



CITY OF NORTH MIAMI BEACH

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

Tuesday, April 20, 2021

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

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 6:00pm. Present at the meeting were Mayor Anthony F. DeFillipo, Vice Mayor Paule Villard, Commissioner McKenzie Fleurimond, Commissioner Daniela Jean, Commissioner Michael Joseph, Commissioner Barbara Kramer and Commissioner Fortuna Smukler. Interim City Manager Horace McHugh, Interim City Attorney Hans Ottinot, and City Clerk Andrise Bernard were also present.

INVOCATION by Pastor Ariel Vasquez of 3rd Day Church.

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:

Per an email request from Commissioner Joseph, Ordinance 2021-01 titled "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" and Ordinance 2020-12 entitled "Establishing Reimbursement of Officials in Ethics Matters" will be postponed until the Regular City Commission Meeting on May 18, 2021.

Per the request of Commissioner Joseph, Appointment of the City Manager is to be moved up and heard after the Consent Agenda.

Motion to approve the amended agenda made by Commissioner Joseph, seconded by Vice Mayor Villard.
Voice Vote: **MOTION PASSED 7-0.**

PUBLIC COMMENT

Mayor 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. Diola Noel (email read by City Clerk Andrise Bernard)
2. Lauren Rios (email read by City Clerk Andrise Bernard)
3. Raabia Liladrie (email read by City Clerk Andrise Bernard)
4. Rebecca Roth (email read by City Clerk Andrise Bernard)
5. Marilyn Baumohl
6. Stephanie Kienzle
7. Tricia Harris
8. James Garrett
9. Stephen Johnson

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

ANNOUNCEMENTS

Public Affairs Manager Greg Williams announced upcoming City events including an update on the Eastern Shores Capital Improvement Project on April 21; an Earth Day event at Snake Creek Canal on April 22; a covid relief food drive on April 23 and April 29; covid vaccination sites at Asamblea Evangélica on April 24 and at Shaaray Tefilah on April 25; a Human Trafficking and Child Abuse Awareness panel discussion on April 28; a Jazz Appreciation Month event at the North Miami Beach Library on April 29; an Arbor Day event at Jack Chaiken Park on April 30; a Jewish-American Heritage Month book presentation at the North Miami Beach Library on May 6; and a Mother's Day home delivery event on May 7.

CITY COMMISSION REPORTS

Commissioner Fleurimond had nothing to report.

Commissioner Jean announced that the Youth Advisory Board is acting again after about one and a half years on hiatus and thanked City staff for getting the word out to the community and has come up with initiatives regarding a diaper drive and periodic clean-up events; the Young Women of Distinction awarded five \$1,000 scholarships to high school seniors; discussed Jazz Appreciation Month and the upcoming event at the North Miami Beach Library; and encouraged residents to celebrate diversity, inclusion, and unity and to denounce racism and prejudice and asked for a moment of silence in memory of those lost to senseless gun violence.

Commissioner Joseph thanked Congresswoman Frederica Wilson and her office for their help to pass the American Rescue Plan Act and State Representative Jared Moskowitz and his Chief of Staff Jared Rosenstein for their state vaccination roll-out work; thanked all of the first responders for their work throughout the pandemic; thanked Florida Governor Ron DeSantis and staff for securing a \$17.7M grant to combat climate change and infrastructure assistance; and recognized Jewish American Heritage Month, Asian Pacific American Heritage Month, and Haitian American Heritage Month.

Commissioner Kramer had nothing to report.

Commissioner Smukler asked Rebecca Roth to contact her; announced free covid vaccinations for the home bound; invited the public to an event at the North Miami Beach Library in observation of Jewish-American

Heritage Month on May 6; announced a Mother's Day event on May 7; stated that the Commission on the Status of Women is seeking new members and meets on the second Monday of every month and organizes many events throughout the year; stated that individuals can contact her for information about the many food drives held within the City; thanked the Police Department for protecting the City and residents; congratulated Richard Rand for being sworn-in as Police Chief; acknowledged all of the many holidays occurring in the month of May; wished all of the City Manager candidates good luck with thanks to Human Resources for organizing the candidate interviews; thanked former City Manager Esmond Scott and Senator Jason Pizzo for helping to secure the \$17.7M grant to improve our city water and sewer system; and asked that Commission Meetings not go past 12:00am because City staff and the Mayor and Commission need to work the next day.

Vice Mayor Villard shared a quote from Condoleezza Rice regarding public service.

Mayor DeFillipo announced a covid vaccination site on April 25 at Shaaray Tefilah and the covid relief food drive on Fridays at 4:00pm behind Victory Pool and thanked Governor DeSantis and former City Manager Scott and staff for securing a \$17.7M grant for systemwide improvements to the sewer collection system and to enhance the water transmission and distribution system to improve water quality and reliability.

