



City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Tuesday, May 28, 2013, at 7:00 p.m.

1. Call to Order/Roll Call

The meeting was called to order at 7:11 p.m.

The following were present:

- Mayor Zavier M. Garcia
- Vice Mayor Michael Windrem
- Councilman Billy Bain
- Councilman George V. Lob
- Councilman Jaime A. Petralanda

Also Present:

- City Manager Ronald K. Gorland
- Assistant City Manager/Finance Director William Alonso
- City Attorney Jan K. Seiden
- Chief of Police Peter G. Baan
- Recreation Director Omar L. Luna
- City Clerk Magalí Valls
- Clerical Assistant Elora R. Sakal

2. Invocation: Vice Mayor Windrem offered the invocation.

Salute to the Flag: Students from the Academy for International Education Charter School led the audience in the Pledge of Allegiance and Salute to the Flag.

The Mayor presented baseball caps to the students who participated in the salute to the flag.

3. Awards & Presentations:

3A) Proclamation – Robert ‘Bob’ Haworth Day

Mayor Garcia proclaimed May 28, 2013 to be Robert ‘Bob’ Haworth Day in recognition of his service as the Commissioner of the Miami Springs Coed Church Softball League from 1996 until 2013.

Mr. Haworth said that he is honored to be recognized and the softball league brought the churches in the community together which is a good example of Christianity in the City.

3B) Officer of the Month Award – April 2013 – Officer Darryl Cates

Chief of Police Peter G. Baan presented the Officer of the Month Award for April 2013 to Officer Darryl Cates who was nominated by Sergeant Quintanilla.

Sergeant Quintanilla read his nomination letter stating that on April 1, 2013, Officer Darryl Cates and Officer Oscar Garcia responded to a suspicious incident call at 580 Hunting Lodge Drive that resulted in the apprehension and arrest of two juveniles who were charged with a total of 32 criminal charges, 26 of them being felonies, and solving 19 police report cases.

Sergeant Quintanilla said that Officer Cates showed his police experience and intuition by staying in the area; he conducted a flawless perimeter, there was nowhere for the subjects to run and they were taken into custody without incident. Officer Cates has been the most productive officer for the month of March, as well as the entire year of 2013.

Chief of Police Baan complimented Officer Cates for his enthusiasm and for doing a great job every day.

Officer Cates thanked the Mayor and Council. He gave credit to an alert citizen and his dogs who knew something was wrong and called the Police Department. It was a team effort with Sergeant Quintanilla and the officers who were working that night to establish the perimeter and the Detective Bureau began their work to solve the cases. Officer Cates introduced his wife Leah and family members who were present in the audience.

4. Open Forum:

No speakers.

5. Approval of Council Minutes:

5A) 05-13-2013 – Regular Meeting

Minutes of the May 13, 2013 Regular Meeting were approved as written.

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

6. Reports from Boards & Commissions:

6A) 05-09-2013 – Board of Parks and Parkways – Minutes

Minutes of the May 9, 2013 Board of Parks and Parkways meeting were received for information without comment.

6B) 05-16-2013 – Historic Preservation Board – Minutes

Minutes of the May 16, 2013 Historic Preservation Board meeting were received for information without comment.

6C) 05-20-2013 – Revitalization and Redevelopment Ad-Hoc Committee – Cancellation Notice

Cancellation Notice of the May 20, 2013 Revitalization and Redevelopment Ad-Hoc Committee meeting was received for information without comment.

6D) 05-23-2013 – Code Review Board – Cancellation Notice

Cancellation Notice of the May 23, 2013 Code Review Board meeting was received for information without comment.

6E) 05-28-2013 – Ecology Board – Cancellation Notice

Cancellation Notice of the May 28, 2013 Ecology Board meeting was received for information without comment.

7. Public Hearings:

None.

8. Consent Agenda:

8A) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure of \$258,750 Over the Next Five Years, to Yamaha Motor Corporation for Leasing of Golf Carts, Pursuant to Section §31.11 (E)(6)(g) of the City Code and Pursuant to the Contract Renewal Option Provided by the City's Existing Contract/Contract Vendor for an Additional 5 Year Period

Item was pulled from the agenda by City Manager Gorland.

Agenda Item 10H was discussed after Agenda Item 8A

8B) Recommendation that Council Approve an Expenditure to TLO Online Investigative Systems, the Lowest Responsible Quote, in the Amount of \$3,960.00, for a Three-year Online Investigative Subscription, Pursuant to Section 31.11 (C) (2) of the City Code

There was no discussion regarding this item.

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

In response to Mayor Garcia's question regarding Agenda Item 8A, City Manager Gorland stated that an attempt was made to obtain three quotes because it is not typical to waive the RFP process for golf cart leasing. There are timeline requirements and since Yamaha is the current provider of the battery operated carts, they offered the City a quote, but he still wanted quotes for two other suppliers of gas engine golf carts.

To be discussed at the next meeting.

9. Old Business:

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

None.

