



CITY OF NORTH MIAMI BEACH
City Council Meeting
City Hall, Council Chambers, 2nd Floor
17011 NE 19th Avenue
North Miami Beach, FL 33162
Tuesday, October 4, 2016
7:30 PM

Mayor George Vallejo
Vice Mayor Barbara Kramer
Councilman Anthony F. DeFillipo
Councilwoman Marlen Martell
Councilman Frantz Pierre
Councilwoman Phyllis S. Smith
Councilwoman Beth E. Spiegel

City Manager Ana M. Garcia, ICMA-CM
City Attorney Jose Smith
City Clerk Pamela L. Latimore, CMC

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City Council Regular Meeting Minutes

ROLL CALL OF THE CITY OFFICIALS

The meeting was called to order at 7:30pm. Present at the meeting were Mayor George Vallejo, Vice Mayor Barbara Kramer, Council Members Anthony F. DeFillipo, Marlen Martell, Phyllis S. Smith (arrived after roll call), and Beth E. Spiegel. City Manager Ana M. Garcia, City Attorney Jose Smith, and City Clerk Pamela L. Latimore were also present. Councilman Frantz Pierre was absent.

INVOCATION by Pastor Nathan Adams of Fulford United Methodist Church.

PLEDGE OF ALLEGIANCE was led by Mayor and Council.

Mayor Vallejo discussed the new procedure that the Council will follow on adopting the agenda and requesting additions, withdrawals, and deferments to the agenda at the beginning of every Council meeting. Mayor Vallejo stated that any change to the agenda will be treated the same as a motion, and if it gets a second, the Council will then decide by vote whether to add, withdraw, or defer the item.

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO AGENDA

City Clerk Latimore announced that the NMB Water Customer Portal Update will be deferred until the next Council meeting at the request of City administration and Councilman Pierre called and said he will be absent from the meeting and asked to defer the discussion item concerning City Attorney Smith.

Councilwoman Spiegel requested to pull the Regular Meeting Minutes of September 20, 2016 from the Consent Agenda for discussion.

Motion to defer the NMB Water Customer Portal Update presentation until the next Council meeting.

Voice Vote: MOTION PASSED 5-0 with Councilman Pierre and Councilwoman Smith absent.

Motion to defer the discussion item concerning City Attorney Smith.

Voice Vote: MOTION PASSED 5-0 with Councilman Pierre and Councilwoman Smith absent.

Motion to pull the Regular Meeting Minutes of September 20, 2016 from the Consent Agenda for discussion.

Voice Vote: MOTION PASSED 3-2 with Mayor Vallejo and Councilman DeFillipo opposed and Councilman Pierre and Councilwoman Smith absent.

PRESENTATIONS/DISCUSSIONS

Director of Finance Janette Smith presented the Third Quarter Financial Analysis for Fiscal Year 2016, including revenue analysis by fund, expenditure analysis by fund, and salaries and related benefits analysis. The City had an overall net favorable position driven by the timing of revenues and expenditures primarily from the General Fund, Water Fund, and Enterprise Impact Fees funds.

City Manager Garcia informed the Mayor and Council that the City currently has a RFP out for audited services and a new firm will be chosen for Fiscal Year 2017.

Mayor Vallejo opened the meeting for **PUBLIC COMMENT**.

City Clerk Latimore read the rules of public comment into the record and the following person(s) made comments on the record:

1. Sandra Douglas - 1523 N.E. 152nd St., North Miami Beach, FL.
2. Ketley Joachim - 210 N.E. 170th St., North Miami Beach, FL.
3. Terrence Camenzuli - 17151 N.E. 17th Ave., North Miami Beach, FL.
4. Mubarak Kazan - 15564 N.E. 12th Ave., North Miami Beach, FL.
5. Bruce Lamberto - 3420 N.E. 165th St., North Miami Beach, FL.

The meeting was closed for **PUBLIC COMMENT**.

There were no **APPOINTMENTS**.

CONSENT AGENDA

Special Meeting Minutes of July 26, 2016 (Pamela L. Latimore, City Clerk)

The item was pulled from the Consent Agenda and moved to Legislation.

Special Meeting Minutes of August 25, 2016 (Pamela L. Latimore, City Clerk)

The item was pulled from the Consent Agenda and moved to Legislation.