CONSENT AGENDA

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

Regular Commission Meeting Minutes of March 25, 2021 (Andrise Bernard, City Clerk)

Special Commission Meeting Minutes of April 5, 2021 (Andrise Bernard, City Clerk)

Resolution R2021-32 Authorizing Appropriation Request from LETF Accounts (Richard Rand, Chief of Police)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING THE EXPENDITURE TOTALING AN AMOUNT NOT TO EXCEED \$205,000.00 FROM THE FEDERAL JUSTICE LAW ENFORCEMENT TRUST FUND FOR RDS/FIELD FORCE EQUIPMENT, LED FLASHLIGHTS, CANINE (K-9) NARCOTICS, TRAINING AND EQUIPMENT, EMERGENCY OPERATIONS CENTER INFRASTRUCTURE UPGRADE, AND REPORT AND DOCUMENTATION SOFTWARE; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXPEND THE TOTAL BUDGETED, ESTIMATED AMOUNT OF \$205,000.00; AND PROVIDING AN EFFECTIVE DATE.

Resolution R2021-33 Acceptance of the Office of the Attorney General VOCA Grant Funds (Richard Rand, Chief of Police)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS, OFFICE OF THE ATTORNEY GENERAL, AS THE PASSTHROUGH AGENCY FOR THE VICTIMS OF CRIME ACT (VOCA) PROGRAM; ACCEPTING ADDITIONAL GRANT FUNDS IN THE AMOUNT OF \$78,714.00 FOR A TOTAL AMOUNT OF \$119,371.00 FOR USE TOWARDS THE SALARY AND BENEFITS OF THE CITY'S VICTIMS ADVOCATE; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE THE AMENDMENT AND IMPLEMENT THE TERMS; AND PROVIDING AN EFFECTIVE DATE.

Resolution R2021-34 Award of ITB-21-006-SG for NMB Police Department Restroom Renovations (Richard Rand, Chief of Police)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING THE AWARD OF INVITATION TO BID NO. ITB-21-006-SG – "NMB POLICE DEPARTMENT RESTROOM RENOVATIONS"; AND AUTHORIZING THE CITY MANAGER

OR DESIGNEE TO EXECUTE AN AGREEMENT WITH THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, FLORIDA PALM CONSTRUCTION, INC., AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXPEND AN ESTIMATED AMOUNT NOT TO EXCEED \$162,140.00; AND PROVIDING FOR AN EFFECTIVE DATE.

Resolution R2021-35 FDEP Grant (LPQ0024) Acceptance for NE 19th Ave. Business Dist. Sewer System (Jafeth Baez, Director of NMB Water)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING THE GRANT WORK PLAN AGREEMENT (THE "AGREEMENT") BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND CITY OF NORTH MIAMI BEACH FOR LPQ0024-GRANT; ACCEPTING THE GRANT FOR \$40,000.00 FOR THE NORTH MIAMI BEACH NE 19TH AVE BUSINESS DISTRICT SANITARY SEWER SYSTEM; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO NEGOTIATE AND EXECUTE ALL NECESSARY DOCUMENTS IN FURTHERANCE OF ACCEPTANCE OF THE GRANT FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

Resolution R2021-36 FDEP Grant (LPQ0025) Acceptance for Corona Del Mar Ph. II Sewer System (Jafeth Baez, Director of NMB Water)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING THE GRANT WORK PLAN AGREEMENT (THE "AGREEMENT") BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND CITY OF NORTH MIAMI BEACH FOR LPQ0025-GRANT; ACCEPTING THE GRANT FOR \$375,000.00 FOR THE NORTH MIAMI BEACH CORONA DEL MAR PHASE II – SEWER SYSTEM; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO NEGOTIATE AND EXECUTE ALL NECESSARY DOCUMENTS IN FURTHERANCE OF ACCEPTANCE OF THE GRANT FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

Resolution R2021-37 Purchase of Software Renewal Maintenance Package from Azteca Systems, LLC - Cityworks (Jafeth Baez, Director of NMB Water)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE AN AGREEMENT WITH AZTECA SYSTEMS, LLC FOR CITYWORKS SOFTWARE IN AN ESTIMATED BUDGETED NOT TO EXCEED AMOUNT OF \$60,000.00.

Resolution R2021-38 Purchase and Installation of Uleta Gymnasium Floor (Andrew Plotkin, Director of Parks and Recreation)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE AN AGREEMENT WITH TRIDENT SURFACING, INC., FOR THE PURCHASE AND INSTALLATION OF GYM FLOORING AT ULETA PARK IN AN ESTIMATED BUDGETED AMOUNT OF \$128,213.00.

