



**AGENDA INFORMATION
CITY OF MIAMI SPRINGS
CITY COUNCIL**

Regular Meeting

Monday, November 28, 2011

7:00 p.m.

Rebeca Sosa Theater – Community Center

1401 Westward Drive, Miami Springs

Mayor Xavier Garcia

Vice Mayor Dan Espino

Councilman Bob Best

Councilman George V. Lob

Councilwoman Jennifer Ator

City Manager James R. Borgmann

Assistant City Manager Ronald K. Gorland

City Attorney Jan K. Seiden

City Clerk Magali Valls



CITY OF MIAMI SPRINGS, FLORIDA

Mayor Xavier M. Garcia

**Vice Mayor Dan Espino
Councilman George V. Lob**

**Councilman Bob Best
Councilwoman Jennifer Ator**

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

**AGENDA
REGULAR MEETING
Monday, November 28, 2011
7:00 p.m.
Community Center – Rebeca Sosa Theater
1401 Westward Drive – Miami Springs**

1. Call to Order/Roll Call

2. Invocation: Vice Mayor Espino

Salute to the Flag: Students from Miami Springs Middle School will lead the audience in the Pledge of Allegiance to the Flag

3. Awards & Presentations:

A) Proclamation – "Anchor Club Day"

4. Open Forum: Persons wishing to speak on items of general city business, please sign the register located on the speaker's stand before the meeting begins

5. **Approval of Council Minutes:**

- A) 11-14-2011 – Regular Meeting

Recess for conducting Executive Sessions with City Council

6. **Reports from Boards & Commissions:**

- A) 11-14-2011 – Board of Appeals – Minutes
- B) 11-17-2011 – Historic Preservation Board – Cancellation Notice
- C) 11-22-2011 – Ecology Board – Cancellation Notice
- D) 11-24-2011 – Code Review Board – Cancellation Notice
- E) 12-20-2011 – Education Advisory Board – Cancellation Notice

7. **Public Hearings:**

- A) Second Reading – Ordinance No. 1028-2011 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 96.05, Street Numbers; Display; to Provide Clarified Provisions and Requirements Related to the Display of Street Numbers on Structures in the City; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date (First Reading: 11-14-2011 – Advertised: 11-17-2011)
- B) Second Reading – Ordinance No. 1029-2011 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 70-10, Parking Restricted in Certain Areas; to Provide Clarified Provisions on Permitted Parkway Parking, Prohibited Parkway Use; Prohibited Parkway Parking Exceptions, Enforcement and Signage; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date (First Reading: 11-14-2011 – Advertised: 11-17-2011)
- C) Second Reading – Ordinance No. 1030-2011 – An Ordinance of the City Council of the City of Miami Springs Repealing Chapter No. 134, Weapons; which Includes Code Section 134-01, Firearms and Air Rifles; Discharge Prohibited; 134-02, Careless Exhibition of Weapons; 134-03, Forfeiture of Weapons and Arms; 134-04, Return of Weapons and Arms and Forfeiture on Failure to Receive Same; 134-05, Disposal of Weapons and Arms; and 134-06, Taking Possession of Weapons and Arms; Repealing all Ordinances or Parts of Ordinances in Conflict; Directions to Codifiers; Effective Date (First Reading: 11-14-2011 – Advertised: 11-17-2011)

8. **Consent Agenda:** None

9. **Old Business:**

- A) Appointments to Advisory Boards by the Mayor and Council Members
- B) Extension Agreement for Phase I of the Management and Operation Agreement for Curtiss Mansion Property
- C) Consideration of Settlement Proposal for Meridian Management, LLC v. the City of Miami Springs

10. **New Business:**

- A) Notification to Council that a Purchase Order has been Issued to Wrangler Construction in the Amount of \$36,020 for the Senior Center Improvements
- B) Ficus Plantings – Discussion Regarding Code Section 150-013 – Residential Plantings, Fences and Walls
- C) Recommendation that Council Approve an Award to Harlequin, the Lowest Responsible Bidder, in the Amount of \$3,262.97 for a Portable Dance Floor for the Pelican Playhouse, Pursuant to Section 31.11 (C) (2) of the City Code

11. **Other Business:**

- A) Cancellation of Last Meeting in December

12. **Reports & Recommendations:**

- A) City Attorney
- B) City Manager
- C) City Council

13. Adjourn

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

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

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



DRAFT

City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** in the Rebeca Sosa Theater at the Community Center on Monday, November 14, 2011, at 7:00 p.m.

1. Call to Order/Roll Call

The meeting was called to order at 7:19 p.m.

The following were present:

Mayor Zavier M. Garcia
Vice Mayor Dan Espino
Councilwoman Jennifer Ator
Councilman George V. Lob

Absent:

Councilman Bob Best

Also Present:

City Manager James R. Borgmann
Assistant City Manager Ronald K. Gorland
City Attorney Jan K. Seiden
Chief of Police Peter G. Baan
Finance Director William Alonso
Public Works Director Robert T. Williams
Human Resources Director Loretta M. Boucher
City Planner James H. Holland
Golf Director Michael W. Aldridge
Golf Superintendent Sandy Pell
Building & Zoning Office Supervisor Harold "Tex" Ziadie
Grant Writer/Public Information Specialist Carol A. Foster
Deputy City Clerk Suzanne Hitaffer
City Clerk Magalí Valls

2. Invocation: Mayor Garcia offered the invocation.

Salute to the Flag: Students from Blessed Trinity Catholic School led the audience in the Pledge of Allegiance to the Flag.

3. Awards & Presentations:

3A) Proclamation – “Ray’s Tae Kwon Do Center Day” (Tabled: 10-24-2011)

Mayor Garcia presented a proclamation to Ray Rodriguez in recognition of their 25 year anniversary of teaching the art of Tae Kwon Do.

Mr. Rodriguez thanked the Mayor and Council. He said that it has been an honor and privilege for him to have been able to touch so many lives in the City and have a positive effect on them.

3B) Proclamation – Tom Curtis – Dolphin Digest

The item was pulled from the agenda.

4. Open Forum:

Miami Springs Library

Branch Manager Esther Nibot and Assistant Branch Manager Bryan Capley from the Miami Springs Library introduced themselves to the Mayor and Council. Ms. Nibot said that even though there had been changes to the Library Staff due to the restoration of the library system, they will have the same commitment to serve the community to provide excellent service. She invited everyone to visit the Library.

Mr. Capley stated that he was born and raised in Miami Springs and it is wonderful to be working in and serving in his own community.

To answer Mayor Garcia’s question, Mr. Capley said activities are planned and that on Tuesday, November 15, 2011, the library will sponsor “Reading Ready Story Time” for the kids and another event is planned on Saturday, November 19th related to Thanksgiving.

Mayor Garcia asked Mr. Capley to keep the City Clerk informed of upcoming events so that they can support the Library.

Mr. Capley announced that the Library is open Monday, Wednesday, Thursday and Saturday from 10:00 a.m. to 6:00 p.m. and on Tuesday it is open from 12:00 noon to 8:00 p.m.

Ms. Nibot added that the County is facing budget cuts and the Administration is trying to keep the impact to the community at a minimum by maintaining the same services.

Trick-or-Treat

Michael Gavila of 684 Morningside Drive asked Council to reconsider the Trick or Treat event on Westward Drive that would help to get the community involved.

5. Approval of Council Minutes:

5A) 10-24-2011 – Regular Meeting

Minutes of the October 24, 2011 Regular Meeting were approved as written.

Councilman Lob moved the item. Vice Mayor Espino seconded the motion which was carried 4-0 on roll call vote.

6. Reports from Boards & Commissions:

6A) 10-25-2011 – Ecology Board – Cancellation Notice

Cancellation Notice of the October 25, 2011 Ecology Board meeting was received for information without comment.

6B) 10-27-2011 – Code Review Board – Cancellation Notice

Cancellation Notice of the October 27, 2011 Code Review Board meeting was received for information without comment.

6C) 11-01-2011 – Code Enforcement Board – Minutes

Minutes of the November 1, 2011 Code Enforcement Board meeting were received for information without comment.

6D) 11-02-2011 – Architectural Review Board – Cancellation Notice

Cancellation Notice of the November 2, 2011 Architectural Review Board meeting was received for information without comment.

6E) 11-07-2011 – Zoning and Planning Board – Cancellation Notice

Cancellation Notice of the November 7, 2011 Zoning and Planning Board meeting was received for information without comment.

6F) 11-08-2011 – Recreation Commission – Cancellation Notice

Cancellation Notice of the November 8, 2011 Recreation Commission meeting was received for information without comment.

6G) 11-09-2011 – Golf and Country Club Advisory Board – Minutes

Minutes of the November 9, 2011 Golf and Country Club Advisory Board meeting were received for information without comment.

6H) 11-10-2011 – Board of Parks and Parkways – Cancellation Notice

Cancellation Notice of the November 10, 2011 Board of Parks and Parkways meeting was received for information without comment.

6I) 11-15-2011 – Education Advisory Board – Rescheduling Notice

Rescheduling Notice of the November 15, 2011 Education Advisory Board meeting was received for information without comment.

6J) 11-21-2011 – Revitalization and Redevelopment Ad-Hoc Committee – Cancellation Notice

Cancellation Notice of the November 21, 2011 Revitalization and Redevelopment Ad-Hoc Committee meeting was received for information without comment.

6K) 11-07-2011 – Board of Adjustment – Approval of Actions Taken at their Meeting of November 7, 2011, Subject to the 10-day Appeal Period

Actions taken by the Board of Adjustment at their meeting of November 7, 2011 were approved subject to the 10-day appeal period.

Vice Mayor Espino moved the item. Councilman Lob seconded the motion, which carried 4-0 on roll call vote.

7. Public Hearings: None

Council sat as the Board of Appeals at 7:30 p.m.

The Mayor reconvened the City Council meeting at 8:10 p.m.

8. Consent Agenda:

8A) Approval of the City Attorney's Invoice for October 2011 in the Amount of \$12,690.00

There was no discussion regarding this item.

Councilwoman Ator moved the item. Councilman Lob seconded the motion which was carried 4-0 on roll call vote.

9. Old Business:

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

No appointments were made to advisory boards.

9B) Selection of Top 3-5 Candidates to be Interviewed for the Position of City Manager

Mayor Garcia asked Council to consider whether or not the decision should wait for Councilman Best. He said that he was ready with his selections and Council agreed to proceed with the item.

City Attorney Jan K. Seiden stated there is an issue to consider in regard to the process. He advised Council of Florida Statute 286.0113 that was passed this year in regard to competitive selection processes that are now exempt from the Sunshine Law.

City Attorney Seiden advised Council that they should decide how they want to conduct the interview process and whether or not they want to hold an open meeting. He explained that in prior years, the candidates could listen to all the interviews because it was mandated by the Sunshine Law, but now it can be restricted to one candidate at a time.

To answer Vice Mayor Espino's question, Attorney Seiden clarified that the one-page document does not define a vendor; it mentions negotiations, oral presentations and questions and answers.

The City Attorney advised Council to submit a list of their top candidates to the City Clerk in order to determine if there is consistency in the selection of top three candidates.

Vice Mayor Espino commented that he would not be inclined to holding an exempt meeting because the selection of the City Manager is an important decision that should be in the Sunshine.

Councilman Lob would like Council to interview each candidate individually.

City Manager Borgmann recalled that the last time Council went through the process, the candidates were narrowed down to three and during each interview the other candidates stayed in the conference room outside of the Council Chambers so that they could not hear the responses.

City Attorney Seiden clarified that the Vice Mayor would like the meeting itself to be open to the public and Councilman Lob was talking about interviewing the candidates individually, which are two different things.

Councilwoman Ator stated that she would like the meeting to be open to the public and she also agrees that the people who are being interviewed should be sequestered.

Vice Mayor Espino selected Kenneth Fields, Daniel Rosemond and Ralph Rosado.

Councilman Lob selected Ron Gorland, Ken Fields and Constantino Purrinos.

Councilwoman Ator's selections were Lawrence Miller, Ron Gorland and Judy Whitis.

Mayor Garcia selected Ron Gorland, Guerlin Escar-Mangos and Ralph Rosado.

City Attorney Seiden said that there is an agreement on Ron Gorland and Ralph Rosado. There are two agreements on Ken Fields and one each for Daniel Rosemond, Constantino Purrinos, Lawrence Miller, Guerlin Escar-Mangos and Judy Whitis for a total of eight people.

Councilman Lob would like to interview all eight people as they were all on the list of qualified candidates.

To answer the Mayor's question, City Attorney Seiden explained that the interview process could be done in a number of ways. Several candidates can be called for the first interview, the number is narrowed down further and a final interview could be held with two or three people.

Mayor Garcia said that he was considering interviewing five candidates as eight would be too many. He asked Council how they felt about the process.

Vice Mayor Espino responded that he would not mind hearing from eight candidates in order to gather information at a Workshop meeting. If there is consensus after that meeting there would be no reason to hold additional interviews.

Councilwoman Ator would not mind interviewing all eight people, but would like Council to set the parameters for the interview process.

Mayor Garcia stated that because the interviews would be open to the public he was hoping to narrow down the number to three or five. He would like for Council to formulate a list of five questions collectively and then each Council member could have one personalized question before narrowing it down to the final three.

Councilwoman Ator clarified that she does not need to know what the questions are right now, but Council could agree to a certain number of questions and determine how much time it would take for the interview process. She said that interviewing all eight candidates would be an onerous process.

Mayor Garcia mentioned that he was thinking of fifteen to twenty minutes per interview.

Vice Mayor Espino commented that based on fifteen to twenty minutes the entire process would take a little more than two hours for eight candidates. He feels that the community should be able to listen to the interviews and the candidates should appear before Council one at a time. He added that the candidates could be given time slots, similar to the selection process for the Downtown Revitalization Consultants.

City Attorney Seiden stated that the Human Resources Director could contact the candidates to inform them that they are one of eight that will be interviewed for approximately fifteen minutes and some might say no.

Mayor Garcia asked Council to consider a time and date for the interviews. He knows that a decision must be made about the November 28th Regular Meeting and perhaps Council could consider this at this time.

City Manager Borgmann said that the City Attorney indicated that he could not be present on December 1st and December 2nd is a Friday night. His recommendation is to hold the Regular Meeting on November 28th with the agenda going out on Wednesday, November 23rd.

Vice Mayor Espino suggested holding a Workshop Meeting on November 29th or 30th and Council agreed.

Human Resources Director Loretta Boucher will call the candidates to see if they are still interested and ask them to fill out an application and sign a release to allow inquiries. She will have the applications ready for the meeting.

Council agreed to hold a Workshop Meeting either Tuesday, November 29th or Wednesday 30th.

Vice Mayor Espino asked if the start time could be 6:30 p.m. and the Mayor suggested 6:00 p.m.

City Attorney Seiden clarified that the Workshop meeting will be held on November 29th or 30th in accordance to what Mayor Garcia tells the City Clerk tomorrow. The interviews will be 15-minutes each and the Human Resources Director will contact the applicants to see if they are still interested and want to proceed.

Mayor Garcia suggested that Council should hold an Executive Session to determine what the questions will be for the candidates.

City Attorney Seiden said that Council could submit questions to Human Resources Director Boucher who will make a list to bring back on November 28th for a final decision.

Councilwoman Ator commented that the Executive Session to discuss the questions would ensure that the questions are not out in the open before the interviews.

Mayor Garcia stated that the Executive session could be held on November 28th at 6:00 p.m.

City Attorney Seiden added that he will be asking Council to hold an Executive Session to discuss pending litigation since he has answers to questions. He suggested one Executive Session for the limited purpose of questions and the second one to discuss the lawsuit.

Vice Mayor Espino mentioned that he could not meet earlier than 7:00 p.m. on Monday, November 28, 2011.

City Attorney Seiden explained that it has to be that way because a meeting will be called to order and the Executive Session must be part of the meeting, unless the Council meeting is called earlier than the normal 7:00 p.m. meeting.

Mayor Garcia stated that the meeting will be set for 6:30 p.m. on November 28th and as soon as the meeting is called to order Council will go into the Executive Session.

City Attorney Seiden reiterated that there will be two Executive Sessions, one for establishing questions and the second for the litigation. He asked Council to decide if they wanted to call a Special or Workshop meeting for the interview process.

Council agreed to hold a Workshop meeting for the interview process at 6:00 p.m. on either Tuesday, November 29th or Wednesday, November 30th.

(Agenda Item 10H was considered at this time)

9C) Curtiss Mansion, Inc. – Discussion of Legal Opinion from the Dade County Commission on Ethics Regarding the Possibility of the City Council Acting as the Board of Directors for a For-Profit Legal Entity Owned by Miami Springs

City Attorney Jan K. Seiden stated that he requested that this item be included in the agenda. He requested a legal opinion from the Commission on Ethics regarding the historic tax credit proposal in which the City would form an entity where the City Council would act as the Board of Directors. He met with the Commission on Ethics and the base of their opinion is one of the reasons that Councilwoman Ator abstained from voting on the matter involving All Angels Church because she is a board member.

The County ethics provision is very strict and it prohibits any elected officials from participating in any votes involving any entities in which they are involved, such as being on a board, according to Attorney Seiden. The provision does not deal with any pecuniary interest or personal benefit.