Budget Hearing Minutes of September 20, 2016 (Pamela L. Latimore, City Clerk)

Regular Meeting Minutes of September 20, 2016 (Pamela L. Latimore, City Clerk)

The item was pulled from the Consent Agenda and moved to Legislation.

Resolution R2016-83 (William Hernandez, Chief of Police)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER AND THE CITY CLERK TO EXCEUTE A VOLUNTARY COOPERATION MUTUAL AID AGREEMENT WITH THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT AND PARTICIPATING AGENCIES FOR THE PURPOSE OF CREATING THR CHILD ABDUCTION RESPONSE TEAM (CART) AND FOR COOPERATION AND ASSISTANCE OF A ROUTINE LAW ENFORCEMENT NATURE THAT CROSSES JURISDICTIONAL LINES.

Resolution R2016-84 Fulford Monument Restoration Grant (Esmond Scott and Richard Lorber)

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE SUBMISSION AND ACCEPTANCE OF THE STATE OF FLORIDA, DEPARTMENT OF STATE DIVISION OF HISTORICAL RESOURCES, SPECIAL CATEGORY GRANT PROJECT APPLICATION FOR THE REPAIR AND RESTORATION OF THE FULFORD-BY-THE-SEA MONUMENT IN AN AMOUNT NOT TO EXCEED \$112,500.00; AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE ALL NECESSARY DOCUMENTS IN FURTHERANCE OF ACCEPTANCE OF THE GRANT FUNDS.

Councilwoman Smith asked to pull the Special Meeting Minutes of July 26, 2016 and the Special Meeting Minutes of August 25, 2016 from the Consent Agenda for discussion and the requested motion was passed by a consensus of the Council.

Motion to approve the Consent Agenda consisting of the Budget Hearing Minutes of September 20, 2016, Resolution R2016-83 and Resolution R2016-84 made by Councilman DeFillipo, seconded by Councilwoman Kramer.

MOTION PASSED 6-0 with Councilman Pierre absent.

CITY MANAGER'S REPORT

City Manager Garcia provided an update on hurricane preparations in North Miami Beach and Deputy City Manager Candido Sosa-Cruz discussed cleanup efforts after a storm.

Director of Community Development Richard Lorber stated that city staff has been monitoring the proposed medical marijuana legislation and will recommend amending the zoning code to address the number and location of dispensing facilities and adopting land use and permit requirements and local business tax receipt regulations.

Director of Community Development Richard Lorber announced that Peoples Gas System, Inc. has submitted a request to designate land located at 15779 West Dixie Highway, 15700 Biscayne Boulevard, and 15902 Biscayne Boulevard as Green Reuse Areas and there will be two public hearings on October 18, 2016 and November 1, 2016.

City Manager Garcia announced the Farm Share free food distribution event in partnership with State Representative Barbara Watson taking place on October 8, 2016 from 10am-1pm at Allen Park located at 1770 N.E. 162nd Street.

City Manager Garcia and Vice Mayor Kramer discussed the NMB Magical History Tour taking place on October 16, 2016 starting at 1pm at the North Miami Beach library located at 1601 N.E. 164th Street and the ground breaking ceremony and presentation at 4pm for the restoration and enhancement of the Fulford Fountain located at N.E. 172nd Street and N.E. 23rd Avenue.

City Manager Garcia announced the Monster Mash Bash Halloween event taking place on October 31, 2016 from 6pm-10pm at Mishcon Field located at 16601 N.E. 15th Avenue.

Chief of Staff Nicole Gomez announced the Jack Ross street naming ceremony taking place on October 7, 2016 at 10am for the location of N.E. 15th Avenue between N.E. 163rd Street and N.E. 170th Street. The event would be rescheduled due to weather issues if necessary.

CITY ATTORNEY'S REPORT

City Attorney Smith reported that a new mortgage foreclosure file was opened and a mortgage foreclosure case was recently closed.

Councilwoman Spiegel asked if the Olympic Tower project will be coming back before the Planning and Zoning Board and City Attorney Smith stated that it will come back because there was no quorum at the meeting when the item was heard and confirmed that it was the Detox Center project.

MAYOR'S DISCUSSION

Chief of Staff Nicole Gomez stated that artist Stephane Bolongaro has invited four representatives of the City to attend an art show exhibition taking place in Monte Carlo in March of 2017, including airfare, transportation, and hotel.

Councilwoman Spiegel asked if the trip could be accepted and City Attorney Smith stated that it was allowed as long as it was disclosed as a gift.

