the repayment.

Mr. Reardon commented that after ESG creates the design and the study, they will know what the savings are and an annualized cash flow is put together over the term of the agreement and they will work to make sure that they are matching the payment stream with the saving stream. The City will always be saving a little more than what the payment is. The engineering study, as mentioned before, is based off of the guidelines and requirements of International Protocol for Measurement and Verification (IPMVP). A third party independent software program called Energy Cap is used for doing the calculations of the savings and tracking them.

Mr. Reardon said that the report is very transparent in terms of how it is calculated and independently verifiable. If there is a shortfall in the savings, ESG would write the City a check and then engineers would do a recommissioning of the system and determine why it is not performing the way it should be.

To answer Councilman Lob's question, Mr. Reardon responded that the costs do include the maintenance costs of the equipment.

Discussion ensued regarding the warranty for the project materials and the possibilities of bidding out extended warranties and maintenance agreements.

Mr. Reardon clarified that the City is looking at a thirteen-year payback. A couple of the items such as the HVAC System for the Golf Course and the Senior Center have some of the longer paybacks and the City would be able to remove the longer paybacks to get to a shorter payback. When the process of the full design and full pricing begins, the City along with ESG can pick which items will work to give the City the best overall cash flow for the project.

Vice Mayor Ator was under the impression that the walkway lights were being replaced with more energy efficient light bulbs and City Manager Gorland said that the idea was to change the light bulbs, especially because the old technology is limited and hard to find in some cases.

Mr. Reardon explained that existing structures usually have a T12 fluorescent fixture that would have a 42 watt lamp and corresponding ballast. As the lamp and ballast fail, they are typically replaced with a T8 fixture that has an electronic ballast instead of a magnetic ballast. T8 fixtures historically have been 32 watts which is a savings of approximately 8-10 watts per lamp. The 32 watt lamp is now considered a "moderately efficient" fixture. ESG would ensure that everything is consistent and up to date.

Vice Mayor Ator would be interested in seeing a financial picture before any major steps are taken because the City has other debts that need to be recognized.

Vice Mayor Ator asked if the air conditioner for the Senior Center that is in the capital expenditures would be removed if this proposal was accepted and City Manager Gorland replied in agreement.

Mr. Reardon said that the options would be to use the capital dollars that have been appropriated for the air conditioner and remove it from the recommendations from ESG or leave it in the ESG project and have it funded through them and re-appropriate those capital dollars towards other needs that the City may have.

Assistant City Manager/Finance Director William Alonso stated that the budget will not be affected because the costs will be offset by the amount of savings. ESG is guaranteeing that the City will save approximately \$129,000 a year to cover the debt service.

Vice Mayor Ator expressed her concern on the current debt that the City has and if the City should continue to raise the amount by accepting this proposal.

Mr. Alonso explained that the City has a little over \$4.5MM in outstanding debt between the Golf Course and the Community Center. The City's outstanding debt is very low compared to other municipalities. What the City looks at is the annual debt service. The City is currently paying a little over \$500,000 in debt service a year. With this project, the debt service is being guaranteed by the savings.

Mr. Reardon commented that the financing agreement that is built on this project is tied very closely to the statute and the agreement is set up to not constitute statutory debt for the City. It is set up as a tax exempt lease purchase agreement as opposed to statutory or long term debt.

Vice Mayor Ator said that she would like to get more information before moving forward with this project.

City Attorney Seiden stated that he took a lot of time going over the initial agreement and what Mr. Reardon has said is accurate. If Council allows ESG to move forward at a risk of \$10,000 then they would generate plans to substantiate what they have. If they are not able to do that then the project will not occur and no fee is owed. The theory of this type of arrangement is that the City does not spend any more than they are spending now.

City Attorney Seiden clarified the steps involved in the ESG project.

Mayor Garcia commented that the savings that the City is considering is a significant amount. He believes that \$10,000 is not a lot of money when the savings are taken into consideration.

To answer Mayor Garcia's question, Mr. Alonso said that the City is not in financial distress. He said that to be conservative, reserves need to be looked at to ensure that the City does not reach financial distress. Over the next year or so, the City needs to address the reserves and attempt to build them up again.

Mayor Garcia stated that one of the ways that the City is conscious about the reserves is by looking at ways of improving the equipment and the infrastructure that may be antiquated such as the air conditioning in City Hall. His preference is for the City to plan for the future and consider this proposal.

Mayor Garcia asked Mr. Alonso what is the amount of the discretionary reserves and Mr. Alonso replied that, as of last month, the reserves were approximately \$900,000.

Vice Mayor Ator would like to see the agreement and questioned why it was not given to Council to review.

