



## City of North Bay Village

Administrative Offices

1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141  
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

### OFFICIAL AGENDA

#### REGULAR CITY COMMISSION MEETING

**CITY OF NORTH BAY VILLAGE  
1700 KENNEDY CAUSEWAY, #132  
NORTH BAY VILLAGE, FL 33141**

**TUESDAY, FEBRUARY 14, 2012**

**7:30 P.M.**

NOTICE IS HEREWITH GIVEN TO ALL INTERESTED PARTIES THAT IF ANY PERSON SHOULD DECIDE TO APPEAL ANY DECISION MADE AT THE FORTHCOMING MEETING OF THE CITY COMMISSION, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

CITY COMMISSION MEETINGS ARE BROADCAST LIVE ON CHANNEL 20 FOR ATLANTIC BROADBAND SUBSCRIBERS.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, PERSONS NEEDING SPECIAL ACCOMMODATION OR A SIGN LANGUAGE INTERPRETER TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT (305) 756-7171 NO LATER THAN FOUR DAYS PRIOR TO THE PROCEEDING. IF HEARING IMPAIRED, TELEPHONE THE FLORIDA RELAY SERVICE NUMBERS AT (800) 955-8771 (TDD) OR (800) 955-8700 (VOICE) FOR ASSISTANCE.

- 
1. A. **CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL**
  - B. **APPOINTMENT OF TREASURE ISLAND COMMISSIONER  
(PURSUANT TO SECTION 3.07(D), CITY CHARTER**
    - 1.) **Commission Action**
  - C. **OATH OF OFFICE**
  - D. **NEW ROLL CALL**
  2. A. **PROCLAMATIONS AND AWARDS**
  - B. **SPECIAL PRESENTATIONS**
  - C. **ADDITIONS AND DELETIONS**

Mayor  
Connie Leon-Kreps

Vice-Mayor  
Eddie Lim

Page 1 of 5  
Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

**3. BOARD REPORTS**

- A. ANIMAL CONTROL ADVISORY BOARD**
- B. ARTS, CULTURAL & SPECIAL EVENTS BOARD**
- C. CITIZENS BUDGET AND OVERSIGHT BOARD**
- D. COMMUNITY ENHANCEMENT BOARD**
- E. PLANNING & ZONING BOARD**
- F. YOUTH SERVICES BOARD**

**4. PUBLIC SAFETY DISCUSSION**

**5. COMMISSIONERS' REPORTS**

**6. CITY ATTORNEY'S REPORT**

**7. CITY MANAGER'S REPORT**

**8. GOOD & WELFARE AT APPROXIMATELY 8:30 P.M.**

**9. CONSENT AGENDA:** Matters on the Consent Agenda are self-explanatory and are not expected to require discussion or review. Items will be enacted by one motion. If discussion is desired by any member of the Commission, that item must be removed from the Consent Agenda and will be considered separately.

**10. PLANNING & ZONING CONSENT AGENDA**

**11. ORDINANCES FOR FIRST READING AND RESOLUTIONS**

- A. AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, SETTING THE QUALIFYING DATES FOR THE NOVEMBER 6, 2012 GENERAL ELECTION AS PROVIDED FOR UNDER CHAPTER 100, SECTION 100.3605(2) OF THE FLORIDA STATUTES; PROVIDING DIRECTIONS TO THE CLERK; PROVIDING FOR REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY AND COMMISSIONER EDDIE LIM)**

- 1.) Commission Action**

**B. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY REPEALING CHAPTER 6, FLOOD DAMAGE PREVENTION; AMENDING THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES BY REPEALING AND REPLACING CHAPTER 154, "FLOOD DAMAGE PREVENTION"; TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO ADOPT LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)**

**1.) Commission Action**

**C. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE APPROPRIATION OF \$40,000 OF AVAILABLE NON-APPROPRIATED POLICE FEDERAL FORFEITURE FUNDS FROM THE LAW ENFORCEMENT TRUST FUND (FUND 07); AUTHORIZING THE DISBURSEMENT AND EXPENDITURE OF SUCH FUNDS TO COVER COSTS ASSOCIATED WITH THE CRIMINAL INVESTIGATIONS; PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)**

**1.) Commission Action**

**D. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, OPPOSING FLORIDA HOUSE BILL 4025, FLORIDA SENATE BILL 760, AND ANY COMPANION OR SUBSTITUTE BILLS, PROPOSING TO REPEAL CHAPTER 205 OF THE FLORIDA STATUTES WHICH WOULD ELIMINATE THE LOCAL BUSINESS TAX ACT RESULTING IN A LOSS OF REVENUE TO THE CITY OF NORTH BAY VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY AND COMMISSIONER RICHARD CHERVONY)**

1.) **Commission Action**

- E. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, OPPOSING HOUSE BILL 319 PENDING IN THE FLORIDA LEGISLATURE RELATED TO CONDOMINIUM ASSOCIATIONS; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY COMMISSIONER CHERVONY AND CITY MANAGER DENNIS KELLY)**

1.) **Commission Action**

- F. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA AUTHORIZING THE CITY MANAGER TO ISSUE A REQUEST FOR QUALIFICATIONS FOR LEGAL SERVICES; CARRY OUT THE AIMS OF THIS RESOLUTION; AND SETTING AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY & MAYOR CONNIE LEON-KREPS)**

1.) **Commission Action**

12. **PUBLIC HEARINGS INCLUDING ORDINANCES FOR SECOND READING**

13. **UNFINISHED BUSINESS**

14. **NEW BUSINESS**

- A. **APPOINTMENT OF MEMBERS TO THE ADVISORY CHARTER REVIEW BOARD**

1.) **Commission action**

- B. **REPEAL OF RESOLUTION NO. 2011-52 (COMMISSIONER RICHARD CHERVONY)**

1.) **Commission Action**

15. **APPROVAL OF MINUTES**

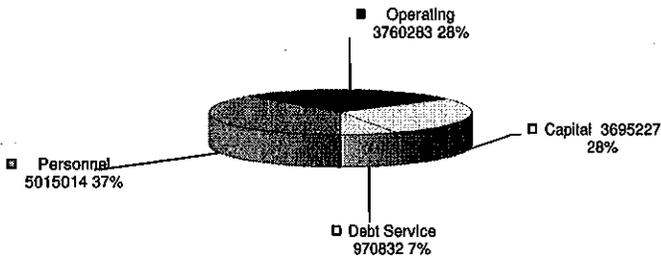
A. **REGULAR CITY COMMISSION MEETING -- JANUARY 10, 2012**

1.) **Commission**

16. **ADJOURNMENT**

**CITY OF NORTH BAY VILLAGE**  
**BUDGET-IN-BRIEF thru December 31, 2011**

**YTD-Citywide Expense Allocation**



**General Fund Revenues**

Revenues	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
Real & Personal Property Taxes	2,926,283	1,660,080	1,492,682	90%
Franchise Fees	384,500	91,125	35,361	39%
Utility Service Taxes	420,000	105,000	88,618	84%
Communication Service Tax	308,449	76,612	61,869	81%
Licenses & Permits	72,600	13,000	13,872	107%
Intergovernmental Revenue	706,748	176,687	123,292	70%
Fines & Forfeitures	205,500	51,375	54,954	107%
Misc. Revenue	43,700	8,425	14,511	172%
Charges for Services	54,400	13,600	10,614	78%
Transfer from Utilities	-	-	-	0%
Debt Proceeds	-	-	-	0%
Appropriations & Carryover	2,454,223	-	-	0%
<b>Total Revenues &amp; Carryover</b>	<b>\$ 7,554,403</b>	<b>\$ 2,195,804</b>	<b>\$ 1,895,773</b>	<b>86%</b>

**General Fund Expenditures**

Expenditures	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
City Commission Department	65,221	16,305	14,357	88%
City Manager Department	161,727	39,632	16,242	41%
City Clerk Department	148,441	37,110	23,974	65%
Finance Department	124,624	31,156	24,830	80%
Public Services Department	300,000	75,000	35,888	48%
General Government Department	772,710	200,039	147,721	74%
Police Department	3,245,500	811,375	729,211	90%
Recreation / Human Svcs Dept.	36,193	20,207	9,672	48%
Debt Service Refunding	-	-	-	-
Transfer to After School & Summer	27,445	6,861	6,861	100%
Transfer to Street Mince Fund	218,318	54,580	54,580	100%
Transfer to Transportation Fund	55,248	13,812	13,812	100%
<b>Total Expenditures</b>	<b>\$ 5,155,428</b>	<b>\$ 1,306,077</b>	<b>\$ 1,077,149</b>	<b>82%</b>

**YTD-Total Citywide Budget**

Expenditures	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
<b>Total Citywide Budget</b>	<b>13,441,356</b>	<b>3,479,804</b>	<b>2,548,142</b>	<b>73%</b>

**Selected Other Funds**

Building Fund	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
Revenues	163,087	40,772	56,464	138%
Transfer from General Fund	-	-	-	-
<b>Total Revenues</b>	<b>163,087</b>	<b>40,772</b>	<b>56,464</b>	<b>138%</b>
<b>Total Expenses</b>	<b>163,087</b>	<b>40,772</b>	<b>33,872</b>	<b>83%</b>

**Selected Other Funds**

Street Mince Fund	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
Revenues	109,072	27,268	18,210	67%
Transfer from General Fund	218,318	54,580	54,580	100%
<b>Total Revenues</b>	<b>327,390</b>	<b>81,848</b>	<b>72,790</b>	<b>89%</b>
<b>Total Expenses</b>	<b>327,390</b>	<b>93,848</b>	<b>80,378</b>	<b>86%</b>

After School & Summer Fund	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
Revenues	134,720	33,680	20,083	60%
Transfer from General Fund	27,445	6,861	6,861	100%
<b>Total Revenues</b>	<b>162,165</b>	<b>40,541</b>	<b>26,944</b>	<b>66%</b>
<b>Total Expenses</b>	<b>162,165</b>	<b>40,291</b>	<b>25,108</b>	<b>62%</b>

**Selected Other Funds**

Transportation Fund	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
Revenues	200,000	50,000	-	0%
Transfer from General Fund	55,248	13,812	13,812	100%
Appropriations & Carryover	77,217	-	-	0%
<b>Total Revenues &amp; Carryover</b>	<b>332,465</b>	<b>63,812</b>	<b>13,812</b>	<b>22%</b>
Transfer to Capital Improvements	109,130	27,283	-	0%
<b>Total Expenses</b>	<b>124,260</b>	<b>69,928</b>	<b>10,967</b>	<b>16%</b>

Capital Project Fund	Budget	Pro-Rata Budget	Year-to-Date	YTD %
Revenues	1,082,459	287,897	2,107	0%
Transfer from General Fund	-	-	-	0%
Transfer from Transportation Fund	109,130	27,283	9,084	8%
Appropriations & Carryover	1,444,735	-	-	0%
<b>Total Revenues &amp; Carryover</b>	<b>2,636,324</b>	<b>325,180</b>	<b>11,201</b>	<b>0%</b>
<b>Total Expenses</b>	<b>2,631,324</b>	<b>657,831</b>	<b>494,751</b>	<b>18%</b>