Attorney Seiden explained that the Ethics Commission made a strict “Letter of the Law” type decision, however they were very sympathetic to the City’s position, because it was proposed that all members would be on the board and they would be identical in terms of intent and action. The Commission on Ethics offered support for the City’s position to appear before the Miami-Dade County Commission to get an amendment passed for this provision in the County Code, but that would not be helpful since timing is an issue.

City Attorney Seiden commented that the Commission authorized the City to do what they proposed, except that instead of Council being members of the Board of Directors, they could appoint Administrative personnel of the City to act as members of the board. The City Council, as the bosses of the Administrative personnel, would have the same basic control and that would not be a violation of the code since the administrative people are not elected officials.

City Attorney Seiden said that based on the opinion, he would feel safe in advising Council that the City can form a for-profit entity owned by Miami Springs for the historic tax credit (HTC) transaction, but the board cannot consist of the City Council and should only consist of the Administrative officials of the City that are appointed by Council. Council can now consider how they want to further the process.

Councilwoman Ator asked the City Attorney if Council has the authority to change the Administrative personnel appointments, the same as they are allowed to do with advisory board members.

City Attorney Seiden responded affirmatively. He told the Commission on Ethics that he felt they were making a bad decision of a good situation because their decision is that there would be a conflict. He said that with the consistency between Council and the Board of Directors there would be an absence of conflict. He understands that the Commission has to abide by the law and they did give the City some leeway.

The idea is to accomplish a step in the process whereby the citizens feel comfortable that the 56-year situation is not getting out of hand and that the City still maintains control, according to Attorney Seiden. The documents and structuring will still need to be reviewed; nothing has been decided at this point and nothing will be decided until the very last minute, including approval of a potential investor, documentation and final structure.

To answer Councilwoman Ator's question, City Attorney Seiden clarified that the Administrative personnel appointments should not be done on a one-to-one basis; he would recommend the appointments be made on a Council basis, like a slate.

Councilwoman Ator suggested that each Councilmember would appoint one person.

City Attorney Seiden explained that the Board could consist of one, two or three people and that is a decision that can be made down the line.

Vice Mayor Espino mentioned that there were three separate items for consideration. The first was the Commission on Ethics opinion, the second is the evaluation by the tax attorney and the third is the evaluation of the expenditures and whether they would qualify. He asked CMI President Jo Ellen Morgan-Phillips if she received an opinion on the expenditures.

Curtiss Mansion, Inc. (CMI) President Jo Ellen Morgan-Phillips said that she spoke with Mr. Wishneff and was told there are no restrictions on the expenditures, as long as they relate to the entire Mansion. She explained that funds can be spent on landscaping, exhibits and CMI would like to spend the funds on the paving and outside lighting.

Ms. Morgan-Phillips clarified that her past objection to the tax credit was that she wanted the Curtiss Mansion to open on schedule in order to be self-sustaining. Her objection to the tax credits had nothing to do with the 55-year lease; the idea was to open the Mansion so that the community could begin to enjoy it and the construction was delayed due to inclement weather. She said that Mr. Wishneff assured CMI that investors will be easy to find and if they can offer a certificate of completion by the end of the year, it will allow the process to move forward faster.

Ms. Morgan-Phillips added that the State approved what was sent to them by the architects. She said that the tax attorneys and the Commission on Ethics are okay and the National Historic Trust is okay with the process. She is asking Council to let CMI move forward with haste and to instruct the City Attorney to start working on the corporations. She commended City Attorney Seiden for doing a wonderful job in his appearance before the Commission on Ethics and making sure that the City and the Mansion are in good hands.

Ms. Morgan-Phillips stated that the CMI contract was good until September because they thought that they would have to participate in the corporations, but now they do not have to and they will continue the maintenance and the operations. She asked for an extension of the contract because it has expired.

Ms. Morgan-Phillips mentioned that architect Manuel Perez-Vichot and contractor Roy Rodriguez had already started working on the bid specifications for the next phase of the Mansion and CMI would like to work with the City and the Purchasing Department. The paving will be the biggest problem as it must be inspected by the Department of Environmental Resources Management (DERM) for the run-off and it normally takes a long time.

Ms. Morgan-Phillips added that CMI would like City Manager Borgmann to contact Wishneff & Associates to ask them to begin searching for the investors. She urged Council to make a decision now so that there would not be a waiting period, as there has been a delay for almost nine months already.

City Manager Borgmann commented that Phase One was the construction phase and Phase Two is the operation phase. The operations phase is not ready because the building is not habitable and it was put on hold. He understands the need to finish the parking lot and the construction estimate is approximately \$500,000. The City Council could commit to those dollars anticipating the historic tax credit, but if the credits do not go through, the parking lot must be built before CMI can operate the building.

To answer the Mayor's question, City Attorney Seiden said that forming a corporation is easy. In his opinion, there is a process and part of the process is to secure direction and documentation from Wishneff to support what the City does. In regard to other matters, like the credits, there is no problem, but the monies must go through the City first.

City Attorney Seiden stated that he understands that CMI's contract has expired and he would like to see the documentation first that Wishneff prepares because it could make an impact. He said that the City could extend the portion of the CMI contract that deals with construction, but he would wait for Phase Two. He does not know what the transaction entails and he will consult with the City's tax attorney since he is the expert. It could be damaging to rush into something ahead of time and he would rather proceed with caution until Wishneff responds and the documentation is reviewed by the City's tax attorney.

Vice Mayor Espino was of the opinion that Council could grant the authority and latitude for the Administration and the City Attorney to work up to the point before it needs to come back for approval.

Vice Mayor Espino moved to proceed forward with certain action items required to participate in the historic tax program, including but not limited to creating the entities, drafting the contracts and preparing all the materials necessary to participate in the program with the intent to participate in it, understanding that the Administration officials will be the shareholders, officers and directors of the subordinate entities; that participation is contingent upon Council approval of all the agreements; that the funding come through to the City and that Curtiss Mansion, Inc. will not play a role in the subordinate entity. Councilman Lob seconded the motion.

City Attorney Seiden said that he does not totally disagree, but he disagrees with the first action. The Administration must contact Mr. Wishneff and advise him that the City has basically found a way to protect itself.

Vice Mayor Espino wanted to skip the first step suggested by the City Attorney to contact Mr. Wishneff. He would like to say that Council is willing to move to the next step, which is non-binding whatsoever, giving the City Attorney and the Administration the latitude to work with Mr. Wishneff and the tax attorney to formulate a position that is comprised of the entities, their operating documents and the contracts to come back to Council for evaluation. The entity formation addresses the control issue that was raised before; CMI will not be involved in the process. The funding issue has been addressed as funds will go through the City and the fact that it is subject to approval of the operating documents and contracts should ameliorate any particular issue that could be an issue moving forward.

Vice Mayor Espino emphasized that he would not want to wait for the City Attorney or the Administration to speak with Mr. Wishneff because there is a time limit. The point is there is \$600,000 to \$800,000 to be considered and this would continue the due diligence process at an appropriate pace.

City Attorney Seiden clarified that no organization or documents for Miami Springs will be prepared until there is review and approval of Mr. Wishneff's proposal for the structure. He explained that a corporation can be formed quickly and he would not do anything until everyone is on the same page. Mr. Wishneff received a copy of the opinion from the Commission on Ethics and they can be told to proceed.

Vice Mayor Espino continued to express his desire to move forward.

City Attorney Seiden explained that he would contact Mr. Wishneff to advise him to proceed with the next step in the process and at that point he will send the appropriate documentation that will be sent to the City's tax attorney, Mr. Chaves, for his recommendations. At that point it would come back to Council; there is no extra step.

Councilwoman Ator disagreed with Vice Mayor Espino's wording of the motion. She said that "not limited to" opens up a universe and she is uncomfortable with the language.

Vice Mayor Espino emphasized that all materials would come back to Council and that is why the motion states "including, but not limited to", followed by the conditions; it is only a proviso allowing the latitude to begin work.

Councilwoman Ator explained that the motion was long and the language was at the beginning of the motion. She asked Vice Mayor Espino to restate the motion.

Vice Mayor Espino clarified that his motion is to move forward with certain action items required to participate in the historic tax credit program, including, but not limited to creating the entities, drafting contracts, preparing all other materials necessary to participate in the program, with the intent to participate in the program, with the understanding that the Administration Officials will be the shareholders, officers and directors of all subordinate entities; that participation is contingent upon Council approval of all operating documents and contracts of the program; that funding comes through the City and that CMI does not participate in any subordinate entity.

City Attorney Seiden stated that there must be an understanding that it will be at his discretion as to when the documents are prepared. He will have the latitude; he made it clear from the beginning that he is relying on Mr. Wishneff and Mr. Chaves to respond and he will not do anything until they have completed their responsibilities and they are in agreement that it is the right way to proceed.

Vice Mayor Espino said that everyone will move forward to get this done and that is his amended motion. Councilman Lob seconded the amendment.

The motion carried 3-1 on roll call vote with Councilwoman Ator dissenting.

City Attorney Seiden will prepare an extension agreement for CMI for the next meeting to allow the completion of the construction. He would not advise dealing with issues that could be hurtful or disadvantageous to one or all the parties and drafting agreements in advance is not the right way to proceed.

Ms. Morgan-Phillips commented that the original contract included part of Phase Two because the two phases are overlapping. CMI is preparing exhibits that are covered under Phase Two. She reviewed the contract with the City Manager and the original contract was very basic. CMI is not making commitments or stepping out of line and has done a good job to accomplish the restoration within budget.

City Attorney Seiden assured Ms. Morgan-Phillips that he does not have any negative feelings toward CMI; he is only saying that it was a mistake to draw an agreement with the aviation school in advance of other pending matters. He hopes that this will not have an impact and he would not want to repeat anything that could cause problems. CMI is still operating as the facilitator of the renovation and reconstruction of the Mansion, but Phase Two of the contract clearly deals with the operation and it should wait for Mr. Wishneff's documents.

Ms. Morgan-Phillips said that the tax credit is only one source of revenue and there are other funding sources pending.

City Attorney Seiden clarified that Phase One deals with fundraising and the second phase is operational; it would not do any harm to extend the contract for Phase One.

Councilwoman Ator understood that the City Attorney would not want to do anything to jeopardize the tax credit by creating a document granting certain rights that Mr. Wishneff might not agree with. She suggested that the City Attorney could come back with a proposal for the contract extension.

Ms. Morgan-Phillips would like to get the process moving and keep it on track. The contractor will be finished very soon within the next two weeks and then it is CMI's responsibility for security, etc.

Mayor Garcia asked if the initial contract could be continued with a timeline extension.

City Attorney Seiden said that the problem is that the contract that has expired included a Phase One and Phase Two for the operation. He does not know how the Phase Two part of the contract impacts or does not impact the documents that are involved with the historic tax credit process. It would be foolish to spend the time and then find out that it created a conflict with the other documentation. The Phase One part of the contract could be extended for the restoration and the continuation of the fundraising.

Vice Mayor Espino was of the opinion that the CMI contract could be contingent upon compliance with the historic tax credit program and it could be amended or terminated at a later date if there is non-compliance with the historic tax credit.

Ms. Morgan-Phillips said that CMI had operated without a contract before, but they would really like to begin the Mansion. It is unfortunate that the process has been delayed for nine months and if they do not continue the process the Mansion will not open until next summer. CMI will need a contract in order to move forward with other potential revenue sources.

City Manager Borgmann asked how long it would be before CMI is ready with the bid documents for the parking lot.

Architect Manny Perez-Vichot stated that he is revising the drawings to include energy saving light fixtures and then they will be ready to move forward. The drawings include paving, drainage and the basic landscaping.

Ms. Morgan-Phillips emphasized that they are ready to move forward because CMI cannot make any money until they are able to open the Mansion.

Mayor Garcia hopes that Mr. Wishneff will complete the process before the next Council meeting when Council considers the extension to the contract.

City Attorney Seiden reiterated that he could prepare an extension for Phase One of the contract and once Mr. Wishneff comes back with the other documents he will proceed with Phase Two.

(Mayor Garcia called for a five minute recess)

9D) Discussion Regarding the Rebeca Sosa Theater Rental Application

City Manager Borgmann stated that Council asked to revisit this item and the Administration provided the current theater rental application for Council's review.

City Attorney Seiden commented that he did not approve of the language stating "Please speak with Ralph Wakefield regarding the process." He felt that it should be the City Clerk or the City Manager.

Councilwoman Ator referred to an e-mail she received regarding the application. She noted that Mr. Wakefield suggested language and the City Attorney responded that he would prefer a provision stating that there would be thirty-days from denial for use of the theatre to have the decision reviewed by Council and they would not speak with Mr. Wakefield. She expressed her concern about the thirty-day provision.

City Attorney Seiden suggested eliminating the 30-day provision. The language could state that the Miami Springs City Council invites them to apply for approval to perform any production that does not comply with the "G" rating and to please contact the City Manager's Office regarding the process. He reiterated that Mr. Wakefield should not be involved in the process.

Mayor Garcia said that he approved of language advising the person to contact the City Manager's Office.

Councilwoman Ator commented that in the past there had been a problem with people requesting permission or funding at the very last minute. By including a time limit it would encourage people to make the request ahead of time to allow for Council review.

Further discussion ensued about a time frame for approval of a request.

Councilman Lob suggested that Council could consider the request at the next available Council meeting.

Mayor Garcia stated that the language could simply state that the request will be reviewed by Council.

City Attorney Seiden commented that most of the time there would be a problem with timing. It is the responsibility of the person or the group who wants to use the theatre to be able to schedule their appearance before Council within their timeframe. He suggested the following language: "However, the City Council invites you to apply for their approval to perform any productions that do not comply with the "G" rating. Please contact the City Manager's Office to be placed on the next available agenda."

City Attorney Seiden added that Council would have the final decision since they set the standards for the community. He will make the necessary change and send the revised document to Mr. Wakefield.

9E) Discussion Regarding the Youth Advisory Board

City Manager Borgmann said that the Resolution establishing the Youth Advisory Board was adopted and the question is who is responsible for certain tasks.

Mr. Borgmann explained that Section 3 states that a membership application shall be completed and the applicant should comply with any other conditions or requirements that may be imposed by the prospective members' school. Each of the seven listed schools shall nominate one student for membership on the Youth Advisory Council. The City Council will review the information and documentation submitted by each school in support of its nominated member and the City Council will be required to ratify each membership nomination by a majority vote.

City Manager Borgmann explained that the Education Advisory Board questioned whether it is their responsibility to contact the schools or if the City Administration should be responsible.

Councilman Lob felt that it should be the City's responsibility to contact the schools.

City Manager Borgmann mentioned that Education Advisory Board member Libby Manning offered to make the contact with the schools.

Mayor Garcia approved of either the City or Board member Manning contacting the schools. He understands that the Police Department reaches out to the schools in regard to the "I Led the Pledge" Program.

Councilwoman Ator commented that the Education Advisory Board already has representation from each of the schools at their meetings and they have already established a relationship. She added that the membership application must be formulated and someone should be tasked with the implementation of the resolution. She was of the opinion that the Education Advisory Board would do a fine job.

By consensus, Council agreed that the Education Advisory Board should be responsible for contacting the schools and following the provisions of the resolution.

10. New Business:

10A) Confirmation of the Fifth Member of the Police and Firefighters Retirement System Board as Required by Code of Ordinance Section 35.56 (A) (3), as a Ministerial Duty

Chief of Police Peter G. Baan stated that Chapter 185 of the Florida Statutes designates the make-up of the Police and Firefighters Retirement Board; two members are appointed by the City; two members are elected by the members of the Plan and the fifth member is selected by the other four members. At the last meeting Captain Jon Kahn was selected and he has served on the Board in the same position prior to this appointment.

Councilwoman Ator moved the confirmation of the appointment of Captain Jon Kahn. Councilman Lob seconded the motion.

Mayor Garcia commented that the confirmation is only a ministerial duty.

Vice Mayor Espino mentioned that legislation is pending that could change the future make-up of the Pension Boards.

The motion was carried 4-0 on roll call vote.

10B) Consideration of Copywriting/Registering the City's New Logo and Tag Line

City Manager Borgmann stated that this item was looked into further. He commented that the trademark should be registered so that others cannot utilize the logo and have it appear as though the City is sponsoring their activity.

City Attorney Seiden said that others can use the logo if they get permission from Council but the only way to enforce it is if the logo is registered.

Mayor Garcia commented that he is okay with going through the process. It is the branding of the City and a lot of time and effort was spent by the previous and current Council and he would not want to see anybody using the logo without Council's approval.

City Manager Borgmann clarified for Councilwoman Ator that the first part is \$980.00 and then if two "classes" also have to be registered it would be another \$1,000.00 leaving the total to approximately \$2,000.00.

Discussion ensued regarding what logo and phrase could possibly be trademarked depending whether it is taken or not, or if the phrase is too commonly used.

To answer Councilman Lob's question, City Manager Borgmann said that they are going for two classes at a minimum.

City Attorney Seiden stated that the gentlemen working on this item are one of the top firm's in the community and travel all over the world doing this type of work. He asked that Council give City Manager Borgmann some discretion to register what it needs to, even if it slightly exceeds the \$2,000.00.

