



CITY OF NORTH MIAMI BEACH
City Hall, Commission Chambers, 2nd Floor
17011 N.E. 19th Avenue
North Miami Beach, FL. 33162
Tuesday, July 18, 2023
6:00pm

Mayor
Vice Mayor Jay Chernoff
Commissioner McKenzie Fleurimond
Commissioner Daniela Jean
Commissioner Michael Joseph
Commissioner Phyllis S. Smith
Commissioner Fortuna Smukler

City Manager Mario A. Diaz
Interim City Attorney John Herin
City Clerk Andrise Bernard, MMC

City Commission Meeting Minutes

ROLL CALL OF THE CITY OFFICIALS

The Regular Commission Meeting was called to order at 6:17pm.

Present at the meeting were Acting Mayor Jay Chernoff, Commissioner McKenzie Fleurimond, Commissioner Daniela Jean, Commissioner Michael Joseph, Commissioner Phyllis Smith, and Commissioner Fortuna Smukler.

INVOCATION by City Clerk Andrise Bernard.

PLEDGE OF ALLEGIANCE was led by the City Commission.

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND ADDITIONS TO THE AGENDA

City Clerk Andrise Bernard stated that an item regarding July 4th will be added to Discussion at the request of Commissioner Smith and a Fiscal Year 2023 Third Quarter Financial Report will be added to Presentations.

City Attorney John Herin stated that Resolution 2023-48 will be deferred to the next Commission Meeting at the request of Commissioner Fleurimond and a request for the designation of Commissioner representation at future mediations will be added to the City Attorney's Report.

Acting Mayor Jay Chernoff read a statement regarding decorum and civility.

Motion to approve the amended agenda made by Commissioner Fleurimond, seconded by Commissioner Smukler.
Voice Vote: **MOTION PASSED 6-0.**

PRESENTATIONS/DISCUSSIONS

Budget Administrator Sheron Stewart presented a financial analysis report for the Third Quarter of Fiscal Year 2023 which ended on June 30, 2023 and stated that the net favorable variance of approximately \$35.2 million is primarily driven by higher than budgeted revenues and timing of budgeted operating and capital expenditures with all funds contributing to the variance with the exception of the Solid Waste Fund. She stated that the net favorable variance is attributed primarily by the General Fund, the Community Redevelopment Agency (CRA),

the Water Fund, the Sewer Fund, the Building Permit Fund, and the Customer Service Fund and provided a budgetary comparison schedule for General Fund Revenues including Franchisee Fees and Utility Taxes and for General Fund Expenditures by function/class.

Andrew Fierman from Caballero, Fierman, Llerena, and Garcia presented the Annual Comprehensive Financial Report (ACFR) for the Fiscal Year Ended September 30, 2022.

Acting Mayor Chernoff opened the meeting for **PUBLIC COMMENT**.

City Clerk Andrise Bernard read the rules of public comment and the pledge of civility into the record.

The following person(s) made comments on the record:

1. Tricia Harris
2. Diane Doolity
3. Former North Miami Beach Commissioner Barbara Kramer
4. David Zapen
5. Nelson Bell
6. Lynn Su
7. Emily Ponce
8. Ketley Joachim
9. Keith Myers
10. Mubarak Kazan

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

ANNOUNCEMENTS

Chief Communications Officer David Jeannot presented a video highlighting the recent Senior Luncheon, Community Clean Up event, Pangaea wild animal showcase at the North Miami Beach Library, Small Business Certificate Series event, and community conversation at Uleta Park. The video also featured information about the upcoming Washington Park Community Center project update, Mobile Diaper Pantry event, Community Clean Up event, Senior Luncheon, Peruvian Independence Celebration at the North Miami Beach Amphitheater, National Night Out at the North Miami Beach Police Department, and Back to School Giveaway.

CITY COMMISSION REPORTS

Commissioner Fleurimond expressed satisfaction with the Quarterly Financial Analysis and the Annual Comprehensive Financial Report that was presented.

Commissioner Jean discussed the We Care To Share program and funds regarding roofs and windows, announced that the CRA staff is working on a business directory, and stated that the City received a donation of swim caps.

Commissioner Joseph encouraged everyone to stay safe and hydrated.

Commissioner Smith discussed a homeowner security service alert from Miami-Dade County, encouraged residents to participate in the upcoming budget process, expressed condolences to Patricia Miller, talked about the recent community conversation in Uleta, announced that passports are available at the North Miami Beach Library, invited residents to attend City events, and stressed the importance of knowing how to swim.