9B) Ordinance No. 1054-2013 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-015, Parking of Commercial Vehicles in City Limits, to Update and Clarify Which Commercial Vehicles May or May not be Parked in the Residential, Multi-Family Residential, Business, and Commercial Zoning Districts of the City; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date (Draft discussed during the 5-13-13 meeting)

Item was tabled.

9C) Code Compliance Revision Recommendations Regarding Commercial Vehicles in Commercial Districts (Carried forward from the 5-13-13 meeting)

Building and Code Compliance Director Harold "Tex" Ziadie stated that the areas within the commercial districts were divided so that they could be considered separately. He referred to his memorandum dated May 8th regarding the commercial vehicle code for commercial districts and church properties.

Mr. Ziadie explained that the current code does not allow for commercial vehicles in the commercial districts. He is proposing two segments; one to allow large commercial vehicles and one for smaller commercial vehicles. The weight limit was left open contingent upon what the final decision was in regard to the weight regulations for the residential zone.

The Airport Golf District, N. W. 36th Street and the Abraham Tract District are basically the same, according to Mr. Ziadie. Large and small commercial vehicles shall be allowed in those areas as long as there is specified parking provided. Only small commercial vehicles will be allowed in the Central Business District (CBD) and Neighborhood Business District (NBD) and no commercial vehicles, other than those approved by the City Manager, will be allowed on public properties and the code will have an exception provision for vehicles owned and operated by and for the City. No parking of commercial vehicles except those that are for the use of church transportation will be allowed on church properties.

City Attorney Jan K. Seiden stated that when a hotel is constructed a parking lot is included in the site plan review process and provides for a certain amount of spaces based upon the number of rooms and amenities. The City must make sure that the number of parking spaces is legitimately maintained for the operations of the hotel.

City Attorney Seiden explained that the perimeters of hotel facilities should not be allowed to turn into commercial parking lots, which has happened in the past, which is not appropriate and it takes away from the other parking. In the major commercial areas, most of the transportation for hotel facilities is either by taxi cabs, shuttle vans or bus transport from the facility. For new hotels, there could be a provision to provide parking for trucks in oversize spaces if they are available. There must be a differentiation as to what constitutes large and small commercial vehicles in terms of weight.

Councilman Bain suggested checking with other cities, like Miami Beach, to see what their code allows in regard to the weight for commercial vehicles in commercial districts on hotel properties.

Mr. Ziadie offered to conduct an on-line survey to see what other cities allow.

City Attorney Seiden said that most hotels probably do not allow overnight parking unless it is an exception for a staging situation that involves a party or special event.

City Attorney Seiden explained that the regulations for the parking of commercial vehicles in both residential and commercial districts must be tied together and brought back to Council in Ordinance form.

9D) List of Codes to be Reviewed

City Manager Ronald K. Gorland stated that at the January 28, 2013 Council meeting, Council requested a complete list of codes still needing revision or implementation in order of priority. The list was presented, including possible new codes, and Council directed the Administration to bring the codes forward on a periodic basis. There was also discussion about workshops to review the listed code sections, but Council decided against that option.

City Manager Gorland explained that Council is being asked which of the following codes, if any, they would like to be presented for their review: commercial vehicles, signs, feeding of animals or birds on public property, acceptable swale materials, noise, dumpster enclosures, trash pickup regulations and wall mural regulations.

Building and Code Compliance Director Ziadie mentioned that Code Section 93-13 – Maintenance of Property, includes a provision that prohibits the use of hurricane protection for security purposes. In 2008, there were a number of businesses that were using hurricane shutters at night for security, they were cited for the violations, and Council directed the Administration to put enforcement of that code stipulation on hold until further review, which never happened. He explained that there is still an issue with a number of locations in the City.

Mayor Garcia asked Mr. Ziadie to provide Council with a list of the businesses that are using hurricane protection for security at night and Mr. Ziadie agreed to provide the list of the three or four businesses.

In response to Councilman Bain's comment, Mr. Ziadie confirmed that one business located at the corner of South Royal Poinciana Boulevard and South Drive is for sale and the shutters are still closed.

Mr. Ziadie clarified that the list of codes in his May 15, 2013 memorandum was the last list presented and he would like direction as to which codes Council wanted to address.

Councilman Bain was of the opinion that a Special Council meeting would be necessary to address the codes and Mayor Garcia suggested waiting to see how many codes need to be addressed.

City Attorney Seiden said that the sign code is going to be difficult and Council must give direction before getting involved in that discussion. He explained that the direction might be to "scrap" the entire code section or to address certain sections one at a time. The signage that is permitted in Downtown would probably be less intensive than signage that is permitted on N. W. 36th Street; today there is a new era of signage being used such as inside wallpaper, murals, etc. This code section might be a candidate for a special meeting.

Mayor Garcia asked for the Administration to wait until Council responds to the City Manager prior to the next meeting to let him know what codes they would like to address.

Councilman Petralanda referred to the regulations for commercial vehicles on commercial properties. He asked who would be responsible for approving exceptions and the City Attorney replied that the City Manager would give approval and this language would be included in the final code regulations.