Utility Fund	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
Revenues	4,361,526	1,090,250	1,102,392	101%
Appropriations & Carryover	(650,410)	-	-	0%
<b>Total Revenues &amp; Carryover</b>	<b>3,711,116</b>	<b>1,090,250</b>	<b>1,102,392</b>	<b>101%</b>
Transfer to Water Imprvmts	25,000	6,250	6,250	100%
Transfer to Sanitation Impv. Fund	63,000	15,750	15,750	100%
Transfer to Sewer Imprvmts	151,029	37,757	37,757	100%
<b>Total Expenses</b>	<b>3,663,089</b>	<b>807,474</b>	<b>523,231</b>	<b>65%</b>

Stormwater Fund	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
Revenues	116,000	29,000	30,927	107%
Appropriations & Carryover	255,621	-	-	0%
<b>Total Revenues &amp; Carryover</b>	<b>371,621</b>	<b>29,000</b>	<b>30,927</b>	<b>107%</b>
Transfer to Sewer Imprvmts	86,339	21,585	14,390	67%
<b>Total Expenses</b>	<b>94,300</b>	<b>45,160</b>	<b>14,617</b>	<b>32%</b>

Debt Service Fund	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
Revenues	756,803	429,334	386,087	90%
Appropriations & Carryover	-	-	-	-
<b>Total Revenues &amp; Carryover</b>	<b>756,803</b>	<b>429,334</b>	<b>386,087</b>	<b>90%</b>
<b>Total Expenses</b>	<b>756,803</b>	<b>189,201</b>	<b>284,671</b>	<b>150%</b>

Water Improvements	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
Revenues	-	-	-	-
Transfer from Utility Fund	25,000	6,250	6,250	100%
<b>Total Revenues</b>	<b>25,000</b>	<b>6,250</b>	<b>6,250</b>	<b>25%</b>
<b>Total Expenses</b>	<b>25,000</b>	<b>12,500</b>	<b>-</b>	<b>0%</b>

Sewer Improvements	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
Revenues	339,174	144,136	4	0%
Transfer from Utility Fund	151,029	37,757	37,757	100%
Transfer from Stormwater Fund	86,339	21,585	21,585	100%
<b>Total Revenues</b>	<b>576,542</b>	<b>203,478</b>	<b>59,346</b>	<b>29%</b>
<b>Total Expenses</b>	<b>576,542</b>	<b>216,723</b>	<b>3,400</b>	<b>2%</b>

Sanitation Improvements	Budget	Pro-Rata Budget	Year-to-Date	Pro-Rata %
Revenues	-	-	-	-
Transfer from Utility Fund	63,000	15,750	15,750	100%
<b>Total Revenues</b>	<b>63,000</b>	<b>15,750</b>	<b>15,750</b>	<b>100%</b>
<b>Total Expenses</b>	<b>63,000</b>	<b>15,750</b>	<b>-</b>	<b>0%</b>

**Cash Position**

Sabadell United	3,326,290
CenterState	217,986
SBA Fund A	27,439
<b>Total General Fund</b>	<b>\$ 3,571,726</b>
Sabadell United	1,653,591
CenterState Series 2010	40,075
<b>Total Project Fund</b>	<b>\$ 1,693,666</b>











CITY OF NORTH BAY VILLAGE  
 MONTHLY REPORTS 2012  
 PUBLIC WORKS

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC	YTD
MEETINGS ATTENDED	21												21
INSPECTIONS	29												29
WATER PURCHASED, GAL	No Invoice												0
WATER SOLD, GAL	28,789,000												28,789,000
WATER WORK ORDERS	37												37
WATER BREAK EMERG	0												0
SEWERAGE DISPOSAL, GAL	No Invoice												0
SEWER BREAK EMERG	2												2
DISPOSAL Garbage/Trash, TN													0
RECYCLING	\$ 4,966.18												\$4,966.18
PARKS CLEAN UP, DAYS.	25												25

\* No Invoice rec'd to date



## City of North Bay Village

### Administrative Offices

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### **CITY OF NORTH BAY VILLAGE** **MEMORANDUM**

**DATE:** February 9, 2012

**TO:** Mayor Connie Leon-Kreps  
Vice Mayor Eddie Lim  
Commissioner Richard Chervony  
Commissioner Paul Vogel

**FROM:** Dennis Kelly   
City Manager

**SUBJECT:** Treasure Island Commissioner Vacancy

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The following individuals have expressed interest in filling the vacancy of Treasure Island Commissioner created by the resignation of Commissioner Frank Rodriguez on January 31, 2012. Letters of Interest and documents pertaining to qualification as electors pursuant to Section 3.02 of the City Charter and residency requirements according to Section 5.04 were required to be submitted to the City Clerk's Office by 5:00 p.m. on February 7, 2012.

1. Doris Acosta, 1790 South Treasure Drive
2. Stuart Blumberg, 7532 Cutlass Avenue
3. Arnold Z. Braun, 7601 East Treasure Drive
4. Wendy Duvall, 7545 East Treasure Drive
5. Reinaldo Trujillo, 7601 East Treasure Drive

Mrs. Duvall submitted a Letter of Interest on February 6, 2012 and a Florida Driver License that has an address outside of the City. On February 8, 2012 she submitted a Bill of Sale dated February 2, 2011 with the North Bay Village address and document from Miami-Dade Elections Department changing her voter information to North Bay Village.

Mayor  
Connie Leon-Kreps

Vice-Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

**IBC(1)**  
Commissioner  
Dr. Paul Vogel

**MEMO TO CITY COMMISSION**  
**FEBRUARY 9, 2012**  
**PAGE 2 OF 2**

Pursuant to Section 3.07(D) of the City Charter, any vacancy occurring for a City Commissioner shall be filled by the vote of a majority of the remaining members of said Commission with the appointee serving until the remainder of the unexpired term until the next succeeding general City election. Former Commissioner Rodriguez's term would have expired on November 6, 2012.

/yph

Attachments: Letters of Interest

**1 B(1)(A)**



January 19, 2012

Mayor and Commissioners  
City of North Bay Village  
1700 Kennedy Causeway  
Suite 132  
North Bay Village, Fl. 33141

JAN 19 4:05 PM '12

Dear Mayor and Commissioners:

This letter will serve as my expression of interest in filling the vacancy of Commissioner representing Treasure Island.

I have been a resident of North Bay Village for over 48 years. Throughout this period of residency, in the same house, my wife and I raised our daughter who attended Treasure Island Elementary. We have watched our community grow and prosper though it has not always been a smooth process.

It was during this time that I continued on a career path in the hotel industry, as well as a community leader. All of this activity prevented me from being a participant in my own community.

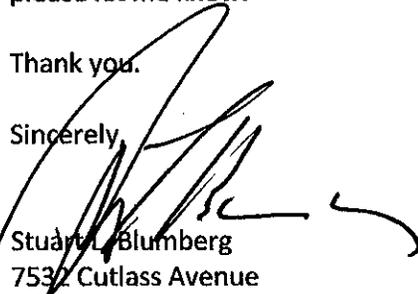
Two years ago I retired from the industry but have remained active by serving as Chairman of the Miami Beach Convention Center Advisory Board. I continue to be involved with elected officials, not only in Miami Beach, but Miami Dade County and the State of Florida. Not all the issues I deal with are tourism related since I believe there are challenges facing all of us as to our quality of life.

Throughout my career I was fortunate to serve the community as Chairman of the Miami Beach Chamber of Commerce, President and Founder of the Greater Miami and The Beaches Hotel Association, adjunct professor in the School of Hospitality at FIU, Founder of the Academy of Travel and Hospitality, Founder of the Visitor Industry Council for African American students and one of the founders of the Greater Miami Convention and Visitors Bureau in addition to numerous other organizations.

When I read about the recent vacancy, I felt it was time to devote some of my efforts to my own community. I hope you will consider this letter of interest. If you need any further information please let me know.

Thank you.

Sincerely,

  
Stuart L. Blumberg  
7532 Cutlass Avenue  
North Bay Village, Fl 33141  
305-864-8090  
hotelier@msn.com

1B(3)

January, 18<sup>th</sup> 2012

To: Commissioners of the City of North Bay Village

I, Arnold Z Braun, would like to apply for Treasure Island Commissioner. I have lived at 7601 East Treasure Drive #2319 about 11 years. I have been retired for 18 years. Presently, I am Director at a company on Wall Street (Chicago Mercantile Exchange.) Prior to 9/11 it was DYDX. From 1961 to 1993 I owned beauty Schools in Dade, Broward counties and North Carolina. I have been married 9 years. I have 3 children and 9 grandchildren. My phone number is 305-864-7624.

Respectfully,



1B(4)

Wendy Duvall  
7545 east treasure drive apt 1 b .north bay village  
Board of Commissioners [treasure island commisioner]

Dear Yvonne:

I am writing to apply for the position of [treasure island commisioner] Commissioner, which you are currently considering. Attached is my resume, which hopefully shows why I am well qualified to carry out this responsibility. I would also like to tell you why I am so passionate about serving the community.

I live at the Caribbean Towers Condo, for over two years, with my loving partner and soon-to-be-husband Mariano Beltrame. When we moved in, the building was more than half empty, there were many, many foreclosures and it looked bad. However, we loved the location and the views and decided to work hard to make a home for us and our children (which we are hopeful to be blessed with in the near future).

Two years later, Mariano is the President of the Condo and I am a Director and Auditor Adviser. We turned around the Condo. Now there is no crime and the area is quite clean and safe. The pool, the community room and all services work well. We worked hard and we are proud of it, especially because we have a responsibility to the children of the School across the street.

Now, we want to consolidate the progress and the community for ourselves and our soon-to-come family and children. I am truly motivated to work hard for the community because I see it as the positive way to ensure peace and stability for our family. I am not a dreamer. As you know, I am an accountant and auditor by trade and education. I believe that we have to deal head on with reality if we want to achieve our aspirations.

My roots are in this community. We are here to stay. I believe I have proved in the Caribbean Towers Condo that I am capable of being a strong contributor to profound change for the better. I would like to keep doing so for the larger community.

I would welcome the opportunity to introduce myself to you and all Committee members so as to bring alive the cold facts reflected in my resume. Thank you for your attention,

Dated: 2/5/12.

Wendy



1B(5)

**SUMMARY OF QUALIFICATIONS:**

- More than eight years of tax accounting experience. Experience in using technology tools to leverage data, increase process and tax return efficiency.
- Experience in audit defense and able to research tax issues. Possess strong analytical and problem solving skills, with the ability to make well thought out decisions.
- **Fluent in Spanish.** Excellent written and verbal communication skills.
- Highly trustworthy, discreet and ethical. Self-starter with high tolerance for ambiguity and complex issues.