Vice Mayor Kramer, Councilwoman Martell, Councilwoman Smith, and Councilwoman Spiegel expressed interest in attending the event without the use of taxpayer money.

Mayor Vallejo asked City Manager Garcia to find out further details and information before any decision is made.

MISCELLANEOUS ITEMS

City Clerk Latimore discussed the Special Election Voter's Guide that will be mailed to all 20,085 registered voters in North Miami Beach. The guides are in the process of being printed and they were professionally translated in English, Spanish, and Creole. There is a Town Hall meeting scheduled for October 6, 2016 at 6pm in the City Hall council chambers to discuss the proposed charter amendments. The event would be rescheduled due to weather issues if necessary.

DISCUSSION

The discussion item concerning the employment of City Attorney Smith was deferred to a future meeting.

LEGISLATION

Ordinance 2016-9 Second and Final Reading (Jose Smith, City Attorney)

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CITY OF NORTH MIAMI BEACH CITY CODE CHAPTER II ENTITLED "STRUCTURE OF CITY GOVERNMENT", SECTION 2-1 ENTITLED "CITY COUNCIL", SUBSECTION 2-1.1 ENTITLED "MEETINGS OF THE CITY COUNCIL" AT SUBSECTION (a) THEREOF TO ESTABLISH AN ETHICAL DUTY OF CITY COUNCILMEMBERS TO REMAIN AT CITY COUNCIL MEETINGS DURING THE ENTIRETY OF ANY SUCH COUNCIL MEETING AND PROVIDING FOR JURISDICTION OF MIAMI-DADE COUNTY COMMISSION ON ETHICS AND

PUBLIC TRUST TO ENFORCE THIS SUBSECTION; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION AND AN EFFECTIVE DATE.

Motion to approve Ordinance 2016-9 made by Councilman DeFillipo, seconded by Councilwoman Martell.

City Attorney Smith provided an explanation of the ordinance stating that the City Code is being amended to require an ethical duty to remain at City Council meetings. He expressed that it is not a violation of Constitutional rights and commended Councilwoman Kramer for bringing it forward.

Mayor Vallejo opened the meeting for **PUBLIC HEARING**.

1. Bruce Lamberto - 3420 N.E. 165th St., North Miami Beach, FL.
2. Mubarak Kazan - 15564 N.E. 12th Ave., North Miami Beach, FL.

The meeting was closed for **PUBLIC HEARING**.

Councilwoman Spiegel expressed her opposition towards the ordinance and apologized to North Miami Beach resident Chuck Cook for being named in a Memorandum of Law public document. Vice Mayor Kramer stated that the ordinance was not directed at particular individuals and the act of leaving Council meetings should not set a precedent for future elected officials. Councilwoman Smith expressed her opposition towards the ordinance, mentioned HIPAA law rights, and said an investigation was started. Councilman DeFillipo expressed his support towards the ordinance. Mayor Vallejo expressed his support towards the ordinance and confirmed that it is not directed at any particular person and applies to everyone equally. City Attorney Smith stated that there is nothing in the ordinance that would require anyone to disclose HIPAA protected information and confirmed that the Miami-Dade Ethics Commission would enforce the ordinance. City Manager Garcia stated that there is no investigation in regards to how the health insurance plan was procured. City Attorney Smith stated that meetings and interviews were conducted following the allegations of a former employee of the Human Resources department and it is not related to the procurement of the City's health insurance plan.

Roll Call Vote

DeFillipo - **Yes**, Kramer - **Yes**, Martell - **Yes**, Smith - **No**, Spiegel - **No**, Vallejo - **Yes**.

MOTION PASSED 4-2 on Second and Final Reading with Councilwoman Smith and Councilwoman Spiegel opposed and Councilman Pierre absent.

Councilwoman Spiegel asked for a point of personal privilege and announced that she withdrew her statement from earlier in the meeting expressing interest in attending the trip to Monaco.

Ordinance 2016-10 First Reading by Title Only (Richard Lorber, Director of Community Development)

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM ON THE ENFORCEMENT OF FENCE HEIGHT REGULATIONS IN THE SINGLE-FAMILY RESIDENTIAL NEIGHBORHOODS; THE MORATORIUM SHALL AUTOMATICALLY DISSOLVE UPON THE EARLIER OF APRIL 4, 2017, OR UPON THE ADOPTION OF AMENDMENTS TO THE NORTH MIAMI BEACH ZONING AND LAND DEVELOPMENT CODE RELATING TO FENCE HEIGHT REGULATIONS.

