



CITY OF NORTH MIAMI BEACH
City Commission Meeting
Julius Littman Performing Arts Theater
17011 N.E. 19th Avenue
North Miami Beach, FL. 33162

Tuesday, March 16, 2021

Mayor Anthony F. DeFillipo
Vice Mayor Michael Joseph
Commissioner McKenzie Fleurimond
Commissioner Daniela Jean
Commissioner Barbara Kramer
Commissioner Fortuna Smukler
Commissioner Paule Villard

Interim City Manager Horace McHugh

Interim City Attorney Hans Ottinot
Ottinot Law, P.A.

City Clerk Andrise Bernard, CMC

City Commission Meeting Minutes

ROLL CALL OF THE CITY OFFICIALS

The Regular Commission Meeting was called to order at 6:34 p.m. Present at the meeting in the Theater were Mayor Anthony F. DeFillipo, Vice Mayor Michael Joseph, Commissioner McKenzie Fleurimond, Commissioner Daniela Jean, and Commissioner Fortuna Smukler. Present at the meeting via zoom were Commissioner Barbara Kramer and Commissioner Paule Villard. Interim City Manager Horace McHugh, Interim City Attorney Hans Ottinot, and City Clerk Andrise Bernard were also present.

INVOCATION Chaplain Mark Rosenberg, North Miami Beach Police Department, led the Mayor and Commission in prayer asking for blessings at the meeting for a unified vision and mission, for safety upon the Police Department, and blessings upon the Commission to be a source of brightness, vision and strength to the City.

PLEDGE OF ALLEGIANCE was led by the Mayor and Commission.

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO THE AGENDA

City Clerk Andrise Bernard announced the following changes to the agenda:

- a. Per the request of Vice Mayor Joseph, Discussion Item 15.4 is renamed “American Rescue Plan Act”.
- b. Per the request of Commissioner Villard, an item entitled “COVID Relief Gift Certificates” is to be added, which will now be Discussion Item 15.3.

Motion to **approve** the amended agenda made by Commissioner Villard, seconded by Commissioner Fleurimond.

Voice Vote

MOTION PASSED 7-0.

PRESENTATIONS / DISCUSSIONS – There was none.

Mayor DeFillipo reminded the Commissioners to remain visible on the zoom meeting platform which will help to ensure that quorum is maintained during the meeting. He asked the Commissioners to show fairness and respect to one another, and to speak twice on an item for up to ten minutes each time in order to help run the meetings efficiently.

PUBLIC COMMENT

Mayor Anthony F. DeFillipo opened the meeting for **PUBLIC COMMENT**.

City Clerk Andrise Bernard read the rules of public comment and the following individuals made comments on the record:

1. Margie Love
2. Rebecca Roth
3. David Zepen
4. Stephanie Kienzle
5. Karen Harrold
6. Saundra Douglas
7. Mubarak Kazan
8. Trish Williams

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

Mayor DeFillipo reminded the Commissioners to remain visible on the zoom meeting platform in order to be counted as part of the meeting quorum.

ANNOUNCEMENTS

Greg Williams, Public Affairs Manager, announced recent and upcoming City events to the Mayor and Commission: North Miami Beach Unsung Heroes in honor of Women's History Month, March 17, 2021 6:30 p.m. on zoom as well as raffling two televisions and gift cards, and a promotional video was shown; COVID Relief Food Distribution Event every Friday at 4:00 p.m. behind Victory Pool on a first-come, first-served basis with thanks to the community partners; Please note that there will be no food distribution on Friday, April 2, 2021 on Good Friday, but it will occur instead on Thursday, April 1, 2021 for that week only. Bike 305 month is March with virtual events during the week of March 21 through March 27, 2021, with a special bike ride on Sunday, March 21, 2021 with Mayor DeFillipo and a promotional video was shown; Young Women of Distinction Cohort Rising Stars of North Miami Beach program deadline is March 26, 2021; Mayor DeFillipo was recently appointed to the Miami-Dade County League of Cities Executive Board as a Director which will be formally announced at the next meeting.

CITY COMMISSION REPORTS

Commissioner Fleurimond asked City Attorney Ottinot if the Interim City Manager can do anything under the purview of “management” for the City such as entering into contracts, appointments, hiring, etc., and City Attorney Ottinot responded that is correct. Commissioner Fleurimond complimented Interim Police Chief Richard Rand for the excellent work he is doing with the Police Department and for visiting and working with the neighborhoods and community. Commissioner Fleurimond thanked outgoing Police Chief Bill Hernandez for his hard work and dedication to the City. Commissioner Fleurimond requested a presentation from the Police Department on the body-worn camera program, as well as a discussion on the security camera program in the Windward neighborhood and throughout the City.

Commissioner Jean thanked the Police Department for the Oakgrove PACT (Police and Community Together) meeting. She thanked the Mayor and other Commissioners for all of the great events occurring during Women’s History Month and for honoring the women who have done extraordinary work in the City, is excited about the Young Women of Distinction Rising Stars scholarship program, thanked everyone for her birthday wishes, and announced that the COVID vaccine site is open and encouraged residents to attend all of the City events that are helping the community during this difficult time.