**PROFESSIONAL EXPERIENCE:**

**Citrix Systems Inc. \$1.9 Billion, Technology**

*Senior Sales Tax Specialist, Corporate, FL*

6/2010 to Present

- Prepare and file of over 200 sales and use tax returns for Citrix Systems and its divisions.
- Coordinate and properly file multi-state voluntary disclosure agreements.
- Train staff on sales and use tax compliance process.
- Participated in the implementation of multiple transaction tax software solutions.
- Research and resolve inquiries from legal jurisdictions on tax matters.
- Prepare and participate in the defense of sales and use tax audits, including gathering data and maintaining documentation.
- Prepare and process Intercompany Account Transfers and Account Reconciliations
- Prepare and reconcile sales and use tax accruals of current and prior tax years.
- Document sales and use tax practices as a tool for analyzing best practices, identifying problems and inefficiencies and reducing risks.

**Burger King Corporation \$2.45Billion, Fast Food**

*Senior Analyst, Tax Audit, Corporate, FL*

6/2007 to 11/2008

- Prepared and participated in the defense of sales and use tax audits, including gathering data and maintaining documentation.
- Identified over \$2M in savings during the management of the state and local tax audits.
- Managed the acquisition and implementation of sales and use tax software solution.
- Researched state and international guidelines, rules and regulations to ensure business units are in compliance.
- Prepared written communication for sales and use tax issues.
- Evaluated, designed and implemented new reporting requirements for domestic and international tax deliverables.
- Prepared and reconciled property tax accruals of current and prior tax years.
- Prepared and reconciled state, local, and international tax liability reserves.

1B(6)

**The Boeing Company \$68.28Billion, Aerospace***Tax Specialist, Corporate, Chicago, IL*

9/2004 to 03/2007

- Coordinated with various business units for the proper filing of over 100 sales and use tax returns for Boeing's subsidiaries.
- Coordinated with Legal, Accounting, Human Resources and Payroll for the proper filing of over 500 annual reports for Boeing and all subsidiaries.
- Identified over \$800,000 in savings during filing of 152 local business licenses.
- Prepared and processed Intercompany Account Transfers, Company-wide journal entries, and Account Reconciliations.
- Properly filed state and local corporate incentive package.
- Documented sales and use tax practices as a tool for analyzing best practices, identifying problems and inefficiencies and reducing risks.
- Researched state guidelines, rules and regulations to ensure business units provide accurate and true information.
- Prepared payment analysis of current and prior tax years.
- Evaluated, designed and implemented new reporting requirements for tax deliverables.
- Managed data hierarchy for migration towards electronic record retention (paperless storage of sales and use tax returns and supporting documentation) for Chicago office.

*Business Analyst, Corporate, Chicago, IL*

3/2002 to 09/2004

- Managed a \$9M budget, which included monthly and quarterly financial reporting, forecast projections, cost opportunities and risks, and variance analyses for the Human Resources and Information Technology division, Human Resources Administration division, and Organization Development division.
- Processed vendor payment requests.
- Organized and facilitated process councils, managed implementation meetings, and user group meetings.
- Gathered, analyzed, and consolidated metrics for customer feedback to enhance an employee web-based tool.
- Worked with multiple organizations to develop, consolidate and maintain the Human Resources and Information Technology websites.

**COMPUTER SKILLS:**

Fluent in PeopleSoft, Vertex, Vertex VRA, LCR Dixon for SAP, Sabrix, Avalara (Avatax/Avacert), TEAMS, Oracle, Khalix, Financial Management System (FMS), SAP, QuickBooks, Macromedia Dreamweaver, Microsoft Word, Outlook, Excel, PowerPoint, Access, Microsoft Project.

**MEMBERSHIPS:**

- Association of Latino Professionals in Finance and Accounting "ALFA" member
- Institute for Professionals in Taxation
- Member of the National Association of Hispanic MBA's (NASHIMBA)
- Member of the National Notary Association

**EDUCATION:**

**Keller Graduate**, Miami, FL, Accounting & Financial Management – CPA Concentration, 8/2010 to 3/2012  
**North Park University**, Chicago IL, Bachelor of Arts Degree in Organizational Management, 2004

1B(7)

FEB 7 PM 12:40

February, 7 2012

Ms. Yvonne Hamilton  
North Bay Village City Clerk  
The City of North Bay Village  
1700 Kennedy Causeway, Suite 132  
North Bay Village, FL 33141

Re: North Bay Village Commission Vacancy

Dear Ms. Hamilton

I would like to take this opportunity to enter my name into consideration for the "Commissioner" vacancy in North Bay Village.

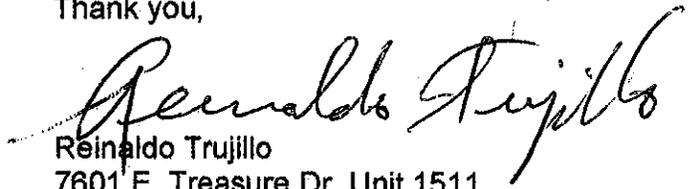
As you know, I possess the qualifications and experience to perform the duties of "Commissioner" given that I held the positions of "At-Large Commissioner" and "Vice Mayor" of North Bay Village for four years.

During my tenure, I represented the City of North Bay Village with honesty and integrity, and always in the best interest of residents. For instance, I was instrumental in obtaining the grant that covered 77% of the cost of the new sewer system, a significant project that benefited all residents of the city.

Now is the time for me to serve the city since I am retired from the private sector and able to serve my North Bay Village friends and neighbors in the public sector. As "Commissioner", I would serve the village without personal interest of any kind. My only interest is to help the Commission continue to make North Bay Village the best city in Florida.

Enclosed are copies of my Voter Registration Card and my Driver License as proof of my residency in North Bay Village. I look forward to the opportunity to serve my village once again.

Thank you,



Reinaldo Trujillo  
7601 E. Treasure Dr. Unit 1511  
North Bay Village, Florida 33141  
Phone 305 318 5481  
E-Mail mltra@bellsouth.net

Encl. Voter registration card, Driver License

7601 E. Treasure Drive, Unit 1511  
North Bay Village, Florida 33141

1B(8)



## **CITY OF NORTH BAY VILLAGE** **NOTICE OF COMMISSION VACANCY**

**THE CITY COMMISSION OF NORTH BAY VILLAGE WILL CONSIDER THE APPOINTMENT OF A TREASURE ISLAND COMMISSIONER AT ITS REGULAR MEETING ON FEBRUARY 14, 2012 AT 7:30 P.M. IN THE CITY HALL COMMISSION CHAMBERS AT 1700 KENNEDY CAUSEWAY, #132, NORTH BAY VILLAGE, FLORIDA. THE SEAT WILL BECOME VACANT ON JANUARY 31, 2012 UPON THE RESIGNATION OF THE TREASURE ISLAND COMMISSIONER.**

**INTERESTED CITIZENS MUST SUBMIT A LETTER OF INTEREST, PROOF OF RESIDENCY, AND A VOTER REGISTRATION CARD TO THE CITY CLERK'S OFFICE NO LATER THAN 5:00 P.M. ON FEBRUARY 7, 2012.**

**INDIVIDUALS SEEKING THE SEAT OF TREASURE ISLAND COMMISSIONER MUST BE A RESIDENT OF THE RESPECTIVE ISLAND FOR A PERIOD OF NOT LESS THAN SIX (6) MONTHS PRIOR TO SUBMITTING QUALIFYING DOCUMENTS.**

**CONTACT YVONNE P. HAMILTON, CITY CLERK, AT (305) 756-7171 OR VISIT THE CITY ADMINISTRATIVE OFFICES, 1700 KENNEDY CAUSEWAY, #132, NORTH BAY VILLAGE, FOR FURTHER INFORMATION.**

**Yvonne P. Hamilton, CMC**  
**City Clerk**  
**(January 13, 2012)**

**1B(9)**



## CITY OF NORTH BAY VILLAGE NOTICE OF COMMISSION VACANCY

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CONTACT YVONNE P. HAMILTON, CITY CLERK, AT (305) 756-7171 OR VISIT THE CITY ADMINISTRATIVE OFFICES, 1700 KENNEDY CAUSEWAY, #132, NORTH BAY VILLAGE, FOR FURTHER INFORMATION.

Yvonne P. Hamilton, CMC  
City Clerk  
(November 16, 2011)

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BARRE

BEHIND THE CURTAIN

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Fri, Jan 20 at 7pm  
Sat, Jan 21 at 2:30 & 7pm

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(Blanchine/Gershwin-key)

"THE MAMBO:

Mambo No. 2am"

(Villa-Lobos/Pastor)

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Sunday, Jan. 22, 3 pm - free



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ORCHESTRA



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January 21, 2012 at 7:30 p.m.  
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Tickets are \$26-\$36. Family Pack of 4 tickets for \$85.15 for advance purchase ONLY!  
www.stanfordstringquarter.com/concerts

1B(10)

and responsibilities of the city attorney shall be those as provided in this Charter.

- I. *Auditor.* The Commission shall appoint the outside auditor. The outside auditor shall be a certified public accountant practicing in the State of Florida, for a period of not less than five (5) years.
- J. *Other Commissioner remunerative position.* No Commissioner shall be appointed to any other remunerative position with the City during his term of office.
- K. *Nepotism.* No person related to the second degree of consanguinity to a Commissioner shall be eligible to hold a remunerative position with the City. Any Commissioner who shall knowingly make such an appointment may be deemed guilty of misfeasance or malfeasance in office and subject to removal. The person so employed may be subject to dismissal.
- L. *Conflict of interest.* The Mayor and any City Commissioner shall comply with applicable conflict of interest laws, including Florida Statutes Chapter 112, Part 3, as well as Miami-Dade County Code Section 2-11.1.
- M. *Reimbursement of Commissioner's legal fees.* In the event that a civil action shall be instituted wherein it is sought to impose personal liability upon any Commission member of the City for any act or acts of such Commissioner, and if such Commissioner seeks legal defense of such action through the use of public funds, it shall first require a majority of all other Commissioners to ascertain that such acts complained of by the plaintiff were indeed connected with the Commissioner's proper conduct of the affairs or business of the City. If so established, the other Commissioners shall then determine, specify and allocate a reasonable expenditure from City funds for this legal defense, selection of counsel to be approved by the City Attorney.
- N. *Utility franchises.* The Commission may grant public utility franchises and regu-

late the exercise thereof; provided, however, that no franchise or extension thereof shall hereafter be granted or extended unless such franchise or extension shall be approved after a public hearing thereon. At least fourteen (14) days preceding the public hearing at which any franchise or extension thereof is to be adopted, notice thereof shall be published in a newspaper of general circulation in the City. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. A copy of such proposed franchise shall be available for inspection by any interested person at the office of the city clerk at least fourteen (14) days preceding such public hearing. The cost of such advertising and of the public hearing shall be borne by the utility involved. For renewing franchises, each public utility shall notify the City of its intent six months before the expiration of its franchise. The Commission shall be empowered to grant a temporary extension of an existing franchise not to exceed three (3) months without a public hearing.

(Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. C, 8-28-06, Election of 11-7-06)

**3.07. Vacancies; forfeiture of office; filling of vacancies on the Commission.**

A. *Vacancies.* The office of a Commission member shall become vacant upon his death, resignation, or removal from office in any manner authorized by law or forfeiture of his office.

B. *Forfeiture of office.* A Commission member Commissioner or Mayor shall forfeit his office if any time during his term of office said person, (a) lacks any qualifications for the office prescribed by this Charter or other by applicable law including § 100.361, Florida Statutes, (1989) or (b) is convicted of a felony while in office, or (c) fails to attend four consecutive regular meetings of the Commission, unless such absences are each excused by motion setting forth the reason for the absence duly entered upon the minutes or (d) having been elected or appointed from an election

**13(11)**

istrict fails to reside within the election district from which he was elected or appointed for any reason other than redistricting. Forfeiture shall be determined by the remaining members of the Commission.

C. *Forfeiture hearing.* A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a Public Hearing on demand and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing.

D. *Filling of vacancies on City Commission.* Any vacancy occurring for a City Commissioner shall be filled by the vote of the majority of the remaining members of said City Commission with the appointee serving until the remainder of the unexpired term until the next succeeding general City election and with any further remainder of said unexpired term to be filled by a Commissioner elected at said general election. If the remaining members of the City Commission shall fail or refuse to fill such vacancy within 30 days after it occurs, and if no general City election will be held within 90 days after the expiration of said 30 days, then a special election shall be called and held to elect a Commissioner to fill such vacancy for the remainder of the unexpired term. In the event that the position is that of Mayor, it must be filled from among the remaining Commissioners in accordance with the procedures set forth above.

E. In the event of the death, resignation, or removal of the Mayor, the Vice Mayor shall forthwith commence to serve as interim Mayor until the Mayor's position is filled by election or appointment.

- (a) When the Vice Mayor becomes interim Mayor, the Commission, by majority vote shall appoint an interim Commissioner from the Vice Mayor's vacant district to fill the Vice Mayor's vacant seat until the required election or appointment of the Mayor and the Commission shall, by majority vote, appoint one (1) of the Commissioners to serve as interim Vice Mayor.
- (b) The Commissioner serving as interim Mayor, or Vice Mayor, shall serve as Mayor, or Vice Mayor, until the newly elected or

appointed Mayor, or Vice Mayor, is sworn in as Mayor, or Vice Mayor. The interim Mayor, or Vice Mayor, shall return to the position of Commissioner previously held to serve the remainder of his or her unexpired term.

F. In the event of the death, resignation, or removal of the Vice Mayor, the Commission shall, by majority vote, elect one (1) of the Commissioners to serve as Vice Mayor.

G. *Extraordinary vacancies.* In the event that a majority of the members of the Commission are removed by death, disability, law or forfeiture of office, the governor shall make interim Commission appointments and the Commission shall call a special election as provided in D. above and such election shall be held in the same manner as the election held pursuant to the previous City Charter.

(Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2004-38, § 1, 7-27-04, Election of 11-2-04; Res. No. 2006-45, Pt. D, 8-28-06, Election of 11-7-06)

### 3.071. Removals and suspensions from office of City Commission.

The Mayor and any City Commissioner may be removed from office by the electors of the City of North Bay Village pursuant to the provisions of § 100.361. Florida Statutes, and are further subject to removal and/or suspension from office pursuant to the provisions of § 112.51. Florida Statutes.

### 3.08. Ordinances and resolutions.

A. *Action requiring an ordinance.* In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the Commission shall be by ordinance which:

1. Adopt or amend an administrative code or establish, alter or abolish any city department or agency;
2. Establish a rule or regulation the violation of which carries a penalty;



## City of North Bay Village

### Administrative Offices

1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141  
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

### **CITY OF NORTH BAY VILLAGE MEMORANDUM**

**DATE:** February 3, 2012

**TO:**

Vice Mayor Eddie Lim  
Commissioner Frank Rodriguez  
Commissioner Paul Vogel  
Commissioner Richard Chervony

**FROM:** Dennis Kelly  
City Manager

**SUBJECT:** Ordinance Setting the Qualifying Dates for the November 6, 2012  
General Election

---

#### **RECOMMENDATION:**

It is recommended that the City Commission adopt the Ordinance on first reading to set the November 6, 2012 candidates qualifying dates.

#### **REASONS:**

Section 5.05 of the City Charter provides that candidates for the office of Mayor or Commissioner shall qualify with the City Clerk no earlier than 75 days and no later than 45 days prior to the date of the General Election.

Florida Statutes 101.62(4)(a) requires absentee ballots to be mailed to overseas voters 45 days prior to the General Election.

Mayor  
Connie Leon-Kreps

Vice-Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

**11AC1)**

Weiss Serota Helfman  
Pastoriza Cole & Boniske, P.L.

# Memo

To: Mayor and City Commission  
From: Kathryn Mehaffey  
City Attorney's Office  
Date: February 8, 2012  
Re: Flood Damage Prevention Ordinance

---

The Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of the City, which areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. FEMA operates the National Flood Insurance Program (NFIP). The NFIP is a federally-subsidized flood damage insurance program administered by FEMA. In order for residents and business owners to be eligible to purchase flood insurance, communities must exchange a commitment to manage development in their special flood hazard areas according to minimum federal regulations. These areas are delineated by FEMA on Flood Insurance Rate Maps. The City was accepted for participation in the NFIP on September 29, 1972 and over the years the City has worked to continue to meet the Federal requirements necessary for continued participation in the program.

Within Florida, Chapter 553, Florida Statutes, provides a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*. On March 15, 2012, the 2010 *Florida Building Code* will go into effect. This 2010 Code, unlike previous versions, incorporates floodplain management regulations. These regulations will supersede local regulations and local governments throughout Florida are being required to amend their codes to be consistent with the *Florida Building Code*. The Florida Division of Emergency Management (DEM) has been working to coordinate the FBC provisions and local code issues.

11801

According to the DEM, the floodplain management regulations of the 2010 *Florida Building Code* were developed with participation by a regional representative from FEMA and they are consistent with the minimum requirements of the NFIP program. In addition, Section 553.73(5), Florida Statutes, allows adoption of local administrative and local technical amendments to the *Florida Building Code* to implement the National Flood Insurance Program and incentives.

The attached Ordinance was developed from the model requirements provided by DEM which are consistent with the *Florida Building Code* and includes local administrative and technical amendments to the *Florida Building Code* in order to allow the City to implement the regulations. Adoption of the Ordinance by March 15, 2012 will ensure continued consistency with the *Florida Building Code*. The attached Ordinance is currently being reviewed by both DEM and FEMA to ensure consistency with the *Florida Building Code* and compliance with FEMA requirements. Any recommended revisions from these agencies will be brought to the Commission at second reading.

11B(2)



## City of North Bay Village

Administrative Offices

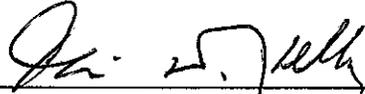
1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

### MEMORANDUM City of North Bay Village

**DATE:** February 8, 2012

**TO:** Yvonne P. Hamilton, CMC  
City Clerk

**FROM:**   
Dennis Kelly, City Manager

**SUBJECT:** Introduction of Resolution

---

Pursuant to Section 3.08 of the City Charter, I hereby introduce the following Ordinance:

**AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY REPEALING CHAPTER 6, FLOOD DAMAGE PREVENTION; AMENDING THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES BY REPEALING AND REPLACING CHAPTER 154, "FLOOD DAMAGE PREVENTION"; TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO ADOPT LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)**

Accordingly, please place the item on the next available agenda.

Mayor  
Connie Leon-Kreps

Vice-Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

**11B(3)**

ORDINANCE NO. 2012- \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY REPEALING CHAPTER 6, FLOOD DAMAGE PREVENTION; AMENDING THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES BY REPEALING AND REPLACING CHAPTER 154, "FLOOD DAMAGE PREVENTION"; TO ADOPT FLOOD HAZARD MAPS, DESIGNATE A FLOODPLAIN ADMINISTRATOR, ADOPT PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO ADOPT LOCAL ADMINISTRATIVE AMENDMENTS AND LOCAL TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE PERTAINING TO THE DESIGN AND CONSTRUCTION OF BUILDINGS AND STRUCTURES IN FLOOD HAZARD AREAS; PROVIDING FOR APPLICABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)**

**WHEREAS**, the Legislature of the State of Florida has, in Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of North Bay Village (the "City") and such areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare, and

**WHEREAS**, the City was accepted for participation in the National Flood Insurance Program on September 29, 1972 and the City Commission desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

**WHEREAS**, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of a state building code, called the *Florida Building Code*; and

**WHEREAS**, Chapter 553, Florida Statutes, allows for local technical amendments to the *Florida Building Code* which provide for more stringent requirements than those specified in the Code; and

**WHEREAS**, section 553.73(5), Florida Statutes, allows adoption of local administrative and local technical amendments to the *Florida Building Code* to implement the National Flood Insurance Program and incentives; and

**WHEREAS**, the City Commission has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *Florida Building Code*: and

**WHEREAS**, the City Commission has determined that it is in the public interest to adopt the proposed local technical amendments and proposed local administrative amendments to the 2010 *Florida Building Code* and that the proposed amendments are not more stringent than necessary to address the need identified, do not discriminate against materials, products or construction techniques of demonstrated capabilities, are in compliance with section 553.73(4)(a), Florida Statutes, where applicable, and the proposed amendments are in compliance with section 553.73(5), Florida Statutes, where applicable.

**WHEREAS**, the City Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** Each of the above stated recitals is true and correct and incorporated herein by this reference.

**Section 2. Repeal.** Chapter 6, "Flood Damage Prevention", of the Consolidated Land Development Regulations of The City of North Bay Village is hereby repealed in its entirety.

**Section 3. Repeal and Replacement.** Chapter 154, "Flood Damage Prevention", of the City of North Bay Village Code of Ordinances is hereby repealed in its entirety and replaced as follows:

## **CHAPTER 154. FLOODPLAIN MANAGEMENT**

### **ARTICLE I. ADMINISTRATION**

#### **SECTION 1-1. GENERAL**

**154.001 Title.** These regulations shall be known as the *Floodplain Management Ordinance* of the City of North Bay Village (the "City"), hereinafter referred to as "this Chapter."