Councilwoman Ator moved to give the City Manager the authority to register the trademark in accordance with the recommendation by the trademark attorney up to \$10,000. Councilman Lob seconded the motion which was carried 4-0 on roll call vote.

Vice Mayor Espino commented that if and when Council is ready to create a package they should look at it as a whole in terms of marketing and branding. Towards the end of the meeting he would be distributing what was discussed at the Community Summit.

City Attorney Seiden noted that the gentlemen offered to look at any kind of agreements that the City has used in the past and give Council some ideas as to doing it the correct way.

10C) Resolution No. 2011-3530 –A Resolution of the City Council of the City of Miami Springs Authorizing the City Manager to Apply for a 2012 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.

Councilman Lob moved to approve Resolution 2011-3530. Vice Mayor Espino seconded the motion which was carried 4-0 on roll call vote.

10D) First Reading – Ordinance No. 1028-2011 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 96.05, Street Numbers; Display; to Provide Clarified Provisions and Requirements Related to the Display of Street Numbers on Structures in the City; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date

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

Attorney Seiden stated that this is the first reading of the ordinance that was drafted to include all the provisions, comments and requirements that were discussed at the last meeting. He spoke with Building & Zoning Office Supervisor Harold "Tex" Ziadie and he agreed that the language was fine.

Councilwoman Ator moved to approve Ordinance 1028-2011. Vice Mayor Espino seconded the motion.

Councilman Lob was under the impression that as long as the street number is visible that Code Compliance would not make the property owner change the numbers to 3-inches. The proposed ordinance has a provision for replacement within two years.

City Attorney Seiden thought that the idea was to have consistency.

Councilwoman Ator said that the minutes indicate that notices would be mailed to people and Chief Baan recommended 3-inches based on his experience. The Mayor asked to notify residents of the minimum size for house numbers.

Mr. Ziadie assured Council that the only concern for Code Compliance is being able to read the house number from the street; there is no interest in informing all residents of the 3-inch regulation.

Mayor Garcia agreed that it will be an educational process to inform the residents, including information on the website.

The motion was carried 4-0 on roll call vote.

10E) First Reading – Ordinance No. 1029-2011 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 70-10, Parking Restricted in Certain Areas; to Provide Clarified Provisions on Permitted Parkway Parking, Prohibited Parkway Use; Prohibited Parkway Parking Exceptions, Enforcement and Signage; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date

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

Attorney Seiden stated that he re-drafted this ordinance and believes that he put the language in a matter where it is easily interpreted as to what is permissible and what is not. The discussion was that Council does not want signage just so there would be no provision against it.

Councilwoman Ator moved the item. Vice Mayor Espino seconded the motion.

Vice Mayor Espino said that there will be issues when it comes to special events such as the Fourth of July parade because people park perpendicular on Westward Drive and not parallel to maximize space.

Vice Mayor Espino stated that as far as provision (C) is concerned he believes that it is going to make lives a little more difficult for citizens because for special events they will have to be authorized in writing from the City to be allowed to park on Westward Drive. He questioned if it would be easier to say that parking lot parking is allowed but overnight parking will not be permitted.

Councilman Lob agreed with Vice Mayor Espino's comments.

City Attorney Seiden explained that this is a positive provision because what Council wants to change is (C) because theoretically the general rule of the City is that nobody can park on the parkways. He commented that (C) is the issue not the exception and numbers one and two are actually helpful.

Councilwoman Ator said that instead of saying parking, it should be changed specifically to overnight parking. She asked City Attorney Seiden if he would want to remove number two if they changed the wording to overnight parking.

City Attorney Seiden replied that he does not want to remove number two because he believes it is the way it should be. He stated that he was told what the rules were for parkway parking and that is what he put into the ordinance. He questioned if Council would like to add the new exception or remove the exceptions which would make it worse.

Vice Mayor Espino clarified that he would like to change the fact that citizens are parking on Westward Drive overnight and using it as additional parking and ruining the grass. He explained that he does not mind if citizens park on Westward Drive as long as it is not overnight.

City Attorney Seiden asked if Council would want to add Westward Drive to Provision (A) and add a number four that says no overnight.

Chief Baan explained that overnight should be specified because if a car leaves before daylight it is technically not overnight.

Councilwoman Ator suggested that there be no parking between the hours of midnight and five in the morning.

Building and Zoning Office Supervisor Harold "Tex" Ziadie commented that there are a lot of violations during the day with this ordinance and it does not only occur at night. There are ways that people could work around the hours.

Mayor Garcia stated that there are a few citizens who are abusing and habitually parking on Westward Drive. He said that he does not see a problem with people parking on Westward Drive. As of right now there is no parking allowed on Westward Drive at all but Council cannot enforce it. He explained that if someone parks on Westward Drive, Code Compliance is who enforces it.

Mayor Garcia asked if the citizens who are in violation now and have been approached are still continuing to park on Westward Drive and Mr. Ziadie replied that it is a problem that comes and goes. There have not been any tickets actually issued.

City Attorney Seiden asked if Council agreed to add the Westward Drive median.

Mayor Garcia replied that he would like to allow citizens to park on Westward Drive but not use it as their parking lot. Mayor Garcia asked Mr. Ziadie what the issue was with the citizens who are habitually using the Westward median.

Mr. Ziadie replied that it is simply that they are parking on Westward Drive because right now nobody is allowed to park there. He noted that he sees the issue occurring mostly during the day.

Councilwoman Ator asked if this item could be tabled so that Mr. Ziadie could talk to the Chief of Police and City Attorney and attempt to come up with a suggested solution.

Mr. Ziadie stated that it also depends on what Council wants to do so certain parameters are made if Council decides to change the provisions or they can stay the way they are if Council decides to not change them.

City Attorney Seiden commented that a way to control the issue is by time but that would require signage because if there was a restricted time, notice would need to be given. There is no other way to control it other than the way the provisions are now. He noted that it is almost impossible to not have signage.

Councilwoman Ator asked if the signage would be able to be put on the speed signs.

Chief Baan explained that in order to enforce it by State Law it would have to prohibit parking by State Law and there would have to be one sign at each end of the block in each direction which would be four signs per block in the median.

Mayor Garcia reiterated that he is okay with allowing parking on Westward Drive and if there is anything that City Attorney Seiden, Mr. Ziadie and Chief Baan could help Council come up with to curtail a couple of the citizens who are abusing it and if not then he believes that Council will end up allowing parking on Westward Drive.

City Attorney Seiden stated that he will add it to (A) and (B) and if Council could pass on first reading then he will amend it and bring it back to the next meeting.

Assistant City Manager Gorland believes that it should not be allowed where there are curbs on a median and Mayor Garcia agreed.

Councilwoman Ator asked if signage needs to be placed where the curbs are and Chief Baan stated that if the Code Enforcement Department is enforcing it then there does not need to be signage where there are curbs.

City Attorney Seiden stated that a number four can be added addressing no parking where there is curbing.

City Attorney Seiden clarified for Mayor Garcia that without signage Code Enforcement enforces it.

Discussion ensued regarding the City recognizing parking during special events such as the Fourth of July parade.

Councilwoman Ator moved to approve Ordinance 1029-2011 as amended. Vice Mayor Espino seconded the amended motion which was carried 4-0 on roll call vote.

10F) First Reading – Ordinance No. 1030-2011 – An Ordinance of the City Council of the City of Miami Springs Repealing Chapter No. 134, Weapons; which Includes Code Section 134-01, Firearms and Air Rifles; Discharge Prohibited; 134-02, Careless Exhibition of Weapons; 134-03, Forfeiture of Weapons and Arms; 134-04, Return of Weapons and Arms and Forfeiture on Failure to Receive Same; 134-05, Disposal of Weapons and Arms; and 134-06, Taking Possession of Weapons and Arms; Repealing all Ordinances or Parts of Ordinances in Conflict; Directions to Codifiers; Effective Date

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

Attorney Seiden stated that the state legislature created an exemption. He had received a call from a gentleman inquiring why the City had not repealed the ordinance. The first reason why this is being done is because the provisions are very outdated. The second reason is because if the Police Department attempts to enforce a local ordinance in the County Court the City is charged for it.

Councilwoman Ator commented that she supports repealing the ordinance.

Councilman Lob moved to approve Ordinance 1030-2011. Councilwoman Ator seconded the motion which was carried 4-0 on roll call vote.

10G) Recommendation that Council Approve an Expenditure to Allied Trucking of Florida, the Lowest Responsible Bidder, in the Amount \$4,000.00 for Concrete Screenings, Pursuant to Section 31.11 (E) (5) of the City Code

City Manager Borgmann stated that this item relates to the Stafford Park playground. He noted that it was decided that this particular area needed to be raised up a little.

Recommendation that Council Approve a Change Order to Leadex Corporation, in the Amount of \$8,490.00 to Construct a berm Around the Playground Using Sand Fill, Spread and Compact the Concrete Screening Throughout the Play Area as Needed and Remove Existing Concrete Walk and Replace with New ADA Ramp

City Manager Borgmann stated that since the area is being raised there will need to be some type of ramp for people with disabilities.

Vice Mayor asked if the ADA ramp will be connected to the path that is there now and City Manager Borgmann replied that it goes straight to the bike path.

Vice Mayor Espino asked how big of an area beyond the actual area of the playground is it going to be and City Manager Borgmann was not certain of the measurements.

Vice Mayor Espino asked if they can be made a little bigger because if there is going to be a berm there will be a tremendous amount of puddles that create mud.

City Manager Borgmann said he will get the dimensions tomorrow and give Vice Mayor Espino an answer.

Councilwoman Ator asked how much sand was going to be used and City Manager Borgmann responded that it is 250 tons at \$1,595 a ton.

City Manager Borgmann stated that Leadex has a contract for the playground equipment itself so this is a change for their contract.

Vice Mayor Espino moved to approve an expenditure to Allied Trucking in the amount of \$4,000.00 for concrete screenings and to approve the change order with Leadex Corporation in the amount of \$8,490.00 to construct a perimeter around the playground using sand fill. Councilman Lob seconded the motion which was carried 4-0 on roll call vote.

10H) Special Event Funding Request Application – All Angels Academy

Mother Susan Keedy from All Angels Academy presented a request for funding for Movie Nights on the Circle. She explained that the events will be held on the Circle on the third Friday of each month beginning in November through March. They are inviting the City to partner with the school by supporting the police presence for the events.

Mother Keedy stated that the customary charge is usually \$525.00 per event, depending on whether the officers are Police Officers or Public Service Aids. She added that All Angels will pay the Police Officers first and then request a reimbursement from the City based on the actual charge.

To answer the Mayor's question, Mother Keedy explained that the request for \$2,625.00 is the highest amount it could be. She explained that last year there were as many as 300 people who attended on Friday nights.

City Attorney Seiden clarified that Councilwoman Ator would not be participating in the vote.

Councilman Lob moved to approve the requested amount of funding. Vice Mayor Espino seconded the motion.

Vice Mayor Espino stated that he is in favor of the request because Movie Nights are great and he attends with his family. As far as funding overall, there was consensus that two windows of opportunity would be opened to receive applications from organizations in the community or people requesting events, with an allocation of funds over a six-month period. The policy has not been implemented and it is important because \$10,000 is allocated and this request is one-fourth of that amount.

The motion was carried 3-0 on roll call vote, with Councilwoman Ator abstaining.

10I) Request for Meeting from the Revitalization and Redevelopment Ad-Hoc Committee to Have a Presentation from Calvin, Giordano & Associates, Inc. to their Board and the Architectural Review Board in December

City Manager Borgmann stated that on Work Order # 2 with Calvin, Giordano & Associates there is a budgeted meeting workshop with the Revitalization and Redevelopment Ad-Hoc Committee. Laz Martinez, Chair of the Revitalization and Redevelopment Ad-Hoc Committee, has requested that they hold a joint meeting with the Architectural Review Board for the purpose of hearing the presentation regarding their progress and also to review the street signage and way finding proposed by the Architectural Review Board.

City Manager Borgmann said that the funds are in the budget for Work Order # 2 already so this is just allowing the boards to go forth with this particular meeting.

Vice Mayor Espino moved to approve the item. Councilman Lob seconded the motion which was carried 4-0 on roll call vote.

11. Other Business:

11A) Fiscal Year 2010-2011 Fourth Quarter Budget Status Report (Unaudited)

Finance Director William Alonso stated that the numbers are unaudited. The auditors should be finished in two or three weeks.

Mr. Alonso said that the year ended with a surplus of approximately \$285,212.00. He noted that there will be a year-end fund balance of approximately \$4.7MM.

Finance Director Alonso commented that with the dashboard indicators, the year ended with approximately 98% of budgeted revenues and 97% of the expenditures. The Golf Course loss will be \$414,281.00. Last year after removing the irrigation system, the golf course lost \$459,000.00 making it approximately a \$45,000.00 decrease in the loss from last year.

Finance Director Alonso explained that the Recreation expenditures on the bottom of the dashboard ended up collecting 22.1% of the expenditures in fees compared to 16% last year.

Councilwoman Ator asked if Council is being asked to designate \$1.2MM or if it is already designated.

Finance Director Alonso replied that based on the current numbers he foresees approximately \$1.2MM in designations. In January he will come back to Council with the designated fund sheet and some of the funding may need to be reduced.

Vice Mayor Espino asked Council to consider the new strategic plan when they discuss the designated fund balance next year in January.

11B) Rescheduling of the November 28, 2011 Regular Council Meeting and Selection of Date for City Manager Candidate Interviews

As discussed under Agenda item 9B, Council agreed to hold the Regular Meeting on November 28th and to schedule a Workshop Meeting for either Tuesday, November 28th or Wednesday, November 29th.

12. Reports & Recommendations:

12A) City Attorney

Executive Sessions

City Attorney Seiden notified Council that an Executive Session is being called for during the meeting of November 28th to talk about the answers to the questions he received from the Plaintiff's representatives in the lawsuit filed against the City. Also, an Executive Session will be scheduled directly following the first Executive Session to compile a list of questions for City Manager candidates under the new exception provisions of Chapter 286.011.

12B) City Manager

Charter Amendment Meetings

City Manager Borgmann handed out information received from the County in regard to hosting charter amendment meetings in North Miami on Monday, November 14th, Miami Lakes on Wednesday, November 16th and the West Dade Regional Library on Thursday, November 17th. Council may wish to attend one of the sessions or review the items that are under discussion.

City of Doral Agreement

City Manager Borgmann reported that the City of Doral contacted the City and it appears that they are offering the same funding for the use of the City's swimming pool funding in the amount of \$15,000 per year for another three years.

Holiday Hours

City Manager Borgmann distributed an agenda of the Community Center/Playground holiday hours of operation.

Santa at the Circle

City Manager Borgmann announced plans for Santa at Circle and distributed an agenda of times and activities. Notification is being sent to parents and kids informing them that they have to pre-register for the snow event. An advertisement will be placed in the River Cities Gazette with the same information.

Turkey Donations

City Manager Borgmann said that he spoke with Elderly Services Director Karen Rosson who informed him that County Commissioner Rebeca Sosa has arranged for fifteen turkeys. In addition, Mayor Garcia indicated that the Miami-Dade County League of Cities is donating twenty turkeys that Public Works will pick up on Tuesday, November 15, 2011.

City Manager Borgmann explained that Karen Rosson is planning a raffle at the Senior Center on November 22nd.

Roof Enforcement

City Manager Borgmann informed Council that only the worst cases of dirty roofs are being enforced at this time and extensions are being considered for those who are unable to comply at this time.

Strategic Planning Sessions

City Manager Borgmann stated that a make-up strategic planning session for the residents is planned for Tuesday, November 15th and for the businesses on Sunday, November 20th at 2:00 p.m. Notification was placed in the River Cities Gazette and letters were mailed to the businesses on the occupational license data base.

Robbery

City Manager Borgmann reported that a robbery was held over the weekend and the people that gained access to the house identified themselves as code enforcement officials. The Chief of Police will follow-up on the incident and formulate a strategy to inform the residents.

12C) City Council

Roof Enforcement

Vice Mayor Espino said that residents expressed their concerns in regard to the roof issue in regard to the time limit and possible fines. He explained that the City's interest for residents to comply and not to fine them and perhaps Council should decide how to deal with those cases where people are willing to make the improvements, but are having a difficult time.

Burglaries

Vice Mayor Espino received many calls from residents who are concerned about crime in the City. He knows that the Police Department has been patrolling the City in marked and unmarked cars, but many people still feel unsafe. The City may have to increase the police presence for a period of time to make the residents feel safe.

Chief of Police Baan reassured everyone that there had been a dramatic increase in police presence and burglaries in the City had declined. Three arrests were made, cases are being solved and the Police Department is doing everything possible. He added that an increase in property crimes has been seen everywhere in South Florida and all over the country.

Vice Mayor Espino requested a memorandum from the Police Chief outlining what has been done to increase police presence.

Chief of Police Baan offered to speak with each Council member to let them know what the Police Department is doing to protect the residents.

Curtiss Mansion

Vice Mayor Espino reported that Senator Rene Garcia visited the Curtiss Mansion on Sunday. Attendees also included the City Manager, Mayor Garcia and Miami Lakes Councilman Nelson Hernandez. The lighting fixtures, floors, patio tile, and iron works over the windows are finished and the alarm and closed circuit television is in place.