Commissioner Kramer wished Chief Hernandez all the best upon his retirement and for making a stellar City Police Department during the last seven years and she looks forward to that continuing under the leadership of Interim Police Chief Rand. She stated that she was excluded from making a selection for the Women’s History Month event, so she wanted to honor Stephanie Kienzle, Trisha Harris, Faith Wolpin, Saundra Douglas, and the women serving on the Beautification and Multi-Cultural Committees, for inspiring her and for their contributions to the City.

Commissioner Smukler wished everyone a Happy St. Patrick’s Day, thanked the Police Department for keeping everyone safe, wished Chief Hernandez all the best upon his well-deserved retirement, and announced the Library Board meeting occurring on March 23, 2021 both virtually and in person at the library at 6:30 p.m., and a Commission on the Status of Women meeting occurring on April 12, 2021 at 7 p.m. both virtually and in person. She responded to Ms. Roth’s public comment. She asked for clarification about the Unsung Heroes and Women of Distinction events being coordinated by other Commissioners and the purpose of the Commission on the Status of Women which was not involved of which she is the liaison.

Commissioner Villard shared that an email was sent to all the women Commissioners about the Women’s History Month Unsung Heroes event asking for honoree nominations, and that everyone is invited to the event on March 17, 2021 6:30 to 8:30 p.m. on zoom. She stated that the women are the majority on the dais and that any Commissioner can propose an event with creative ideas, not just under the Commission on the Status of Women. She asked the City Clerk to share the past events calendar from the Commission on the Status of Women with Commissioner Smukler.

Vice Mayor Joseph thanked Chief Rand for holding the PACT meeting, reminded people to social distance, get vaccines, wear masks, and stay safe, and he wished his wife a happy birthday.

Mayor DeFillipo congratulated Chief Bill Hernandez on his retirement, thanked Acting Chief Rand for his leadership and hard work in his position, and thanked the Police Department for holding the PACT meetings to engage the community. He invited the public to follow the City and the Police Department on Facebook and social media. He shared that on March 16, 2021, Commissioner Daniela Jean and he went to the County and presented Miami-Dade County Mayor Daniella Levine Cava with a proclamation and a key to the City for her

achievements and recognizing her as the first woman Miami-Dade County Mayor. He stated that he is pleased to see that women in the City are rightly being honored for their contributions.

CONSENT AGENDA

Regular Commission Meeting Minutes of January 28, 2021 (Andrise Bernard, CMC, City Clerk)

Regular Commission Meeting Minutes of February 16, 2021 (Andrise Bernard, CMC, City Clerk)

Special Commission Meeting Minutes of February 22, 2021 (Andrise Bernard, CMC, City Clerk)

Resolution No. R2021-26 Awarding Bid #ITB-21-002-MC – Aerial Crossing Rehabilitation Project (Jafeth Baez, NMB Water Director)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING THE AWARD OF INVITATION TO BID ITB-21-002-MC – “AERIAL CROSSING REHABILITATION PROJECT” AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE AN AGREEMENT WITH RAZORBACK, LLC AND EXPEND A BUDGETED AMOUNT NOT TO EXCEED \$267,080.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Resolution No. R2021-27 Urging the Legislature to Support Home Rule for Local Municipalities (Mayor Anthony F. DeFillipo)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, URGING THE FLORIDA LEGISLATURE TO SUPPORT HOME RULE FOR LOCAL MUNICIPALITIES AND COUNTIES; AUTHORIZING THE CITY CLERK TO PROVIDE COPIES OF THIS RESOLUTION TO GOVERNOR DESANTIS, MEMBERS OF THE FLORIDA LEGISLATURE, THE FLORIDA LEAGUE OF CITIES, FLORIDA ASSOCIATION OF COUNTIES, BROWARD LEAGUE OF CITIES AND MIAMI-DADE LEAGUE OF CITIES; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to approve the Consent Agenda made by Commissioner Villard, seconded by Mayor DeFillipo.

Voice Vote

MOTION PASSED 7-0.

QUASI-JUDICIAL

Resolution No. R2021-21 "Pool Equipment Setback Variance" (Horace McHugh, Interim City Manager)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, CONSIDERING A VARIANCE FROM CHAPTER 24, ARTICLE VIII, SECTION 24-81(A)(5) OF THE CITY CODE OF ORDINANCES FOR THE PROPERTY LOCATED AT 1960 NE 180TH STREET, NORTH MIAMI BEACH, FLORIDA; PROVIDING FOR FINDINGS OF FACT; CONFIRMING EXPIRATION AND LIMITATION OF APPROVAL; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Hans Ottinot reviewed the procedures for the quasi-judicial legislation items and reminded the Commissioners to remain visible on the zoom call for this portion of the meeting. City Clerk Andrise Bernard

explained the Jennings Disclosure requirement of naming the individuals with whom the item was discussed and the subject matter of any communication regarding the item.