Approval of Supplemental Planning Services with Corradino Group, Inc.

Approval of additional \$50,000.00 with Corradino Group, Inc., for Supplemental Planning Services.

Motion to approve the Consent Agenda made by Commissioner Fleurimond, seconded by Mayor DeFillipo.
Voice Vote: **MOTION PASSED 7-0.**

APPOINTMENTS

Appointment of the City Manager (Mayor and Commission)

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

1. Margie Love (email read by City Clerk Andrise Bernard)
2. James Garrett
3. Tricia Harris

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

Interim City Attorney Ottinot thanked the Commission for trusting staff to manage the hiring process for the City Manager, and thanked Francisco Rios, Human Resources Director, and his department for all of their hard work. He recapped the process used for hiring the position. Mayor DeFillipo reviewed the candidates in alphabetical order and asked if there was any consensus to move the candidate forward. For candidate Horace McHugh, Commissioner Kramer requested that his name move forward but there was no Commissioner majority to do so. For candidate Ricardo Mendez, Mayor DeFillipo requested that his name move forward but there was no Commissioner majority to do so. For candidate Arthur H. "Duke" Sorey III, Commissioner Fleurimond requested that his name move forward and Commissioner Joseph seconded the motion to proceed with a discussion about candidate Arthur Sorey.

Commissioner Fleurimond thanked staff in Human Resources and the City Attorney's Office for their efforts to ensure the process went smoothly; he stated that he interviewed the three candidates, who had great interviews and attributes, and that he is proposing the hiring of Mr. Sorey due to his acclamation with the Northeast Miami-Dade area and development in the area, community and diversity, and water utility and Police Department needs that Commissioner Fleurimond wants to see for the residents; that Commissioner Fleurimond discussed with Mr. Sorey his historical value that he brings to the table, they discussed some concerns that were addressed, Mr. Sorey offered enlightening suggestions for the City, and that Mr. Sorey had a handle on the City budget when questions were posed to him, had reviewed the budget issues, reviewed how the City could save money and manage resident resources, and had done research on the City, which is important to Commissioner Fleurimond.

Commissioner Joseph concurred with Commissioner Fleurimond and stated that all three candidates were excellent, in particular Mr. McHugh and Mr. Sorey, and that Commissioner Joseph is supporting Mr. Sorey based upon the interviews; Commissioner Joseph commended Mr. McHugh for professionally doing so well in the interim position.

Commissioner Jean stated that she was pleased that Mayor made his interviews public, that her top two candidates were Mr. McHugh and Mr. Sorey, and that she is delighted for the direction in which the City is headed.

Vice Mayor Villard stated that she interviewed all three candidates, that she supports Mr. Sorey for the position because he presents himself as down to earth and ready to bring the City to the next level, and she asked the residents who voted the Commissioners into office, but may not understand every decision that is made, to trust the Commission to make the best decision for the City.

Commissioner Smukler stated that all three candidates were amazing and it would be wonderful if the City could have all three wrapped into one, but that only one can be picked; she commended Human Resources for arranging to have all of the Commissioners conduct three interviews within just a few days; she stated that she is cautiously optimistic that the City will continue to thrive, that any economic issues occurring in North Miami will not be replicated here, that the City's success continues to be a reflection of the City's leadership, and that she wished him good luck.

Mayor DeFillipo congratulated staff on a job well done; thanked the candidates for their applications; thanked Mr. McHugh for serving in the interim role; he stated that it was important to him for the public to see the interviews; that there were three very good applicants with tremendous credentials, that speaks well for the City and those interested in taking a leadership role here; that the Mayor looks forward to working closely with Mr. Sorey, who realistically realizes both the good and bad changes that the City is going through, bringing good experience to the City, that the Mayor is also very hopeful that the Commission can successfully work with Mr. Sorey to move the City forward, that it was a difficult decision to choose the final candidate.

Motion to approve the appointment of Arthur Sorey as City Manager of North Miami Beach effective immediately at a salary of \$250,000/year for four years with similar benefits as provided to the previous City Manager made by Commissioner Fleurimond, seconded by Commissioner Joseph.

Commissioner Smukler stated that four years is too much, especially because he has not been a prior City employee, and that the City has a bad track record of having to provide severance pay to former charter officers, and that the contract should start with a shorter term and can be increased in the future; and that \$250,000/year is too high and should be negotiated down. She asked how much former City Manager Scott made.

Commissioner Fleurimond stated that the position was advertised with a salary range of \$220,000 to \$250,000/year.

Mayor DeFillipo stated that he would prefer offering a three year contract as has been done in the past and would like to start with \$220,000/year so that the salary can be moved up in increments after one year to allow the candidate to perform and have evaluations before maxing out the salary range.