City Attorney Seiden explained that if the agreement is not in the packet it can be placed on a future agenda for revision. He said that Staff had reviewed it and he negotiated it with Mr. Reardon in anticipation of Council's review and as far as he is concerned, it is already in final format. ESG has made the changes that he requested and they have been very cooperative in that regard. This proposal is solely to get the process started. If the City does move forward with this project and ESG designs a system and Council decides to move forward with the agreement to do the work, the \$10,000 also gets added into that agreement.

Councilman Best thanked Mr. Reardon for his presentation. He feels that it is Council's responsibility to look after the infrastructure, safety, public safety and everything for the public good. He acknowledged the Vice Mayor's opinion regarding the budget. His one concern is that this could be a thirteen-year longevity situation for the City.

To answer Councilman Best's question, Mr. Reardon stated that the guarantee is matched against the equipment that ESG installs performing against the current conditions before they begin. ESG would evaluate new technology based off of the economics that if the additional reduction that is available would justify changing out a piece of equipment that is only into a third of its life cycle. If the cost does not justify the savings then the City would wait until it gets to the point that makes economic sense to upgrade.

Councilman Lob asked what the timetable would be for the project if Council decided to move forward and Mr. Reardon replied that given the size and scope of the initial study, he would anticipate that it would take somewhere in the range of 90 days to finish the study.

City Attorney Seiden explained that after the study, a Request for Proposal (RFP) would need to be done for providers and then ESG would have to obtain available financing that the City would have to agree to which would take approximately 60 days. In total the project would take approximately six months.

Mr. Reardon commented that six to eight months is a good estimate. From a construction standpoint, assuming this type of project, it would be a construction period of approximately six months.

To answer City Attorney Seiden's question, Mr. Reardon said that ESG works as the Construction Manager.

Councilman Lob asked how close ESG has come to their estimates in the last few projects they have done and Mr. Reardon responded that as a general rule on average, the savings estimates exceed in the range of 5%-10%. In terms of moving from the cost estimate at a feasibility study to the time of a final pricing number, it is a little harder to say, but in terms of averages they are close.

Councilman Best moved that Council appropriate \$10,000 to ESG for a pioneer study on the infrastructure items for energy savings. The motion died for lack of a second.

City Attorney Seiden suggested that it may be more appropriate to state the motion to say that authorization is given to the City Manager to execute the Independent Grade Energy Audit agreement between Energy Services Group, LLC and the City of Miami Springs.

Councilman Lob commented that given the timetable that the City has for this project, he believes that it can wait so that the entire Council can look at the contract and can feel comfortable.

Councilman Best moved to direct the City Administration to place the agreement for consideration on the next meeting agenda of the City Council. Councilman Lob seconded the motion which was carried 5-0 on roll call vote.

4. Open Forum:

Vice Mayor Ator stated that Todd Stiff of 1255 Dove Avenue had to leave and could not stay to speak on open forum. She said that the reason he wanted to speak was because he strongly opposed the shingle roof ordinance.

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

5A) 11-19-2012 – Regular Meeting

Minutes of the November 19, 2012 Regular Meeting were approved as written.

Councilman Best moved to approve. Councilman Lob seconded the motion which was carried unanimously on roll call vote.

5B) 11-26-2012 – Special Meeting

Minutes of the November 26, 2012 Special Meeting were approved as written.

Councilman Best moved to approve. Councilman Lob seconded the motion which was carried unanimously on roll call vote.

5C) 11-28-2012 – Special Meeting

Minutes of the November 28, 2012 Special Meeting were approved as written.

Councilman Best moved to approve. Councilman Lob seconded the motion which was carried unanimously on roll call vote.

6. Reports from Boards & Commissions:

6A) 11-19-2012 – Revitalization and Redevelopment Ad-Hoc Committee – Cancellation Notice

Cancellation Notice of the November 19, 2012 Revitalization and Redevelopment Ad-Hoc Committee Meeting was received for information.

Councilman Lob commented that the last time the Revitalization and Redevelopment Ad-Hoc Committee met they discussed the lighting for Downtown. Council received an e-mail from Chairman Laz Martinez proposing that Council look into the cost of continuing the new lighting and possibly selling the old lights.

City Manager Gorland suggested that the Revitalization and Redevelopment Ad-Hoc Committee members could do the research the same as the Golf Committee did in the past for the new greens.

Mayor Garcia asked if Council was in favor of giving direction to the Committee to consider the recommendation of Chairman Martinez and work with Staff to look into the cost of new lighting and selling the old lights to mitigate the cost.

Councilman Lob reiterated that the specially designed lighting was very expensive and the e-mail from the Committee Chair suggests that Staff could check the cost of the new Downtown lights that were installed and determine if the old lights could be sold.

Mayor Garcia clarified that the direction from Council is for the Revitalization and Redevelopment Ad-Hoc Committee to work with Staff on the lighting for Downtown.