Commissioner Fleurimond disclosed the individual names to whom he spoke and confirmed that he can make a decision regarding this item based on the substantial competent evidence presented at this meeting.

Commissioner Jean disclosed the individual names to whom she spoke on the Jennings Form and confirmed that she can make a decision regarding this item based on the substantial competent evidence presented at this meeting.

Commissioner Kramer disclosed the individual names to whom she spoke and confirmed that she can make a decision regarding this item based on the substantial competent evidence presented at this meeting.

Commissioner Smukler disclosed the individual names to whom she spoke on the Jennings Form and confirmed that she can make a decision regarding this item based on the substantial competent evidence presented at this meeting.

Commissioner Villard disclosed the individual names to whom she spoke on the Jennings Form and confirmed that she can make a decision regarding this item based on the substantial competent evidence presented at this meeting.

Vice Mayor Joseph disclosed the individual names to whom he spoke and confirmed that he can make a decision regarding this item based on the substantial competent evidence presented at this meeting.

Mayor Anthony F. DeFillipo disclosed the individual names to whom he spoke on the Jennings Form and confirmed that he can make a decision regarding this item based on the substantial competent evidence presented at this meeting.

City Clerk Andrise Bernard asked the applicant and speakers who will be providing testimony regarding this item to raise their right hand and be sworn in.

City Manager Horace McHugh introduced Edward (Eddie) Ng, Planning and Zoning Director, who introduced Mario Duron, Associate Planner, who provided a presentation to the Mayor and Commissioners.

Mayor Anthony F. DeFillipo opened the meeting for **PUBLIC HEARING**.

City Clerk Andrise Bernard asked the speakers who will be providing testimony regarding this item to raise their right hand and be sworn in.

1. Mubarak Kazan
2. Stephanie Kienzle
3. Trisha Harris

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

Commissioner Smukler stated that something small such as is presented in this item should be allowed for residents by administrative waivers, that the process incurs expenses and fees for the residents, and that developers often receive such waivers.

Commissioner Kramer stated that she agreed with Commissioner Smukler.

Commissioner Fleurimond stated that he wanted to ensure that the variance Ordinance with the 25% rule was followed for this item. Mr. Eng, Planning and Zoning Director, responded that the administrative waiver process applies if the application has a 25% variation threshold and that this applicant's plan has a 40% variation which exceeds the threshold. Commissioner Fleurimond applauded staff for implementing the Commission's administrative waiver process. He requested a future educational workshop on Planning and Zoning basics to examine if there is anything antiquated that could be changed to better assist residents to streamline the process. There was consensus amongst the Commissioners to hold a workshop. City Manager McHugh shared that many Planning and Zoning items are heavily regulated, such as are related to parking and traffic requirements. Commissioner Smukler stated that she wants to assist residents so that they don't need to spend unnecessary funds. City Attorney Ottinot asked if the workshop intent is to address residential or commercial properties. Commissioner Fleurimond asked for the workshop to cover both types of properties. Mayor DeFillipo suggested that the workshop address residential properties, and that a workshop regarding commercial properties can follow in the future, if needed. Commissioner Fleurimond was amenable to that suggestion.

City Manager McHugh shared the process that after code compliance reviewed the regulations, that staff in Planning and Zoning recommended approval, and then the Planning and Zoning Board recommended approval, prior to coming before the Commission.

Vice Mayor Joseph stated that some cities have a fast track application process to streamline variances that meet certain threshold amounts in order to assist their residents with concierge services and suggested that it be considered at the workshop.

Motion to approve Resolution No. R2021-21 made by Commissioner Fleurimond, seconded by Mayor DeFillipo.

Roll Call Vote

Fleurimond – Yes; Jean – Yes; Kramer – Yes; Smukler – Yes; Villard – Yes; Joseph – Yes; DeFillipo – Yes

MOTION PASSED 7-0.

LEGISLATION

Ordinance No. 2020-10 (Second and Final Reading) - Mixed Use Phase II Comprehensive Plan Amendments (Horace McHugh, Interim City Manager)

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE CITY'S COMPREHENSIVE PLAN INCLUDING THE FUTURE LAND USE MAP, TEXT CHANGES TO THE FUTURE LAND USE; TO AMEND THE MIXED-USE

NEIGHBORHOOD CENTER (MU/NC), TO PROVIDE FOR THE MIXED USE INTERNATIONAL BOULEVARD DISTRICT WEST (MU/IB-W), THE MIXED USE INTERNATIONAL BOULEVARD EAST DISTRICT (MU/IB-E) DISTRICTS; TO DELETE THE “MIXED USE: BUSINESS AND/OR RESIDENTIAL USE” FUTURE LAND USE CATEGORY; AMENDING THE FUTURE LAND USE MAP TO CHANGE THE FUTURE LAND USE DESIGNATION OF CERTAIN PROPERTY (AS PROVIDED FOR IN THE ATTACHED (EXHIBIT 1 AND EXHIBIT 2); AUTHORIZING TRANSMITTAL OF THESE ADOPTED AMENDMENTS TO THE AGENCIES REQUIRED UNDER CHAPTER 163, PART II, FLORIDA STATUTE; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

City Manager McHugh asked that the presentation given apply to both Ordinance No. 2020-10 and Ordinance No. 2020-11 because they are companion items. Edward (Eddie) Ng, Planning and Zoning Director, provided a presentation on the two items to the Mayor and Commissioners.