Community Summit

Vice Mayor Espino handed out a memorandum outlining the second Community Summit and the two main areas of discussion were marketing and public relations and outdoor park space. He will provide an agenda and transcript of the meeting to Bill Busutil so that it can be incorporated into the strategic planning.

JR's Gourmet Burgers

Vice Mayor Espino announced that JR's Gourmet Burgers is participating in the third annual Burger Best competition at the Magic City Casino and will attempt to win the award for best burger joint and best specialty burger.

Happy Thanksgiving

Vice Mayor Espino wished everyone a great Thanksgiving.

All Angels Movie Night

Councilwoman Ator reported that All Angels Movie night will be held on Friday, November 18th. "Gnomeo and Juliet" and "Letters to Juliet" are the scheduled movie presentations that evening.

Halloween

Councilwoman Ator announced that Halloween was a great success with a ton of traffic on Curtiss Parkway and less traffic on Falcon Avenue.

Veterans Day Ceremony

Councilwoman Ator heard that the Veterans Day Ceremony was wonderful, although she was not there because she was at the Good Government Initiative. She appreciates the people who attended and participated and she received photographs from the Assistant City Manager of her children at the event.

Breakfast with Santa

Councilwoman Ator reported that All Angels Breakfast with Santa is in the morning on the same day as the City's Christmas event on Saturday, December 3rd.

Turkey Trot

Councilwoman Ator reminded everyone of the Turkey Trot on Saturday, November 19th.

Strategic Planning Application

Councilwoman Ator acknowledged the City Administration for the strategic planning application that was mailed to the businesses. She received two letters at her office and hopes that in the future the exact addresses can be worked out. Information was also handed out at the Veterans Day Ceremony and everything possible was done to publicize the sessions.

Code Enforcement Officers

Councilwoman Ator suggested placing photographs of the Code Enforcement Officers on the City website so that residents can see what they look like in order to avoid future problems with false identity.

Chamber of Commerce

Councilwoman Ator announced that the Chamber of Commerce would be meeting at 6:00 p.m. on Thursday, November 17th at Holleman's Restaurant. She hopes to see the Assistant City Manager there because he is the City's liaison.

Good Government Initiative

Councilwoman Ator mentioned that she attended the final meeting of the Good Government Initiative and it was a wonderful program. She learned a lot and met amazing people and contacts from other cities in South Florida. She commended Katy Sorenson and the University of Miami for putting together such a great program.

Happy Thanksgiving

Councilwoman Ator wished everyone a happy, quiet, uneventful Thanksgiving.

Happy Thanksgiving

Councilman Lob wished everyone a happy Thanksgiving.

Optimist Club Tree Lot

Councilman Lob reported that the Optimist Club Christmas Tree Lot will open at 10:00 a.m. on Thursday, November 24th. He urged the residents to support the community by purchasing their trees from the Optimist Club. A coupon will be published in the River Cities Gazette and they will be selling table top and smaller 4-5' trees this year.

Veterans Day Ceremony

Councilman Lob said that he was out of town but heard that the Veterans Day Ceremony was a success.

Thank You

Mayor Garcia thanked County Commissioner Rebeca Sosa for turkey donations and the flu shots that were given in the City. Some folks had their driver's licenses renewed and received their vaccination at the same time.

Ground Breaking Ceremony

Mayor Garcia attended the Centurion Air Cargo groundbreaking with the City Manager and Assistant City Manager. He said that it is an incredible facility that will be constructed on N. W. 36th Street by the Airport that will generate 200 new jobs. The owner of the company was happy to see representatives from Miami Springs because the business is important to the City and 25% of the employees are residents. The owner's vision for N. W. 36th Street and the Airport area is phenomenal and it will make a great economic impact for the City of Miami Springs.

Event Notices

Mayor Garcia asked the City Clerk to e-mail the event flyers and notices to Council.

Principal for a Day

Mayor Garcia announced that on Wednesday, November 16, 2011, he will be the Principal for the Day at Miami Springs Senior High School.

Basketball Season

Mayor Garcia reported that basketball season is in full swing and those parents who want to sign up their child should do it quickly as space is limited.

Walk for Miami Rescue Mission

Mayor Garcia thanked Carol Snokes who put together the walk for the Miami Rescue Mission that is an incredible event.

Strategic Planning Notices

Mayor Garcia commented that the Administration did a great job on the strategic planning notices that were mailed to all the businesses and notices that were given to the residents and City organizations.

Prayers

Mayor Garcia asked everyone to keep Councilman Best’s mother in their prayers.

13. Adjourn.

There being no further business to be discussed the meeting was adjourned at 10:56 p.m.

Zavier M. Garcia
Mayor

ATTEST:

Magali Valls, CMC
City Clerk

Approved during meeting of: ____

Transcription assistance provided by Suzanne S. Hitaffer.

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

**EXECUTIVE SESSION
REGARDING
LITIGATION
MERIDIAN
MANAGEMENT, LLC**



**CITY OF MIAMI SPRINGS, FLORIDA
NOTICE OF CITY COUNCIL
EXECUTIVE SESSION MEETING**

The City Council will meet in Executive Session with the City Manager, Assistant City Manager, and City Attorney to discuss the pending litigation of Meridian Management, LLC v. City of Miami Springs on:

MONDAY, NOVEMBER 28, 2011 at 7:00 P. M.
REBECA SOSA THEATER – COMMUNITY CENTER
1401 WESTWARD DRIVE
MIAMI SPRINGS, FLORIDA 33166

pursuant to the provisions of F.S. §286.011 (8):

Notwithstanding the provisions of subsection 1, any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision, and the chief administrative or executive officer of the governmental entity, may meet in private with the entity's attorney to discuss pending litigation to which the entity is presently a party before a court or administrative agency.

The City will adhere to the statutory procedures provided in the aforesaid statute in conducting the Executive Session Meeting.

Magali Vallis, CMC
City Clerk

Published, November 24, 2011

**EXECUTIVE SESSION
REGARDING
CITY MANAGER'S
POSITION**



**CITY OF MIAMI SPRINGS, FLORIDA
NOTICE OF CITY COUNCIL
EXECUTIVE SESSION MEETING**

The City Council will meet in Executive Session to discuss the City Manager's position selection process and negotiating strategies on:

MONDAY, NOVEMBER 28, 2011
7:00 P. M.
REBECA SOSA THEATER - COMMUNITY CENTER
1401 WESTWARD DRIVE
MIAMI SPRINGS, FLORIDA 33166

pursuant to the provisions of F.S. §286.0113 (2) (a) (2):

Any portion of a team meeting at which negotiation strategies are discussed is exempt from the requirements of F.S. §286.011.

The City will adhere to the statutory procedures provided in F.S. §286.0113 in conducting the Executive Session Meeting.

Magali Valls, CMC
City Clerk



CITY OF MIAMI SPRINGS, FLORIDA

The Miami Springs **City Council** met in regular session, Monday, November 14, 2011, and during the meeting sat as the **Board of Appeals**. The meetings were held in the Rebeca Sosa Theatre at the Community Center, beginning at 7:00 p.m. On **ROLL CALL** the following were present:

1) CALL TO ORDER AND ROLL CALL

The meeting was called to order at 7:30 p.m.

The following were present: Mayor Xavier M. Garcia
Vice Mayor Dan Espino
Councilwoman Jennifer Ator
Councilman George V. Lob

Absent: Councilman Bob Best

Also Present: City Manager James R. Borgmann
Assistant City Manager Ronald K. Gorland
City Attorney Jan K. Seiden
City Planner James H. Holland
Building and Zoning Office Supervisor Harold "Tex" Ziadie
City Clerk Magali Valls

Sitting as the **Board of Appeals**, Council took the following actions:

2) MINUTES OF REGULAR MEETING:

Minutes of the June 13, 2011 Board of Appeals meeting were approved as written.

Vice Mayor Espino moved to approve the minutes. Councilman Lob seconded the motion, which was unanimously carried on roll call vote.

**3) CASE NO. 19-V-11
PEDRO GONZALEZ
1259 BLUEBIRD AVENUE
ZONING: R-1B, SINGLE-FAMILY RESIDENTIAL
LOT SIZE: 75 FT. X 122 FT.**

Applicants are seeking a variance from Code Section 150-013 (A) (4) to retain replacement ficus hedges.

City Attorney Jan K. Seiden stated that the case had been pending for a long time with the Code Enforcement Board and Mr. Ziadie was present to give his testimony. Many years ago Council passed an ordinance that prohibited ficus plantings. The applicant replanted ficus hedges that had been destroyed.

City Attorney Seiden explained that City Planner Jim Holland had recommended that the variance be approved simply because the hedges had grown the same height as the remaining hedges. City Planner Holland then learned from Mr. Ziadie about the history of the case and changed his recommendation to a recommendation of denial because the growth of the plants was not felt to be a necessary excuse for the initial violation of the code. Mr. Gonzalez requested a variance to keep the ficus hedges and it was denied by the Board of Adjustment.

Mr. Gonzalez stated that he was not aware of the ordinance prohibiting ficus hedges. When twelve of his ficus plants were destroyed, he replaced them. He said that the hedges were there since he purchased the home. He commented that the rest of the hedges would not look balanced if he removed the hedges. There are more than fifty hedges that are grandfathered since they were planted before the ordinance was enacted.

Mr. Ziadie stated that the case began in June 2009 when the violation was noted. Mr. Gonzalez was given numerous opportunities to remove the plants when they were small. He noted that the case has been heard twice by the Code Enforcement Board and Mr. Gonzalez was told that he could apply for a variance. His recommendation is to uphold the decision of the Board of Adjustment.

Mayor Garcia said that he understands that if Council does any type of relief, they will set a precedent but this is one of those codes that he hopes Council will be considering along the way when they look at codes that need to be revised in Miami Springs.

To clarify for Mayor Garcia, Mr. Ziadie said that the taller the plants grow, the more the roots spread.

Mayor Garcia commented that for future cases he would like Council to consider it a hardship for residents to replace a small percentage of a hedge. He stated that the hedges are not the entire yard, and are only a portion. For future cases, Mayor Garcia suggested some type of stipulation where a certain percentage of the yard is allowed to be replaced as long as it is within a small percentage of whatever Council decided it to be.

Councilman Lob asked why the plants died and Mr. Gonzalez said that his neighbor had a Jacuzzi on the fence and when it was removed, the plants died.

Councilman Lob asked Mr. Ziadie if there is a height limitation for ficus hedges and Mr. Ziadie replied that ficus hedges are limited to eight feet.

Vice Mayor Espino said that it is a bad case and variances should not be used to legislate. He noted that there is a difference if the hedges are on personal property or the swale. He has an issue with the ordinance since the property owner is responsible for damage of the pipes on his property. He stated that he would be willing to make an accommodation by amending the ordinance but not by granting the variance.

City Attorney Seiden commented that the hedge was planted on the property line and it affected the neighbor also. The root system was destroyed when the Jacuzzi was removed.

Mr. Gonzalez replied that the roots were not attached to the Jacuzzi. The Jacuzzi was not allowing sun exposure to the plants and that is why they were destroyed.

Mayor Garcia said that any issues between properties should be handled by the neighbors.

Councilwoman Ator said that she supports the Board of Adjustment and their decision. Amending the code should be considered at another time when Council has appropriate information.

Councilman Lob agreed that the ordinance should be re-considered and Council should not create a variance where they do not need to. In this case, it was not the applicant's fault that the plants died and he maintained the plantings within the height limitation. He commented that planting a different type of plant would look bad.

Vice Mayor Espino moved to uphold the decision of the Board of Adjustment with the acknowledgement that the City Council will ask the administration to put this item on the agenda for their consideration to amend the ordinance. Councilman Lob seconded the motion which was carried 3-1 with Councilwoman Ator casting the dissenting vote.

City Attorney Seiden advised the applicant that his variance was denied so he is subject to the Code Enforcement Board ruling. He noted that from now on, Council could direct the Code Enforcement Department not to give any future citations if the Council wants to look at the Code.

Vice Mayor Espino asked City Attorney Seiden if Council has the authority to suspend the Code Enforcement Board's order and City Attorney Seiden replied that Council does not have that authority and Code Enforcement Board actions can only be appealed by the Circuit Court.

Councilwoman Ator commented the code was passed for a reason and Council was attempting to move away from changing the code for an individual case. All interested parties should be able to attend a meeting and express their opinions on this item and Council should have more information before making a decision.

Discussion ensued regarding the misunderstanding between City Attorney Seiden and Council of what Council would like to do with this item.

Mayor Garcia stated that his intention was for Code Enforcement to hold off on giving any citations.

Councilwoman Ator asked if there are any other issues pending with ficus hedges. Mr. Ziadie replied that there are no open cases for ficus hedges at this time.

Mr. Gonzalez asked if he has to remove the trees. Mayor Garcia advised him that he does have to remove the trees. He must abide by the Code Enforcement Board ruling.

Mr. Gonzalez stated that he will remove the trees but it is ridiculous that this has occurred over 14 plants.

4) OTHER BUSINESS

None.

5) ADJOURNMENT

There was no additional business to be considered by the Council sitting as the Board of Appeals and the meeting was adjourned at 8:10 p.m. to the Council Regular Meeting.

Respectfully submitted,

Magali Valls, CMC
City Clerk

Approved as _____ during meeting of: _____

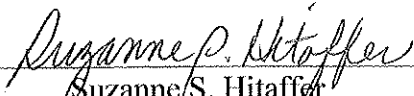
Transcribed from tape by: Elora R. Sakal



City of Miami Springs, Florida

CANCELLATION NOTICE

The Historic Preservation Board Regular Meeting of Thursday, November 17, 2011 was canceled in advance.


Suzanne S. Hitaffer
Secretary to the Board

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



City of Miami Springs
Ecology Board
Cancellation Notice

The Ecology Board Meeting of Tuesday, November 22, 2011 has been canceled
in advance.

A handwritten signature in black ink, reading "Allene M. Paz", is written over a horizontal line.

Allene M. Paz
Secretary to the Board

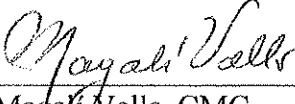
cc: Mayor and Council
City Manager
Assistant City Manager
City Attorney
Ecology Board Members
Post



CANCELLATION NOTICE

CODE REVIEW BOARD

The Code Review Board meeting of Thursday, November 24, 2011 has been canceled due to the Thanksgiving Holiday.



Magali Valls, CMC
City Clerk


cc: Mayor and Council
City Manager
Assistant City Manager
City Attorney
Code Review Board Members and Secretary
Post



City of Miami Springs, Florida

CANCELLATION NOTICE

The Education Advisory Board Regular Meeting of Tuesday, December 20, 2011 has been canceled in advance.


Suzanne Hitaffer
Clerk of the Board

cc: Mayor and City Council
City Manager
Assistant City Manager
City Attorney
City Clerk
Education Advisory Board Members
Post

CITY OF MIAMI SPRINGS

2011 NOV 21 A 8:45

MIAMI DAILY BUSINESS REVIEW

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



STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

PUBLIC HEARING

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

The Miami Springs City Council will conduct a public hearing at their regular meeting on Monday, November 28, 2011, at 7:00 p.m. at the Community Center's Rebeca Sosa Theater located at 1401 Westward Drive, Miami Springs, Florida regarding the following proposed ordinances:

CITY OF MIAMI SPRINGS
PUBLIC HEARING - NOVEMBER 28, 2011

ORDINANCE NO. 1028-2011 — AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CODE OF ORDINANCE SECTION 96.05, STREET NUMBERS; DISPLAY; TO PROVIDE CLARIFIED PROVISIONS AND REQUIREMENTS RELATED TO THE DISPLAY OF STREET NUMBERS ON IN THE CITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; EFFECTIVE DATE

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

ORDINANCE NO. 1029-2011 — AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CODE OF ORDINANCE SECTION 70-10, PARKING RESTRICTED IN CERTAIN AREAS; TO PROVIDE CLARIFIED PROVISIONS ON PERMITTED PARKWAY PARKING, PROHIBITED PARKWAY USE; PROHIBITED PARKWAY PARKING EXCEPTIONS, ENFORCEMENT AND SIGNAGE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; EFFECTIVE DATE

11/17/2011

ORDINANCE NO. 1030-2011 — AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS REPEALING CHAPTER NO. 134, WEAPONS; WHICH INCLUDES CODE SECTION 134-01, FIREARMS AND AIR RIFLES; DISCHARGE PROHIBITED; 134-02, CARELESS EXHIBITION OF WEAPONS; 134-03, FORFEITURE OF WEAPONS AND ARMS; 134-04, RETURN OF WEAPONS AND ARMS AND FORFEITURE ON FAILURE TO RECEIVE SAME; 134-05, DISPOSAL OF WEAPONS AND ARMS; AND 134-06, TAKING POSSESSION OF WEAPONS AND ARMS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; DIRECTIONS TO CODIFIERS; EFFECTIVE DATE

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

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

Magali Valls, CMC, City Clerk

Sworn to and subscribed before me this

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

17 day of NOVEMBER, A.D. 2011

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

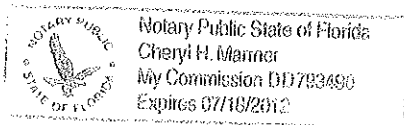
Cheryl H. Manner

11/17

11-3-110/1788583M

(SEAL)

M. MESA personally known to me



\$129.50



ORDINANCE NO. 1028-2011

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CODE OF ORDINANCE SECTION 96.05, STREET NUMBERS; DISPLAY; TO PROVIDE CLARIFIED PROVISIONS AND REQUIREMENTS RELATED TO THE DISPLAY OF STREET NUMBERS ON STRUCTURES IN THE CITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; EFFECTIVE DATE.