City Attorney Jan K. Seiden understood that the direction to the Revitalization and Redevelopment Ad-Hoc Committee is to work with Staff in developing the pricing for the new lighting that was installed on Canal Street and continue that lighting to replace the old lighting, and to determine if the old lighting could be sold. He said that the Committee should receive direction as to how much of the area is being considered or how to define Downtown.

City Manager Gorland thought that the e-mail defined the area as Westward Drive into the business area and the Mayor agreed that the area extends down Westward Drive.

City Attorney Seiden said that the Revitalization and Redevelopment Ad-Hoc Committee is an advisory board of the City and they must conduct research individually; they cannot work together unless it is at a properly called meeting. The Chairman can request that a volunteer make the inquiries or the Committee can request that certain people come to the meeting so that all questions will be asked at the meeting, which in his opinion would be preferable. The Committee members cannot violate the Sunshine Law and two members cannot visit a company to make inquiries.

Mayor Garcia suggested and Council agreed that the defined area should be the Circle area, Westward Drive to Esplanade, and Curtiss Parkway north of the Circle.

City Attorney Seiden added that the Committee would investigate to see if the old lights could be sold.

Councilman Lob suggested that Planning and Zoning Director Holland could offer his input and the City Attorney added that the Purchasing Department could also provide information on the cost of the lighting and the contractor that provided the materials.

Mayor Garcia appreciated the recommendation of Chairman Martinez because that is part of the duties of the advisory boards.

By consensus, Council directed the Revitalization and Redevelopment Ad-Hoc Committee to do the research on the lighting project and work with Staff to determine the feasibility of the project and bring back their recommendations to Council.

6B) 12-03-2012 – Zoning and Planning Board – Cancellation Notice

Cancellation Notice of the December 3, 2012 Zoning and Planning Board meeting was received for information without comment.

6C) 12-03-2012 – Board of Adjustment – Cancellation Notice

Cancellation Notice of the December 3, 2012 Board of Adjustment meeting was received for information without comment.

6D) 12-04-2012 – Code Enforcement Board – Cancellation Notice

Cancellation Notice of the December 4, 2012 Code Enforcement Board meeting was received for information without comment.

6E) 12-05-2012 – Architectural Review Board – Cancellation Notice

Cancellation Notice of the December 5, 2012 Architectural Review Board meeting was received for information without comment.

6F) 12-11-2012 – Recreation Commission – Cancellation Notice

Cancellation Notice of the December 11, 2012 Recreation Commission meeting was received for information without comment.

6G) 12-13-2012 – Board of Parks and Parkways – Cancellation Notice

Cancellation Notice of the December 13, 2012 Board of Parks and Parkways meeting was received for information without comment.

7. Public Hearings:

7A) "Second" Second Reading - Ordinance No. 1040-2012 - An Ordinance of the City Council of the City of Miami Springs, Florida Updating the Five-Year Schedule of Capital Improvements of the City's Comprehensive Plan as Mandated by Florida Statutes Sections 163.3177 (3) (b); Providing a Conflicts Clause and Severability Clause; Providing an Effective Date (First Reading: 10-22-2012 - Second Reading: 11-19-2012 - Advertised: 11-29-2012)

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

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

Councilman Best moved to adopt the ordinance on second reading. Councilwoman Bain seconded the motion.

Vice Mayor Ator said that when this item was previously discussed she commented that she did not feel that the items that were included in A, which is crossed out now, were things that were actually in the budget. She is confused and somewhat disappointed in how this played out.

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

7B) Second Reading - Ordinance No. 1043-2012- An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-010, Roof Materials, Requirements, and Re-roofs; By Deleting All References to the Two Year Sunset Provision Thereby Including Asphalt Shingles as an Approved Roofing Material for the City; Striking Subsection (H) of the Ordinance as Being Inappropriate and Outdated; Repealing All Ordinances or Parts of Ordinances in Conflict; Providing An Effective Date (First Reading: 11-19-2012; Advertised: 11-29-2012)

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

Mayor Garcia opened the public hearing to those persons wishing to speak.

Nery Owens of 332 Payne Drive stated that she does not like shingle roofs.

Vice Mayor Ator commented that she has had multiple people approach her because they oppose this ordinance. She understands the arguments that were made regarding the fact that this would provide people financial relief who cannot afford to reroof their homes but this provision provides for reroofs and it also provides for new roofs. She generally opposes this ordinance and had suggested adding an additional sunset provision. Tile roofs rather than shingle roofs change the value of the neighborhood.

Councilman Best stated that he has also spoken to many people regarding this item. In his opinion, it is an intrusion on the privacy of an individual to decide how they want to build their home. He believes that mandating this is wrong and he welcomes the legislation as written.

Councilman Best moved to adopt the ordinance on second reading. Councilwoman Bain seconded the motion.