Mayor Anthony F. DeFillipo opened the meeting for **PUBLIC HEARING**.

City Clerk Andrise Bernard read the rules of public comment and the following individuals made comments on the record:

1. Mubarak Kazan
2. Rob Curtis
3. Mariana Boldu
4. Jeff Bercow
5. Matt Amster

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

Commissioner Jean stated that she had discussed the traffic master plan with Planning and Zoning Director Ng, and hopes that adjustments will be made to ensure that pedestrians continue to stay safe; she had also asked him about maximum parking amounts; and wants for current businesses to be able to shine in light of new development.

Commissioner Smukler stated that she had previously spoken with former Planning and Zoning Director Proffitt to correct the half of a car reference that is in the books.

Commissioner Kramer stated that this is a long overdue project with much time invested in it, that it will provide for more places to live and dine in the northern section of Miami-Dade County, and that she is very excited about the future implementation of the plan. Mayor DeFillipo is also very happy with the plan.

Motion to approve made by Commissioner Kramer, seconded by Commissioner Smukler.

Roll Call Vote

Jean – Yes; Kramer – Yes; Smukler – Yes; Villard – Yes; Fleurimond – Yes; Joseph – Yes; DeFillipo – Yes

MOTION PASSED 7-0.

Ordinance No. 2020-11 (Second and Final Reading) - Mixed Use Phase II Zoning Text Amendments / Rezoning (Horace McHugh, Interim City Manager)

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING THE ZONING AND LAND DEVELOPMENT CODE OF THE NORTH MIAMI BEACH CODE OF ORDINANCES, BY AMENDING CHAPTER XXIV “NORTH MIAMI BEACH ZONING AND LAND DEVELOPMENT CODE” ARTICLE V “ZONING USE DISTRICTS”; CREATING SECTION 24-58.8 TO ESTABLISH AND INCLUDE REGULATIONS FOR THE “MIXED-USE INTERNATIONAL BOULEVARD DISTRICT – WEST” AND “MIXED-USE INTERNATIONAL BOULEVARD DISTRICT – EAST”; AMENDING SECTION 24-58.3 TO EXPAND AND ESTABLISH REGULATIONS FOR “MIXED USE NEIGHBORHOOD CENTER DISTRICT (MU/NC)”; PROVIDING FOR DISTRICT REGULATIONS AND SUB AREA REGULATING PLANS, STREET NETWORK CONNECTIVITY REGULATING PLANS, DESIGNATED PUBLIC OPEN SPACES AND GREENWAY SYSTEMS REGULATING PLANS, AND BUILDING HEIGHT REGULATING PLANS FOR EACH MIXED USE DISTRICT; AMENDING THE OFFICIAL ZONING MAP, REFERENCED IN SECTION 24-31 OF THE NORTH MIAMI BEACH CODE OF ORDINANCES, TO RE-ZONE CERTAIN PROPERTY AND APPLY THE EXPANDED MIXED-USE DESIGNATIONS TO THOSE CERTAIN PROPERTIES (AS PROVIDED FOR IN THE ATTACHED EXHIBIT “A”); WHICH REPRESENTS AN AREA GREATER THAN FIVE (5%) OF THE TOTAL AREA OF THE CITY OF NORTH MIAMI BEACH; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; CODIFICATION; AND FOR AN EFFECTIVE DATE.

City Manager McHugh restated that Ordinance No. 2020-10 and Ordinance No. 2020-11 are companion items, and that staff did not have an additional presentation.

Commissioner Kramer asked about the City branding and hopes that a word more creative than “International” can be used.

Commissioner Fleurimond asked if there is any wiggle room in the name. Planning and Zoning Director Ng responded that there are pivot opportunities that will arise during the project and that the name is not locked in.

Mayor Anthony F. DeFillipo opened the meeting for **PUBLIC HEARING**.

City Clerk Andrise Bernard read the rules of public comment and the following individuals made comments on the record:

1. Mubarak Kazan

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

City Manager McHugh shared that there was an extensive presentation made to the Commissioners in October 2020 during the first reading of the item, and that the item backup material is extensive, as well as receiving positive reviews from many external agencies.

Motion to approve made by Commissioner Kramer, seconded by Mayor DeFillipo.

Roll Call Vote

Kramer – Yes; Smukler – Yes; Villard – Yes; Fleurimond – Yes; Jean – Yes; Joseph – Yes; DeFillipo – Yes

MOTION PASSED 7-0.