Vice Mayor Villard stated that charter officers are all "at will" employees and can be dismissed at any time by the Commission, but that the offer of four years will provide stability for Mr. Sorey to come to work here.

Commissioner Smukler asked what the advertised salary range was, what former City Manager Scott's salary was, and if the charter provides for a probation period. City Attorney Ottinot responded that the advertised salary range was between \$200,000 to \$250,000 that is negotiable, Human Resources Director Rios responded that Mr. Scott's salary was \$200,800, and City Attorney Ottinot responded that there is no probation period. Commissioner Jean asked what Mr. Sorey's current salary is. Human Resources Director Rios responded that Mr. Sorey's current salary is \$209,934 as well as additional allowances for a vehicle and cell phone use. She stated that there is a huge workforce that is pending salary negotiations and that the Commission has a responsibility to these workers as the backbone of the City, as well as being responsible to the residents.

Mayor DeFillipo offered a friendly amendment to offer Mr. Sorey a starting salary of \$220,000 for four years, that a City Manager has never started at this amount or term, that the position has always started with a one year agreement, followed by an evaluation and then a two or three year contract extension.

Commissioner Fleurimond agreed to lowering the salary offer to \$240,000/year for four years in order to provide the City with stability. Commissioner Joseph agreed with the offer and stated that the process is a two-way street because Mr. Sorey is leaving his current position with the City of North Miami which is an investment in the City of North Miami Beach, and that the City also needs to invest in him.

Vice Mayor Villard stated that Mr. Sorey is leaving his position as Deputy City Manager to become the City Manager, with more responsibility that is deserving of a higher salary, and that she supports a salary of \$250,000/year. Commissioner Fleurimond asked Commissioner Smukler for her thought process. Commissioner Smukler responded that Mr. Sorey applied for the position knowing that his salary offer could be at the bottom of the salary range; she stated that \$240,000/year is too high given the rising garbage and water rates and other rising expenses for the residents; and that there should be a probation period, and she suggested a salary of \$225,000, \$235,000/year.

Mayor DeFillipo asked staff to confirm if the City Charter provides for a one year probation period for this position. City Attorney Ottinot responded that there is no probation period for the City Manager's position in the City Charter.

Commissioner Fleurimond responded that the current offer is reasonable for the municipalities in the area, and that Mr. Sorey is coming into the City needing to hire a Chief Financial Officer, a Water Utility Director, and to manage a CIP (Capital Improvement Program) right away. He stated that the City is leaking funds that the residents don't see with projects moving slowly and certain departments having sufficient staffing which he wants to stop, he would rather pay the City Manager more in order for him to save the City money in other areas as a deep dive into the City's finances is needed, he encourages the City Manager to add a quality control staff member to ensure each department is as efficient as possible to save residents' funds; he doesn't feel that debating \$5,000 to \$10,000/year in salary will make a difference, and he asked the Commission to come together to support Mr. Sorey.

Commissioner Kramer stated that she recalled there had been a six month probation period and one year contract provision for this position in the past and asked staff to research this information. Commissioner Fleurimond and Mayor DeFillipo agreed to a recess in the abundance of caution to research the matter before proceeding.

The meeting recessed at 7:43pm and reconvened at 7:57pm.

Mayor DeFillipo read Article VII Section 7.1 Civil Service into the record, "The civil service of the City of North Miami Beach shall be divided into the classified and the unclassified service. The unclassified service shall consist of the city manager and one secretary of his/her choosing, heads of departments herein provided, or as hereafter created by the City Commission, the city attorney, the city auditor appointed by the City Commission, all elected officials, members of appointive boards, and employees of the legal department; provided, however, that employees of the legal department, other than the city attorney, may

be included in the classified service by and with the consent of the City Commission. All other employees of the City shall be members of the classified service. Department heads, other than those persons to be selected by the City Commission as herein authorized, shall be appointed by the city manager. For the first six (6) months any such appointment shall be provisional only and thereafter department heads shall be appointed for one year and may be reappointed for successive periods of one year each during which time they shall be removable only for cause. Provided, however, a department head who has served the City of North Miami Beach as such for a period of five (5) or more years at the time of any reappointment hereunder shall be reappointed for a term of two (2) years during which time he may be removed only for cause.”

City Attorney Ottinot responded that the provision only applies to department heads and not to charter officers, and that Article III Section 3.1 provides that the terms, conditions, and compensation of the City Manager shall be established by the City Commission. Human Resources Director Rios also confirmed the information provided.

Commissioner Smukler suggested a lower salary offer of \$236,000/year and stated that the civil service rules had previously been changed illegally by a past administration.