Councilman Petralanda commented that when the parking of commercial vehicles involves hazardous materials it should be approved by Council.

City Attorney Seiden stated that the language is used to describe Council's policy making ability and that is to protect the health, safety and welfare of the community; they are only "words of art" and it does not mean that hazardous materials will be allowed. It means that there may be special instances when the City Manager has the authority to extend time under the current code to allow for special circumstances. In this case, there were times when movie productions were held in the City with large vans and this is an example of when the Manager's approval would be necessary.

Councilman Petralanda expressed his concern about who would be giving approval and the City Attorney assured him that approval would be given by the City Manager or his designee.

Mr. Ziadie mentioned that under the residential zoning district, the language mentioned by Councilman Petralanda is one of the provisions he recommends adding to the list of prohibited commercial vehicles; any vehicles that present a health, safety or welfare hazard to the community would not be allowed. He noted that pool service trucks carry chemicals and even though they might be smaller vehicles they might not be appropriate in residential neighborhoods.

Council will contact the City Manager before the next meeting to specify which codes they would like to address.

9E) Recommendation to Move Forward with a Replacement Aquatic Facility

City Manager Ronald K. Gorland read a memorandum into the record dated May 23, 2013, recommending moving forward with a replacement aquatic facility.

Building Official Edwin "Skip" Reed and Professional Services Supervisor Tammy Romero have met with four contractors to assess the pool and surface underneath the pool deck and the pool building, according to Mr. Gorland. The slide presentation indicates that there is major rust to some of the primary support beam areas and there are several support columns below the building structure that are cracked due to severe steel erosion and corroding, resulting in the expanding and breaking away of large pieces of concrete.

After weighing all options, the recommendation is to move forward with a replacement aquatic facility as quickly as possible. To keep the facility open for use during the estimated two years needed to design/build the replacement facility, it is recommended to shore up the building structure to secure the structural integrity of the concrete pilings. With Council's approval, the Administration will begin the design/build request for proposals (RFP) process and develop funding alternatives.

City Manager Gorland explained that Building Official Reed is present to answer questions and any Council member that has not accompanied Mr. Reed to survey the damage under the pool should take the opportunity to see the situation first hand.

Building Official Edwin "Skip" Reed said that the interior of the pool surface indicated that the pool needed resurfacing and that led to the inspection under the deck and the condition under the back section is very disastrous. He explained that there is some movement in the building and this is only an assessment that requires further investigation; at this point, the condition of the surface is evidence of what is happening and the building is separating. He is not sure if the condition is related to the pilings or if it is because of the expansion and contraction of the deck system that was built in parts with expansion joints around the pool and across the deck to the outside.

Mr. Reed explained that underneath the structure it shows that the movement persists on an ongoing basis since the day the pool was built, but the downside is that the expansion joints were not maintained, which is what led to the deterioration.

Mr. Reed continued with the slide presentation showing the conditions under the pool deck. He noted that the chlorine in the pool is seeping through the pool surface into the expansion joints and there is no way to tell how much of the steel is deteriorated below the surface since this has been happening for at least 20-30 years. The main girt beam around the pool is also cracked and the cracks indicate future breaks in the rust that is occurring in the rebar behind it and once this begins the deterioration will continue.

Mr. Reed emphasized that the deterioration process had been ongoing and unfortunately it has been for too long a period of time. He continued with the slide presentation showing the conditions under the pool deck and explaining the expensive restoration process and the extensive damage to the supporting beams and expansion joints. He said that the pool deck was never sealed and sealing it now will not fix the problems with the cracks. There is chlorine dripping in one area that is building up calcification, which indicates the problem has been going on for many years.

Mr. Reed stated that the pilings on the south side are not as bad because there is evaporation, while the pilings on the north side are deteriorating due to the moisture. He noted an area where there are cracks on all four corners of the piling that is losing its support. The girt beam supports the entire wall of the building and the underside deck and there are areas with chlorine damage.

Mr. Reed referred to the deck drains and the materials that were used for the piping, noting that the "I" joists are falling apart and are almost impossible to repair. He also referred to the final assessment, commenting that it had been stated by many contractors that 20-40% is the average average they suspect will be needed and he feels that this number is on the low side. There is no way to determine the extent of the damage because there is no way to see through the concrete or open the structure to check it. He emphasized that the building needs to be shored up if Council makes the decision to proceed with the work that will take at least two years. Mr. Reed stressed the importance of maintaining the City's buildings.

Mayor Garcia thanked the Building Official for his presentation that is available on-line for the residents to view.

To answer Councilman Bain's question regarding the estimated cost, City Manager Gorland responded that it would cost approximately \$50,000 to shore up the building; there are reserve funds to cover that cost and the Administration would like to move forward to obtain proposals for shoring in order to keep the building safe and have a replacement in process as quickly as possible.

Mayor Garcia asked the Administration to obtain pricing for shoring and the City Manager agreed to do so.

Councilman Lob commented that the City was in the same position with the main recreation building and the Country Club building because when they were being repaired it turned out that the work was more extensive than what was originally planned.