Commissioner Smukler discussed the upcoming Mobile Diaper Pantry events, praised the Media Lab at the North Miami Beach Library, announced the Back to School Giveaway sponsored by the Commission on the

Status of Women, thanked the North Miami Beach Police Department, expressed condolences to Patricia Miller, and talked about a high school diploma program at the North Miami Beach Library.

Acting Mayor Chernoff expressed condolences to Patricia Miller, wished a fast recovery to Saul Smukler, discussed the recent and upcoming Community Clean Up events, talked about the National Night Out at the North Miami Beach Police Department, praised the North Miami Beach Library, stated that the City pools need to extend hours of operation, and encouraged everyone to hydrate.

CONSENT AGENDA

Regular Commission Meeting Minutes of June 20, 2023

Resolution No. R2023-48 State Attorney Office Reimbursement Agreement for Certain Municipal Violations (Mario A. Diaz, City Manager)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING AN AGREEMENT WITH THE STATE OF FLORIDA, OFFICE OF THE STATE ATTORNEY FOR THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA TO REIMBURSE THE STATE FOR THE COST OF THE STATE ATTORNEY PROSECUTION OF CERTAIN VIOLATIONS OF THE CITY CODE OF ORDINANCES; AUTHORIZING THE CITY MANAGER OR DESIGNEE TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

Resolution No. R2023-48 was deferred to the next Commission Meeting at the request of Commissioner Fleurimond.

Resolution No. R2023-49 Purchase of Third Party Claim Services from Preferred Governmental Claim Solutions Inc. (Jacob Newman, Interim Human Resources & Risk Management Director)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING A PIGGYBACK CONTRACT BETWEEN THE CITY AND PREFERRED GOVERNMENT CLAIM SOLUTIONS, INC. (PGCS) FOR THIRD PARTY CLAIM SERVICES IN AN ESTIMATED ANNUAL EXPENDITURE OF \$57,750.00, USING THE CITY OF RIVIERA BEACH, FLORIDA'S CONTRACT WITH PGCS; AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

Resolution No. R2023-50 Approving Task Order for Highland Village Stormwater Improvements Phase II for EAC Consulting, Inc. (David Scott, Public Works Director)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING A TASK ORDER FOR HIGHLAND VILLAGE STORMWATER IMPROVEMENTS PHASE II IN THE AMOUNT OF \$272,789.00, UNDER THE "CONTINUING SERVICES AGREEMENT" WITH EAC CONSULTING, INC. FOR PROFESSIONAL CONSULTING SERVICES; AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Resolution No. R2023-51 To Approve Merit Increase for Non-Bargaining Employee (Jacob Newman, Interim Human Resources & Risk Management Director)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, APPROVING IMPLEMENTATION OF THE BUDGETED FISCAL YEAR MERIT INCREASE FOR ELIGIBLE NON-BARGAINING EMPLOYEES; AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER ERRORS, PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to approve the Consent Agenda made by Commissioner Fleurimond, seconded by Commissioner Jean.
Voice Vote: **MOTION PASSED 6-0.**

LEGISLATION

Ordinance No. 2023-01 (Second and Final Reading) Moving Quorum and Ethical Duty to Remain at a Commission to Article X Code of Ethics (Commissioner Fortuna Smukler)

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, AMENDING CHAPTER II "STRUCTURE OF CITY GOVERNMENT," ARTICLE I, "THE CITY COMMISSION," SECTION 2-1.1 "MEETINGS OF THE CITY COMMISSION," SUBSECTION (a), "QUORUM REQUIRED/ETHICAL DUTY TO REMAIN AT CITY COMMISSION MEETINGS," BY DELETING THE REQUIREMENTS CONCERNING THE DUTY TO REMAIN AT CITY COMMISSION MEETINGS AND MOVING THE REQUIREMENTS TO ARTICLE X "CODE OF ETHICS" IN A NEWLY CREATED SECTION 2-79.14 ENTITLED "ETHICAL DUTY OF REMAIN AT CITY COMMISSION MEETINGS"; AUTHORIZING THE CITY CLERK TO TRANSMIT THE ORDINANCE TO THE MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST FOR ENFORCEMENT PURPOSES; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to approve Ordinance No. 2023-01 made by Commissioner Smith, seconded by Commissioner Smukler.

Acting Mayor Chernoff opened the meeting for **PUBLIC COMMENT**.