**154.002 Scope.** The provisions of this Chapter shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the *Florida Building Code*; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

**154.003 Intent.** The purposes of this Chapter and the flood load and flood resistant construction requirements of the *Florida Building Code* are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

1. Minimize unnecessary disruption of commerce, access and public service during times of flooding;
2. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
3. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
4. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
5. Minimize damage to public and private facilities and utilities;
6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
7. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
8. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

**154.004 Coordination with the *Florida Building Code*.** Pursuant to the requirement established in state statute that local communities administer and enforce the *Florida Building Code*, the City Commission of the City does hereby acknowledge that the *Florida Building Code* contains certain provisions that apply to the design and construction of buildings and structures in flood hazard areas. Therefore, this Chapter is intended to be administered and enforced in conjunction with the *Florida Building Code*. Where section numbers of the *Florida Building Code* are cited, the section numbers refer to the 2010 *Florida Building Code*. If cited section numbers are changed in subsequent editions of the code, then the section numbers shall refer to comparable sections. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the *Florida Building Code*.

**154.005 Warning.** The degree of flood protection required by this Chapter and the *Florida Building Code*, as amended by this community, is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

**154.006 Disclaimer of Liability.** This Chapter shall not create liability on the part of the City or by any officer or employee thereof for any flood damage that results from reliance on this Chapter or any administrative decision lawfully made thereunder.

## **SECTION 1-2 APPLICABILITY**

**154.010 General.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, requirements of this Chapter conflict with the requirements of the *Florida Building Code*, the most restrictive shall govern.

**154.011 Areas to which this Chapter applies.** This Chapter shall apply to all flood hazard areas within the City as established in Section 154.012 of this Chapter.

**154.012 Basis for establishing flood hazard areas.** The Flood Insurance Study for the City of North Bay Village dated September 11, 2009, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this Chapter and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City Building Department.

**(A) Submission of additional data to establish flood hazard areas.** To establish flood hazard areas and base flood elevations, pursuant to Section 1-5 of this Chapter the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the City indicates that ground elevations:

1. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as flood hazard area and subject to the requirements of this Chapter and, as applicable, the requirements of the *Florida Building Code*.
2. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

**154.013 Other laws.** The provisions of this Chapter shall not be deemed to nullify any provisions of local, state or federal law.

**154.014 Abrogation and greater restrictions.** This Chapter supersedes any city Code or ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing city codes or ordinances including land development regulations, zoning ordinances, stormwater management regulations, and the *Florida Building Code*. In the event of a conflict between this Chapter and any other provision, the more restrictive shall govern. This Chapter shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this Chapter.

**154.015 Interpretation.** In the interpretation and application of this Chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

### **SECTION 1-3 DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR**

**154.020 Designation.** The **City Building Official** is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

**154.021 General.** The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this Chapter. The Floodplain Administrator shall have the authority to render interpretations of this Chapter consistent with the intent and purpose of this Chapter and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this Chapter without the granting of a variance pursuant to Section 1-7 of this Chapter.

**154.022 Applications and permits.** The Floodplain Administrator, in coordination with other pertinent offices of the City, shall:

1. Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
2. Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this Chapter;
3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
4. Provide available flood elevation and flood hazard information;
5. Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
6. Review applications to determine whether proposed development will be reasonably safe from flooding;

7. Review applications to determine whether all necessary permits and approvals have been obtained from any federal, state, or local agencies from which prior or concurrent approval is required, including but not limited to the following:
  - a. The South Florida Water Management District; section 373.036, F.S.
  - b. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
  - c. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
  - d. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
8. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the *Florida Building Code*, when compliance with this Chapter is demonstrated, or disapprove the same in the event of noncompliance; and
9. Coordinate with and provide comments to the Building Official to assure that applications for building permits for buildings and structures in flood hazard areas comply with the requirements of this Chapter.

**154.023 Determinations for existing buildings and structures.** For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant provisions of the *Florida Building Code* and this Chapter is required.

**154.024 Modifications of the strict application of the requirements of the *Florida Building Code*.** The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the *Florida Building Code* to determine whether such requests require the granting of a variance pursuant to Section 1-7 of this Chapter.

**154.025 Coordination of Notices and orders.** The Floodplain Administrator and the Building Official shall coordinate the issuance of all necessary notices or orders to ensure compliance with this Chapter and the flood resistant construction requirements of the *Florida Building Code*.

**154.026 Inspections.** The Floodplain Administrator shall make the required inspections as specified in Section 1-6 of this Chapter for development that is not subject to the *Florida Building Code*. For buildings and structures subject to the *Florida Building Code*, the Floodplain Administrator shall make the required inspections of structures specified in Section 1-6 of this Chapter and *Florida Building Code, Building Section 110*. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

**154.027 Other duties of the Floodplain Administrator.** The Floodplain Administrator shall have other duties, including but not limited to:

1. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 154.023 of this Chapter;
2. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);
3. Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within 6 months of such data becoming available;
4. Review required design certifications and documentation of elevations specified by this Chapter and the *Florida Building Code* and this Chapter to determine that such certifications and documentations are complete;
5. Notify the Federal Emergency Management Agency when the corporate boundaries of the City are modified; and

**154.028 Floodplain management records.** Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this Chapter and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this Chapter; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement

actions taken pursuant to this Chapter and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the City Building Department.

## SECTION 1-4 PERMITS

**154.030 Permits required.** Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this Chapter which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this Chapter and all other applicable codes and regulations has been satisfied.

**154.031 Floodplain development permits or approvals.** Floodplain development permits or approvals shall be issued pursuant to this Chapter for any development activities not subject to the requirements of the *Florida Building Code*. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

**(A) Buildings, structures and facilities exempt from the *Florida Building Code*.** Pursuant to the requirements of federal regulation for the National Flood Insurance Program (44 C.F.R. Section 60.3), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the *Florida Building Code, Building Section 154.011* and any further exemptions provided by law, are subject to the requirements of this Chapter:

1. Temporary buildings or sheds used exclusively for construction purposes.
2. Mobile or modular structures used as temporary offices.
3. Those structures or facilities of electric utilities, as defined in section 366.02, F.S., which are directly involved in the generation, transmission, or distribution of electricity.
4. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
5. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

**154.032 Application for a permit or approval.** To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

1. Identify and describe the development to be covered by the permit or approval.
2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.

3. Indicate the use and occupancy for which the proposed development is intended.
4. Be accompanied by a site plan or construction documents as specified in Section 1-5 of this Chapter.
5. State the valuation of the proposed work.
6. Be signed by the applicant or the applicant's authorized agent.
7. Give such other data and information as required by the Floodplain Administrator.

**154.033 Validity of permit or approval.** The issuance of a floodplain development permit or approval pursuant to this Chapter shall not be construed to be a permit for, or approval of, any violation of this Chapter, the *Florida Building Codes*, or any other Chapter of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

**154.033 Expiration.** A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

**154.034 Suspension or revocation.** The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this Chapter or any other Chapter, regulation or requirement of this community.

## SECTION 1-5 SITE PLANS AND CONSTRUCTION DOCUMENTS

**154.040 Information for development in flood hazard areas.** The site plan or construction documents for any development subject to the requirements of this Chapter shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), and base flood elevation(s).
2. Where flood hazard areas, base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 154.041 of this Chapter.
3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 154.041 of this Chapter.
4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

3. Indicate the use and occupancy for which the proposed development is intended.
4. Be accompanied by a site plan or construction documents as specified in Section 1-5 of this Chapter.
5. State the valuation of the proposed work.
6. Be signed by the applicant or the applicant's authorized agent.
7. Give such other data and information as required by the Floodplain Administrator.

**154.033 Validity of permit or approval.** The issuance of a floodplain development permit or approval pursuant to this Chapter shall not be construed to be a permit for, or approval of, any violation of this Chapter, the *Florida Building Codes*, or any other Chapter of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

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**154.034 Suspension or revocation.** The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this Chapter or any other Chapter, regulation or requirement of this community.

## **SECTION 1-5 SITE PLANS AND CONSTRUCTION DOCUMENTS**

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1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), and base flood elevation(s).
2. Where flood hazard areas, base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 154.041 of this Chapter.
3. Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 154.041 of this Chapter.
4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.

6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
7. Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this Chapter.

**154.041 Information in flood hazard areas without base flood elevations (approximate Zone A).** Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

1. Obtain, review, and provide to applicants base flood elevation data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation data available from a federal or state agency or other source; or
2. Require the applicant to develop base flood elevation data prepared in accordance with currently accepted engineering practices; or
3. Where base flood elevation data are not available from another source, assume the base flood elevation is not less than two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.
4. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

**154.042 Additional analyses and certifications.** As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses prepared and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

1. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 154.043 of this Chapter and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
2. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have not been designated, a floodway encroachment analysis which demonstrates that the cumulative effect of the proposed development, when combined

with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.

3. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 5.4 of this Chapter.

**154.043 Submission of additional data.** When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

## **SECTION 1-6 INSPECTIONS**

**154.045 General.** Development for which a permit or approval is required shall be subject to inspection.

**(A) Development other than buildings and structures.** The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this Chapter and the conditions of issued floodplain development permits or approvals.

**(B) Buildings and structures.** The Floodplain Administrator shall inspect buildings and structures subject to the *Florida Building Code* to determine compliance with the flood load and flood resistant construction requirements of issued building permits and the *Florida Building Code*. The Floodplain Administrator shall inspect buildings and structures exempt from the *Florida Building Code* to determine compliance with the requirements of this Chapter and the conditions of issued floodplain development permits or approvals.

**(C) Buildings and structures exempt from the *Florida Building Code*, lowest floor inspection.** Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building or structure exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain Administrator:

1. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
2. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 154.041 of this Chapter, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the

owner's authorized agent.

**(D) Buildings and structures exempt from the *Florida Building Code*, final inspection.** As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 154.045(c) of this Chapter.

## **SECTION 1-7 VARIANCES AND APPEALS**

**154.050 General.** Pursuant to section 553.73(5), F.S., the City Commission shall hear and decide on requests for appeals and requests for variances from the strict application of the requirements of this Chapter and the flood resistant construction requirements of the *Florida Building Code*.

**154.051 Appeals.** The City Commission shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator or the Building Official in the administration and enforcement of this Chapter or the flood load and flood resistant construction requirements of the *Florida Building Code*. Any person aggrieved by the decision of City Commission may appeal such decision to the Circuit Court, as provided by Florida Statutes.

**154.052 Limitations on authority to grant variances.** The City Commission shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 154.055 of this Chapter, the conditions of issuance set forth in Section 154.056 of this Chapter, and the comments and recommendations of the Floodplain Administrator and the Building Official. The City Commission has the right to attach such conditions as it deems necessary to further the purposes and objectives of this Chapter. Pursuant to section 553.73(5), F.S., variances shall not be granted to the requirements of Section 3109 of the *Florida Building Code* applicable to structures seaward of the coastal construction control line.

**(A) Restrictions in floodways.** A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 154.042 of this Chapter.

**154.053 Historic buildings.** A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the proposed work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the *Florida Building Code*.