(Agenda Item 10F was considered at this time)

10. New Business:

10A) Approval of a New Full Time Position in the City Clerk's Office

City Manager Gorland stated that this item is the beginning of the succession planning that was mentioned to each Council member a number of months ago. There are twenty-four employees in the Deferred Retirement Option Plan (DROP) and every position in the City is important. This request is the first step in the retirement process of the City Clerk

City Manager Ronald K. Gorland referred to the City Clerk's memorandum as follows:

"As you know, the City Clerk and the Deputy City Clerk are both in the DROP Plan and are expected to retire in the near future.

For succession planning purposes and to complete the Deputy City Clerk development of the department's part-time employee, Elora R. Sakal, (who has been working as a Clerical Assistant since June 1, 2011 in various aspects of the work, including attendance at Council and advisory board meetings and the transcription of minutes, amongst other daily duties), it is therefore proper that she be upgraded and promoted to a full time position as an Administrative Assistant II in the City Clerk's Office.

This proposal is also due to the additional restrictions imposed by the Affordable Health Care Act in which the City no longer has the flexibility to have Ms. Sakal work over the 59 hours imposed by the City's recently passed ordinance. This hourly work limitation would greatly restrict her education and development in the position.

She has earned her A.A. Degree in Business Administration and continues studying to obtain her Bachelor's Degree in Supervision and Management. In previous conversations, she has shown an avid interest in becoming a City Clerk while continuing her studies.

Please keep in mind that her salary is divided equally between the Planning and Zoning Department and the City Clerk's Office.

In light of the foregoing, it is my recommendation that her position be reclassified to a full time position, as an Administrative Assistant II, pay grade 22 with a salary of \$32,608.00. At the present time she is earning \$15.00 per hour. (2012 earnings were \$22,144.00 and 2013 earnings up to date are \$15,990.00). The effective date of full time employment with benefits would be August 5, 2013.

The current year personnel budget will be impacted in the amount of less than \$2,000.00, including benefits. However, I will have savings in other expenditures in the Clerk's account to offset that amount.

I feel that I must recommend this change as this will allow the Department to work more efficiently and to continue doing excellent work, not only at the present time, but in the future."

City Manager Gorland feels this would be an optimum way to move forward; the Administration has a lot of faith that Elora Sakal would do a wonderful job and it would be to the City's advantage for her to be in the number two position when the City Clerk retires in the future.

To answer Councilman Bain's question, the City Clerk clarified that her DROP date is in 2016.

Mayor Garcia said that he appreciated the succession planning which is definitely needed in other departments, not just the City Clerk's Office. He would like to consider the need of the Department and he would prefer to leave out the name of the person since that is a personal connection. Regardless of who the person is, he feels that the position is necessary and because Elora Sakal's name was mentioned, he will say that she does a stellar job under the wings of the City Clerk.

City Attorney Seiden clarified that there is no need to create the position of Administrative Assistant II because it is already in the Pay Plan. The motion would be to approve the recommendation to allow a full time position.

Councilman Bain moved to approve the full time position. Councilman Lob seconded the motion which was carried 5-0 on roll call vote.

10B) Resolution No. 2013-3581 – A Resolution of the City Council of the City of Miami Springs Approving and Adopting A Revised City Employee "Pay Plan" for Fiscal Year 2012-2013; Reserving the Right and Authority to Amend or Supplement the Plan; Effective Date

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

Attorney Seiden stated that at the last meeting Council approved the reclassification of positions within the Recreation Department. The chart (Exhibit "A") includes the new positions of Recreation Leader and Recreation Specialist II. He noted that between those two positions there is the remaining Recreation Specialist that was not removed.

Councilman Lob moved to adopt Resolution No. 2013-3581. Councilman Bain seconded the motion which was carried 5-0 on roll call vote.

10C) Recommendation from the Board of Parks and Parkways Regarding the Yard of the Month for June and August

City Manager Ronald K. Gorland stated that based on the actions of the Board of Parks and Parkways at their meeting of May 9, 2013, the members would like Council to approve 162 Deleon Drive for the June Yard of the Month and 243 Miami Springs Avenue for the August Yard of the Month.

Councilman Lob moved to approve the Board of Parks and Parkways' recommendation. Councilman Petralanda seconded the motion.

Vice Mayor Windrem asked why Board member Priess abstained from voting on 162 Deleon Drive and City Attorney Seiden clarified that it was because she had not seen the home.

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

10D) First Reading – Ordinance No. 1055-2013 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 70-02, Red Light Camera Enforcement, by Adopting and Implementing the Amendments and Newly Enacted Provisions of State Law Contained in CS/CS/HB7125; Providing for the Adoption and Implementation of Future Amendments and Statutory Provisions; Authorizing the Creation of a Local Hearing Officer Process Consistent with State Law; 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 City was notified by American Traffic Solutions (ATS) and a meeting was held with him, the Chief of Police, the Administration and ATS representatives. The effective date of the new legislation is July 1, 2013, and it has not yet been signed by the Governor so that is why it is referred to as CS/CS/HB7125; once it signed it will be given a more specific notation.