WHEREAS, The City Code Enforcement Department and the City Council have endeavored to correct, clarify, revise, repeal and correspondingly amend City Code Sections that present difficulties in understanding and enforcement; and,

WHEREAS, the Code Enforcement Department has suggested that Code of Ordinance Section 96.05 regarding the display of street numbers on structures in the City needs to be considered for appropriate corrective legislation by the City Council; and,

WHEREAS, the provisions of this Ordinance section have been reviewed and discussed by the City Council and the Code Enforcement Department Director; and,

WHEREAS, the City Council has determined that it is in the best interests of the City and its citizens to correct, clarify and revise the provisions of Code of Ordinance Section 96.05:

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

Section 1: That Code of Ordinance Section 96.05, Street Numbers; Display, is hereby amended as follows:

ARTICLE II. STREET NUMBERS; PARKWAYS

96.05. ~~Street numbers; display.~~ Display of Street Numbers.

~~All structures to which a street number has been assigned by the City shall display such number prominently on the front of the structure nearest to the street to which the number applies, or in the front yard, or upon mailboxes visible from the street.~~

- (A) The street numbers assigned to all structures in the City shall comply with the following requirements:
- (1) Must be at least three inches in height.
 - (2) Must be in a contrasting color to that of the structure to which it is attached.
 - (3) Must be visible and easily readable from the roadway fronting the displayed street number.
 - (4) No trees, shrubs, or other foliage shall be maintained in such a manner as to obstruct the visibility of any street number from the roadway fronting the displayed street number.
- (B) Notwithstanding the foregoing, street numbers may be displayed upon attached or detached mailboxes, so long as the location and placement of the street numbers on the mailboxes is in compliance with the requirements of the preceding section.
- (C) All street numbers which are currently easily readable and visible from the roadway fronting the displayed street number shall have two years to comply with all the requirements of subsection (A) of this Ordinance.

(D) All street numbers which are not currently easily readable and visible from the roadway fronting the displayed street number are required to immediately comply with the requirements of subsection (A) of this Ordinance.

Section 2: That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed insofar as they are in conflict.

Section 3: That the provisions of this Ordinance shall be effective immediately upon adoption by the City Council.

(THIS SPACE INTENTIONALLY LEFT BLANK)

PASSED AND ADOPTED by the City Council of the City of Miami Springs,

Florida this 28th day of November, 2011.

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

Vice Mayor Espino	" _____ "
Councilman Best	" _____ "
Councilman Lob	" _____ "
Councilwoman Ator	" _____ "
Mayor Garcia	" _____ "

Zavier M. Garcia
Mayor

ATTEST:

Magali Valls, CMC
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Jan K. Seiden, Esquire
City Attorney

First reading: 11/14/2011
Second reading: 11/28/2011

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

CITY OF MIAMI SPRINGS

2011 NOV 21 A 8:45

MIAMI DAILY BUSINESS REVIEW

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



STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

PUBLIC HEARING

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

The Miami Springs City Council will conduct a public hearing at their regular meeting on Monday, November 28, 2011, at 7:00 p.m. at the Community Center's Rebeca Sosa Theater located at 1401 Westward Drive, Miami Springs, Florida regarding the following proposed ordinances:

CITY OF MIAMI SPRINGS
PUBLIC HEARING - NOVEMBER 28, 2011

ORDINANCE NO. 1028-2011 — AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CODE OF ORDINANCE SECTION 96.05, STREET NUMBERS; DISPLAY; TO PROVIDE CLARIFIED PROVISIONS AND REQUIREMENTS RELATED TO THE DISPLAY OF STREET NUMBERS ON IN THE CITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; EFFECTIVE DATE

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

ORDINANCE NO. 1029-2011 — AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CODE OF ORDINANCE SECTION 70-10, PARKING RESTRICTED IN CERTAIN AREAS; TO PROVIDE CLARIFIED PROVISIONS ON PERMITTED PARKWAY PARKING, PROHIBITED PARKWAY USE; PROHIBITED PARKWAY PARKING EXCEPTIONS, ENFORCEMENT AND SIGNAGE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; EFFECTIVE DATE

11/17/2011

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ORDINANCE NO. 1030-2011 — AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS REPEALING CHAPTER NO. 134, WEAPONS; WHICH INCLUDES CODE SECTION 134-01, FIREARMS AND AIR RIFLES; DISCHARGE PROHIBITED; 134-02, CARELESS EXHIBITION OF WEAPONS; 134-03, FORFEITURE OF WEAPONS AND ARMS; 134-04, RETURN OF WEAPONS AND ARMS AND FORFEITURE ON FAILURE TO RECEIVE SAME; 134-05, DISPOSAL OF WEAPONS AND ARMS; AND 134-06, TAKING POSSESSION OF WEAPONS AND ARMS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; DIRECTIONS TO CODIFIERS; EFFECTIVE DATE

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

Sworn to and subscribed before me this

Magali Valls, CMC, City Clerk

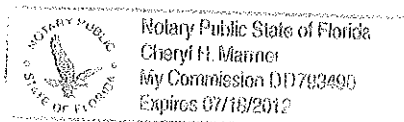
17 day of NOVEMBER, A.D. 2011

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

(SEAL)

M. MESA personally known to me

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



11/17

11-3-110/1788583M

\$129.50

ORDINANCE NO. 1029-2011

City Council Meeting of:

11-28-2011



AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CODE OF ORDINANCE SECTION 70-10, PARKING RESTRICTED IN CERTAIN AREAS; TO PROVIDE CLARIFIED PROVISIONS ON PERMITTED PARKWAY PARKING, PROHIBITED PARKWAY USE; PROHIBITED PARKWAY PARKING EXCEPTIONS, ENFORCEMENT AND SIGNAGE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; EFFECTIVE DATE.

WHEREAS, The City Code Enforcement Department and the City Council have endeavored to correct, clarify, revise, repeal and correspondingly amend City Code Sections that present difficulties in understanding and enforcement; and,

WHEREAS, the Code Enforcement Department has suggested that Code of Ordinance Section 70-10 regarding parking in City parkways needs to be considered for appropriate corrective legislation by the City Council; and,

WHEREAS, the provisions of this Ordinance section have been reviewed and discussed by the City Council and the Code Enforcement Department Director; and,

WHEREAS, the City Council has determined that it is in the best interests of the City and its citizens to correct, clarify and revise the provisions of Code of Ordinance Section 70-10:

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

Section 1: That Code of Ordinance Section 70-10, Parking Restricted in Certain Areas, is hereby amended as follows:

ARTICLE II. SPECIFIC REGULATIONS

Sec. 70-10. ~~Parking restricted in certain areas.~~ Regulations for City Parkways.

It shall be lawful to park motor vehicle on Curtiss Parkway and Morningside Drive in the center parkway of the public right-of-way of the City, provided that such vehicles are parked parallel with the pavement, and as close to the edge of the pavement as is reasonably practicable, but not to exceed a distance of ten feet from the edge of the pavement to the farther side of the vehicle. Any other use of any part of such parkways or the use of the parkways in any other manner, and any such use as is hereby allowed on Curtiss Parkway and Morningside Drive on the parkways of any other street in the City is hereby prohibited.

- (A) Permitted Parkway Parking. Motor vehicles may be parked in the public right-of-way median areas of Curtiss Parkway, Morningside Drive Parkway, and Westward Drive Parkway in accordance with the following rules and regulations:
- (1) Parking must be parallel with the adjoining street pavement.
 - (2) Parking must be as close to the adjoining street pavement as is reasonably practicable.
 - (3) Parking shall not exceed the distance of ten feet from the adjoining street pavement to the side of the motor vehicle farthest from the pavement.
 - (4) Parking is prohibited in all areas of the Parkway median that are curbed.
- (B) Prohibited Parkway Use. Curtiss Parkway, Morningside Drive Parkway, Westward Drive Parkway and all other City Parkways shall not be used for any other purpose, unless specifically authorized in writing by the City.

- (C) Prohibited Parkway Parking Exceptions. Parking is prohibited on all other public right-of-way median Parkway areas in the City, except as set forth below:
- (1) Parking for special events authorized in writing by the City.
 - (2) Parking for limited short-time use by service vehicles such as the United States Postal Service, lawn service companies, repair service vehicles, emergency police vehicles and similar uses.
- (D) Enforcement. It is the policy of the City to provide courtesy notices of prohibited parking before any punitive enforcement action is taken by the City Code Enforcement Department or Police Department in regard to parking on the prohibited parkway areas of the City.
- (E) Signage. Nothing contained herein shall in any way prohibit, restrict or limit the placement of no parking signs in prohibited parkway areas of the City in the future.

Section 2: That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed insofar as they are in conflict.

Section 3: That the provisions of this Ordinance shall be effective immediately upon adoption by the City Council.

(THIS SPACE INTENTIONALLY LEFT BLANK)

PASSED AND ADOPTED by the City Council of the City of Miami Springs,
Florida this 28th day of November, 2011.

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

Vice Mayor Espino	" _____ "
Councilman Best	" _____ "
Councilman Lob	" _____ "
Councilwoman Ator	" _____ "
Mayor Garcia	" _____ "

Zavier M. Garcia
Mayor

ATTEST:

Magali Valls, CMC
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Jan K. Seiden, Esquire
City Attorney

First reading: 11/14/2011
Second reading: 11/28/2011

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

CITY OF MIAMI SPRINGS

2011 NOV 21 A 8:45

MIAMI DAILY BUSINESS REVIEW

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



STATE OF FLORIDA
COUNTY OF MIAMI-DADE:

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

CITY OF MIAMI SPRINGS
PUBLIC HEARING - NOVEMBER 28, 2011

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

11/17/2011

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

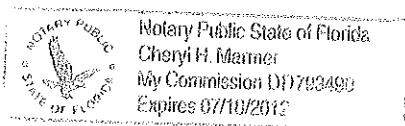
Sworn to and subscribed before me this

17 day of NOVEMBER, A.D. 2011

Cheryl H. Manner

(SEAL)

M. MESA personally known to me



PUBLIC HEARING

The Miami Springs City Council will conduct a public hearing at their regular meeting on Monday, November 28, 2011, at 7:00 p.m. at the Community Center's Rebeca Sosa Theater located at 1401 Westward Drive, Miami Springs, Florida regarding the following proposed ordinances:

ORDINANCE NO. 1028-2011 — AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CODE OF ORDINANCE SECTION 96.05, STREET NUMBERS; DISPLAY; TO PROVIDE CLARIFIED PROVISIONS AND REQUIREMENTS RELATED TO THE DISPLAY OF STREET NUMBERS ON IN THE CITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; EFFECTIVE DATE

ORDINANCE NO. 1029-2011 — AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS AMENDING CODE OF ORDINANCE SECTION 70-10, PARKING RESTRICTED IN CERTAIN AREAS; TO PROVIDE CLARIFIED PROVISIONS ON PERMITTED PARKWAY PARKING, PROHIBITED PARKWAY USE; PROHIBITED PARKWAY PARKING EXCEPTIONS, ENFORCEMENT AND SIGNAGE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; EFFECTIVE DATE

ORDINANCE NO. 1030-2011 — AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS REPEALING CHAPTER NO. 134, WEAPONS; WHICH INCLUDES CODE SECTION 134-01, FIREARMS AND AIR RIFLES; DISCHARGE PROHIBITED; 134-02, CARELESS EXHIBITION OF WEAPONS; 134-03, FORFEITURE OF WEAPONS AND ARMS; 134-04, RETURN OF WEAPONS AND ARMS AND FORFEITURE ON FAILURE TO RECEIVE SAME; 134-05, DISPOSAL OF WEAPONS AND ARMS; AND 134-06, TAKING POSSESSION OF WEAPONS AND ARMS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; DIRECTIONS TO CODIFIERS; EFFECTIVE DATE

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

Magali Valls, CMC, City Clerk

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

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

11/17

11-3-110/1788583M

\$129.00

ORDINANCE NO. 1030-2011

City Council Meeting of:

11-28-2011



AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI SPRINGS REPEALING CHAPTER NO. 134, WEAPONS; WHICH INCLUDES CODE SECTION 134-01, FIREARMS AND AIR RIFLES; DISCHARGE PROHIBITED; 134-02, CARELESS EXHIBITION OF WEAPONS; 134-03, FORFEITURE OF WEAPONS AND ARMS; 134-04, RETURN OF WEAPONS AND ARMS AND FORFEITURE ON FAILURE TO RECEIVE SAME; 134-05, DISPOSAL OF WEAPONS AND ARMS; AND 134-06, TAKING POSSESSION OF WEAPONS AND ARMS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; DIRECTIONS TO CODIFIERS; EFFECTIVE DATE.

WHEREAS, the provisions contained in Chapter 134 of the City Code relating to "Firearms, Weapons and Arms" have not been revised, corrected, updated or amended since 1969; and,

WHEREAS, the City Police Department does not customarily cite the provisions of Chapter 134 for "Firearms, Weapons and Arms" violations charged by the Department; and,

WHEREAS, the Florida Legislature recently passed HB45 which amends the provisions of Florida Statute Section 790.33 and provides for the state preemption of local ordinances and regulations governing the use of firearms in the state; and,

WHEREAS, the aforesaid legislation, which became effective on October 1, 2011, declares local firearms ordinances and regulations null and void, prohibits the enactment of any such future ordinances and regulations and requires local jurisdictions to only enforce the state firearms laws; and,

WHEREAS, severe penalties are provided within the provisions of the amended statute for violations by local governments and local government officials; and,

WHEREAS, in light of the new legislation preempting the regulation of firearms and ammunition to the state, the out of date "Firearms, Weapons and Arms" provisions currently contained in the Code, and the Police Department's customary and continuing policy of charging firearms violations under the state statute, the City Council has determined that it is both proper and appropriate to repeal the provisions contained within Chapter No. 134 of the City Code of Ordinances:

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

Section 1: That Chapter No. 134, Weapons, of the Code of Ordinances and the specific Code of Ordinance Sections contained therein, are hereby repealed as follows:

**CHAPTER 134
WEAPONS**

~~Sec. 134.01. Firearms and air rifles; discharge prohibited.~~

~~It shall be unlawful to discharge any firearm or air rifle within the limits of the City.~~

~~Sec. 134.02. Careless exhibition of weapons.~~

~~It shall be unlawful for any person having a weapon in his possession to exhibit the same in a rude, careless, angry or threatening manner, no in necessary self-defense.~~

~~Sec. 134.03. Forfeiture of weapons and arms.~~

~~If the person arrested is convicted under any ordinance of the City involving the use of, or the attempted use of such weapons or arms, the weapons or arms shall become forfeited to the City without any order of forfeiture being necessary.~~

~~Sec. 134.04. Return of weapons and arms and forfeiture on failure to receive same.~~

~~If the person is acquitted of any offense involving the use of, or attempted use of, any weapon or arm, the weapon or arms taken from him as aforesaid shall be returned to him. However, if he fails to call for, or to receive same within 60 days from and after his acquittal or dismissal of charges against him, the weapon or arms shall be forfeited to the City.~~

~~Sec. 134.05. Disposal of weapons and arms.~~

~~Weapons or arms coming into the hands of the Chief of Police or the Commander of the property unit of the Police Department of the City, which are forfeited under the foregoing provisions of Sections 134.03-134.04, suitable for use by the Police Department, may be so used, or any weapon or arm which is not needed, or which is useless or unfit for use shall be destroyed or otherwise disposed of by the Chief of Police. Any such arms or weapons may be used as a trade-in or payment for weapons or arms needed for use by the Police Department. In the event that any of the arms or weapons are sold, the proceeds from the sale shall be transferred to the general fund of the City.~~

~~Sec. 134.06. Taking possession of weapons and arms.~~

~~Whenever any person is arrested while committing an offense, which is a violation of any ordinance of the City, and at the time of the arrest is armed with, or has on his person, any slingshot, metallic knuckles, billies, firearms, or any other dangerous weapons, the arresting office shall take possession of the weapon or arms in the possession of, or found upon, the person arrested, and shall deliver them to the Chief of Police, or the Commander of the property unit of the Police department of the City.~~

Section 2: That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed insofar as they are in conflict.

Section 3: That the codifiers are hereby directed to codify this Ordinance in the proper manner and format of the City of Miami Springs Code of Ordinances.

Section 4: That the provisions of this Ordinance shall be effective immediately upon adoption by the City Council.

(THIS SPACE INTENTIONALLY LEFT BLANK)

PASSED AND ADOPTED by the City Council of the City of Miami Springs,

Florida this 28th day of November, 2011.