City Attorney Ottinot added that the contract can be effective immediately but that the start date might differ depending upon Mr. Sorey’s availability.

Motion to approve the appointment of Arthur Sorey as City Manager of North Miami Beach effective immediately at a salary of \$240,000/year for four years with the same contract terms and benefits as the previous City Manager based upon Mr. Sorey’s acceptance, as amended, made by Commissioner Fleurimond, seconded by Commissioner Joseph.

Roll Call Vote

Fleurimond - Yes; Jean - Yes; Joseph - Yes; Kramer - No; Smukler - Yes; Villard - Yes; DeFillipo - No

MOTION PASSED 5-2 with Commissioner Kramer and Mayor DeFillipo opposed.

Commissioner Fleurimond thanked the hard work of the Human Resources Department on the hiring process of the City Manager, and for the Mayor’s leadership in moving the meeting forward. Mayor DeFillipo congratulated Mr. Sorey upon his appointment.

QUASI-JUDICIAL

Resolution R2021-39 Skygarden Site Plan (Edward Ng, Interim Planning and Zoning Manager)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING THE SITE PLAN AND FOUR RELATED VARIANCES FROM THE ZONING AND LAND DEVELOPMENT CODE (“CODE”) FOR THE CONSTRUCTION OF 448,653 SQUARE FOOT, NINETEEN STORY MIXED-USE DEVELOPMENT, CONSISTING OF 12,635 SQUARE FEET OF COMMERCIAL SPACE, 341 RESIDENTIAL UNITS, AND 405 PARKING SPACES; GRANTING A VARIANCE FROM SECTION 24-58(S)(3)(a) TO PERMIT A ZERO FOOT TOWER SETBACK FROM THE PODIUM, WHERE THE CODE REQUIRES A MINIMUM SETBACK OF FIFTEEN (15) FEET; GRANTING A VARIANCE FROM SECTION 24-58(K)(2)(b)(i) TO PERMIT ALL LEVELS OF THE GARAGE TO BE SCREENED BY A DECORATIVE STRUCTURE, WHERE THE CODE REQUIRES A LINER BUILDING CONTAINING A MINIMUM DEPTH OF TWENTY FEET OF HABITABLE SPACE; GRANTING A VARIANCE FROM SECTION 24-58(S)(1)(n)

TO PERMIT 740 SQUARE FEET CUMULATIVE AVERAGE OF ALL DWELLING UNITS WHERE THE CODE REQUIRES A MINIMUM OF 800 SQUARE FEET; GRANTING A VARIANCE FROM SECTION 24-58.1(I)(1)(b) FIGURE MUTC-9 TO PERMIT A THREE FEET TEN INCHES WIDE SIDEWALK IN THE PUBLIC RIGHT OF WAY ALONG NE 19 AVENUE WHERE THE CODE REQUIRES A SIX FEET WIDE CONTINUOUS SIDEWALK AS MEASURED FROM THE PROPERTY LINE ON A 0.856 ACRE PARCEL LOCATED AT 16300 NE 19 AVENUE, NORTH MIAMI BEACH, FLORIDA; PROVIDING FOR FINDINGS OF FACT; CONFIRMING EXPIRATION AND LIMITATION OF APPROVAL; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor DeFillipo recused himself from participating in and voting on this item and left the dias.

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 and confirmed that she can make a decision regarding this item based on the substantial competent evidence presented at this meeting.

Commissioner 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.

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 and confirmed that she can make a decision regarding this item based on the substantial competent evidence presented at this meeting.

Vice Mayor Villard 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.

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.

Interim Planning and Zoning Manager Edward Ng introduced Associate Planner Ana Parada and she provided a presentation regarding the item. Mr. Ng announced that the applicant has added voluntary conditions of approvals including awarding ten \$1,000 college scholarships to North Miami Beach children residents and a hiring goal of at least 10% of construction contracts to minority businesses. The developer Celal Ozkan, represented by Matt Amster and Jeff Bercow, also provided a presentation with City Traffic and Planning Consultant, The Corradino Group, Eric Czerniejewski, Urban Design & Planning Consultant, Bermello Ajamil & Partners, Alfredo C. Sanchez, and Joshua Rak.

Vice Mayor Villard opened the meeting for **PUBLIC HEARING**.

1. Allison Robie

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

Interim City Attorney Hans Ottinot stated that Mayor DeFillipo did not have a legal conflict but that, because the Mayor was involved in the prior sale of the property, in an abundance of caution he recused himself.

Commissioner Joseph asked if more funds can be donated for student scholarships as well as a higher hiring goal for construction contracts to minority businesses as the need is great.