The new law provides for some language changes and there are major changes in regard to right hand turns, according to Attorney Seiden. A separate section was added to say that if at any time, even past the bars in the intersection, a car cannot be given a right hand turn ticket. Most local governments eliminated municipal court systems many years ago and the new law basically puts that back into effect.

City Attorney Seiden explained that the local hearing process will be a process whereby someone who is cited for a violation will have the opportunity to ask for a hearing before a Local Hearing Officer and it has not yet been determined who will be the Local Hearing Officers for the City, but it is likely that they will be Traffic Magistrates.

Attorney Seiden said that the process will utilize the Council Chambers; the City will receive monies that it did not receive in the past and it will involve the City Clerk's office who will send notices.

City Attorney Seiden commented that the Legislature has taken a system that was easily operated and made it more difficult. At this point, it is unknown how it will play out and he used basic form language to draft the ordinance and the resolution that was provided by ATS, who has accepted the language based on minor changes that were made. The intent is to have the second reading of the ordinance by July 1st, since the process must be in operation by that time.

City Attorney Seiden credited Sergeant Deal with doing an excellent job in the operation of the red light camera program through the Community Policing Office. ATS has been very helpful in providing form documentation, judgments, dismissals, notices, etc. The City is doing this in advance of the Governor actually signing it into law since there is a July 1st deadline.

Council is being asked to approve the ordinance on first reading and if anything changes before the second reading on June 10th, they will be notified of the change, according to Attorney Seiden. If for some reason the Governor decides not to sign the bill, the City will revert back to the other system.

Mayor Garcia said that the new system would generate dollars and obviously pay for itself and City Attorney Seiden replied that the fees would be covered in the resolution.

Councilman Petralanda commented that it seems like local bureaucracy is growing and the City Attorney agreed.

City Attorney Seiden said that bureaucracy was taken out of the system for a long time and he can only imagine that people who will appear before a Local Hearing Officer that might be more sympathetic than appearing in court since the vast majority of the violations that go to court are upheld.

Councilman Bain felt that it would be more convenient for people to fight the ticket if they have the option to appear before a Local Hearing Officer.

City Attorney Seiden explained that the City has the option within the bill to use the Code Enforcement Board as the Local Hearing Officer; the decision was made administratively that this might not be appropriate since there are too many members on the Board. The City could also use a Magistrate system, but it currently does not have this system.

Vice Mayor Windrem moved to approve the ordinance on first reading. Councilman Lob seconded the motion which was carried 4-1 on roll call vote with Councilman Bain casting the dissenting vote.

10E) Resolution No. 2013-3582 - A Resolution of the City Council of the City of Miami Springs Authorizing the Hiring of Local Hearing Officers; Designating the City Clerk's Office to Provide Clerical and Other Assistance; Directing the Finance Department to Provide Support Services; Establishing an Administrative Fee for Each Hearing; Effective Date

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

Attorney Seiden stated that in the body of the resolution, it provides for the hiring of Hearing Officers; it allows the Clerk's Office to handle the paperwork and it allows the Finance Department to handle the funds.

City Attorney Seiden commented that the most important part of the resolution is in Section 5 and the City can charge an administrative fee for each hearing, not in excess of \$250.00. The City has no experience in this process, there is no one to oversee the program and the City has no Local Hearing Officers. The ATS attorney suggested that the City might not want to charge \$250.00 and his response was that the City will charge that amount until there is experience to show that the fee is not necessary. The City should not be in a position where the process will cost the City money.

City Attorney Seiden explained that the law says that if a person appears for a hearing and the violation is thrown out, then no administrative fee can be charged; the fee is only charged to those violations that are upheld. Once there is a basis for evaluation, the Administration will evaluate the actual dollars they are spending and the fee will be adjusted appropriately by resolution.

Councilman Lob noted that only one person might fight a ticket during one month and the City will have to pay the Magistrate and other people to be at the hearing, which is ridiculous.

Councilman Bain suggested that the funds to cover the local hearing process could be taken from the red light camera revenue and City Attorney Seiden felt that it would not be appropriate to take revenue from the prior process and then be liable for additional monies.

Attorney Seiden stated that it is anticipated to have more requests for hearings than they currently have in the court proceedings.

To answer Councilman Bain's question, City Attorney Seiden responded that it is unknown at this time what a Magistrate will charge, but there is a timeframe and Council must act in the best interests of the City of Miami Springs. He feels that the administrative fees will cover the cost of the process.

Chief of Police Peter G. Baan advised Council that the process will be costly because Police Officers will be present at the hearing for security purposes; there might be a need to purchase a metal detector the same as in a court situation; there will be more work for the City Clerk's Office and the City Attorney is correct in wanting to keep the \$250.00 fee until it is known how much the new system is costing the City. He added that the City is receiving revenue from the red light camera system, but it also requires a lot of manpower and time to operate the system on the part of the Police Department.

Mayor Garcia clarified that the City does not have a choice in the new process; it is an unfunded mandate from the State.