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

Vice Mayor Espino	" _____ "
Councilman Best	" _____ "
Councilman Lob	" _____ "
Councilwoman Ator	" _____ "
Mayor Garcia	" _____ "

Zavier M. Garcia
Mayor

ATTEST:

Magali Valls, CMC
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Jan K. Seiden, Esquire
City Attorney

First reading: 11/14/2011
Second reading: 11/28/2011

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



**OFFICE OF THE CITY CLERK
MEMORANDUM**

TO: Honorable Mayor Garcia and Members of the City Council
FROM: Magalí Valls, City Clerk *M. Valls*
DATE: November 15, 2011
SUBJECT: **Appointment to the Board of Adjustment**

Mayor Garcia has notified me that he is re-appointing Francisco Fernández to the Board of Adjustment/Zoning and Planning Board for an unexpired term ending on April 30, 2012 and that he will officially confirm the appointment at the Regular Meeting of Monday, November 28, 2011.

cc: City Manager James R. Borgmann
Assistant City Manager Ronald K. Gorland
City Attorney Jan K. Seiden
Board of Adjustment Members and Secretary



**OFFICE OF THE CITY CLERK
MEMORANDUM**

TO: Honorable Mayor Garcia and Members of the City Council
FROM: Magali Valls, City Clerk *M. Valls*
DATE: November 15, 2011
SUBJECT: PENDING BOARD APPOINTMENTS

The following appointments are pending:

<u>APPOINTING COUNCILMEMBER</u>	<u>CURRENT MEMBER</u>	<u>TERM EXPIRES</u>	<u>ORIGINAL APPOINTMENT DATE</u>	<u>LAST APPOINTMENT DATE</u>
<u>Board of Adjustment</u>				
Mayor Xavier M. Garcia	Francisco Fernández***	04-30-2012	10-14-1991	05-11-2009
<u>Architectural Review Board</u>				
Mayor Xavier M. Garcia	Kathy Fleischman*	10-31-2012	VACANT	VACANT
<u>Code Enforcement Board</u>				
Mayor Xavier M. Garcia	Raúl Sáenz	11-30-2011	11-14-2005	12-08-2008
Vice Mayor Espino – Group II	John Bankston	09-30-2011	09-23-2002	10-28-2008
Vice Mayor Espino – Group II	Rhonda Calvert	09-30-2011	09-25-2006	10-13-2008
<u>Code Review Board</u>				
Mayor Xavier M. Garcia	Connie Kostyra*	04-30-2012	VACANT	VACANT
<u>Disability Advisory Board</u>				
Mayor Xavier M. Garcia	Charlene Anderson*	12-31-2013	VACANT	VACANT
Vice Mayor Espino – Group II	Peter Newman*	12-31-2013	VACANT	VACANT
Councilwoman Ator – Group IV	Roxana Garciga	12-31-2013	08-12-2002	12-10-2007
<u>Ecology Board</u>				
Councilman Lob– Group III	Dr. Mara Zapata*	04-30-2013	VACANT	VACANT

Memo to Council
November 15, 2011
Page 2

Historic Preservation Board

Vice Mayor Espino (Group II)	Yvonne Shonberger	02-28-2014	06-13-2005	02-11-2008
Councilwoman Ator – Group IV	M.A. Goodlett-Taylor**	01-31-2013	01-24-1983	01-22-2007

Recreation Commission

Vice Mayor Espino – Group II	Dr. Stephanie Kondy	04-30-2014	06-13-2005	04-14-2008
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* Kathy Fleischman resigned on April 19, 2011.
Connie Kostyra resigned on April 28, 2011.
Peter Newman resigned on August 1, 2009.
Charlene Anderson resigned on June 6, 2011.
Dr. Mara Zapata resigned from the Ecology Board to become a member of the Education Advisory Board.

** Council confirmation required per §153.11 of the City Code of Ordinances: “..... No board member who shall have served three consecutive terms of office shall be eligible to serve an additional term of office for 2 years thereafter, unless the appointment for any additional term shall be confirmed by a majority of the council.....”

*** Completed three absences as of November 7, 2011.

cc: City Manager
Assistant City Manager
City Attorney
Affected Board Members

11-28-2011



**EXTENSION AGREEMENT FOR PHASE I OF THE MANAGEMENT
AND OPERATION AGREEMENT FOR CURTISS
MANSION PROPERTY**

THIS EXTENSION AGREEMENT made and entered into this _____ day of November, 2011, by and between the **CITY OF MIAMI SPRINGS**, a Florida Municipal Corporation, hereinafter referred to as "City", and **CURTISS MANSION, INC.**, a Florida Not-for-Profit Corporation, hereinafter referred to as "CMI":

WITNESSETH:

WHEREAS, the City and Curtiss Mansion, Inc., (CMI) entered into a "Management and Operation Agreement for Curtiss Mansion Property" on September 1, 2000; and,

WHEREAS, the aforesaid Agreement provides for a two phase approach which entails the restoration and then the management and operation of the restored mansion property; and,

WHEREAS, each phase of the Agreement is provided with its own "Term" and "Compliance Conditions"; and,

WHEREAS, although certain of the Phase I compliance conditions have not yet been met and the achievement of the proposed goals for the "term" have not been completely achieved, the City Council and the City Administration are satisfied that sufficient efforts and progress are being made and achieved by CMI; and,

WHEREAS, on August 28, 2002, CMI requested, and the City Council granted, an extension of one (1) year in which to fully comply with the conditions and goals set forth in the Agreement; and,

WHEREAS, despite the expiration of the prior Extension Agreement on August 28, 2003, on November 30, 2006, CMI requested, and the City Council agreed to grant a further contract extension to January 15, 2008 in which to comply with the conditions and goals set forth in the Agreement; and,

WHEREAS, despite the fact that the Extension Agreement authorized by the City Council expired on January 15, 2008, the City and CMI have continued their contractual relationship without the existence of a further Extension Agreement; and,

WHEREAS, the City Council has been advised that CMI has requested an additional extension of time in order to complete the work planned for the grant/bonding funding it has recently received and to secure additional grants and funding that would not be available to CMI without the extension; and,

WHEREAS, the completion of the currently anticipated work on the structure and the receipt of other anticipated grants and other funding is expected to permit CMI to achieve compliance with the Phase I terms and conditions of the Agreement; and,

WHEREAS, the City Council approved the granting of the aforesaid additional Agreement Extension request at its regular City Council meeting on March 14, 2011, and memorialized its action in an Extension Agreement of that date; and,

WHEREAS, the last Extension Agreement expired on September 30, 2011, and the City and CMI have continued their relationship without a formalized further extension; and,

WHEREAS, CMI has requested an additional extension in order to continue its fund raising efforts on behalf of the Mansion and in order to complete the restoration and renovation project and place the Mansion in service to the community; and,

WHEREAS, the City Council has considered the request of CMI to be granted an additional extension in which to complete its Phase I duties and responsibilities under its agreement with the City and the City Council granted CMI's request at its Regular Council meeting of November 28, 2011, and memorialized its action in this Extension Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and the representations made to the City and the City Council, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. That the recitals previously contained herein are true and correct.
2. That the City of Miami Springs hereby grants to Curtiss Mansion, Inc., an extension to February 1, 2012 for compliance with the Phase I provisions contained in the "Terms of Agreement" paragraph contained on Page 4 of the existing Management and Operation Agreement for Curtiss Mansion Property.
3. That the City of Miami Springs hereby grants to Curtiss Mansion, Inc., an Agreement Extension to February 1, 2012 for compliance with all "Phase I Compliance Conditions" contained on Pages 12, 13 and 14 of the existing Management and Operation Agreement for Curtiss Mansion Property which have not yet been timely achieved and which are expected to be achieved during the proposed extension period.

4. That the existing Management and Operation Agreement for Curtiss Mansion Property shall, in all other respects as to the Phase I duties and responsibilities, remain in full force and effect and not be otherwise modified, amended, or supplemented except as provided herein.

CITY OF MIAMI SPRINGS

By: _____
JAMES R. BORGMANN
City Manager

ATTEST:

MAGALÍ VALLS, CMC
City Clerk



CURTISS MANSION, INC.

WITNESSES:

BY: _____
JO ELLEN PHILLIPS, President

Print Name: _____

Print Name:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. _____

MERIDIAN MGMT, LLC,

Plaintiff

v.

CITY OF MIAMI SPRINGS,

Defendant

_____ /

COMPLAINT

Plaintiff, Meridian Mgmt, LLC ("Meridian"), for its Complaint against the City of Miami Springs ("Miami Springs" or the "City"), alleges:

1. This is an action for declaratory and injunctive relief, preliminary and permanent, or, in the alternative, damages, together with reasonable attorney's fees and such other relief as the Court may deem appropriate. The action is based upon the unconstitutionality, both as applied and facially, of a sign ordinance enacted by the City which impermissibly infringes upon the right of Meridian, its advertisers, and the general public to free speech as guaranteed by the First and Fourteenth Amendments to the United States Constitution and parallel state constitutional provisions.

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over the action under 28 U.S.C. §§ 1331 and 1343(a)(3) and (4) because the action arises under the First and Fourteenth

Amendments to the United States Constitution and under 42 U.S.C. §§ 1983 & 1988.

3. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) because Plaintiff's claims arise in this district and Defendant is a municipal corporation located within this district.

Parties

4. Plaintiff, Meridian, is a Florida limited liability company with its principal place of business in Orange County, Florida.

5. Defendant, Miami Springs, is a Florida municipality located in Miami-Dade County, duly organized and existing under the laws of the State of Florida.

Meridian's Business

6. Outdoor advertising is a cost-effective means of displaying commercial, political and public service messages to a wide audience. Many businesses, not-for-profit institutions, and other persons or groups rely on outdoor advertising as the farthest reaching, most appropriate, least expensive and perhaps only means of communicating the message displayed.

7. Meridian is engaged in the business of outdoor advertising. As such, it seeks to erect billboard structures on private property within the City in order to provide a platform for its advertisers who may wish to display a commercial or noncommercial message. Businesses, citizens, politicians, political groups and other entities will have the opportunity to lease Meridian's billboards to display political messages, commercial messages or noncommercial messages of their choosing. The users of Meridian's billboards and their messages will change periodically.

8. Meridian has obtained, by assignment, options to lease certain real property

located within the City. The options grant Meridian the right to erect and maintain on the leased premises outdoor advertising signs containing commercial and noncommercial messages relating to products, services and activities conducted on property other than the property where the sign is located (i.e., off-premise signs).

9. Meridian's signs are available to local and national advertisers for commercial and noncommercial messages similar to newspaper and broadcast advertising. The users and messages change periodically.

Miami Springs' Sign Ordinance

10. The City has adopted, as Chapter 150, Article II, of its Code of Ordinances, a sign ordinance (the "Sign Ordinance") regulating the use of outdoor advertising within the city limits. A copy of the Sign Ordinance in effect when Meridian's applications for permits were filed as alleged below is attached hereto as Exhibit "A".

11. The Sign Ordinance exempts certain signs from its permitting requirements, among which are traffic signs, directional signs and directory signs. Sections 150-030(B)&(L).

12. The Sign Ordinance defines numerous signs with regard to their content, including commercial event signs, directional signs and real estate signs, Section 150-030(B), thereby requiring an examination of the content of the sign in order to determine the type of sign.

13. The Sign Ordinance exempts official traffic signs or signals from its permitting requirements, thereby allowing such signs to be illuminated, flashing, and of any size, without regard to the traffic safety and aesthetic concerns raised in the Sign Ordinance. Section 150-030(E).

14. The Sign Ordinance fails to provide for any time frame for a decision to be rendered on a permit application and further fails to reference any other ordinance that would provide those time frames.

15. The Sign Ordinance fails to provide for appeal procedures in the event a permit application is denied.

Meridian's Applications

16. On July 26, 2011, pursuant to the Sign Ordinance, David Cholak of Landmark Advertising, LLC ("Landmark Advertising") submitted, in person, applications to the City for permits to construct outdoor advertising signs within the City. Mr. Cholak was informed that the City did not allow the signs for which Landmark Advertising was applying and that the City would not accept the applications for consideration on the basis that the City's sign ordinance prohibited billboard signs. Mr. Cholak left with the applications.

17. Mr. Cholak was prepared to tender payment of all fees that would be required to submit the applications.

18. The City's refusal to accept the applications constituted a de facto denial of the applications. Since the signs were specifically prohibited by the City's sign ordinance, there was no person in the City who had the ability to grant the applications submitted by Landmark Advertising. Any such act by a City representative would have been an ultra vires act, without legal support, and any permits issued therefrom would not be valid and the City would have been able to refuse to honor such permits.

19. Pursuit of an appeal or any other administrative remedy would have been futile since there was no person(s) who had the authority to approve Landmark Advertising's applications for sign permits when the City's sign ordinance stated that such

signs were prohibited.

20. Pursuit of a variance would also have been futile since Landmark Advertising would not meet the requirements that must be met to obtain a variance.

21. Meridian has been injured by the actions of the City of Miami Springs and the provisions of the Sign Ordinance in that (1) it, and its potential future advertisers, has been denied its right to express commercial or non-commercial speech on the signs it desires to erect, (2) it has expended significant time and money in pursuit of the options and sign permits, and (3) it has lost a business opportunity and has lost the profits that it would have made from the sale of advertising and/or sale of the signs for which it applied for permits.

22. The City's refusal to accept the applications presented by Landmark Advertising was a showing of bad faith on the part of the City and, therefore, the City should be estopped from arguing that Landmark Advertising should have pursued additional administrative remedies.

23. Meridian has obtained, through an assignment from Landmark Advertising, all right title and interest of Landmark Advertising in the options to lease and the right to pursue any legal recourse available to recover for any injury suffered as a result of the denial of the permit applications by the City.

Constitutional Defects

24. The Sign Ordinance contains numerous constitutional defects.

25. The Sign Ordinance provides exceptions to its provisions which are content-based, thereby impermissibly favoring certain forms of non-commercial speech over other forms of non-commercial speech.

26. The Sign Ordinance lacks the necessary standards to guide the officials

administering it and to limit their discretion.

27. The Sign Ordinance lacks the procedural safeguards required in order to insure that decisions are rendered in a fair and timely manner with regard to protected speech.

28. The Sign Ordinance favors certain speech based upon the speaker.

29. The Sign Ordinance defines numerous signs with reference to their content; therefore, it is clearly a content based ordinance, subject to strict scrutiny.

30. The Sign Ordinance's sign review process requires examination of the content of a sign's message. In most instances, whether non-commercial signs are exempted or prohibited turns on whether or not they convey the limited messages approved by the Sign Ordinance.

31. Less restrictive means than the means chosen by the City were available to the City to advance its interests.

32. The Sign Ordinance leads irrevocably to the banning of an entire expressive medium. The outdoor advertising industry constitutes a particular forum. Commercial off-premise signs such as billboards are not substitutable with advertising in any other media and there is little, if any, cross-elasticity of demand.

33. The Sign Ordinance lacks narrow, objective and definite guidelines to direct the officials administering it and to appropriately limit their discretion.

34. The Sign Ordinance specifically exempts certain governmental signs from its provisions, thereby allowing governmental bodies to erect signs of all sizes and types within the City, but not allowing non-commercial speech of the same type.

35. For all of the reasons set forth herein, at the time Landmark Advertising

submitted its applications for permits, the City's sign ordinance regulating applications for permits was unconstitutional in its entirety.

36. Landmark Advertising complied with all lawful zoning and other requirements in effect when its applications were filed with the City. Meridian, as assignee of the rights of Landmark Advertising, has vested rights under the laws of the State of Florida to the permits it requested from the City.

37. As a result of the City's failure to issue the permits for which Landmark Advertising applied, Meridian and its advertisers have been denied the right of free speech in that they have been unable to post messages, either non-commercial or commercial, at the locations for which the permits had been applied.

38. As a result of the City's failure to issue the permits for which Landmark Advertising applied, Meridian has, in addition to its loss of free speech rights and denial of due process rights, also suffered a financial loss and has been denied the revenue it would have made from leasing the off-premise sign space to advertisers.

39. The unconstitutional provisions of the Sign Ordinance cannot be severed from the Sign Ordinance.

40. Because no valid ordinance prohibited Landmark Advertising's requested use of the property at the time of filing its applications, Meridian's applications must be granted and the City should be required to issue all requested permits.

41. Meridian has no adequate remedy at law to secure relief from the Sign Ordinance and be granted its right to free speech and due process and hereby requests that the City's sign ordinance be declared unconstitutional and requests that declaratory and injunctive relief be granted and, in the event such relief is not granted, requests, in the

alternative, that it be awarded damages to be compensated for the losses it has incurred.

Demand for Relief

WHEREFORE, Meridian Mgmt, LLC demands judgment against the City of Miami Springs as follows:

- A. Declaring that the City's sign ordinance in effect when Landmark Advertising applied for permits was unconstitutional in its entirety;
- B. Enjoining the City from enforcing its sign ordinance against Meridian;
- C. Directing the City to issue permits to Meridian for the sign permit applications filed by Landmark Advertising;
- D. Granting Meridian an award of damages as authorized by law;
- E. Granting such relief as may be just and proper; and
- F. Awarding Meridian its costs and disbursements in this action defending its constitutional rights and those of others, including, but not limited to, reasonable attorney's fees.