Motion to approve Ordinance 2016-10 made by Councilman DeFillipo, seconded by Councilwoman Martell.

Director of Community Development Richard Lorber provided an explanation of the ordinance stating that the City is recommending a temporary moratorium on the enforcement of fence height regulations and will be preparing amendments to address compatibility concerns that are consistent with existing neighborhoods. The moratorium would automatically dissolve upon the adoption of amendments to the zoning code or no later than April 4, 2017.

Mayor Vallejo opened the meeting for **PUBLIC HEARING**.

1. Mubarak Kazan - 15564 N.E. 12th Ave., North Miami Beach, FL.
2. Terrence Camenzuli - 17151 N.E. 17th Ave., North Miami Beach, FL.
3. Bruce Lamberto - 3420 N.E. 165th St., North Miami Beach, FL.

The meeting was closed for **PUBLIC HEARING**.

Roll Call Vote

Kramer - **Yes**, Martell - **Yes**, Smith - **Yes**, Spiegel - **No**, DeFillipo - **Yes**, Vallejo - **Yes**.

MOTION PASSED 5-1 with Councilwoman Spiegel opposed and Councilman Pierre absent.

Special Meeting Minutes of July 26, 2016 (Pamela L. Latimore, City Clerk)

The item was pulled from the Consent Agenda.

Motion to approve the Special Meeting Minutes of July 26, 2016 made by Councilwoman Martell, seconded by Councilman DeFillipo.

Motion to add the language 'Councilwoman Smith asked if there was counsel for the union and the reply was no.' within the discussion section of Resolution 2016-54 made by Councilwoman Smith, seconded by Mayor Vallejo.

MOTION PASSED 6-0 with Councilman Pierre absent.

Motion to add the language 'Councilwoman Spiegel asked whether or not Resolution 2016-54 in effect encompassed the approval of the ten charter amendments since they were only discussed at a workshop and not a public forum and City Attorney Smith replied yes.' within the discussion section of Resolution 2016-54 made by Councilwoman Spiegel. There was no second to the motion.

City Attorney Smith stated that he had no recollection of the question or the answer and suggested to defer the item until the video is reviewed.

Motion to table the Special Meeting Minutes of July 26, 2016 until the next meeting made by Councilwoman Spiegel, seconded by Mayor Vallejo.

MOTION PASSED 6-0 with Councilman Pierre absent.

Special Meeting Minutes of August 25, 2016 (Pamela L. Latimore, City Clerk)

The item was pulled from the Consent Agenda.

Mayor Vallejo passed the gavel to Vice Mayor Kramer.

Motion to add the language ‘Councilwoman Smith stormed off the dais at 7:26pm breaking quorum and rendering the Council unable to vote on the time sensitive issue at hand and the meeting went without quorum until 7:51pm when Councilman DeFillipo arrived restoring quorum and allowing for the vote to be taken.’ within the discussion section of Resolution 2016-67 made by Mayor Vallejo, seconded by Councilman DeFillipo.

MOTION PASSED 4-2 with Councilwoman Smith and Councilwoman Spiegel opposed and Councilman Pierre absent.

Vice Mayor Kramer passed the gavel back to Mayor Vallejo.

Motion to add the language ‘Councilwoman Smith was questioning why the insurance needed a special meeting when it is always due on October 1st.’ within the discussion section of Resolution 2016-67 made by Councilwoman Smith, seconded by Councilwoman Spiegel.

MOTION FAILED 3-3 with Mayor Vallejo, Councilman DeFillipo, and Councilwoman Martell opposed and Councilman Pierre absent.

Voice Vote: MOTION PASSED 4-2 with Councilwoman Smith and Councilwoman Spiegel opposed and Councilman Pierre absent.

Regular Meeting Minutes of September 20, 2016 (Pamela L. Latimore, City Clerk)

The item was pulled from the Consent Agenda.

Motion to approve the Regular Meeting Minutes of September 20, 2016 made by Councilman DeFillipo, seconded by Councilwoman Martell.

Motion to add the language ‘The questions that Councilwoman Spiegel asked Director of Public Utilities Jeffrey Thompson were brought up by residents at a community meeting attended by Councilwoman Spiegel.’ within the City Manager’s Report section made by Councilwoman Spiegel, seconded by Vice Mayor Kramer.