Commissioner Jean stated that she is pleased to see the scholarship funding and also asked if a larger amount could be donated. She asked about workforce housing, how much each unit will cost, and she thanked the applicant for bringing mixed use units to the City.

Commissioner Fleurimond stated that he also supports requesting a larger amount for the scholarships and minority hiring, and he asked about the website renderings and a lighthouse drawing, if a display was being considered for on top of the garage covering, and if the website shows the same lighting structures that will be used on 19th Avenue, what features are included for pets, and what the applicant is doing to attract businesses to the building and to avoid an empty groundlevel.

Commissioner Smukler asked about the signage on the garage structure. Interim Planning and Zoning Manager Ng responded that the applicant will have to submit a permit for a sign once the project is approved for later review. She pointed out the rendering on page A-1-20 doesn't list a "kitchen". She stated that the City gives administrative waivers to developers when the City could be paid for the item, and that residents who need help aren't given the same consideration. She asked what the ADA allowance is for a sidewalk and she suggested inserting page numbers to reference in the future. Interim Planning and Zoning Manager Ng responded that that ADA requirement is exceeded with at least six feet of sidewalk space. She asked about the minimum size for all units, and the applicant responded that each individual unit complies with the minimum type size by code but not by the average square foot. She asked why the alleyway, which belongs to the City, is not being touched. The applicant responded that all of the vehicular traffic will enter and exit the garage with trash and loading hidden out of sight away from the major streets in order to be safer for the pedestrian and to stimulate the retail area. The developer Celal Ozkan responded that he is already in discussions with many shops to use the retail area, that he is not considering workspace units, and that the retail spaces will be filled. She asked where the crane will be located during construction and doesn't want the traffic on 163rd Street to be impacted, and the applicant responded that a crane is usually located in the middle of the project.

The applicant responded to the Commissioners' questions that raised-up planters will be used on the rooftop for planting, that the building will be pet friendly including a petclub and pethotel, with separate water meters for different uses, that he can provide ten \$1,000 college scholarships initially and wants to help the community more if the project is successful, that the prices will be established from the feasibility study but will range depending upon the unit size and be affordable, that the website includes illustrations that are not in the plans

and that sign types will return to the Commission, that the swan artwork will be phenomenal and become a tourist attraction, that the applicant accepts a voluntary hiring goal of at least 10% of construction contracts to minority businesses and that he will hire more if he can.

Vice Mayor Villard thanked the applicant for the scholarship funds and asked for more necessary funds in the future when possible.

Commissioner Fleurimond stated that he likes the building design, that the discussion is an opportunity to inform private sector partners about the community needs and appreciates larger minority participation and scholarship efforts in the future, and asked the City Attorney to examine the City Ordinances regarding variances and requests that can be made to future private companies wanting to conduct business in the City.

Motion to approve Resolution 2021-39, as amended with the voluntary profers made by the developer, made by Commissioner Fleurimond, seconded by Commissioner Joseph.

Roll Call Vote

Jean - Yes; Joseph - Yes; Kramer - Yes; Smukler - Yes; Fleurimond - Yes; Villard - Yes; DeFillipo - Recused
MOTION PASSED 6-0 with Mayor DeFillipo recused.

Mayor DeFillipo returned to the dias.

LEGISLATION

Ordinance No. 2021-01 (Second and Final 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 (Commissioner 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.

The item was postponed until the May 18, 2021 Commission Meeting.

Ordinance No. 2020-12 (Second and Final Reading) Establishing Reimbursement of Officials in Ethics Matters (Commissioner Michael Joseph)

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING ARTICLE X, "CODE OF ETHICS," IN CHAPTER II, "STRUCTURE OF CITY GOVERNMENT," OF THE CITY CODE OF ORDINANCES BY CREATING SECTION 2-80, "DEFENSE OF OFFICIALS IN ETHICS MATTERS"; PROVIDING FOR THE PAYMENT OF COSTS ASSOCIATED WITH THE DEFENSE OF OFFICIALS; ESTABLISHING PROCEDURES AND APPLICABILITY FOR SUCH DEFENSE; RESERVING FOR THE CITY CERTAIN RIGHTS AND IMMUNITIES; ALLOWING FOR THE RECOVERY OF LEGAL COSTS FOR MALICIOUS, FRIVOLOUS OR GROUNDLESS COMPLAINTS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The item was postponed until the May 18, 2021 Commission Meeting.