Respectfully submitted,

s/Wade F. Johnson, Jr.
Wade F. Johnson, Jr. (Fl. Bar No. 398136)
WadeJohnsonPA@aol.com
Wade F. Johnson, Jr., P.A.
4255 Tidewater Dr.
Orlando, FL 32812
Telephone: (407) 859-2388
Facsimile: (407) 429-3825
Attorney for Plaintiff, Meridian Mgmt, LLC

SETTLEMENT AGREEMENT BETWEEN CITY OF MIAMI SPRINGS
AND MERIDIAN MGMT, LLC

THIS AGREEMENT is entered into this ____ day of _____, 2011, by and between MERIDIAN MGMT, LLC, ("MERIDIAN"), a Florida limited liability company, its successors and assigns, whose address is c/o Wade F. Johnson, Jr., 4255 Tidewater Dr., Orlando, FL 32812 and the CITY OF MIAMI SPRINGS, a Florida municipal corporation, whose address is 201 Westward Dr., Miami Springs, FL 33166 ("CITY"), as follows:

RECITALS

MERIDIAN is a sign company that has applied for permits to construct billboard signs for commercial and non-commercial speech at various locations throughout the CITY; and

The CITY denied the applications for sign permits submitted by MERIDIAN; and

MERIDIAN filed a law suit against the CITY in U.S. District Court challenging the constitutionality of the CITY's sign ordinance; and

MERIDIAN and the CITY each wish to avoid the continuing expense and risk of a lawsuit; and

MERIDIAN has agreed to withdraw all previous applications and, in exchange, the CITY shall grant MERIDIAN all necessary permits and approvals to allow MERIDIAN to construct billboard signs along certain limited access highways; and

The CITY is entering into this Agreement as a compromise of a disputed claim and the CITY does not admit any liability; and

The parties agree that this is a settlement of a disputed claim as to the validity of the CITY's sign ordinance and a disputed claim as to the right of MERIDIAN to obtain permits under the CITY's sign ordinance, and

MERIDIAN and the CITY each have full authority to enter into this Agreement and have followed all necessary procedures and have obtained all necessary approvals and ratifications prior to execution of this Agreement; and

Both parties consider it to be in their best interests and in the interests of the citizens and property owners of the CITY to approve this Agreement.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree each with the other as follows:

Section 1. Recitals. The recitals above are true and correct and are incorporated herein by reference.

Section 2. Construction of Signs. MERIDIAN shall have the exclusive right to construct billboard sign structures at locations visible to traffic on limited access highways located in an area that is

CITY

MERIDIAN

the subject of an annexation application that the CITY has pending with Miami Dade county, more specifically, SR 826 (Palmetto Expressway). MERIDIAN and the CITY each acknowledge that the CITY's application to annex this areas is still in the approval process of the Miami-Dade County Commission and that it is possible that the annexation will not be approved; however, in the event the annexation is approved by the Miami-Dade County Commission, MERIDIAN shall have vested rights to construct and maintain the billboards as described herein and the CITY and MERIDIAN shall each diligently pursue all approvals necessary to complete the annexation. The signs shall be placed so as to be primarily visible from the traffic lanes on the limited access highway. The CITY's sign ordinance does not specifically address requirements and restrictions for billboards in the CITY; therefore, the requirements and restrictions that must be met by the sign structures, including, but not limited to, the size, shape, height, spacing and setbacks of the signs, shall be those contained in the applicable Florida Statutes and rules promulgated by the Florida Department of Transportation ("FDOT"). The number of signs that may be erected shall be limited to the number of signs allowable pursuant to the applicable FDOT spacing requirements. MERIDIAN shall be entitled to construct and maintain any sign at these locations that is permissible by FDOT, including, but not limited to static, digital, tri-vision, etc. and the CITY shall grant MERIDIAN all permits (building, electrical, etc.) necessary to construct and maintain any such sign and to revise any such sign into another sign type permissible by FDOT. The shape of the signs shall be back-to-back or "V" shape on a monopole base. Signs may be illuminated; however, no sign shall be so illuminated that it interferes with the effectiveness of or obscures any official traffic sign, device, or signal, nor shall the illumination interfere with drivers. The illumination shall not be provided by flashing lights, rotating lights or strobe lights. No signs on the structures shall emit noise. Signs may not display words such as "Stop" or "Danger" in such a manner to appear to require stopping or to imply the presence of danger, nor may sign copy imitate official signs (such as stop signs, interstate signs, etc.). The zoning for each sign structure location must be commercial, industrial, business/office or other zoning under which such sign structures are permissible. Any sign that must be replaced due to damage or destruction will be re-permitted, if necessary, for the same location.

Section 3. Sign Content. MERIDIAN shall not erect any sign advertising any establishment or business that could reasonably be characterized as providing adult entertainment, nor shall any sign contain sexually graphic materials, or contain any material that appeals to prurient interests. No sign shall contain any of the following: obscene language or language that describes sexual conduct; graphics that depict sexual conduct, human genitalia or buttocks which are not fully covered, or female breasts which are not covered below the top of the areola; or graphics which depict scenes or images which could reasonably be construed as being obscene or which appeal to prurient interests.

Section 4. Compensation to CITY. MERIDIAN agrees to pay the CITY a one-time permitting fee of \$75,000.00 for each sign structure, payable as follows: \$50,000.00 payable within three days following issuance of the later of the CITY's permit and the FDOT tags for the sign and \$25,000.00 payable within three days following the date of the receipt of final approval (certificate of completion) from the CITY for the completed sign structure. In the event MERIDIAN applies for the permits necessary to build a sign structure originally as a digital sign or to reengineer an existing sign structure to be a digital sign, there shall be an additional permitting fee of another \$75,000.00 for that sign structure, payable as follows: \$50,000.00 payable within three days following issuance of the later of the CITY's permit and the FDOT tags (if necessary) for the sign and \$25,000.00 payable within three days following the date of the receipt of final approval (certificate of completion) from the CITY for the completed digital sign structure. The payment of

all permitting fees shall be made payable to "City of Miami Springs" and shall be paid at 201 Westward Dr., Miami Springs, FL 33166.

Section 5. Dismissal of Lawsuits. Within ten days after the date of execution of this Settlement Agreement, MERIDIAN and the CITY shall file a Joint Stipulation dismissing any and all lawsuits MERIDIAN has filed against the CITY, without prejudice. The Joint Stipulation shall provide that each party shall be responsible for its respective attorney's fees and costs and shall request that the court retain jurisdiction to enforce the terms of this Agreement.

Section 6. Approvals. The CITY shall issue all necessary permits and grant all necessary approvals for MERIDIAN to construct the signs within 10 business days after written notification to the CITY that an application for a sign structure is complete and ready for review. MERIDIAN shall provide the CITY with engineered drawings of the sign structures and a specific purpose survey of the property on which the sign is to be located, showing the proposed location for the sign structure. MERIDIAN shall comply with all applicable building codes for the construction and maintenance of the sign structures that are not inconsistent with the terms of this Agreement. The CITY shall cooperate in the execution of any documents necessary for MERIDIAN to obtain FDOT permits, including, but not limited to, the FDOT Application for Outdoor Advertising Permit, which shall be executed by the CITY within 10 business days of the date it is submitted to the CITY by MERIDIAN. The parties further agree that the CITY's ordinances and inspection/approval processes shall be applied in a reasonable manner to allow erection and maintenance of the sign structures, with the understanding that the intent of this provision is to provide rules to govern the ongoing relationship between the parties and the ongoing maintenance and repair of the sign structures, but it is not the intent of this provision that the CITY's ordinances and/or the CITY's inspection/approval processes be used to prevent the erection or maintenance of the sign structures or to prevent the furtherance of the intent of this Agreement. The CITY shall not in any event apply any procedure or fee that would impair MERIDIAN in the exercise of its vested rights under this Agreement. Nothing contained herein shall prevent the CITY from enforcing its police powers and safety regulations in a manner not inconsistent with this Agreement.

Section 7. Mitigation. In order to minimize the effect of the potential construction of the signs originally applied for by MERIDIAN under the CITY's then existing sign ordinance, the CITY and MERIDIAN agree that the sign permits described herein are the only sign permits that shall be issued to MERIDIAN and that the applications previously submitted shall be permanently withdrawn, with prejudice, at the same time as the dismissal of the lawsuit described in section 5 hereof. MERIDIAN agrees that neither MERIDIAN, nor its shareholders, directors, officers, or employees, will, either directly or indirectly, pursue any future challenge to the CITY's sign ordinance.

Section 8. Miscellaneous. This Agreement shall be binding upon the parties hereto, their successors and assigns. The parties agree that there are no third party beneficiaries of this Agreement. MERIDIAN and the CITY each have full authority to enter into this agreement and implement this agreement for all applications, locations and signs referenced herein and have followed all necessary procedures for this Agreement to be legal and binding.

MERIDIAN shall be in default if MERIDIAN shall fail to pay any payment due hereunder within 15 days after written notice from the CITY that a payment is past due. As to any breach of this Agreement other than as described above, MERIDIAN shall be in default if MERIDIAN fails to cure such breach within 30 days after written notice from the CITY of the breach, except that

MERIDIAN shall not be in default hereunder if such breach is not capable of being cured within said 30 day period and MERIDIAN has, within said 30 day period, commenced actions reasonably anticipated to cure said breach.

The CITY shall be in default as to any breach of this Agreement if the CITY fails to cure such breach within 30 days after written notice from MERIDIAN of the breach, except that the CITY shall not be in default hereunder if such breach is not capable of being cured within said 30 day period and the CITY has, within said 30 day period, commenced actions reasonably anticipated to cure said breach. In the event of a breach by the CITY, MERIDIAN's remedies shall include, but not be limited to, specific performance of this Agreement. Notwithstanding the foregoing, the CITY shall be in default if the CITY fails to cure a breach under section 6 hereof within three days of receipt of written notice of said breach.

Except as otherwise specifically described herein, the terms of this Agreement shall be applied separately to each completed sign structure as if there were a separate agreement for each sign structure. Any default hereunder shall only be as to the sign structure to which the default applies and shall not affect the other sign structures.

MERIDIAN shall, at its expense, defend, indemnify, and hold harmless the CITY from any cost, claim, action, liability or damage of any kind arising from any challenge by any third party to the terms of this Agreement or resulting from the signs. MERIDIAN agrees to defend any such action and the CITY agrees to cooperate with MERIDIAN in such defense

Section 9. Settlement of Claim. MERIDIAN understands that the only reason the CITY is allowing the construction of the signs described herein is for the settlement of disputed claims under the sign ordinance and that the CITY does not admit any liability in this Settlement Agreement.

Section 10. Public Policy. MERIDIAN, its successors and assigns, and the CITY, will not take any legal action to contend that this Settlement Agreement is illegal, unconstitutional or void as against public policy and both parties agree to take all actions to insure the intent of this Agreement is carried out, including, but not limited to, adopting or amending ordinances as necessary and approving variance requests relating to setbacks. MERIDIAN, its successors and assigns, and the CITY further agree to waive any rights they have under any law, federal, state or local, to challenge the conditions contained in this Agreement.

The parties recognize that the CITY may elect to amend the ordinances and Code of the City of Miami Springs to be consistent with this Agreement. MERIDIAN will assist in this effort as requested by the CITY. The CITY agrees to prepare and execute such additional documents, and to take such other actions as may be necessary to effectuate the purposes of this Agreement, and MERIDIAN will assist in this effort as requested by the CITY. As long as the CITY complies with this Agreement, neither MERIDIAN, nor any of its subsidiaries, affiliated corporations or entities, or parent corporations, or assignees, will sue the CITY on Sign issues, or provide financial or in-kind support to others who sue the CITY regarding the CITY's sign ordinance. The CITY will reasonably cooperate to resolve issues, if any, raised by any other governmental or permitting agency regarding the sign structures and the sign permits issued pursuant to this Agreement. The failure of the CITY to amend its ordinances and Code as set forth in this paragraph shall not affect the validity and enforceability of this Agreement.

The parties agree and acknowledge that MERIDIAN, by (1) the execution of this Agreement, (2) relinquishment of the claims asserted in the lawsuit, and (3) assumption of the obligations contained herein, has acquired vested rights to construct, operate, maintain, reconstruct and relocate the sign structures in accordance with the terms and conditions of this Agreement. It is the intent of the parties that this Agreement, and MERIDIAN's significant reliance and substantial change in position based upon the terms contained herein, creates vested rights in MERIDIAN, which vested rights have substantial economic value and which shall be recognized in the existing and subsequent regulations affecting the sign structures as may then exist. As such, the CITY agrees that it shall not take any official action, including, but not limited to, administrative or enforcement actions, or enact any ordinance or regulation that is inconsistent with, or otherwise deprives MERIDIAN of its vested rights under this Agreement.

Section 11. Assignment of Agreement. The rights and obligations of MERIDIAN hereunder, and of any successor in interest, are fully assignable and the assignee of all such rights and obligations shall become completely responsible for the fulfillment thereof and MERIDIAN, or such successor in interest, shall be released from any further liability or obligation hereunder immediately upon any such assignment. MERIDIAN agrees that any and all assignees or successors shall be given a copy of this Agreement and shall be specifically made aware of the terms and conditions of this Agreement and of the fact that they would also be bound by all the terms and conditions contained herein. No assignment shall be valid if MERIDIAN, or the then current successor in interest, is in default of this Agreement at the time of such assignment.

It is further the intent of the parties hereto that the vested rights created in favor of MERIDIAN by virtue of this Agreement shall be fully assignable, and shall inure to the benefit of any third party to whom MERIDIAN shall assign, sell or otherwise transfer any of its right(s) in, to or under this Agreement. In the event of any such assignment, sale or transfer, and the assumption or discharge of any of MERIDIAN's obligations hereunder, said third party shall be deemed to have likewise acquired vested rights to construct, operate, maintain, reconstruct and relocate the Signs (to the extent of such assignment, sale or transfer) in accordance with the terms and conditions of this Agreement.

Section 12. Relocation of Signs. The parties acknowledge that it is possible that MERIDIAN may not be able to obtain all necessary leases, approvals or permits for location(s) originally chosen by MERIDIAN for placement of signs or that, after a sign is erected, the sign may need to be relocated because of blockage from buildings or trees, other construction issues, or causes or circumstances beyond MERIDIAN's control. In such an event, MERIDIAN shall be entitled to obtain a permit for a different location as described in Section 2 of this Agreement and to locate the sign, if not already erected, or relocate a sign that has been already erected, on such different location. The different location shall be a substitute for, and not in addition to, the previous location and must comply with all applicable FDOT permitting requirements, including all spacing requirements and all provisions of this Agreement. No change in the CITY's zoning shall affect MERIDIAN's right to relocate a sign hereunder.

The CITY shall not impose upon the owner of any property upon which a sign structure is located any requirement that a sign structure be moved or removed in order for the property owner to develop or redevelop the property or to obtain a permit for construction on the property.

Section 13. Force Majeure. Failure by MERIDIAN to perform any act required of MERIDIAN hereunder on a timely basis shall not be deemed a breach or failure to perform by MERIDIAN, if

such failure is the direct result of, or due to, revolutions, insurrections, riots, wars, acts of enemies or of terrorism, acts of God, floods, tornados, hurricanes, other severe weather occurrences, national emergency, strikes, shortage or curtailment of material, labor, transportation, or utility services, or of any labor or production difficulty, or any cause beyond MERIDIAN's control or without MERIDIAN's fault or negligence (hereinafter referred to as "force majeure"). Any time for performance of any act by MERIDIAN shall be extended by the duration of any force majeure. The term of this Agreement shall be extended for the number of months during which there is no advertiser on the sign structure due to force majeure.

Section 14. Entire Agreement. This Agreement constitutes the entire Agreement between the parties relating to the subject matter hereof. It is the final expression of agreement between the parties, thus, neither party shall be entitled to rely upon any conflicting oral representations, assurances, claims or disclaimers, made either prior to or simultaneous with the execution of this Agreement.

Section 15. Attorney's Fees and Costs. Each party shall bear its own attorney's fees and costs in completing the terms of this Agreement. In the event of a dispute hereunder, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorney's fees.

Section 16. Notice. All notices, demands, and any other communication provided for herein shall be given in writing and shall be personally delivered or sent by United States Certified Mail, return receipt requested, postage prepaid and sent to the address provided in the introductory paragraph of this Agreement. Provided, however, that any party may, from time to time, give notice to the other parties of some other address to which notices to such party shall be sent, in which event notices to such party shall be sent to such address. Notice shall be deemed to be effectively given hereunder when personally delivered or three days after deposited in the United States Mail, postage prepaid, certified, return receipt requested, and addressed as above specified.

Section 17. Indemnification/Hold Harmless. In the event that any third person or entity asserts any claim or brings any lawsuit concerning the validity of this Agreement, or any claims for damages or equitable relief arising from any permit issued in accordance with this Agreement, MERIDIAN, its successors and assigns, agree to defend any such claim or lawsuit at its expense and to indemnify the City from any damages, costs, or attorneys' fees awarded as a result of the same.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date written above.