MOTION PASSED 6-0 with Councilman Pierre absent.

Motion to add the language ‘as mediator’ following ‘City Attorney Smith reported that the City recently was able to settle a wrongful death case through mediation, which included the participation of attorney H.T. Smith.’ within the City Attorney’s Report section made by Councilwoman Spiegel, seconded by Councilwoman Smith.

MOTION PASSED 6-0 with Councilman Pierre absent.

Motion to add the language ‘City Attorney Smith interrupted a Councilmember and stated ‘she’s lying’ with no repercussions’ within the discussion section of Resolution 2016-82 made by Councilwoman Spiegel, seconded by Councilwoman Smith.

MOTION FAILED 1-5 with Mayor Vallejo, Vice Mayor Kramer, Councilman DeFillipo, Councilwoman Kramer, and Councilwoman Smith opposed and Councilman Pierre absent.

Mayor Vallejo passed the gavel to Vice Mayor Kramer.

Motion to add the language ‘Mayor Vallejo discussed the proper purpose for the point of privilege under Robert’s Rules and its usage at the previous City Council meeting and apologized to City Attorney Smith and Joseph Centorino of the Miami-Dade Commission on Ethics for not determining that Councilwoman Spiegel was out of order with the discussion about City Attorney Smith and the questioning of Mr. Centorino.’ within the Mayor’s Discussion section made by Mayor Vallejo, seconded by Councilwoman Martell.

Motion to amend to add the language ‘Mayor Vallejo discussed the proper purpose for the point of privilege under Robert's Rules and its usage at the previous City Council meeting and apologized to City Attorney Smith and Mr. Joseph Centorino of the Miami-Dade Commission on Ethics for not ruling a Councilperson out of order for launching into an out of order discussion about Mr. Smith and out of order questioning of Mr. Centorino.’ within the Mayor’s Discussion section made by Mayor Vallejo, seconded by Councilwoman Martell.

MOTION PASSED 4-2 as amended with Councilwoman Smith and Councilwoman Spiegel opposed and Councilman Pierre absent.

Vice Mayor Kramer passed the gavel back to Mayor Vallejo.

CITY COUNCIL REPORTS

Councilman DeFillipo thanked everyone involved with the 90th anniversary event and Romero Britto for his donated artwork. He appreciated the City staff for working hard to clean out the sewer drains and stated that members of the Council are working together with a vision to move the city forward in the right direction.

Vice Mayor Kramer asked everyone to support October as Breast Cancer Awareness Month and thanked the City staff for the 90th anniversary event. She invited residents to attend the upcoming Magical History Tour and wished the Jewish community a happy new year and an easy Yom Kippur.

Councilwoman Martell thanked the City staff for the 90th anniversary event and announced there are two current openings on the Public Utilities Commission. She also invited residents to join the Education Committee and the Advisory Committee for Disabled Individuals.

Councilwoman Smith discussed the Pearl Girlz organization led by Joyce Davis and praised the 90th anniversary event, along with the City staff and vendors, including David Laurenzo and family. She said she has no regrets about supporting Mayor Vallejo during a previous campaign, but does regret the Council attacks and name calling. She stated that she knows her purpose while doing what is best for the public and representing to the best of her ability. She encouraged residents to attend City events and vote in the upcoming election. She talked about proper recycling and explained that she was against the City’s recent budget due to a rise in the management pension plan. She thanked Romero Britto for his donated artwork and wished the Jewish community a happy new year.

Councilwoman Spiegel wished everyone who observes a wonderful Jewish new year and for all residents to stay safe and dry.

Mayor Vallejo expressed that the 90th anniversary was a great event celebrating the diversity of the City and thanked Romero Britto for the donated artwork. He told residents to prepare for the possible hurricane and informed everyone that the City is already taking action. He also wished everyone in the Jewish community a happy new year.

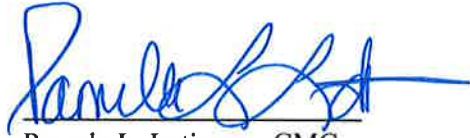
NEXT REGULAR CITY COUNCIL MEETING is Tuesday, October 18, 2016.

ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:33pm.

ATTEST:

(SEAL)

A handwritten signature in blue ink, appearing to read 'Pamela L. Latimore', with a long horizontal flourish extending to the right.

Pamela L. Latimore, CMC