Resolution No. R2021-28 Establishing a Policy for Granting City Proclamations (Commissioner McKenzie Fleurimond)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ESTABLISHING A POLICY FOR GRANTING CITY PROCLAMATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Fleurimond introduced this item to the Mayor and Commissioners. He stated that the Resolution allows the opportunity for each Commissioner to present proclamations, that it doesn't preclude any Commissioner from participating in the proclamation's presentation, and that it retains the tradition of the Mayor presenting the Key to the City. He suggested using the word "may" instead of the word "will" under Section B, as there may be proclamation requests for events, and he also suggested including "Commission Conference" or regular City Commission meeting under Section B. He asked the City Clerk to communicate proclamation presentations to the Commissioners should they wish to participate in event presentations and asked that the notice requirement be included in the resolution.

Commissioner Smukler shared that the purpose of holding a Commission Conference is for the purpose of hearing proclamations so that presentations do not tie up the time at Regular City Commission Meetings, and that the Commission Conferences were suspended during COVID.

Commissioner Fleurimond clarified that he included the word "may" and option for proclamations to be presented at Regular City Commission Meetings should the procedure ever change in the future, and that he agrees that they should occur at Commission Conferences.

Mayor DeFillipo stated that if the proclamation is presented in public, that the City Clerk should notify the Commissioners to attend if they want to do so and that he doesn't mind sharing the stage with others for times either when he's not available to present, and that he'd like to share the opportunity to present with others.

City Manager McHugh suggested removing the word "Regular". City Attorney Ottinot suggested having clarity in the resolution that it may occur at a Regular or Commission Conference Meeting, and that all Commissioners shall receive notice.

Mayor Anthony F. DeFillipo opened the meeting for **PUBLIC COMMENTS**.

City Clerk Andrise Bernard read the rules of public comment and the following individuals made comments on the record:

1. Mubarak Kazan

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

Motion to approve as amended made by Commissioner Fleurimond, seconded by Mayor DeFillipo.

Voice Vote

MOTION PASSED 7-0.

Ordinance No. 2021-01 (First Reading) - Amending Section 2-1.4 of the City Code to Clarify that a Simple Majority Vote is Required to Call a Vote on a Matter unless a Super Majority Vote is Required under the City Charter. (Vice Mayor Michael Joseph)

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER II OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ENTITLED "STRUCTURE OF THE CITY GOVERNMENT" BY SPECIFICALLY AMENDING SECTION 2-1.4 TO CLARIFY THAT A SIMPLE MAJORITY VOTE IS REQUIRED TO CALL A VOTE ON A MATTER UNLESS A SUPER MAJORITY VOTE IS REQUIRED UNDER THE CITY CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Joseph presented the item to the Mayor and Commissioners. He stated that there shouldn't be any procedure that conflicts with the Charter where some of its provisions call for a super majority vote, whereas some sections in Robert's Rules of Order state otherwise, and thus he asked for synergy. He stated that this does not stifle public comment and outlines a way of getting to a vote on an item.

City Attorney Ottinot clarified the Ordinance and that Robert's Rules of Order requires a simple majority vote except in three limited circumstances: when the organization Charter or By-Laws require a two-third's vote for the motion, suspending a rule of order such as a limit on the length of the number of speeches, and changing something already adopted such as a motion to postpone an event previously scheduled. He shared that the Charter allows for the Commission to adopt legislation for the conduct of running a meeting and that the Commission has the authority to clarify the use of Robert's Rules of Order in this Ordinance.

Mayor Anthony F. DeFillipo opened the meeting for **PUBLIC HEARING**.

City Clerk Andrise Bernard read the rules of public comment and the following individuals made comments on the record:

1. Stephanie Kienzle
2. Karen Harrold
3. Saundra Douglas
4. Mubarak Kazan

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

Commissioner Fleurimond stated that the public has a legitimate right to speak on matters before the Commission and that this Ordinance does not take away the public's right to speak; that the Ordinance does not take away the right of Elected Officials to debate on the dais; that the Code provides that Robert's Rules of Order are adopted for Commission meeting procedures, and that where there is a conflict with the Charter or any Ordinances, then the Charter or Ordinances shall supersede Robert's Rules; that the Commission voted to allow for a standard debate time of two rounds of up to ten minutes for each Elected Official to speak on a subject; and that the Chair can recognize a calling of the question if it is made in good faith after the standard debate.

Mayor DeFillipo stated that he sought the advice of outside counsel on the proposed process. He stated that the Ordinance is unnecessary, that the Commissioners understand the speaking protocol, that he will adhere to only allowing the Commissioners to speak twice for up to ten minutes each time, and that the Commissioners exhibit a lot of passion about the agenda items. He shared that a previous vote was heard to try to stop public comment and that could occur again; he doesn't want to reduce the super majority requirement and stated that only a Charter ballot referendum can make a Charter change about which the public should have the right to vote; that he will challenge the City legally if the matter prevails; that all motions are voted on; that he doesn't want to shut down democracy which voters elected the Commissioners to uphold, and that the Commissioners are elected to speak for the voters; and that he wants for the minority to have the opportunity to speak.