Mayor Garcia said that he also spoke with many people. The majority of those that were against shingle roofs were open to the fact that the City is giving people the option to do so. When he showed the numbers of the amount of shingle roofs versus tile roofs that were installed during the sunset provision, there were more people that chose to install the tile roofs than the shingle roofs. He enjoys having the option where people can choose which roof they can afford.

Councilman Lob commented that he recently replaced his roof and chose tile because he could afford it. There are people who cannot afford tile roofs. If the State says that shingle roofs are safe he does not see why the City has to stand in the way.

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

7C) Second Reading – Ordinance No. 1044-2012 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-002, Definitions; by Clarifying and Updating the Definitions of Rear Yard [Subsection (C) (79)], and Side Yard [Subsection (C) (80)]; Repealing All Ordinances or Parts of Ordinances in Conflict; Providing an Effective Date (First Reading: 11-19-2012; Advertised: 11-29-2012)

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

Attorney Seiden stated that there have been no changes since the first reading. It is simply a clarification of these provisions that has come to Administration's attention since they were reviewing the issues regarding the mechanical equipment.

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

Councilman Best moved to adopt the ordinance on second reading. Councilwoman Bain seconded the motion, which was carried 5-0 on roll call vote.

7D) Second Reading – Ordinance No. 1045-2012 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-164, Northwest 36th Street; By Removing Any and All References to the Required Participation of the City Architectural Review Board in the Design Review Process Mandated by the Ordinance; Repealing All Ordinances or Parts of Ordinances in Conflict; Providing an Effective Date (First Reading: 11-19-2012; Advertised: 11-29-2012)

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

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

Councilwoman Bain moved to adopt the ordinance on second reading. Councilman Lob seconded the motion.

Vice Mayor Ator commented that she suggested this item in order to keep the code together but opposed the general theory behind it. The Architectural Review Board duties have been removed. She is going to oppose this because she does not feel that it is right when people are asked to serve and duties are not given to them.

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

7E) Second Reading – Ordinance No. 1046-2012 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 32-20, Establishment and Membership; by Revising the Membership of the City’s Memorial Committee to Meet Current Participation Availability; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date (First Reading: 11-19-2012; Advertised: 11-29-2012)

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

Attorney Seiden stated that since the Miami Springs Ministers Council no longer exists, through the help of the City Clerk’s Office, four alternative members have been provided to serve on an annual rotating basis.

Mayor Garcia opened the public hearing to those persons wishing to speak.

Elma Quijano of 1191 Quail Avenue asked if the members had been selected for the Memorial Committee and City Attorney Seiden replied that this ordinance becomes effective on January 1, 2013 and the official delegate of All Angels Church will be the sitting member as of that date. The meeting can be called in January.

There were no additional speakers and the public hearing was closed.

City Clerk Valls clarified that Chairman John Shapiro of the Recreation Commission has resigned.

Mayor Garcia explained to Ms. Quijano that the Chair from each committee sits on the Memorial Committee. One of the Chairpersons has resigned and due to their resignation, they will appoint a new Chair at the next Recreation Commission meeting in January. Whoever is appointed as the new Chair will serve on the Memorial Committee.

Vice Mayor Ator moved to adopt the ordinance on second reading. Councilman Best seconded the motion, which was carried 5-0 on roll call vote.

7F) Second Reading – Ordinance No. 1047-2012 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 97-05, Senior Citizen Additional Homestead Tax Exemption; by Providing a Revised Provision Authorizing Qualified Seniors to Apply for Additional Homestead Tax Exemption Benefits; Repealing All Ordinances or Parts of Ordinances in Conflict; Providing an Effective Date (First Reading: 11-28-2012; Advertised: 11-30-2012)

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

Attorney Seiden understands that there was a question during first reading about why the number changed from the base amount of \$20,000 to \$27,030. A memo was distributed from Assistant City Manager/Finance Director William Alonso that clearly explains it.

Councilman Lob moved to adopt the ordinance on second reading. Councilman Best seconded the motion, which was carried 5-0 on roll call vote.

8. Consent Agenda:

8A) Approval of City Attorney's Invoice for November 2012 in the Amount of \$12,204.00

There was no discussion regarding this item.

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

9. Old Business:

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

None.

9B) "Second" First Reading - Ordinance No. 1042-2012 - An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-034, Installation of Central Air Conditioning and Heating Units, Pool Pumps and Equipment, and Sprinkler Pumps and Equipment; By Providing an Additional Site Location for the Placement of Such Equipment on Newly Constructed Properties and Clarifying That All Approved Locations Are Not to Be Within Required Setback Areas; Repealing All Ordinances or Parts of Ordinances in Conflict; Effective Date (First Reading: 11-19-2012)

City Attorney Jan K. Seiden read the ordinance by title. As requested at the last meeting, a provision was changed. Sub-section (A) (2) provides for an allowance to use the side yard for the equipment as long as screening is permitted. The screening is defined as either a landscaping or other types of material. He clarified that equipment can be placed in the rear yard or side yard as long as it is not within the setback areas. Insofar as the side yard is concerned, it has to be screened properly and the screening material cannot be within the setback area.