City Attorney Seiden agreed with the Mayor that it is an unfunded mandate.

Councilman Bain expressed his concern about the funding for the metal detector and Chief of Police Baan replied that it could be purchased with Law Enforcement Trust Fund (LETF) monies since it is for security purposes.

Councilman Bain reiterated that he would rather use the funds from the red light camera revenue instead of taking funds from the General Fund budget and City Manager Gorland explained that the funds go into one account, according to governmental accounting.

City Attorney Seiden said that it is likely the number of tickets that are appealed will be covered by the \$250.00 fee. The City will look for a Magistrate who will work for a standard rate and this could be on a rotating basis from a pool of magistrates that are shared by local governments. It is likely that the \$250.00 fee will be reduced.

City Attorney Seiden clarified for Council that the current court fee is approximately \$130.00 and ATS is working with all the cities so that they will be prepared if the Governor signs the bill into law. In every legislative session since the red light camera system was approved, there has been substantial argument for total removal of the system. This year's legislation is sort of a middle ground to allow the camera system to stay in action, which might not be better than the court system. He added that a large percentage of the people who are ticketed for red light camera violations do not live in Miami Springs; only 11% are City residents.

City Attorney Seiden explained that the process will have to play itself out. The Council Chambers could be used one day a week for hearings and appointments would be scheduled based on the amount of cases to be heard. The Magistrate will be available to set the rules and a Clerk must be available. The penalties are very severe if the violations are not paid; the legislation provides for taking away the privilege of renewing their vehicle registration and eventually leads to revoking their driver's license. As long as people want to drive, the funds will be paid to the City.

Vice Mayor Windrem moved to adopt the resolution. Councilman Lob seconded the motion which was carried 5-0 on roll call vote.

Agenda Item 10F was discussed after Agenda Item 9F

10F) Consideration of the Vacation and Abandonment of an Alley Right-of-Way Between 157 Deer Run and 640 Curtiss Parkway

City Manager Ronald K. Gorland stated that the subject alley, which has a platted width of 16 feet is unimproved and appears to have never been improved. The length of the alley is 132 feet and the total land area involved is 2,112 square feet. Except for a private overhead electrical service to 640 Curtiss Parkway, no utilities are located within the alley. The property owners have secured and presented letters of "no objection" from Florida Power & Light Company, AT&T, Florida City Gas and Comcast. Additionally, both the Public Works and Police Departments have no objection to the alley vacation and the Planning and Zoning Department recommends that the subject alley be vacated.

City Manager Gorland added that the alley vacation would be in the best interests of the City since it is an area that the City must maintain and the adjacent residents have been taking care of most of the maintenance. The area has never been used as an alley and the Administration recommends approval.

Vice Mayor Windrem moved the item. Councilman Petralanda seconded the motion.

City Attorney Seiden stated that he drove by the location and it can be seen that the area has never been used as an alley. The standard operating procedure for vacating alleys is to adopt a resolution that vacates the alley. As a matter of law, the alley would then be divided 50% for one property and 50% for the other property.

City Attorney Seiden recommended to the Planning and Zoning Director that the property owners should go to a title company that will insure the property. The property owners should tell the title company that the City is willing to vacate the property and if they are willing to provide an Opinion of Title, based upon vacation of the property, the City will provide a Quit Claim Deed for the area. He advised that a legal description is needed for the alleyway for both property owners, together with the Opinion of Title.

City Attorney Seiden reiterated that as a matter of law, the alley will be split automatically, but there could be a problem if one of the property owners tries to sell their property in the future if the alley does not appear on the legal description, or there could be an issue between property owners. The City is willing to take the platted alley and divide it between the property owners. The property owners must be willing to go to a title company at their own expense, and have them draw up a legal description for each half of the alley, issue an Opinion of Title to the City with the proper legal description and the City will be happy to go through the process. The deeds can be prepared by the title company, subject to his review.

Mayor Garcia asked if the property owners had a list of the requirements and the City Attorney said that they could call him at his office and he would explain the process to them or their representatives at the title company.

Vice Mayor Windrem withdrew his previous motion and moved to direct the City Attorney to prepare an appropriate resolution for the vacation of the alley. Councilman Petralanda seconded the motion.

Councilman Bain asked if the property would belong to the homeowners after this item is approved and the City Attorney explained that Council must adopt an official resolution that is recorded in the public records, which in his opinion would solve the matter. He has suggested what he would do as their attorney, which is an extra step, and the property will belong to them.

To answer Councilman Bain's question, City Attorney Seiden said that compensation to the City would be from the taxes that are paid on the property and the City will no longer have to maintain the alley.

City Attorney Seiden said that a developer is required by government to provide a block of lots and within the block of lots they are required to provide alleys based on the situation in the community. Miami Springs has many alleys and the subject alley was platted as part of the subdivision and he would consider it as a lateral alley. The City has relinquished or vacated alleys before and he cannot recall the City being compensated.

Mayor Garcia asked if the City has a policy regarding the vacation of alleys and the City Attorney responded that each case would have to be considered as it is presented because it depends on whether or not the alley is used. The City has been asked to vacate a number of alleys and refused because they were used for utilities or sanitation pick-up.