Commissioner Smukler asked if the provision about Robert's Rules of Order is in the Charter or Code. City Attorney Ottinot responded that it is in the Code and not in the Charter. Deputy City Attorney Pamela Ryan also responded that it is in the Code, and that if the City passes something that is contrary Robert's Rules of Order then it needs to be done by Ordinance to supersede Robert's Rules, and that the Ordinance can be passed by a simple majority vote. Commissioner Smukler stated that she supports the Mayor's idea to try the ten minutes speaking time limit and to bring this item back if that doesn't work, that it is the public's right to speak, that she wants to use her right to speak and doesn't want others to end the vote quickly, and that she would never call the question on anyone as she thinks it is rude.

Commissioner Kramer stated that a supermajority, two-thirds vote, for a body of 5 is 3.333 and is then rounded up to 4. Deputy City Attorney Pamela Ryan responded that a supermajority vote for a body of 5 is 3. Commissioner Kramer shared that she never saw past Commissions ever leaving out other Commissioners from speaking, and that Commissioners would want to provide as much information as possible to other Commissioners in order to try to get a consensus, and that dialogue allows for the constituents to see the full picture of issues. She stated that she has never been treated this way before by her colleagues, and that she'll never forget the meeting where she was denied the opportunity to discuss the City Attorney and City Manager positions.

Commissioner Villard stated that she supports this item and wants for each Commissioner to only speak up to ten minutes, twice, each and not to repeat comments. She asked the City Attorney if the motion precludes public comment, and City Attorney Ottinot responded that it doesn't preclude public comment and Commission debate.

Commissioner Jean asked where a supermajority vote is currently required in the Charter, asked for an explanation of what's currently in place and what's being proposed, and asked if the Ordinance includes requiring a 2/3rds vote to limit a member's speaking time. City Attorney Ottinot responded that a supermajority is only required for quorum; he responded that generally Robert's Rules of Order only requires a simple majority vote except for three exceptions (Charter amendment; Motion to limit the timeframe of a member to speak or the number of speeches; Motion to reconsider or postpone an item previously scheduled), and that the Commission can amend Robert's Rules of Order, which has been done in the past; he responded that after public comment and debate, that a simple majority is required for a motion to call the previous question. She stated that she wants to ensure that Commissioners aren't muting each other's voices and debate times. City Attorney Ottinot responded that to extend limited debate would require a Commission vote, and that current policy gives Commissioners the opportunity to speak twice, for up to ten minutes each time.

Commissioner Fleurimond stated that he has dissected this Ordinance completely and that it doesn't take away a Commissioner's or public's right to speak; that the Ordinance is in line with the City Charter and Code of Ordinances; that for a body of 5, a two-third's vote rounds down to 3, and for a body of 7, a super majority is 5; that the Mayor maintains control of the meetings and can call a Commissioner out of order, and that the Ordinance is all about good faith.

Commissioner Smukler asked if the public will still have three minutes to speak, and if the Commissioners can still speak up to ten minutes twice. City Attorney Ottinot responded by confirming Commissioner Smukler's statement and added that the Commission also has the right to extend debate by majority vote as part of the process. She does not want for the meeting rules to change just because a Commissioner wants to go home. She cited a table from Parliamentarian Shane Dunbar to determine majority and two-thirds votes and that for a body of 7, a majority vote is 4 and a super majority vote is 5. She clarified that by calling the question the Commission is ending debate. She stated that she would like the Commission to try to follow the rules and then to have the item return if it doesn't work, and that she will use all her minutes if her rights are restricted.

Commissioner Kramer thinks that the sponsor of the Ordinance should be speaking and trying to convince the other Commissions. She stated that she was an activist for many years prior to becoming a Commissioner and that it scares her to see what is occurring in the City; that the City Attorney should not be in charge of the ad, the salary range, and the listed qualifications presented, subject to change, for the City Manager's position; that the City is lowballing the position's qualifications when the City instead needs experts in many key areas; and that the Commission has something in place that currently works to manage debate. She stated that there are times when she wants to respond to another Commissioner after the member's comments after she has exhausted her debate time, and that there may be many future, special discussions that require additional time for debate.

Mayor DeFillipo appealed to the other Commissioners and stated that he wants to have tight meetings that respect everyone by limiting speaking times to two, ten-minute timeframes and for every voice to be heard; that the Commission never knows what the future will bring and should not remove a super majority requirement; that he consulted with an attorney and feels that if he challenges this Ordinance, at his own expense, that he will prevail; that he wants to ensure that democracy is upheld and that the public and Commissioner voices are heard; that the Ordinance is unnecessary, is not the right procedure, and that he objects to it. He asked for the Commissioners to do the right thing, and for the Charter to be changed by the public. He stated that he will challenge the City Attorney's opinion, asked for the item to return in the future if needed, that it does not look good to the public, and that the Ordinance is causing more division.