Mayor Garcia asked if it would be allowed for someone to choose shrubbery as their screening which ordinarily is allowed by code to be in the side yard setback and City Attorney Seiden replied in agreement.

Mayor Garcia asked if the ordinance can be amended to state unless the screening is of a material or substance that is already allowed and permitted in the side yard setback and City Attorney Seiden responded that if Council would like to remove that part, it can be removed.

Mayor Garcia said that he does not mind removing that part of the ordinance but he wants to ensure that the equipment is on the outside of the side yard setback.

City Attorney Seiden explained that he included landscaping material or installation of fences. Fences are permitted on the boundary line but are not allowed within the side yard setback. He said that "planting of landscape materials" can be removed from the ordinance and he can fix it in a way that would change the meaning to allow only landscaping in the required side yard setback.

Council agreed to City Attorney Seiden's proposal.

Councilman Lob moved to adopt the ordinance as amended. Councilwoman Bain seconded the motion, which was carried 4-1 on roll call vote with Vice Mayor Ator casting the dissenting vote.

9C) Review of Proposed Changes to the City's Code of Ethics and Consideration of Incorporating a Citizens Bill of Rights (Requested by Vice Mayor Ator)

Vice Mayor Ator stated that she asked this item to be put on the agenda because the City Clerk discovered that it would be 60 days before the election in order to get a Charter question put on the ballot. The Doral Citizens Bill of Rights was distributed to Council as an example. She believes that this should be included on the ballot in April to allow the citizens to decide if they want to have a Citizens Bill of Rights included in the Charter.

Vice Mayor Ator believes that the suggestion from the City Attorney to have a special meeting would be a good idea because it is lengthy.

Councilman Best recognizes where Vice Mayor Ator would like to go with this item and she has very good reasoning. He believes that what the City currently has is satisfactory and to spend a lot of time on something that is duplicitous does not make sense.

Vice Mayor Ator said that there have been many accusations regarding people on the Council not being entirely truthful. She believes that there are items in the Citizens Bill of Rights that are applicable not only to the current Council but to prior Councils.

Councilman Best commented that he took exception to the statement that was made about the vast majority of people not trusting the members of the City Council and he disagrees with that statement. As far as moving forward with this item, he cannot support it.

Councilman Lob agreed with Councilman Best. Council is bound by certain things when they sit at the dais. He believes that if everyone distrusted Council, then they would not be sitting as a Council member. He believes that the citizens have a trust in Council to do the right thing for the City. He questioned why nobody has confronted Council if they had a viable distrust or a good reason for it. If Council has done anything wrong at any point in time during their time on Council, he invites anyone to come and let him know.

Vice Mayor Ator moved to instruct the City Manager to draft a Citizens Bill of Rights to be included on the April ballot. The motion died for lack of a second.

Vice Mayor Ator moved to include the Code of Ethics discussion at a special meeting. The motion died for lack of a second.

10. New Business:

10A) Consideration of Request from Susan Baan on Behalf of the Miami Springs Middle School PTA for a Contribution to the Art in the Sky Project

City Manager Ronald K. Gorland stated that this item was initially for a request for funds but has changed.

Susan Baan, PTA President for Miami Springs Middle School commented that she originally came to request funds from the City for the Art in the Sky Project but late this afternoon she received a phone call from the Mayor who graciously found sponsors for the monies that she required. She wanted to thank Mayor Garcia and invited Council to attend the event.

To answer Mayor Garcia's question, Mrs. Baan explained that today was their first day of the project where they prepared the field, tomorrow they will be laying out the sand and mulch and on Wednesday they will create the picture with the students.

Mrs. Baan said that the Art in the Sky Project will begin at 9:00 a.m. on Wednesday. The students who are participating in the picture are to wear one of five colors; black, white, purple, bright yellow or bright blue.

Mayor Garcia asked if those who are willing to help would be able to assist and Mrs. Baan replied in agreement.

10B) Consideration of Request from Fred Suco to Host a New Year's Eve Celebration with Live Music Until 1:00 a.m.

City Manager Ronald K. Gorland read a letter from Mr. Suco as follows:

"Woody' s West End Tavern is formally requesting the City of Miami Springs to close Flagler Drive from Payne Drive on the north to Linwood Drive on the south on Monday, December 31, 2012.