Councilman Bain asked why the property owners need the additional footage.

The City Attorney said that the property owners approached the Planning and Zoning Director because it is property they are maintaining and it is not being used as an alley. The City has no use for it and it is up to Council to make the decision to vacate the alley.

City Manager Gorland stated that the alley is not benefiting the City and would be beneficial for both residents involved; the City has no use for the property and there is an associated liability.

To answer Councilman Bain's question, Mr. Salazar of 640 Curtiss Parkway explained that the property is fenced on his neighbor's side and he wants to construct a CBS privacy wall. His property is a corner lot at Curtiss Parkway and Deer Run.

City Attorney Seiden clarified that the alley is the length of the property or 132 feet by 8 feet. He said that the area looks like part of the yards, not an alley.

Councilman Bain expressed his concern about giving away public property.

City Attorney Seiden said that the alley was platted and for some reason it was not developed, while at the other end of the block the alley was developed east and west.

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

Mayor Garcia urged the property owners to take the recommendation of the City Attorney.

10G) Notification of Litigation Involving the City Annexation; Authorization to Secure Representation for Case

City Attorney Seiden reported that a lawsuit has been filed against the City of Miami Springs in regard to the annexation application by a representative group of property owners and business owners from the Airport West area. They have asked the Court to provide injunctive relief, which means they want to stop the County from acting in regard to annexation.

City Attorney Seiden said that he made numerous contacts since receiving notification of the lawsuit and met with José Fuentes, Rich Candia and the attorneys in the Office of Becker & Poliakoff, including George Burgess who is a former County Manager. Another meeting was held today to discuss the issues that were raised and in his opinion there are four issues; two issues relate to the City and two relate to the County.

In regard to the City issues, the City Charter states that any application for annexation must be started at the City by ordinance, which was done. An ordinance is a much more formalized document than a resolution because it goes through more processes, including public notification and a hearing. The County provision says that annexation applications must be done by resolution. He was aware of the County provision and he chose to do it the right way with an ordinance, according to the City Charter. This is one argument, which does not make sense or have any basis in fact.

Attorney Seiden said that the second City argument is that there was an election when the citizens of Miami Springs voted "yes" or "no" for the approval of annexation and there was also a charter amendment question to amend the Charter provision that now says that in all future annexations, the citizens of Miami Springs must approve the annexation prior to the application being submitted to the County.

Attorney Seiden explained that the argument in regard to this issue is that although the question was passed by 77% of the voters in Miami Springs, since that time the FEC property was removed from the application and the City should have been required to have another vote based upon the Charter provision.

City Attorney Seiden explained that the two County issues are related to the FEC property. Although there is technically contiguity at the northwest end of the City, an argument was raised about contiguity. The second argument is that there is a provision in the County Code that says that annexation cannot be approved if it creates another open area in between, which is the only argument with any basis.

City Attorney Seiden said that he, the County Attorney and Attorney Perry Adair all have the same feeling about the lawsuit, which is that is premature. It is not appropriate to stop a legislative body from exercising their authority and the County has not even held a committee meeting on annexation that will most likely be held in June. Also, the County Commission has not exercised any jurisdiction over it.

City Attorney Seiden stated that the attorneys will be filing motions to dismiss the litigation in the short run; it is simply premature and it will not dismiss the litigation in the long term. Hopefully the Judge will agree to allow the annexation process to go forward and if annexation is granted to the City by the County Commission, and an Interlocal Agreement is signed, they can then pick up litigation at that point.

City Attorney Seiden said that he is the only person in the City that has had continuity with annexation since the beginning of the process and he feels that he might be a witness in the case. Therefore, he is disqualifying himself from representing the City and is asking for representation from Becker & Poliakoff.

City Attorney Seiden said that he spoke with Attorney Adair, José Fuentes and Rich Candia and they have agreed to provide the City with a substantially reduced hourly rate. Mr. Adair's rate is substantially higher than the \$300.00 per hour that he is willing to charge the City for his work. He also agreed that whenever possible, he would ask that other attorneys in the firm who handle some of the work, to charge from \$225.00 and up to \$300.00 per hour. This is very reasonable under the circumstances and in the short run this is something that must be done. He and the other attorneys all independently came to the same conclusion that the lawsuit is premature and some of the arguments are not valid.

Attorney Seiden reiterated that this is something that must be done; meetings have been scheduled to discuss the issues with the representatives of FEC next week. He hopes that the immediate scheduling of a hearing would not be a detrimental action to the rescheduling of the committee meeting with the County Commission. The attorneys want to press forward because they do not believe that the lawsuit is appropriate in the short run.

City Attorney Seiden explained that they are requesting Council approval to press forward and to approve the rates for the attorney's fees, pending a retainer agreement for him to review before it is signed.

Mayor Garcia asked for a rough estimate of what the cap on the fees might be and City Attorney Seiden felt that the cost would be a few thousand dollars, although he cannot be held to this amount since it is unknown what the other parties will do and they could decide to make more arguments. He cannot predict an amount.