Commissioner Jean asked if this Ordinance takes away the three circumstances where a supermajority vote is required, if the Mayor can extend time for debate, and if the Mayor is the person to determine if someone is speaking in good faith. City Attorney Ottinot responded that the Ordinance does not change what needs a supermajority vote, that the Charter preempts any Ordinance, that the Mayor can extend the time for debate with the Commission's consent, and that the Mayor as Chair could call a motion out of order if the standard debate was incomplete. City Attorney Ottinot responded that nothing will change, that the Ordinance is being presented in good faith, and doesn't strip anyone from speaking. She stated that being a public servant is not an easy thing to do, that her role is to look out for the community, hearing complaints, helping to resolve

issues, providing clarity to the residents, and that the Commissioners are all present for the events. She stated that the narrative that the Commissioners are not looking out for residents is inaccurate.

Commissioner Fleurimond clarified that when the City Attorney referenced “he” that the City Attorney meant Commissioner Fleurimond, and that places in the Charter requiring a simple majority vote are not changing.

Commissioner Kramer asked the City Attorney to explain the difference between what the Commission has in place now and what will occur if the Ordinance passes.

City Attorney Ottinot responded that the standard debate time of up to 20 minutes and public discussion won’t change, but that this Ordinance provides that a simple majority of four Commissioners can call the previous question after debate and public discussion rather than needing a super majority of two-thirds.

Commissioner Smukler stated that Commissioner Fleurimond often makes a point of order/privilege/information during the meeting that extends his speaking time and that he should practice what he preaches.

Motion to approve made by Vice Mayor Joseph, seconded by Commissioner Villard.

Roll Call Vote

Smukler – No; Villard – Yes; Fleurimond – Yes; Jean – Yes; Kramer – No; Joseph – Yes; DeFillipo – No.

MOTION PASSED 4-3. Commissioners Smukler, Kramer, and Mayor DeFillipo voted no.

BUSINESS TAX RECEIPTS – None

APPOINTMENTS

Appointing Commissioner Paule Villard as Vice Mayor effective April 1, 2021 (Mayor and Commissioners)

Per Code of Ordinances Chapter II, Article 2-2 – Vice Mayor.

Motion to approve made by Vice Mayor Joseph, seconded by Commissioner Fleurimond.

Voice Vote

MOTION PASSED 5-2. Commissioner Kramer and Mayor DeFillipo voted no.

Appointing Ketley Joachim to the Multi-Cultural Committee (Andrise Bernard, CMC, City Clerk)

Motion to approve made by Commissioner Kramer, seconded by Mayor DeFillipo.

Voice Vote

MOTION PASSED 7-0.

Appointing Ketley Joachim to the Commission on the Status of Women (Andrise Bernard, CMC, City Clerk)

Motion to approve made by Commissioner Smukler, seconded by Commissioner Kramer.

Voice Vote

MOTION PASSED 7-0.

Appointing Rose Coriolan to the Commission on the Status of Women as an Ex-Officio member (Andrise Bernard, CMC, City Clerk)

Motion to approve made by Commissioner Smukler, seconded by Commissioner Kramer.

Voice Vote

MOTION PASSED 7-0.

Appointing Yosaif Arye Glixman to the Library Committee as an Ex-Officio member (Andrise Bernard, CMC, City Clerk)

Motion to approve made by Commissioner Smukler, seconded by Mayor DeFillipo.

Voice Vote

MOTION PASSED 7-0.

MISCELLANEOUS ITEMS - None

DISCUSSION ITEMS

Policy Condemning Conduct Unbecoming of a Board/Committee Member (Commissioner Fortuna Smukler)

Commissioner Smukler presented the item to the Mayor and Commissioners. She stated that she wants to ensure that the City maintains a good reputation, despite some past Mayor and Commission members' indiscretions; Prior to COVID, the Commission had been holding Policy, Procedure and Protocol Workshops, and she stated that she wants to ensure that Board and Committee members have good legal backgrounds. She shared that she remembers a time when there were many respectable residents eager to serve on the Planning and Zoning Board, and that individuals with questionable legal backgrounds should not serve on the Planning and Zoning Board, Code Compliance, or the Public Utilities Commission which deal with important City issues. She reviewed that when an individual applies for a Board or Committee position, that the person is asked if he has been convicted of a felony, and she suggested that the application should not be forwarded to the Commission if the person has been convicted of a felony.

Commissioner Jean stated that she appreciates the item coming forward and asked if the policy would be retroactive, and she stated that the City should have a strict background check for Board and Committee members, similar to the process used by the Commissioners, and that a Commissioner could fall prey to trusting what was previously allowed if a convicted felon is allowed to serve.

City Attorney Ottinot stated that any Commissioner can remove a Board or Committee member for cause or not for cause per the City Code.

Commissioner Villard asked if an Ordinance can be added prohibiting a Commissioner candidate with a criminal record from running for office. City Attorney Ottinot responded that the Election qualifications are in the Charter and that any Florida voter is generally qualified to run for office.

Commissioner Fleurimond stated that he supports the matter, although he does not want a policy regulating if someone can serve on a Board or Committee or not if they are a registered voter, but that the Commission can decide either not to appoint the person to a Board or Committee or to remove the person on an individual, case-by-case basis. He stated that he also would like to see a social media policy for commentary made on the City sites.