**154.054 Functionally dependent uses.** A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this Chapter, provided the variance meets the requirements of Section 154.052(A), is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

**154.055 Considerations for issuance of variances.** In reviewing requests for variances, the City Commission shall consider all technical evaluations, all relevant factors, all other applicable provisions of the *Florida Building Code*, this Chapter, and the following:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
4. The importance of the services provided by the proposed development to the community;
5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
6. The compatibility of the proposed development with existing and anticipated development;
7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
10. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets and bridges.

**154.056 Conditions for issuance of variances.** Variances shall be issued only upon:

1. Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site render any provision of this Chapter or the elevation standards of the *Florida Building Code* inappropriate;
2. Determination by the City Commission that:
  - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;
  - b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and

ordinances; and

- c. The variance is the minimum necessary, considering the flood hazard, to afford relief;
3. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of the Court in such a manner that it appears in the chain of title of the affected parcel of land; and
4. If the request is for a variance to allow construction of the lowest floor of a building, or substantial improvement of a building, below the elevation required by the *Florida Building Code* or required by this Chapter, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25 for \$100 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

## SECTION 1-8 VIOLATIONS

**154.060 Violations.** Any construction or development in a flood hazard area that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this Chapter or the *Florida Building Code*, as applicable, shall be deemed a violation of this Chapter. A building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this Chapter or the *Florida Building Code* is presumed to be a violation until such time as that documentation is provided.

**154.061 Authority.** For development that is not within the scope of the *Florida Building Code* but that is regulated by this Chapter and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

**154.062 Unlawful continuance.** Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

## ARTICLE 2 DEFINITIONS

### SECTION 2-1 GENERAL

**154.070 Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Chapter, have the meanings shown in this section.

**154.071 Terms defined in the *Florida Building Code*.** Where terms are not defined in this Chapter and are defined in the *Florida Building Code*, such terms shall have the meanings ascribed to them in that code.

**154.072 Terms not defined.** Where terms are not defined in this Chapter or the *Florida Building Code*, such terms shall have ordinarily accepted meanings such as the context implies.

## **SECTION 2-2 DEFINITIONS**

**154.075** For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Alteration of a watercourse.** A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**Appeal.** A request for a review of the Floodplain Administrator or Building Official's interpretation of any provision of this Chapter or a request for a variance.

**ASCE 24.** A standard titled *Flood Resistant Design and Construction* that is referenced by the *Florida Building Code*. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

**Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 1612.2.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

**Base flood elevation.** The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 1612.2.]

**Basement.** The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 1612.2.]

**Building Official.** The officer or other designated authority charged with the administration and enforcement of the *Florida Building Code*, or a duly authorized representative. [Also defined in FBC, B, Section 1612.2.]

**Building permit.** An official document or certificate issued by the community which authorizes performance of specific activities that are determined to be compliant with the *Florida Building Code*.

**Design flood.** The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

1. Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
2. Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Design flood elevation.** The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section 1612.2.]

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

**Encroachment.** The advancement or infringement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

**Existing building and existing structure.** Any buildings and structures for which the "start of construction" commenced before July 18, 1974. [Also defined in FBC, B, Section 1612.2.]

**Federal Emergency Management Agency (FEMA).** The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

**Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 1612.2.]

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood damage-resistant materials.** Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Also defined in FBC, B, Section 1612.2.]

**Flood hazard area.** The greater of the following two areas: [Also defined in FBC, B, Section 1612.2.]

1. The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
2. The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Flood Insurance Rate Map (FIRM).** The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk

premium zones applicable to the community. [Also defined in FBC, B, Section 1612.2.]

**Flood Insurance Study (FIS).** The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 1612.2.]

**Floodplain Administrator.** The office or position designated and charged with the administration and enforcement of this Chapter (may be referred to as the Floodplain Manager).

**Floodplain development permit or approval.** An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this Chapter.

**Floodway.** The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Also defined in FBC, B, Section 1612.2.]

**Floodway encroachment analysis.** An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

**Florida Building Code.** The family of codes adopted by the Florida Building Commission, including: *Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.*

**Functionally dependent use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

**Historic structure.** Any structure that is determined eligible for the exception to the flood hazard area requirements of the *Florida Building Code, Existing Building*, Chapter 11 Historic Buildings.

**Letter of Map Change (LOMC).** An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing

that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

**Light-duty truck.** As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
3. Available with special features enabling off-street or off-highway operation and use.

**Lowest floor.** The floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the *Florida Building Code* or ASCE 24. [Also defined in FBC, B, Section 1612.2.]

**Market value.** The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this Chapter, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

**New construction.** For the purposes of administration of this Chapter and the building code, structures for which the "start of construction" commenced on or after July 18, 1974 and includes any subsequent improvements to such structures.

**Nonresidential.** Any building or structure or portion thereof that is not classified residential in accordance with the *Florida Building Code, Building* (Residential Group R or Institutional Group I) and ASCE 24. [Also see definition in ASCE 24.]

**Park trailer.** A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in 15C-1.0101, F.A.C.]

**Recreational vehicle.** A vehicle, including a park trailer, which is: [Defined in section 320.01(b), F.S.)

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Special flood hazard area.** An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. The term also includes areas shown on other flood hazard maps, if such maps are adopted by the City or otherwise legally designated. [Also defined in FBC, B Section 1612.2.]

**Start of construction.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section 1612.2.]

**Substantial damage.** Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section 1612.2.]

**Substantial improvement.** Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the

market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section 1612.2.]

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 1-7 of this Chapter.

**Variance.** A grant of relief from the requirements of this Chapter, or the flood load and flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would not otherwise be permitted by this Chapter or the *Florida Building Code*.

**Watercourse.** A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

## **ARTICLE 3 FLOOD RESISTANT DEVELOPMENT**

### **SECTION 3-1 BUILDINGS AND STRUCTURES**

**154.080 Design and construction of buildings and structures exempt from the *Florida Building Code*.** Pursuant to Section 154.031(A) of this Chapter, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section 3-7 of this Chapter.

### **SECTION 3-2 SUBDIVISIONS**

**154.081 Minimum requirements.** Subdivision proposals, shall be reviewed to determine that:

1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
3. Adequate drainage is provided to reduce exposure to flood hazards.

**154.082 Subdivision plats.** Where any portion of proposed subdivisions lies within a flood hazard area, the following shall be required:

1. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats and final plats;
2. Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the information required in Section 154.041 of this Chapter; and
3. Compliance with the site improvement and utilities requirements of Section 3-3 of this Chapter.

### **SECTION 3-3 SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS**

**154.083 Minimum requirements.** All proposed new development shall be reviewed to determine that:

1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and
3. Adequate drainage is provided to reduce exposure to flood hazards.

**154.084 Sanitary sewage facilities.** All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into flood waters, and impairment of the facilities and systems.

**154.085 Water supply facilities.** All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

**154.086 Limitations on sites in regulatory floodways.** Development, site improvements, and land disturbing activity involving fill or regrading shall not be authorized in the regulatory floodway unless the floodway encroachment analysis required in Section 154.042(1) of this Chapter demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

**154.087 Limitations on placement of fill.** Subject to the limitations of this Chapter, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures, fill shall comply with the requirements of the *Florida Building Code*.

### **SECTION 3-4. RESERVED**

## SECTION 3-5 RECREATIONAL VEHICLES AND PARK TRAILERS

**154.090 Temporary placement.** Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

1. Be on the site for fewer than 180 consecutive days; or
2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

**154.091 Permanent placement.** Recreational vehicles and park trailers that do not meet the limitations in Section 154.090 of this Chapter for temporary placement shall not be permitted in flood hazard areas.

## SECTION 3-6 TANKS

**154.095 Underground tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

**154.096 Above-ground tanks, not elevated.** Above-ground tanks that do not meet the elevation requirements of Section 154.097 of this Chapter shall be permitted provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

**154.097 Above-ground tanks, elevated.** Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

**154.098 Tank inlets and vents.** Tank inlets, fill openings, outlets and vents shall be:

1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

## SECTION 3-7 OTHER DEVELOPMENT

**154.100 General requirements for other development.** All development, including man-made

changes to improved or unimproved real estate for which specific provisions are not specified in this Chapter or the *Florida Building Code*, shall:

1. Be located and constructed to minimize flood damage;
2. Meet the limitations of Section 154.086 of this Chapter if located in a regulated floodway;
3. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
4. Be constructed of flood damage-resistant materials; and
5. Have mechanical, plumbing, and electrical systems above the design flood elevation, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

**154.101 Fences in regulated floodways.** Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 154.086 of this Chapter.

**154.102 Retaining walls, sidewalks and driveways in regulated floodways.** Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 154.086 of this Chapter.

**154.103 Roads and watercourse crossings in regulated floodways.** Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 154.086 of this Chapter. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 154.042(3) of this Chapter.

**Section 4. Amendments to the Florida Building Code, Building.** The following local administrative amendments to the *Florida Building Code, Building* are hereby approved.

Sec. 101.5, Florida Building Code, Building

Add a new Sec. 101.5 as follows:

**101.5 Warning, flood hazards.** The degree of flood protection required by the *Florida Building Code*, as amended by the City of North Bay Village, is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This code does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage.

Sec. 102.1.2, Florida Building Code, Building

Add a new Sec. 102.1.2 as follows:

**102.1.2 Flood hazard areas.** Pursuant to the requirements of federal regulation for the National Flood Insurance Program (44 C.F.R. Section 60.3), buildings, structures and facilities identified in Section 102.2 as exempt from the *Florida Building Code* are subject to the requirements of the City of North Bay Village local floodplain management regulations and a floodplain development permit or approval shall be required pursuant to that regulation.

Sec 102.2.2, Florida Building Code, Building

Amend Sec. 102.2.2 to add the following new item:

**7. The building or structure is installed on a foundation that complies with the flood resistant requirements for the new location if in a flood hazard area**

Sec. 104.1.2, Florida Building Code, Building

Add a new Sec. 104.1.2 as follows:

**104.1.2 Assignment of duties related to flood hazard areas.** Pursuant to section 553.73(5), F.S., the building official is authorized to assign duties to enforce all or part of the flood-related code provisions to the Floodplain Administrator. The specific assigned duties shall be identified and coordinated with said office.

Sec. 104.7.1, Florida Building Code, Building

Add a new Sec. 104.7.1 as follows:

**104.7.1 Department records for permits in flood hazard areas.** The Building Official shall provide to the Floodplain Administrator the following records for building permits issued in flood hazard areas: records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code*; and records of enforcement actions taken pursuant to the flood resistant construction requirements of the *Florida Building Code*.

Sec. 104.10.1, Florida Building Code, Building

Add a new Sec. 104.10.1 as follows:

**104.10.1 Modifications of the strict application of the requirements of the Florida Building Code.** The Building Official shall coordinate with the Floodplain Administrator to review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to Section 117 and the local floodplain management regulations.

Sec. 104.12, Florida Building Code, Building

Add a new Sec. 104.12 as follows:

**104.12 Coordination with the Floodplain Administrator.** The Building Official shall coordinate with the Floodplain Administrator for identification of flood hazard areas; flood elevation and flood hazard information; interpretation of flood hazard area boundaries; determinations for existing building and structures; consideration of variance requests; and other duties set forth in the local floodplain management regulations.