Mayor Garcia hopes that the City will not spend more than \$5,000 to \$10,000.

Councilman Petralanda asked if Council had any other choice besides approving the request to move forward and City Attorney Seiden clarified that the only other choice would be to give up on annexation.

The City Manager added that the City could select another firm, but it would not be a smart choice and the City Attorney agreed that the rates being offered are reduced rates.

Councilman Bain commented that Mr. Fuentes and Mr. Candia have experience with the City since they have been working through the entire annexation process and he has confidence in their work.

Councilman Bain moved to authorize the Administration to proceed with the defense of the litigation and to hire the firm of Becker & Poliakoff at the rates previously stated with \$300.00 per hour as the rate for the lead attorney and rates of \$225.00 up to \$300.00 for assistant attorneys. Councilman Petralanda seconded the motion which was carried 5-0 on roll call vote.

(Agenda Item 10H was moved to the consent agenda and discussed after 8A)

10H) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure to Wrangler Construction, the Lowest Responsible Quote, in the Amount of \$37,120.00, for Sidewalk Repair, Replacement, Pursuant to Section 31.11 (E) (6) (g) of the City Code

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

This item was considered as part of the consent agenda and no discussion ensued.

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

11. Other Business:

None.

12. Reports & Recommendations:

12A) City Attorney

None.

12B) City Manager

Paperless Agenda

City Manager Ronald K. Gorland thanked Council for aggressively adopting the paperless agenda that has worked well. More adjustments are needed and it is already realizing a savings.

Memorial Day Ceremony

City Manager Ronald K. Gorland thanked Vice Mayor Windrem for attending the Memorial Day Ceremony and speaking on behalf of the City. The Police, Public Works and the Recreation Departments did a great job and the Daughters of the American Revolution (DAR) prepared the agenda. It was a great event with approximately 125 people in attendance.

12C) City Council

Story Time

Vice Mayor Windrem thanked the City for giving him the opportunity to play guitar and read to the kids at the Recreation Center.

Australian Pines

Councilman Bain commented that he never received a report about the Australian Pines growing on the canal bank that he requested at the previous meeting and City Manager Gorland responded that the pines are going to be removed.

Optimist Fishing Tournament

Councilman Bain mentioned that the Miami Springs/Virginia Gardens Optimist Fishing Tournament would be held on Saturday, June 8th, preceded by the Captain's meeting at Woody's at 7:00 p.m. on Thursday, June 6th. He hopes that more people will support the event to help raise funds for the Optimist Club.

Wall of Fame

Councilman Bain felt that former business owner Tom Rech who operated Aquarius Rods & Reels for almost 20 years would be a good candidate for being recognized on the Wall of Fame since he did many things for the youth and community recreation. He would like a response from Recreation Director Luna on the status of the Wall of Fame project.

Proclamation

Councilman Petralanda thanked the Mayor and Vice Mayor for giving him the opportunity to present a proclamation recognizing the Miami Jackson Senior High School Class of 1963 Reunion. There were approximately 150 people in attendance.

Golf Course

Councilman Petralanda asked about the progress of the Golf Course improvements and City Manager Gorland said that the first step was killing the grass on the Driving Range.

Golf Course

Councilman Petralanda met with School Board member Carlos Curbelo to ask for his support of the Golf Course and other student projects. He thanked Education Advisory Board Vice Chair Dr. Zapata for accompanying him. He reported that Mr. Curbelo offered his support in reaching out to the School Board Chair and recruiting the local schools to participate in after school golf as a means of promoting the Golf Course.

Optimist Fishing Tournament

Councilman Lob urged people to attend the Optimist Club Fishing Tournament if they like to eat fish because the fish fry is open to the public even if they do not fish. Raffle tickets are being sold for prizes and it is a fun time.

Cristina Lob

Councilman Lob reported that his youngest daughter is going to be a news anchor on the 5:00 news in Gainesville.

Optimist Club

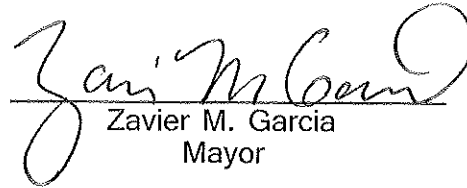
Mayor Garcia reported that Optimist Club President Tony Silva will represent the Optimist Club which will be the Grand Marshal at the Fourth of July Parade.

Appreciation

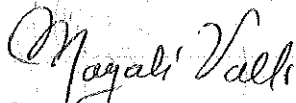
Mayor Garcia appreciates Councilman Petralanda for presenting a proclamation on his behalf since he was not able to be present. He would like Council to be more involved with activities like Story Time with the kids. He thanked Council for their teamwork.

13. Adjournment

There being no further business to be discussed the meeting was adjourned at 9:18 p.m.


Zavier M. Garcia
Mayor

ATTEST:



Magali Valls, CMC
City Clerk



Approved as written during meeting of: 06-10-2013.

Transcription assistance provided by Suzanne S. Hitaffer.