Resolution R2021-40 Covid Relief Gift Cards (Vice Mayor Paule Villard)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER OR DESIGNEE TO ALLOCATE \$100,000.00 FOR THE PURCHASE OF 1000 PUBLIX GIFT CARDS VALUED AT \$100.00 EACH TO BE ISSUED TO RESIDENTS OF NORTH MIAMI BEACH WHO HAVE EXPERIENCED FINANCIAL HARDSHIP AND FOOD INSECURITY AS A RESULT OF THE COVID-19 PANDEMIC; PROVIDING THE CITY MANAGER OR DESIGNEE WITH THE AUTHORITY TO DEVELOP A PROCESS TO REQUEST PROOF OF RESIDENCY BEFORE THE ISSUANCE OF A GIFT CARD TO ANY RESIDENT AND TO ENSURE THE ISSUANCE OF ONE GIFT CARD PER HOUSEHOLD; DIRECTING THE CITY MANAGER OR DESIGNEE TO DISTRIBUTE THE GIFT CARDS NO LATER THAN THIRTY (30) DAYS FROM THE EFFECTIVE DATE OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

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

1. Tricia Harris

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

Commissioner Kramer asked if there was a plan in place to distribute the gift cards so that those in need are the ones receiving it, and that she can't support the item without a plan in place.

Commissioner Smukler asked to know the process that will be used as proof of financial hardship and food insecurity will be necessary in order for applicants to receive a gift card.

Mayor DeFillipo stated that everyone in some shape or form has experienced financial hardship or food insecurity during the pandemic, and he suggests that the funds assist residents with relief from their water or garbage bill that would assist all of the taxpayers, even if the amount designated is a higher amount, and that it's not funds received due to the City being an entitlement City, unless it's reimbursed later from other COVID-19 relief funds, or it could be broken down and shared equally amongst all residents, and not distributed on a first come, first served basis, or only given to those who can show that they are in need.

Commissioner Jean stated that about 8,000 households are serviced through the Water Department and that she would like to assist those who will soon see a bill increase, and she cited Commissioner Fleurimond's idea that funds could later be reimbursed from the American Rescue Plan Act distribution that the City receives.

Commissioner Fleurimond stated that the American Rescue Plan Act makes direct provisions for towns and villages with a substantial line item for the City of North Miami Beach and that \$100,000 will pale in comparison to what the City anticipates receiving, and that those funds can replace what's being allocated, and that those funds need to be used for COVID relief.

Vice Mayor Villard stated that residents did not receive prior COVID relief funds because the Commissioners did not know that was a possible option for the funds, that the funds went to assist 31 businesses, that each Commissioner sees differently what's needed in the community, that there is a great need in the community, that other cities have had similar programs, that the gift card can be distributed on a first come, first served basis, that only those in need will come forward to receive it, residents are hungry and are looking for this help to be able to put any food that they want on their table, that large sums are spent on consultants and outsourcing

and that it's only fair to give something back to the residents, that her actions are to help and serve the community and not to secure votes.

Interim City Manager Horace McHugh responded that CARES Act funds went to 31 businesses (about \$500,000) and 274 residents (about \$300,000) and before funds were distributed, staff came to the Commissioners to show the plan, timeframe and steps involved, including administrative fees to distribute the funds in a short period of time. He provided an update that the City does not have the guidelines yet on how the funds can be used for the American Rescue Plan Act, so he's not prepared yet to verify that a gift card expenditure can be reimbursed; and he asked for Commission guidelines if it's first come first served, one per family or household, and how to determine need.

Commissioner Joseph stated that not every resident needs assistance so that giving to all wouldn't help only those in need, and that some renters don't pay a water bill so wouldn't benefit if funds were given to assist with resident water bills. He stated that he had asked the prior City Manager but didn't receive a list of the residents who received the \$300,000 CARES Act funds, and that renters pay sales tax and indirectly property taxes within their rent.

Commissioner Jean suggested that Commissioners share their thoughts and not conduct cross-examination, and wants the City Manager to develop a process for the Commission to review, and she suggested a future discussion of giving the 8,000 water households a credit.

Commissioner Smukler asked how many businesses applied for the CARES Act funds, that sales tax is collected on commercial rent and not residential rent, that the resolution references a process for proof of residency but not one for who has food insecurity, she wished that the process was provided with the item, and that funds are only given to those in need, while the Commissioners may know of some people in need. She also suggested that the funds could be given to the Parks and Recreation Department for the after school or summer program children and their lunches, or to assist with the increasing garbage bills, or the local schools for music or art programs, to serve those in need, in a fair way, without paying a consultant to assist.

Vice Mayor Villard stated that the gift cards can be distributed on a first come, first served basis for residents, due to the great need in the community, so that no one needs to be chosen or selected, and should be given to whoever wants it, on a specific day and time, allocating \$100,000 for \$100 gift cards, and to approve the Resolution as is.

Motion to approve Resolution 2021-40 made by Vice Mayor Villard, seconded by Commissioner Joseph.