We have been approached by the Miami Springs Historical Society President Tom Snook in order to produce a fundraiser benefitting the Miami Springs Historical Society. We believe that currently there is not an official Miami Springs/Virginia Gardens New Year's Eve Celebration. We would like to produce an event where the local residents can come and celebrate the New Year in a local environment."

City Manager Gorland noted that originally there was a request for a firework display which is no longer going to occur.

"The special request would allow music to be played until at least 12:30 a.m. in order for residents attending to celebrate the New Year.

As usual, we will have portable toilets and the area will be cleaned after the event. Should there be any further questions please feel free to contact me so that we can further discuss."

City Manager Gorland mentioned that there was only one complaint regarding the music from a previous event that Mr. Suco had for St. Patrick's Day.

Councilman Best made a motion to allow Mr. Suco to play music until 1:00 a.m. on New Year's Eve. Councilman Lob seconded the motion.

Mayor Garcia asked Mr. Suco to notify the surrounding residents and Mr. Suco replied in agreement.

Vice Mayor Ator commented that the Historical Society appreciates that Mr. Suco is having a fundraiser for them.

Mr. Suco explained that if everything works out with the fundraiser, for every \$50 donation that person will receive a membership and one chance at a brand new Ford Focus.

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

10C) Consideration of Request from the Woman's Club to Waive Approximately \$710.10 in Permit Fees Required as Part of the Remodeling of their Kitchen and Bathroom Facility

City Manager Gorland read the memo as follows:

"Ms. Jester is requesting the City waive the permit fees in the amount of approximately \$710.10 as determined by the City's Building Department which is required as part of their estimated \$54,000 facility's kitchen and bathroom remodeling."

Nikki Jester of 829 Lake Drive and Chairman Nancy Voye of 611 Nightingale Avenue stated that they are ready to move forward and appreciate Council's time. She asked the Woman's Club members to stand and support them.

Mayor Garcia asked if everything is ready to move forward with the project and Ms. Voye replied that the project is currently with the Florida Construction and Engineering Contractor that was hired. They are waiting for logs from DERM and when they come back they can begin construction.

To answer Mayor Garcia's question, City Manager Gorland said that the amount can be paid in sections depending on the magnitude of the project.

Mayor Garcia asked if Council would know the approximate total amount of the project when the paperwork is submitted to Council and City Manager Gorland responded that the first amount would be due at that time and there could possibly be a second and a third amount depending on how much is being discussed.

Mayor Garcia explained that any non-profit group that has come before Council asking for any monies that were not in the budget have been told that Council cannot provide funds at the moment but are given recommendations for funding sources that become very successful such as with Miami Springs Middle School's Art in the Sky Project. If Council does not agree to fund the project then he will be willing to help pass this on to his contacts in the business community.

Ms. Jester commented that she has reached out in many ways by fundraising for the past year but it has been very difficult.

Councilman Best asked if the Woman's Club building was deeded to the City of Miami Springs in the past and Ms. Jester replied that it was not. The property was donated to the Woman's Club with stipulation that a clubhouse be built on the property within five years or it would revert back to Curtiss Bright.

Vice Mayor Ator said that she is a member of the Woman's Club and they have worked very hard to raise funds. She would ask that if there is anyone who is willing to donate to the Woman's Club they would greatly appreciate it. The new budget does not allow any flexibility so the City is not in a position to donate. If the bill went forward she would vote no because of the City's lack of flexibility with the budget and also because she is a member and she would not want anyone to view that as a conflict.

Councilman Best commented that he has seen the Woman's Club work above and beyond. He believes that they are not asking for funding and are only asking for a waiver.

Councilman Best moved to waive the \$710.10 on the permit fees for the Woman's Club. Councilwoman Bain seconded the motion.

Mayor Garcia asked the City Manager if there was any way of estimating what the true cost would be and City Manager Gorland responded that the cost is approximately \$710.

City Manager Gorland reminded Council that the Building Department can only charge what it costs to operate the Building Department which is mandated by State and code. The code is very specific with things that could be considered part of the cost. He feels that \$710 is pretty accurate of what it will cost to do the job.

Mayor Garcia asked if Ms. Jester would mind waiting until the next City Council meeting. He would like Ms. Jester to share the letter that she has given to others for help in fundraising and how they attempted to raise funds with other businesses and Ms. Jester agreed.

Councilman Best withdrew his motion on the basis that Ms. Jester will return to the next City Council Meeting with the documentation that was requested from Council. Councilwoman Bain withdrew her second.