Witness

MERIDIAN MGMT, LLC

_____ By: _____

_____ Its: _____
(Please Print or Type Name)

CITY OF MIAMI SPRINGS

_____ By: _____

_____ Its: _____
(Please Print or Type Name)



City of Miami Springs Interoffice Memo

DATE: November 23, 2011

TO: Mayor Xavier Garcia and Members of the City Council

FROM: James R. Borgmann, City Manager *JRB*

RE: Notification to Council that a Purchase Order has been Issued to Wrangler Construction in the Amount of \$36,020 for the Senior Center Improvements

Notification is hereby given that due to the expiration date (December 31, 2011) of the grant we received to finish the construction of a handicap ramp, awning and drop off at the rear of the building, it was necessary for me to approve a purchase order in excess of my authority.

This was awarded to the lowest bidder, Wrangler Construction. Attached is the bid tabulation from the other construction firms.

Council has been very supportive of this project which gave me further confidence to take this action.

No further action is required by Council.

Agenda Item No.

City Council Meeting of:

NOV 28 2011

ADDITION OF ADA RAMP, DOOR & DRIVEWAY PROJECT

CITY OF MIAMI SPRINGS SENIOR CENTER

343 Payne Drive, Miami Springs, FL 33166



	Miami Remodeling & Additions	Bejar Construction	Nunez Construction	BDC Construction	Wrangler Construction
PROJECT COMPONENT					
A Demolition	\$ 1,625.00	\$ 1,980.00	\$ 4,150.00	\$ 5,898.00	\$ 3,000.00
B Ramp/Concrete	\$ 23,100.00	\$ 10,080.00	\$ 6,980.00	\$ 12,541.50	\$ 6,500.00
C ADA Door & Modification	\$ 9,800.00	\$ 6,600.00	\$ 3,700.00	\$ 9,930.00	\$ 2,820.00
D Canopy	\$ 7,375.00	\$ 22,980.00	\$ 6,700.00	\$ 23,860.00	\$ 5,750.00
E Asphalt, Parking Spaces & Striping	\$ 9,750.00	\$ 8,340.00	\$ 11,780.00	\$ 15,370.00	\$ 10,195.00
F Fence	\$ 7,125.00	\$ 1,000.00	\$ 1,600.00	\$ 4,350.00	\$ 2,295.00
G Electrical	\$ 1,700.00	\$ 1,000.00	\$ 350.00	\$ 750.00	\$ 1,010.00
H Landscaping	N/A	\$ 2,800.00	\$ 3,420.00	\$ 2,770.00	\$ 3,500.00
I Painting	\$ 2,625.00	\$ 1,500.00	\$ 450.00	-	\$ 950.00
J Drainage	N/A	\$ 1,000.00	Existing/NIC	-	-
General Conditions / Overhead/ Profit			\$ 7,826.00		
	\$ 63,100.00	\$ 57,280.00	\$ 46,956.00	\$ 75,469.50	\$ 36,020.00



discrepancy of
\$410 on
proposal
\$63,510.00


CITY OF MIAMI SPRINGS



City Manager's Office
201 Westward Drive
Miami Springs, FL 33166-5289
Phone: (305) 805-5010
Fax: (305) 805-5040

Ronald K. Gorland
Assistant City Manager

TO: Honorable Mayor Garcia and Members of the City Council

VIA: James R. Borgmann, City Manager 

FROM: Ronald K. Gorland, Assistant City Manager and Building & Code Dir.
Tex Ziadie, Building & Code Supervisor

SUBJECT: Ficus Plantings

DATE: November 28, 2011

At the November 14, 2011 Council meeting, the Council expressed that it wanted to review the Code in regard to the prohibition of planting new or replacement Ficus hedges/trees. Attached is a copy of the Code segment indicated. City Arborist Tom Nash has stated that:

“Basically the worst offender of all species of ficus is the Benjamina. The roots are very invasive to structures, sidewalks, and asphalt and sewer lines. Whether they are planted as hedges or a single tree the roots continue to grow regardless of the pruning. On hedges it does not matter how low or often you trim them the underlying branches and structure continues to mature and the roots follow.”

The suggestion at Council was to change the Code only for cases of replacement, where the rest of the yard area has Ficus hedges and to replace a portion with a different hedge would look unbalanced or out of place. One possible solution would be to include a stipulation in the Code which would allow replacement hedges only, provided that a certain percentage of the rest of the yard area already had Ficus. A possible wording is listed below.

The planting and cultivation of new or replacement ficus trees or hedges is prohibited, and existing ficus hedges shall not be permitted to exceed eight feet in height. However, in cases where a portion of a Ficus hedge has died and replacement hedges are needed, and at least 75% or more of the remaining front or rear yard area already has Ficus hedges, Ficus replacement hedges shall be allowed. Such replacement must be accompanied by the filing of a no fee planting application with the City. Once said application is submitted, a City Code Compliance Officer shall visit the location to determine if the percentage is proper. Upon determination that the percentage is appropriate per the above guidelines, a permit for the planting of the Ficus shall be issued by the Building and Code Compliance Department. A copy of the permit shall be entered in the City Computer system as a Code Compliance non violation case and a hard copy shall be placed in the City street file.

Agenda Item No.

City Council Meeting of:

NOV 28 2011

Sec. 150-013. - Residential plantings, fences and walls.

(A) *Plantings.*

- (1)** There shall be no restriction on the height of any hedge, shrub, tree or other form of vegetation which is planted and cultivated on properties located within the residential zoning districts of the City.
- (2)** Notwithstanding the foregoing, all hedges, shrubs, trees and other forms of vegetation planted and cultivated on residential properties in the City shall:
 - (a)** Be maintained in a manicured and presentable condition.
 - (b)** Be maintained by the owner in a like manner on all sides.
 - (c)** Be maintained so as not to constitute a safety hazard or visual clearance obstruction to pedestrians or vehicular traffic utilizing City sidewalks, swales, alleys, streets or other rights-of-way.
- (3)** It shall be the duty and responsibility of the City Code Compliance Department, with the assistance of the City Police Department, to determine if the safety hazard and visual clearance provisions of this ordinance are being properly maintained.
- (4)** The planting and cultivation of new or replacement ficus trees or hedges is prohibited, and existing ficus hedges shall not be permitted to exceed eight feet in height.

CITY OF MIAMI SPRINGS



City Manager
.201 Westward Drive
Miami Springs, FL 33166-5289
Phone: (305) 805-5010
Fax: (305) 805-5040

TO: Honorable Mayor Garcia and Members of the City Council

FROM: James R. Borgmann, City Manager *JRB*

DATE: November 23, 2011

SUBJECT: Recommendation that Council approve an award to Harlequin, the lowest responsible bidder, in the amount of \$ 3,262.97 for a Portable Dance Floor for the Pelican Playhouse , pursuant to Section §31.11 (C) (2) of the City Code.

REASON: For purchase of a portable dance floor for the Pelican Playhouse and Rebecca Sosa Theater.

The City of Miami Springs received a 2010-2011 CAP grant for purchasing acoustical treatments and a dance floor. The grant awarded in the amount of \$ 15,258.00 is a 1:1 match. The city has already purchased and installed the acoustical panels, leaving a balance on the grant of \$7,781.00. Three quotes have been obtained.

Although this purchase falls within my limits of purchasing approvals, we are asking that Council approve the expenditure because the funds are coming from the designated fund balance for the community center.

COST: \$ 3,262.97

FUNDING: Department/ Description: Designated Fund Balance for the Community center
Account Number: 001-5701-572-63-00
Grant Source, No. and Amount: Miami-Dade County Department of Cultural Affairs- CAP Grant \$15,528.00

Procurement approval: *TR*

Agenda Item No.

City Council Meeting of:

NOV 28, 2011

OFFICE OF CITY MANAGER
201 WESTWARD DRIVE
MIAMI SPRINGS, FL 33166



City of
MIAMI SPRINGS
Florida

TELEPHONE
(305) 805-5010
FAX:
(305) 805-5040

September 12, 2011


Mr. Michael Spring
Director
Miami-Dade Department of Cultural Affairs
111 NW 1st Street, Suite 625
Miami, FL 33128

Dear Mr. Spring:

The City of Miami Springs, a 2010-11 CAP grantee, requests a one-year extension through September 30, 2012 for completing the capitalized equipment purchases facilitated through this grant. Of the award of \$15,258 for acoustical treatments and dance flooring for the Rebeca Sosa Theater, \$7,477.00 has been already expended for purchase and installation of the acoustic panels, leaving a balance of \$7,781.00. A purchase order has already been issued for the portable "Marley-type" dance surface, and the final purchase order for the underlayment is scheduled to come before our City Council for approval on September 26, 2011.

The City is most grateful for this consideration, and for the ongoing assistance from your Department and the Cultural Affairs Council in helping us to develop this much-needed and appreciated facility in culturally underserved northwest Miami-Dade County.

Yours Truly,


James Borgmann
City Manager

**MIAMI-DADE COUNTY DEPARTMENT OF CULTURAL AFFAIRS
Capital Development Grants Program**

GRANT AWARD AGREEMENT - ARTICLE I

COPY
- Original sent to City Clerk
- Copies to City Manager,
Finance,
Grants file

The Miami-Dade County Department of Cultural Affairs and the Cultural Affairs Council, the Mayor and the Board of County Commissioners are pleased to announce that Miami-Dade County has awarded a grant as described herein to City of Miami Springs (hereinafter referred to as the Grantee). The grant award is the result of an extensive public review process, which found that the Grantee is performing a public service through its programs and projects, and is awarded as follows:

GRANTEE AND GRANT DESCRIPTION

- 1. GRANTEE: City of Miami Springs (EIN# 59-6000374)
City Hall, 201 Westward Drive, Miami Springs, FL 33166
- 2. AMOUNT OF GRANT: \$15,258
- 3. PROJECT: ~~Acoustical Treatment and Portable Dance Flooring for the Community Center Theater~~
(as described in the program application and any revisions attached hereto)
- 4. ITEMIZED PROJECT BUDGET: (as described in the Reinstatement of Project Budget attached hereto)
- 5. GRANT START DATE: October 1, 2010
- 6. GRANT END DATE: September 30, 2011
- 7. REPORT DEADLINE: November 15, 2011

The Parties hereto have executed this Agreement on the 12 day of January, 2011.

MIAMI-DADE COUNTY, FLORIDA, by its BOARD OF COUNTY COMMISSIONERS:

[Signature]
 Clerk, Miami-Dade County
 Board of County Commissioners
 2/3/11

[Signature]
 County Manager/Designee

GRANTEE:

Articles I, II, III, IV and V, together with their exhibits, the Restatement of Project Budget, original application and Universal Affidavit, make up this grant award contract. In signing this article, the undersigned officials, on behalf of the Grantee, certify that they have read and will abide by the terms and considerations set forth in the General Terms and Conditions for Grants (Articles II, III, IV and V) dated October, 2010 as provided with the grant award package, and with those provisions outlined in the notarized and attached Universal Affidavit. Further, the Grantee agrees that the funded project will be executed in substantially the form outlined in the original application as approved for funding; in accordance with the program guidelines of the Capital Development Grants Program; and within the scope of budget submitted in the attached Restatement of Project Budget.

(Grantee's Corporate Seal)



[Signature]
 Signature Authorized Official #1
 James R. Borgmann - City Manager
 Printed Name/Title Authorized Official #1

[Signature]
 Signature Authorized Official #2
 William Alonso - Finance Director
 Printed Name/Title Authorized Official #2

proved for form and legal sufficiency by the Miami-Dade County Attorney (10/2010).

DBM
10 Jan 2011

American Harlequin Corporation
 1531 Glen Avenue
 Moorestown, NJ 08057
 Phone: (800) 642-6440 Fax: (856) 231-4403



HARLEQUIN

QUOTE

Date	Quote #
11/09/11	AHCQ10338

Sold To: City of Miami Springs
 Tammy Romero
 201 Westward Drive
 Miami Springs, FL 33166

Phone: (305)805-5035
Fax:

Ship To: City of Miami Springs
 Tammy Romero
 1401 Westward Drive
 Miami Springs, FL 33166

Phone: (305)805-5035
Fax:

For an area measuring 24' x 32', you will need the following quantity of Harlequin Studio vinyl:

Terms	Rep	P.O. #	Ship Via
Prepay	Ann La Greca		Best Way

Qty	Description	Unit Price	Ext. Price
1	Studio floor 20 Meter	\$1,093.73	\$1,093.73
1	Studio floor 30 Meter	\$1,640.60	\$1,640.60
3	Cutting charge for roll	\$25.00	\$75.00
3	Cardboard core	\$10.00	\$30.00
4	One roll gaffer's tape	\$16.00	\$64.00
1	Shipping & Handling (non taxable)	\$359.64	\$359.64
		SubTotal	\$3,262.97
		Sales Tax	\$0.00
		Total	\$3,262.97

The 30 meter roll is 4'11" W x 98'4" L; you will need to cut it into 3 equal lengths.
 The 20 meter roll is 4'11" W x 65'6" L; you will need to cut it into two equal lengths.
 Five lengths then provide total coverage of 24'7" x 32'8", trimmed as necessary.

ALL CUTTING IS DONE BY THE CUSTOMER; HARLEQUIN WILL CUT INTO STANDARD SIZE LENGTHS ONLY FOR \$35 PER CUT.
 FREIGHT CHARGES PROVIDE DELIVERY TO A FRONT CURB ONLY, WITH A LIFTGATE; INSIDE DELIVERY AND OTHER SERVICES COST EXTRA. DELIVERY TIME IS ESTIMATED TO BE 2-5 BUSINESS DAYS.

Maria Gil Dybalski
 Account Executive
 mgil@harlequinfloors.com

This price quote is guaranteed for a period of 14 days. Quote is based upon room or stage dimensions provided by the client. American Harlequin is not responsible for erroneous measurements provided by the client. Quoted material is based upon industry standard layout and other options are possible. Harlequin warrants that its products are free of manufacturing defects. After delivery no returned items will be accepted by our warehouse without a Return Merchandise Authorization number (RMA). A 25% restocking fee applies to all returned merchandise.

Hello Tammy,

Thank You For Your Interest in GREATMATS.COM

Your Quote Number is: 94291

Your Quote is valid for 30 days from 11/10/2011

Your Quote is shown below, please scroll down to view in this email.

You may also view your Quote Online if you like.

Please Call Customer Service at 877-822-6622 for your password.

You will need to login using your email as your username.

In addition you can complete this quote into an order online if your shipping address is complete.

You can also login to view your quotes and orders.

You can request a free material sample online our web site if you have not already. Please go to the specific product page on our site that you would like a material sample of - and click on Request A Sample - please fill out the form and submit.

Bill To:	Ship To:
, US 305-805-5035 romerot@miamisprings-fl.gov	City of Miami springs Tammy Romero 201 Westward Drive Miami Springs, FL 33166 US romerot@miamisprings-fl.gov 305-805-5035

Qty	GSA Code	Item Name	Unit Price	Shipping	Ext. Price
160		Adagio Touring - Cut Lengths per LF Black 5 cuts at 32LF each	13.00	0.00	2080.00
1		Floor Cleaner All Purpose 1 Gallon	30.00	0.00	30.00
3		Vinyl Tape Black	13.00	284.60	39.00
192		Sport Plus Designer Foam Mat Select	9.46	222.31	1816.32
Shipping Info				Subtotal	3965.32
Quote is for a 24x32 area. Commercial delivery via freight truck. Please read our shipping disclaimer. I quoted vinyl tape for the seams and perimeter instead of gaffers tape and double sided tape. You will need almost 3 rolls of vinyl tape per installation.				Gbucks	-0.00
				Shipping	506.91
				Tax	0.00
				Total	4472.23

CWF Flooring, Inc.
 1150 S. Lake Street
 Suite 17
 Los Angeles, CA 90006

Estimate

Date	Estimate #
3/1/2011	10182

Name / Address
Tammy Miami Springs, Florida 33166

Ship To
Tammy Miami Springs, Florida 33166

Terms
Virtual Terminal

Item	Description	Qty	Cost	Total
300 08622	Adagio Tour - Black, per linear ft. COLOR: Black *Actual size 32 X 49.17 *Consist of 10 Rolls Cut at 59" WIDE X 32' LONG	320	12.40	3,968.00
DanceTape	Seaming tape for all vinyl dance floors 2" wide X 108' BLACK	5	17.95	89.75
Shipping Charge	Ships in 7 - 10 Days		985.50	985.50
<i>Underpayment missing from quote See estimate # 10338 dated 3/24/2011</i>				

We appreciate your prompt payment.	Subtotal	\$5,043.25
	Sales Tax (0.0%)	\$0.00
	Total	\$5,043.25

Tel. 213-380-7655, 213-389-3805	FAX 213-947-1598	Email: Sales@CartwheelFactory.Com
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City of Miami Springs Interoffice Memo

DATE: November 21, 2011
TO: Mayor Zavier Garcia and Members of the City Council
FROM: James R. Borgmann, City Manager *JRB*
RE: Cancellation of Last Meeting in December

As has been the custom of the City, the last meeting in December is usually canceled. I recommend that the meeting scheduled for Monday, December 26th be canceled this year.

Should another meeting be needed, Council always has the authority to call such a meeting.

Agenda Item No. *11A*

City Council Meeting of:

NOV 28, 2011