1. Irene Pilinger
2. Mubarak Kazan

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

Roll Call Vote: Fleurimond - **No**, Jean - **No**, Joseph - **No**, Smith - **Yes**, Smukler - **Yes**, Chernoff - **Yes**

MOTION FAILED 3-3 on Second and Final Reading with Commissioner Fleurimond, Commissioner Jean, and Commissioner Joseph opposed.

Commissioner Smith asked and City Attorney John Herin stated that the item can be brought back and re-introduced for first reading.

Resolution No. R2023-52 Calling for a Special Election (Andrise Bernard, MMC, City Clerk)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, SCHEDULING A SPECIAL ELECTION TO FILL THE OFFICE OF MAYOR; SETTING OCTOBER 10, 2023 AS THE DATE OF SUCH ELECTION AND ESTABLISHING AUGUST 21, 2023 AT 8:00 A.M. THROUGH AUGUST 25, 2023 AT 5:00 P.M. AND AUGUST 26, 2023 FROM 8:00 A.M. TO 12:00 P.M. AS THE TIME TO QUALIFY THEREFORE; DESCRIBING PERSONS QUALIFIED TO VOTE IN SAID

ELECTION; DESCRIBING THE REGISTRATION BOOKS AND RECORDS TO BE USED FOR THE ELECTION; DESIGNATING AND APPOINTING THE CITY CLERK AS THE OFFICIAL REPRESENTATIVE WITH RESPECT TO THE USE OF SUCH REGISTRATION BOOKS AND RECORDS; DIRECTING THE CITY CLERK TO GIVE NOTICE OF THIS RESOLUTION'S ADOPTION AND TRANSMIT A CERTIFIED COPY TO THE MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS.

Acting Mayor Chernoff opened the meeting for **PUBLIC COMMENT**.

There were no speakers.

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

Motion to approve Resolution No. R2023-52 made by Commissioner Smith, seconded by Commissioner Jean.

Commissioner Smith stated that Miami-Dade County could not be ready for an election until the month of October and the first date proposed was a holiday therefore October 10, 2023 was the next available.

City Attorney John Herin expressed that the City was not the only municipality with a similar request to the Miami-Dade County Supervisor of Elections for an earlier possible date. He explained that the City Charter calls for a special election because there is more than one year left on the vacant term and stated that an appointment could have been made if there was less than one year remaining on the term at the time of the vacancy.

The Commission discussed the resolution regarding the proposed date of the special election.

Roll Call Vote: Jean - **No**, Joseph - **No**, Smith - **Yes**, Smukler - **Yes**, Fleurimond - **No**, Chernoff - **Yes**

MOTION FAILED 3-3 with Commissioner Fleurimond, Commissioner Jean, and Commissioner Joseph opposed.

Resolution No. R2023-53 Establishing the Proposed Millage Rate for Fiscal Year 2024 (Sheron Stewart, Budget Administrator)

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, ESTABLISHING THE PROPOSED MILLAGE RATE FOR FISCAL YEAR 2023/2024, THE CALCULATED "ROLLED- BACK" RATE, AND THE DATE, TIME, AND PLACE FOR THE FIRST AND SECOND PUBLIC BUDGET HEARINGS AS REQUIRED BY LAW; DIRECTING THE CITY CLERK AND CITY MANAGER TO TRANSMIT THIS RESOLUTION WITH THE PROPERTY APPRAISER OF MIAMI-DADE COUNTY PURSUANT TO THE REQUIREMENTS OF SECTION 200.065, FLORIDA STATUTES, AND THE RULES AND REGULATIONS OF THE DEPARTMENT OF REVENUE FOR THE STATE OF FLORIDA; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion to approve Resolution No. R2023-53 made by Commissioner Smith, seconded by Commissioner Fleurimond.

City Attorney John Herin read the entire resolution and City Manager Mario Diaz provided an explanation of the resolution.

Acting Mayor Chernoff opened the meeting for **PUBLIC COMMENT**.

1. Mubarak Kazan
2. Former North Miami Beach Commissioner Barbara Kramer
3. Lynn Su
4. Jeb Handwerger
5. Irene Pilinger

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

The Commission discussed the resolution regarding the proposed millage rate for Fiscal Year 2024.

Voicer Vote: **MOTION PASSED 6-0.**

APPOINTMENTS

Motion to approve the appointment of Commissioner Daniela Jean as Vice Mayor effective July 21, 2023 made by Commissioner Fleurimond, seconded by Commissioner Joseph.

MOTION FAILED 3-3 with Acting Mayor Chernoff, Commissioner Smith, and Commissioner Smukler opposed.