10D) Resolution No. 2012-3567 – A Resolution of the City Council of the City of Miami Springs Authorizing the City Manager to Apply for a FY 2013 Edward Byrne Memorial Justice Assistance Grant from the Federal Drug Control and System Improvement Program, through the Office of Grants Coordination Justice Assistance Grant Administration for Miami-Dade County; Authorizing the City Manager to Execute Grant Contracts and Agreements, Execute Contracts and Agreements to Accomplish Grant Funding Purposes, Expend Funding for Established and Authorized Purposes, Receive and Expend Additional Funding that Might Become Available, Execute Amendatory Application Documentation, and to Exercise all Contractual Rights, Authorizations and Privileges Available to the City; Effective Date

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

City Attorney Seiden stated that the grant amount is \$2,803 and the purpose of the grant is in the fourth Whereas clause that states *"Whereas, grant funding will be used by the City Police Department to continue the improvement of departmental records management and data mitigation by the purchasing of two additional scanners."*

Councilman Lob moved to approve Resolution No. 2012-3567. Councilwoman Bain seconded the motion, which carried 5-0 on roll call vote.

10E) Ordinance No. 1048-2012 – First Reading – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 35-53, Benefit Amounts and Eligibility; by Providing Additional Provisions to Subsection (K), Deferred Retirement Option Plan ("DROP"), to Expand and Further Clarify and Explain Plan Eligibility; Repealing all Ordinances or Parts or Ordinances in Conflict; Providing an Effective Date

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

Attorney Seiden stated that this is the first reading of the ordinance that is part of the recent Police Benevolent Association (PBA) negotiations as explained in the Whereas clauses contained within the ordinance itself. This ordinance, along with the companion ordinance, will need to be certified by the City Clerk as having passed first reading and sent to Mr. Linn for submission to the State.

City Manager Gorland explained that Mr. Linn has already submitted documents to the State, and he would like to include this in the packet.

City Attorney Seiden said that if the ordinance is approved on first reading, it will be sent certified with a summary of the minutes.

Councilman Lob moved to approve Ordinance No. 1048-2012 on first reading. Councilman Best seconded the motion, which was carried 5-0 on roll call vote.

10F) Ordinance No. 1049-2012 – First Reading – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 35-55, Contributions; by Providing a Two Year Plan for the City to Reduce Required Police Retirement Plan Contributions; Repealing all Ordinances or Parts or Ordinances in Conflict; Providing an Effective Date

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

Attorney Seiden stated that this ordinance is the companion ordinance to the prior ordinance, as explained in the Whereas clauses contained in the ordinance and will be submitted to the State for approval prior to second reading.

Councilman Lob moved to approve Ordinance 1049-2012 on first reading. Councilwoman Bain seconded the motion, which was carried 5-0 on roll call vote.

City Attorney Seiden advised Council that a Special Meeting is required for second reading of the ordinances.

City Manager Gorland suggested December 27, 2012 when everyone can be present, except for Councilman Best. The meeting cannot be held until after the State gives their approval.

City Attorney Seiden commented that the date will be tentative and the public notice will be published with the expectation that the State will give their approval before the second reading of the ordinance.

City Manager Gorland emphasized that December 27th seemed to be the best date since the effort is to make the disbursements to the Police Officers in this calendar year.

Discussion ensued regarding the publishing requirements for the public notice prior to the second reading of the ordinances and the possible dates for scheduling a Special meeting.

Council scheduled a Special Meeting for Wednesday, December 26th at 12:00 noon for the purpose of passing Ordinance Nos. 1048-2012 and 1049-2012 on second reading, contingent upon approval of the State.

11. Other Business:

None.

12. Reports & Recommendations:

12A) City Attorney

None.

12B) City Manager

PBA Negotiations

City Manager Gorland reported that the City is making progress in getting approval from Tallahassee on the proposed Miami Springs PBA agreement and hopefully the process will be completed in time for Council to hold the meeting on December 26th and make the disbursement to the Police Officers. The City has met their obligations to the PBA and the Police morale has improved considerably. He feels that there is more confidence that the City is dealing in good faith and can now move forward.

Burglary Suspect

City Manager Gorland announced that Chief of Police Pete Baan informed him that a prime suspect in a lot of the break-ins that have been occurring throughout the City has been identified. He commended Chief of Police Baan and the Department for a great job in solving the cases.

Filming in Town

City Manager Gorland reported that "Magic City" is in the process of filming at a location on Azure Way and the stage settings that were set up will be removed. "Graceland" is another filming that is in process and Colgate will be filming a commercial at Holleman's on January 18, 2013.

Congratulations

City Manager Gorland congratulated Councilman Best on his daughter's graduation from Florida International University.

Events

City Manager Gorland announced that at least fifteen to twenty City events are posted on the website.

Christmas at the Gazebo

City Manager Gorland reminded everyone of the big event, which is Christmas at the Gazebo on Saturday, December 15th, with a parade beginning at 5:45 p.m. at City Hall followed by the Christmas tree lighting at the Gazebo at 6:00 p.m. Wristbands are currently on sale for Miami Springs and Virginia Gardens residents that are necessary to participate in the activities. Non-residents can purchase the wristbands beginning on Wednesday, December 12th, or at the event based on availability.