**104.12.1 Determinations for existing buildings and structures in flood hazard areas.** For applications for building permits for work on existing buildings and structures in flood hazard areas, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, reconstructions, and any other improvement of or work on such buildings and structures, the Building Official shall coordinate with the Floodplain Administrator to:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the proposed improvement, or the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant provisions of the Florida Building Code is required.

Sec. 107.2.5, Florida Building Code, Building

Add a new Sec. 107.2.5.1 as follows:

**107.2.5.1 Information for buildings and structures in flood hazard areas.** The site plans for buildings and structures in flood hazard areas shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, floodway boundaries and flood zones, and the design flood elevation.
2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study (FIS), they shall be established in accordance with Section 1612.3 or such information that may be available from federal, state, or other sources may be used provided the Floodplain Administrator determines it is applicable pursuant to the local floodplain management regulations.
3. Where multiple flood zones are designated or where multiple base flood elevations affect the specific location of a building or structure, the more restrictive flood zone and the highest flood elevation at that location shall be identified and shall govern the design of the building or structure.
4. Surveyed elevation of the ground at the specific location of a building or structure, in relation to the datum specified on the community's legally designated flood hazard map, prepared and sealed by a Florida licensed professional surveyor.
5. Where the placement of fill is proposed: the amount, type, and source of fill material and compaction specifications; a description of the intended purpose of the fill areas; evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

**107.2.5.2 Additional information for existing buildings and structures in flood hazard areas.** In addition to the information necessary to demonstrate compliance with the flood resistant construction requirements of the *Florida Building Code*, the site plan or construction documents for proposed work on existing buildings and structures located in whole or in part in flood hazard areas shall include:

1. If the building or structure was constructed after July 18, 1974, evidence that the proposed work will not alter any aspect of the building or structure that was required for compliance with the floodplain management requirements in effect at the time the building or structure was permitted.
2. If the proposed work is a horizontal addition, a description of the addition and whether it will be structurally connected or not structurally connected to the existing building or structure, and the nature and extent of all other work proposed for the building, if any.
3. If requested by the Building Official, documentation of the market value of the building or structure before the start of construction of the proposed improvement, or if the proposed work is repair of damage, before the damage occurred.
4. Documentation of the actual cost of all proposed work, including the cost of all work necessary to repair and restore damage to the before-damage condition, regardless of the amount of work that will be performed. The value of labor performed by the owner or volunteers shall be valued at market labor rates and the value of donated or

discounted materials shall be valued at market rates.

Sec. 107.6.1, Florida Building Code, Building

Add a new Sec. 107.6.1 as follows:

**107.6.1 Building permits issued on the basis of an affidavit.** Pursuant to the requirements of federal regulation (44 C.F.R. Section 60.3) for the National Flood Insurance Program, the authority granted to the Building Official to issue permits, to rely on inspections, and to accept plans and construction documents on the basis of affidavits and plans submitted pursuant to 105.14 and Section 107.6, shall not extend to the flood load and flood resistance construction requirements of the *Florida Building Code*.

Sec. 108.2.1, Florida Building Code, Building

Add a new Sec. 108.2.1 as follows:

**108.2.1 Flood hazard areas.** Temporary structures, temporary storage, and temporarily placed tanks shall conform to the requirements of Section 1612.4.1 of the *Florida Building Code, Building*.

Sec. 117, Florida Building Code, Building

Add a new Sec. 117 as follows:

**117 VARIANCES IN FLOOD HAZARD AREAS**

**117.1 Flood hazard areas.** Pursuant to section 553.73(5), F.S., the variance procedures adopted in the local floodplain management regulations shall apply to requests submitted to the Building Official for variances to the flood load and flood resistant provisions of the *Florida Building Code*.

Sec. 202, Florida Building Code, Building

Add new definitions to Sec. 202 as follows:

**Floodplain Administrator.** The office or position designated and charged with the administration and enforcement of the local floodplain management regulations (may be referred to as the Floodplain Manager).

**Floodplain development permit or approval.** An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes

performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with the local floodplain management regulations.

**Market Value.** The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in the building code and the local floodplain management regulations, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

**Variance.** A grant of relief from the requirements of the flood load and flood resistant construction requirements of the *Florida Building Code*, which permits construction in a manner that would otherwise not be permitted by the building code.

Sec. 1612.2, Florida Building Code, Building

Modify a definition as follows:

**Local floodplain management regulations.** The ~~An~~ *Flood Damage Prevention Ordinance, Ordinance 2012-XX* or regulation adopted by the *City of North Bay Village* pursuant to the authority granted to local governments by Title 44 Code of Federal Regulations, Sections 59 and 60 for participation in the National Flood Insurance Program.

**Section 5. Technical Amendments to the Florida Building Code.** The following local technical amendments to the *Florida Building Code, Building* are hereby approved.

Sec. 1612.3, Florida Building Code, Building

In Sec. 1612.3, insert required information as follows:

**1612.3 Establishment of flood hazard areas.** To establish flood hazard areas, the applicable governing authority shall, by local floodplain management regulations, adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for The City of North Bay Village," dated September 11, 2009 as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this Section.

Sec. 1612.4.1, Florida Building Code, Building

Add a new Sec. 1612.4.1 as follows:

**1612.4.1 Temporary structures and temporary uses.** Temporary structures and temporary uses, including temporary tanks, shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood. Temporary structures and temporary uses shall not be located in floodways unless the applicant provides a floodway encroachment analysis pursuant to the local floodplain management regulations.

Sec. 1612.4.2, Florida Building Code, Building

Add a new Sec. 1612.4.2 as follows:

**1612.4.2 Utility and Miscellaneous Group U.** Utility and Miscellaneous Group U structures, including substantial improvement of such structures, shall comply with the requirements of this section.

**Exception:** If not walled and roofed, shall

1. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
2. Have flood-damage resistant materials used below the design flood elevation; and
3. Have mechanical, plumbing, and electrical systems that meet the requirements of ASCE 24.

Sec. 1612.4.3, Florida Building Code, Building

Add a new Sec. 1612.4.3 as follows:

**1612.4.3 Public and private swimming pools.** Swimming pools shall be designed and constructed in accordance with ASCE 24. Above-ground pools, on-ground pools, and in-ground pools that involve placement of fill and that are located in designated floodways or in riverine flood hazard areas with base flood elevations but without floodways, shall not be permitted unless the applicant provides a floodway encroachment analysis pursuant to the local floodplain management regulations.

**1612.4.3.1 Structures associated with swimming pools.** Swimming pools shall be permitted to be surrounded with open latticework and screened enclosures. Swimming pools for which the surrounding decks are below the design flood elevation shall be permitted to be surrounded with walled and roofed structures provided such structures are dry floodproofed in accordance with ASCE 24. Structures associated with pools,

including structures to house equipment associated with the pools, shall comply with the requirements of Section 1612.4.

1612.4.3.2 Swimming pools under elevated buildings. Swimming pools shall be permitted under elevated buildings provided the pool deck is level with the existing grade and the area in which the pool is located is not fully enclosed by walls, including walls consisting of transparent materials such as glass. The area in which a pool is located under an elevated building shall be permitted to be surrounded by open latticework and screening.

**Section 6. Technical Amendments to the Florida Building Code, Existing Building.**

The following technical amendments to the *Florida Building Code, Existing Building* are hereby approved.

Sec. 202, Florida Building Code, Existing Building

Modify a definition as follows:

**Local floodplain management ordinance.** The An Flood Damage Prevention Ordinance, Ordinance 2012-XX adopted by the City of North Bay Village pursuant to the authority granted to local governments by Title 44 Code of Federal Regulations, Sections 59 and 60 for participation in the National Flood Insurance Program.

**Section 7. Technical Amendments to the Florida Building Code, Residential.**

The following local technical amendments to the *Florida Building Code, Residential* are hereby approved.

Table R301.2(1) Climatic and Geographic Design Criteria, Florida Building Code, Residential

In Sec. Table R301.2(1), pursuant to footnote (g), insert required information in the "Flood Hazards" cell as follows:

- (a) July 18, 1974,
- (b) September 11, 2009; and
- (c) 12086CO306L, 12086CO307L, 12086CO309L.

Sec. R322.1.12, Florida Building Code, Residential

Add a new Sec. R322.1.12 as follows:

**R322.1.12 Accessory structures, requirements.** Accessory structures, including substantial improvement of such accessory structures, shall comply with the requirements of Section R322.2.

**Exception:** Accessory structures that are detached garages that comply with Section R309.3 and have flood openings in compliance with Section R322.2.2.

**Section 8. Fiscal Impact Statement.** In terms of design, plan application review, construction and inspection of buildings and structures, the cost impact as an overall average is negligible in regard to the local technical amendments because all development has been subject to the requirements of the local floodplain management regulations adopted for participation in the National Flood Insurance Program. In terms of lower potential for flood damage, there will be continued savings and benefits to consumers.

**Section 9. Applicability.** For the purposes of jurisdictional applicability, this ordinance shall apply in the City of North Bay Village. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after March 13, 2012.

**Section 10. Repeal.** That all ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict. Further, that any rule, regulation, ordinance or resolution that purports to regulate firearms in a manner contrary to the preemption provided by Sec. 790.33 F.S., is hereby repealed to the extent preempted and shall be deemed to be stricken from any compilation of rules and regulations for municipal facilities or premises.

**Section 11. Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, and they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 12. Inclusion in the Code.** That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of North Bay Village; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 13. Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

The motion to approve the foregoing Ordinance on first reading was made by \_\_\_\_\_, seconded by \_\_\_\_\_.

**THE VOTES WERE AS FOLLOW:**

Mayor Connie Leon-Kreps \_\_\_\_\_  
Vice Mayor Eddie Lim \_\_\_\_\_  
Commissioner Richard Chervony \_\_\_\_\_  
Commissioner Paul Vogel \_\_\_\_\_

Commissioner \_\_\_\_\_

**APPROVED ON FIRST READING** during a regular session of the City Commission of North Bay Village this \_\_\_\_ day of \_\_\_\_\_, 2012.

**FINAL VOTE ON ADOPTION:**

Mayor Connie Leon-Kreps \_\_\_\_\_  
Vice Mayor Eddie Lim \_\_\_\_\_  
Commissioner Richard Chervony \_\_\_\_\_  
Commissioner Paul Vogel \_\_\_\_\_  
Commissioner \_\_\_\_\_

**PASSED AND ENACTED** by the City Commission of North Bay Village, Florida, this \_\_\_\_\_ of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Connie Leon-Kreps,**  
**Mayor**

\_\_\_\_\_  
**Yvonne Hamilton, CMC**  
**City Clerk**

**APPROVED AS TO FORM FOR THE USE OF  
THE CITY OF NORTH BAY VILLAGE ONLY:**

\_\_\_\_\_  
**City Attorney**  
**Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.**

**11B(35)**

Commissioner \_\_\_\_\_

**APPROVED ON FIRST READING** during a regular session of the City Commission of North Bay Village this \_\_\_\_ day of \_\_\_\_\_, 2012.