Commissioner Kramer asked Commissioner Fleurimond to clarify what he means about social media. She stated that she agrees that a person is innocent until proven guilty, that, if found guilty, that the Commission could decide to remove the person, and that the City should better vet individuals and verify their resumes and listed abilities. She stated that perhaps the issue should be left with the City Attorney to investigate what other cities do regarding Board and Committee membership.

Commissioner Smukler stated that she often sees that individuals in other cities temporarily step-down during investigations, and that the City newspaper publicity should only be for good reasons.

MOTION that if a Board or Committee member is arrested and until the person goes to trial, that the member should be suspended from the Board or Committee on which they serve, made by Commissioner Smukler, seconded by Commissioner Jean.

Vice Mayor Joseph stated that he would prefer to first see what other cities are doing in this area, that protecting individual rights to serve is also important to him, and that he would like to see codified suggestions from the City Attorney first.

Commissioner Jean stated that while everyone is redeemable, that Board and Committee members should be held to a higher standard.

Commissioner Villard suggested that any change in policy not be applied retroactively since the Commission previously approved the member.

Mayor DeFillipo stated that he does not think that anyone should be grandfathered in to a policy; the Board and Committee application is vague, that the member may not get into trouble for a few years into their term and not update the form, that there are various degrees of offenses, that it may be time to review membership policy requirements for all of the Boards and Committees, and that the Commission should decide how to handle individual situations as they arise.

City Clerk Bernard reviewed that Elected Official candidates are required to have a background check with no crime of moral turpitude within the last five years; For Boards and Committees, she reviewed that the original application asks if the person has been convicted of a felony, and that members are asked to update the application if any information changes, such as a new address, phone, or email; and that there is no policy of what the Commission should do if the person disclosed that he has been convicted of a felony, so it is up to the Commission to decide whether to appoint the person or not.

Mayor DeFillipo suggested that the Commission may want to vet all the Board members yearly to ensure that their qualifications meet the Commission's standards, and to have Board and Committee member applications

proceed through Police Department background checks. City Clerk Bernard responded that the Board and Committee applications are not currently vetted through the Police Department. City Attorney Ottinot responded that Human Resources is a better place for background checks rather than the Police Department.

Commissioner Smukler shared that a FDLE (Florida Division of Law Enforcement) background check fee is about \$15. Mayor DeFillipo feels that the Police Department rather than Human Resources should vet a person's background as is done with the Elected Official candidates during the election process.

MOTION to extend the meeting time past midnight made by Commissioner Villard, seconded by Vice Mayor Joseph.

Voice Vote

MOTION FAILED 2-5.

Commissioner Fleurimond suggested a friendly amendment directing the City Attorney to draft a policy for the Commission to consider. Mayor DeFillipo stated that there is some lack of trust between some of the Commissioners and the City Attorney.

City Manager McHugh suggested that the charter officers work together to draft policy and procedures regarding a Board and Committee member application, reappointment, and removal, and return to the Commission for review.

Mayor DeFillipo stated that he doesn't want the development of the process to be delayed like the Policy, Procedure and Protocol manual.

Commissioner Smukler asked that the Police Department be included in the process.

Commissioner Fleurimond suggested a friendly amendment that City staff, Charter Officers, including the Police and Human Resources, based on the City Manager's recommendation, return with a policy and procedures. Commissioner Smukler accepted the friendly amendment.

City Clerk Bernard clarified that the Commission held several sessions to discuss Policies, Procedures and Protocols, but that the City's Clerk's Office does not draft resolutions and ordinances; that Miami-Dade Elections is aware of the early voting matter and asked for a delay due to a change in their administration; and that the City Clerk will work with City Attorney Ottinot to move the items forward to the Commission.

MOTION, as amended, that City staff, and Charter Officers, including the Police Department and Human Resources, based on the City Manager's recommendation, return to the Commission with a policy and procedure made by Commissioner Smukler, seconded by Commissioner Jean.

Roll Call Vote

Villard – Yes; Fleurimond – Yes; Jean – Yes; Kramer – Yes; Smukler – Yes; Joseph – Yes; DeFillipo – Yes.

MOTION PASSED 7-0.

Juneteenth Holiday (Vice Mayor Michael Joseph)

This item will be heard at the next City Commission Meeting.

COVID Relief Gift Card (Commissioner Paule Villard)

This item will be heard at the next City Commission Meeting.

American Rescue Plan Act (Vice Mayor Michael Joseph)

This item will be heard at the next City Commission Meeting.

CITY MANAGER'S REPORT

Fiscal Year 2021 First Quarter Financial Report (Janette Smith, Chief Financial Officer)

This item will be heard at the next City Commission Meeting.

THE NEXT REGULAR CITY COMMISSION MEETING is Thursday, March 25, 2021 at 6:00 p.m.

ADJOURNMENT

There being no further business to come before the City Commission, the meeting was adjourned at 12:00 a.m.

MOTION to adjourn made by Vice Mayor Joseph, seconded by Mayor DeFillipo.

Voice Vote

MOTION PASSED 7-0.

ATTEST:

(SEAL)

Andrise Bernard, CMC, City Clerk