Motion to approve the appointment of Ran Ben David as an Alternate to the Eastern Shores Security Guard Special Taxing District Board made by Commissioner Smith, seconded by Commissioner Smukler.

MOTION PASSED 6-0.

The Commission Meeting took a recess at 8:46pm and resumed at 8:59pm.

DISCUSSION ITEMS

Commissioner Joseph discussed the possibility of insourcing sanitation to increase the quality of service and City Manager Mario Diaz explained the financial and logistical impacts including cost, availability, and maintenance of equipment; the cost, attainability, and training of employees; insurance liability coverage; and the procurement process. The Commission discussed insourcing sanitation and directed City staff to review the current existing contract, update the prior in-house report, and draft a scope of services.

City Manager Mario Diaz discussed obtaining legal services for the City through internal recruitment and competitive bidding and Chief Procurement Officer Shereece George explained both processes. The Commission discussed hiring an individual or a law firm for the position of City Attorney and directed City staff to draft a scope of services similar to the one in 2019.

City Manager Mario Diaz discussed the costs associated with a forensic audit of the City's fiscal activities and explained approaches that can be performed. The Commission directed City staff to review all the options.

Commissioner Smith discussed that the City did not have a July 4th event and suggested having a picnic next year to celebrate the holiday and the Commission talked about possible locations.

Motion to approve a July 4th event in 2024 made by Commissioner Smith, seconded by Commissioner Joseph.

Voice Vote: **MOTION PASSED 6-0.**

CITY MANAGER'S REPORT

City Manager Mario Diaz discussed the City's charitable donations policy and resolution and stated there are current requests that will come before the Commission for approval.

CITY ATTORNEY'S REPORT

City Attorney John Herin requested authorization to engage outside counsel regarding an opioid litigation case involving the state of Florida and Walmart.

Motion to approve the City to participate in the settlement agreement made by Commissioner Smith, seconded by Commissioner Smukler.

Voice Vote: **MOTION PASSED 6-0.**

City Attorney John Herin discussed a request to pay attorney's fees incurred on behalf of Commissioner Fleurimond in the amount of \$26,272.96 to the law firm of Brodsky Fotiu-Wojtowicz and stated that the litigation regarding Commissioner Fleurimond is over and he qualifies as the prevailing party. City Attorney

John Herin suggested that the City can receive guidance from the Miami-Dade County Commission on Ethics before voting on this item.

Motion to table the item until the next Commission Meeting made by Commissioner Smith, seconded by Commissioner Joseph.

Voice Vote: **MOTION PASSED 6-0.**

Motion to table a request to pay attorney's fees incurred on behalf of Commissioner Joseph to the law firm of Brodsky Fotiu-Wojtowicz made by Commissioner Smith, seconded by Commissioner Smukler.

Voice Vote: **MOTION PASSED 6-0.**

City Attorney John Herin asked for a representative from the Commission to attend future mediations regarding a legal matter involving the City of Miami Gardens.

Motion to approve Commissioner Fleurimond to be designated as the representative and Commissioner Smith to be the alternate made by Commissioner Smukler, seconded by Commissioner Joseph.

Voice Vote: **MOTION PASSED 6-0.**

City Attorney John Herin asked whether a member of the Commission wanted to serve as a representative to attend a mediation regarding a personal injury lawsuit. Commissioner Smith stated that she wants to review the case and a decision will be made at the next Commission Meeting.

Acting Mayor Chernoff thanked his colleagues for being cordial to each other during the meeting.

CITY COMMISSION REPORTS

Commissioner Fleurimond discussed the resolutions regarding the millage rate and the special election.

Commissioner Jean said good night.

Commissioner Joseph discussed the vote from earlier in the meeting about appointing a Vice Mayor.

Commissioner Smith requested that a copy of this meeting is sent to the Miami-Dade County Commission on Ethics, invited Senator Jason Pizzo to appear at a future meeting to discuss new state legislation, expressed condolences to Pennye Vilinsky, asked for volunteers to join the Education Committee, and discussed the position of City Attorney.

Commissioner Smukler announced the upcoming opening of a Lowe's store and discussed Commission Workshops regarding agenda review.

Acting Mayor Chernoff thanked everyone for attending the meeting.


NEXT REGULAR CITY COMMISSION MEETING is Tuesday, August 15, 2023.

ADJOURNMENT

There being no further business to come before the City Commission, the meeting was adjourned at 11:14pm.

ATTEST:

(SEAL)


Andrise Bernard, MMC, City Clerk