Commissioner Fleurimond stated that \$100 gift cards can be distributed to residents on a first come, first served basis with proof such as a driver's license and a recent utility bill to ensure the person is still living in that property and that if a more in depth requirement of financial hardship with taxes is recommended by the Commission and stated that \$100 is not enough and that he would rather see 500 people receive \$200 showing proof of a certain poverty level threshold.

Interim City Manager Horace McHugh suggested that the program be limited to one per household with proof of residency required of a driver's license and a recent utility bill. Mayor DeFillipo stated that the program would not be applied retroactively if residents had previously called the City to ask about the program. Interim City Attorney Ottinot added that the City Manager would work on the program criteria, advertise the program, and then interested resident would need to apply. Commissioner Kramer asked how the word got out about the program, and Mayor DeFillipo responded that the item was listed on a prior meeting agenda.

Roll Call Vote

Joseph - Yes; Kramer - No; Smukler - No; Fleurimond - Yes; Jean - Yes; Villard - Yes; DeFillipo - No

MOTION PASSED 4-3 with Commissioner Kramer, Commissioner Smukler, and Mayor DeFillipo opposed.

Motion to approve to extend the meeting time past midnight made by Vice Mayor Villard.

The motion died for lack of a second.

DISCUSSION ITEMS

Commissioner Joseph introduced the item to the Mayor and Commissioners and stated that the American Rescue Plan Act will bring millions of dollars in aid to local municipalities in response to COVID-19, and he recommended that the City hold a workshop for small businesses and a workshop for residents to hear their needs in order for the Commission to develop a plan and equitably distribute the funds.

Commissioner Fleurimond stated that he would also like to open the discussion to residents and small businesses to ensure that the Commission makes decision with them in mind and that the Commission line item the funds, and that unofficial numbers of \$18M and the fact sheet are posted on the National League of Cities website. He also suggested bringing in the Florida League of Cities and some of their experts for guidance on the matter.

Mayor DeFillipo stated that he had emailed Interim City Manager Horace McHugh asking for an update to the Commission on the funding, and shared that the funds have to be requested in writing, with half the funds distributed this year, half next year, having until 2024 to spend the funds.

Interim City Manager Horace McHugh responded that the funding guidelines have not been received yet and staff is waiting to receive those before developing a suggested plan for Commission review, and he reported that staff will complete the necessary request form.

Commissioner Jean stated that she supports holding workshops, and doesn't want for the City to get behind on this item and for staff to expedite efforts.

Vice Mayor Villard stated that she also supports holding workshops and getting the small businesses involved, that she knows many residents who applied for but did not receive the prior CARES Act funds, but doesn't know anyone who received the funds, and to find a better way to distribute the funds. Commissioner Smukler also supports holding workshops.

Commissioner Joseph stated that he wants for the program guidelines to be shared with the public once available and for the process to be as transparent as possible, with residents and small businesses having a seat at the table and their concerns taken into account.

Assistant City Manager Ragoonan responded that staff can conduct broad outreach efforts, and shared that the City has received information through the City's local association, and that staff have prepared the pre award requirements to register with the federal government's system, with routing information to receive funds directly from the Treasury, and have timely followed up with the guidelines that have been received to date.

Mayor DeFillipo stated the importance of putting the criteria in writing for the funds that will be distributed as there was confusion regarding the CARES Act criteria.

Discussion on Naming Victory Pool "Kevin Simms Aquatic Center at Victory Pool"

The item will return to the Mayor and Commission at a future meeting.

Discussion on Advertising/Promoting City Events in the Name of the Entire Commission
Commissioner Fleurimond introduced the item to the Mayor and Commissioners. He stated that if a Commissioner is a liaison where an event is being conducted through the committee, then that Commissioner's name can be associated with the event, or when a Commissioner uses his contingency funds to support an event. However, if the full Commission votes to support an event, it should be viewed as a City function where all of the elected officials are listed as event sponsors and not just one elected official.
The item will return to the Commission Meeting on April 22, 2021.

Discussion on Residents Receiving Unwanted Emails from Elected Officials
The item will return to the Commission Meeting on April 22, 2021.

There was no **CITY MANAGER'S REPORT**.

There was no **CITY ATTORNEY'S REPORT**.

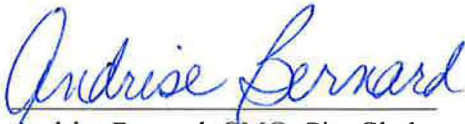
NEXT REGULAR CITY COMMISSION MEETING is Thursday, April 22, 2021.

ADJOURNMENT

There being no further business to come before the City Commission, the meeting was adjourned at 11:48pm.

ATTEST:

(SEAL)


Andrise Bernard, CMC, City Clerk