Senior Exemption

City Manager Gorland announced that an article regarding the income eligibility for the Senior Exemption was misstated in the Herald Neighbors; the cap is now over \$27,000 and the \$20,000 figure stated in the article was the initial figure that has increased every year based on the consumer price index. The article will be restated correctly.

Happy Holidays

City Manager Gorland wished everyone a Merry Christmas and a safe holiday.

12C) City Council

Sign Code

Vice Mayor Ator reiterated her desire to address the sign code and the sign pollution that was previously addressed by the Architectural Review Board. She said that the sign code cannot be enforced because of the way it is written and she has been asking, and was promised that the code would be addressed.

Tech for Seniors

Vice Mayor Ator reported that AT&T was at the Community Center and held a technology seminar for the seniors. She appreciates the work of Elderly Services Director Karen Rosson and the City's support since this was a last minute event. Vice Mayor Ator said that one of her long-term projects in the organizations that she works in is the senior citizen digital divide and she encourages work in this area.

Farmers Market

Vice Mayor Ator worked at the Farmers Market on Saturday, December 8th and she spoke with the vendors who love the event and the customers. She and her husband Bill will be working at the Market again on Saturday, December 15th.

Chamber of Commerce

Vice Mayor Ator reported that the Chamber of Commerce will meet on Thursday, December 20th at Johnny's and she encouraged everyone to attend and become a member of the organization.

Taste of the Springs

Vice Mayor Ator announced that the Chamber of Commerce is working with the Springs River Festival Committee who is sponsoring the "Taste of the Springs" that is scheduled for Sunday, February 10, 2013.

Movie Night

Vice Mayor Ator reported that the next Movie Night will be held at All Angels on Friday, December 21st, instead of the Circle, in light of the issues that were raised. The January Movie Night will be held after the Martin Luther King Holiday weekend on Friday, January 25th at All Angels. There are plans to have the food trucks and to make it a fund raiser. The Church appreciates the City's support during the past years in paying for the police services.

Happy Holidays

Vice Mayor Ator wished everyone Happy Holidays.

Graduation

Vice Mayor Ator hopes to be celebrating a graduation within the next year since her husband is studying for his Doctorate degree.

Happy Holidays

Councilwoman Bain wished everyone Happy Holidays. She is grateful that there are many events for the families and kids to attend and celebrate the holidays.

Happy Birthday

Councilwoman Bain wished her daughter Holly a Happy Birthday on Tuesday, Dec. 11th.

Happy Holidays

Councilman Best wished everybody a Merry Christmas and Happy Hanukkah season.

Congratulations

Councilman Best expressed his elation over his daughter Kristen's graduation and the ceremony at Florida International University. She now hopes to attend nursing school at Barry University. He and his wife are very proud of their daughter and wish her well in the future.

Congratulations

Councilman Lob congratulated County Commissioner Rebeca Sosa for her appointment to the position of Chair to the County Commission. He acknowledged her for being the first Hispanic woman selected for the position.

Happy Holidays

Councilman Lob wished everyone Happy Holidays. He urged residents to participate in the many events being offered.

Christmas Trees

Councilman Lob announced that the Optimist Club tree lot has a few trees left for those who have not yet purchased their Christmas Trees. He reiterated his wishes for Happy Holidays and Happy New Year.

Christmas Trees

Mayor Garcia mentioned that there are a few trees remaining at the Optimist Club tree lot at the Blessed Trinity field and he urged everyone to purchase their Christmas tree from the organization.

Classic Car Show

Mayor Garcia reported that the Classic Car Show was a spectacular event sponsored by Jumping Jack with a great turnout. His daughter was disappointed that they did not purchase a car. He liked the fact that bringing a "Toy for Tots" was the entry fee for the people displaying their cars.

Happy Holidays

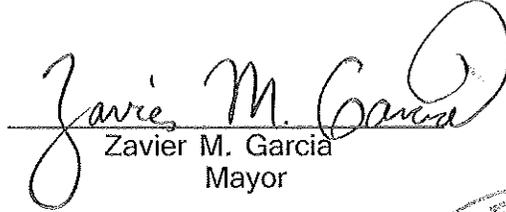
Mayor Garcia wished everyone a Merry Christmas and Happy Hanukkah. He is honored and appreciates working with Council as their Mayor.

Appreciation

Mayor Garcia expressed his appreciation for serving the residents as the Mayor of Miami Springs.

13. Adjourn.

There being no further business to be discussed the meeting was adjourned at 10:05 p.m.


Zavier M. Garcia
Mayor

ATTEST:



Magali Valls, CMC
City Clerk



Approved as amended during meeting of January 14, 2013.
Page 22, fourth paragraph.

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

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