**FINAL VOTE ON ADOPTION:**

Mayor Connie Leon-Kreps \_\_\_\_\_  
Vice Mayor Eddie Lim \_\_\_\_\_  
Commissioner Richard Chervony \_\_\_\_\_  
Commissioner Paul Vogel \_\_\_\_\_  
Commissioner \_\_\_\_\_

**PASSED AND ENACTED** by the City Commission of North Bay Village, Florida, this \_\_\_\_\_ of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Connie Leon-Kreps,**  
**Mayor**

\_\_\_\_\_  
**Yvonne Hamilton, CMC**  
**City Clerk**

**APPROVED AS TO FORM FOR THE USE OF  
THE CITY OF NORTH BAY VILLAGE ONLY:**

\_\_\_\_\_  
**City Attorney**  
**Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.**

City of North Bay Village Ordinance: Flood Damage Prevention

**11B(36)**

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## NORTH BAY VILLAGE POLICE DEPARTMENT

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MEMORANDUM #12-01-02

**DATE:** January 18, 2012

**TO:** Mayor Connie Leon-Kreps  
Vice-Mayor Eddie Lim  
Commissioner Richard Chervony  
Commissioner Paul Vogel  
Yvonne Hamilton, City Clerk

**FROM:** Robert J. Daniels, Chief of Police *RJD*

**VIA:** Dennis Kelly, City Manager

**SUBJECT:** FEBRUARY 14, 2012 – REQUEST TO APPROPRIATE AND DISBURSE FEDERAL FORFEITURE FUNDS

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**Background:**

The North Bay Village Police Department participates in an Equitable Sharing Agreement with the Federal Drug Enforcement Administration (DEA) and the United States Department of Justice. Under this agreement, due to our active participation, we can utilize funds and property seized during investigations. After the funds are awarded, we receive our equitable share, which could range from ten to fifty percent. Over the past three years, the Department has received over \$2 million from this partnership. The Department currently has two investigators assigned to DEA. Expenses charged to the Law Enforcement Trust Fund are recommended by the Police Chief periodically as funding becomes available. These expenditures are then approved by the City Commission.

**Discussion:**

The Department is going to enhance the local efforts of the Criminal Investigations/Special Problems Division. Funds to facilitate the expenses for these investigations are estimated at \$40,000.00. Funds will be utilized in accordance with the U.S. Department of Justice Guidelines for Equitable Sharing.

**Recommendation:**

Staff recommends approval to appropriate and disburse Law Enforcement Trust Funds to cover these investigative expenses as they are incurred.

RJD:mjm

11C(1)

Weiss Serota Helfman  
Pastoriza Cole & Boniske, P.L.

# Memo

To: Mayor and City Commission  
From: Kathryn Mehaffey  
City Attorney's Office  
Date: February 8, 2012  
Re: Use of federal forfeiture funds

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We have been asked to review an item for the February 14, 2012 Commission agenda regarding a request from the Chief of Police for appropriation and disbursement of federal forfeiture funds.

Approved federal purposes for the use of these funds are quite broad, and include, amongst other things, temporary law enforcement personnel, law enforcement and detention facilities, overtime for law enforcement operations, training to perform official law enforcement duties, improvements to law enforcement facilities, law enforcement awards and memorials, and equipment and equipment maintenance for law enforcement activities.

The request is for funds to operate criminal investigations within the Criminal Investigations/Special Problems Division of the police force. The Federal requirements for the use of these funds are outlined in *Guide to Equitable Sharing for State and Local Law Enforcement Agencies*, Department of Justice, Criminal Division, Asset Forfeiture and Money Laundering Section, April 2009 ("Guide to Equitable Sharing"). The Guide to Equitable Sharing provides that law enforcement trust fund dollars may be spent in the support of investigations and operations that may further the law enforcement goals and mission. Specifically, use of law enforcement trust fund money for criminal investigations is specifically authorized in Section are Below is the list of expenditures requested by the Interim Police Chief, including an identification of the provision of the federal guidelines which permits the expenditure. VIII.A.1.a. of the Guide to Equitable Sharing.

The proposed expenditure of funds falls within the federal guidelines.

1102



## City of North Bay Village

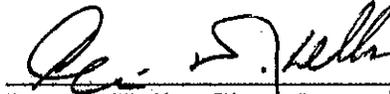
### Administrative Offices

1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141  
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

### MEMORANDUM City of North Bay Village

**DATE:** February 7, 2012

**TO:** Yvonne P. Hamilton, CMC  
City Clerk

**FROM:**   
Dennis Kelly, City Manager

**SUBJECT:** Introduction of Resolution

---

Pursuant to Section 3.08 of the City Charter, I hereby introduce the following Ordinance:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE APPROPRIATION OF \$40,000 OF AVAILABLE NON-APPROPRIATED POLICE FEDERAL FORFEITURE FUNDS FROM THE LAW ENFORCEMENT TRUST FUND (FUND 07); AUTHORIZING THE DISBURSEMENT AND EXPENDITURE OF SUCH FUNDS TO COVER COSTS ASSOCIATED WITH THE CRIMINAL INVESTIGATIONS; PROVIDING FOR AN EFFECTIVE DATE.**

Accordingly, please place the item on the next available agenda.

DK:yph

11C(3)

Mayor  
Connie Leon-Kreps

Vice-Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

RESOLUTION NO: \_\_\_\_\_

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE APPROPRIATION OF \$40,000 OF AVAILABLE NON-APPROPRIATED POLICE FEDERAL FORFEITURE FUNDS FROM THE LAW ENFORCEMENT TRUST FUND (FUND 07); AUTHORIZING THE DISBURSEMENT AND EXPENDITURE OF SUCH FUNDS TO COVER COSTS ASSOCIATED WITH THE CRIMINAL INVESTIGATIONS; PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)**

**WHEREAS**, the United States Code addresses the purposes and procedures to be utilized for the appropriation of Police Federal Forfeiture Funds; and

**WHEREAS**, the Chief of Police of the City of North Bay Village has requested appropriation of \$40,000 of Police Federal Forfeiture Funds from the Law Enforcement Trust Fund (Fund 07), in accordance with federal regulations; and

**WHEREAS**, in accordance with federal forfeiture regulations set forth in the United States Code, the Chief of Police requests disbursement of the funds to cover expenses associated with the Criminal Investigations.

**WHEREAS**, the City Commission finds the appropriation and disbursement of these funds is in the best interests of the City.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1: Recitals.** The foregoing whereas clauses are hereby ratified and confirmed as being true and the same are hereby made a specific part of this Resolution.

**Section 2: Fund Appropriation.** The amount of \$40,000 is hereby appropriated in the Law Enforcement Trust Fund (Fund 07).

**Section 3: Disbursement and Expenditure.** Approval to disburse and expend \$40,000 from the Law Enforcement Trust Fund (Fund 07) to cover expenses associated with Criminal Investigations.

**Section 4: Effective Date.** This Resolution shall take effect immediately upon approval.

A motion to approve the foregoing Resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_.

**Final Votes at Adoption:**

Mayor Connie Leon-kreps \_\_\_\_\_  
Vice Mayor Eddie Lim \_\_\_\_\_  
Commissioner Richard Chervony \_\_\_\_\_  
Commissioner Paul Vogel \_\_\_\_\_

**DULY PASSED AND ADOPTED** this \_\_\_\_ day of February, 2012.

\_\_\_\_\_  
Connie Leon-Kreps  
Mayor

**ATTEST:**

\_\_\_\_\_  
Yvonne P. Hamilton  
City Clerk

**APPROVED AS TO FORM FOR USE BY  
THE CITY OF NORTH BAY VILLAGE ONLY:**

\_\_\_\_\_  
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.  
City Attorney

City of North Bay Village Resolution: Appropriation and Disbursement of Federal Forfeiture Funds-Criminal Investigations/Special Problems Division.

11C(5)

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, OPPOSING FLORIDA HOUSE BILL 4025, FLORIDA SENATE BILL 760, AND ANY COMPANION OR SUBSTITUTE BILLS, PROPOSING TO REPEAL CHAPTER 205 OF THE FLORIDA STATUTES WHICH WOULD ELIMINATE THE LOCAL BUSINESS TAX ACT RESULTING IN A LOSS OF REVENUE TO THE CITY OF NORTH BAY VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY AND COMMISSIONER RICHARD CHERVONY)**

**WHEREAS**, the City of North Bay Village has had a local business tax (formerly Occupational License) program in place since 1983; and

**WHEREAS**, the City of North Bay Village, like most municipalities and counties, require businesses operating within their jurisdictions to obtain a Local Business Tax Receipt and revenues collected in this form assist in sustaining services provided for its citizenry; and

**WHEREAS**, the Florida Legislature have proposed House Bill 4025 and Senate Bill 760 to remove financial regulation on local businesses without any guarantee that they would not approve later legislation to require local businesses to pay such a tax to the State; and

**WHEREAS**, the Florida Legislature provided this revenue source to local governments in 1972 and it has become an integral part of local governments' budgeting; and

**WHEREAS**, the Florida League of Cities is assisting local governments by opposing this legislation and any legislation that would modify, restrict or eliminate the Home Rule Authority of municipalities to levy and collect Local Business Tax Receipts and maintain programs that promote health, safety, and welfare of its citizenry; and

**WHEREAS**, the City of North Bay Village is requesting the Florida Legislature to oppose the repeal of Chapter 205 of Florida Statutes eliminating Home Rule authority to impose Local Business Taxes.

110(1)

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE THAT:**

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

**Section 2. Commission Action.** That the City of North Bay Village, Florida, opposes Florida House Bill 4025 and Florida Senate Bill 760 and any related companion or substitute bills to repeal Chapter 205 of Florida Statutes, which would eliminate the Local Business Tax Act resulting in a loss of revenue.

**Section 3. Request of City Commission.** That the City of North Bay Village, Florida, requests its Legislative delegation to oppose the repeal of Chapter 205 eliminating Home Rule Authority to impose Local Business Taxes.

**Section 4. Direction of City Clerk.** That the City Clerk is directed to transmit a copy of this Resolution to Governor Rick Scott, Miami-Dade County Legislative Delegation, and the Florida League of Cities.

**Section 5. Effective Date.** This Resolution shall take effect immediately upon adoption.

The Resolution was moved for adoption by \_\_\_\_\_. The motion was seconded by \_\_\_\_\_.

**FINAL VOTE AT ADOPTION:**

Mayor Connie Leon-Kreps \_\_\_\_\_  
Vice Mayor Eddie Lim \_\_\_\_\_  
Commissioner Richard Chervony \_\_\_\_\_  
Commissioner Paul Vogel \_\_\_\_\_

**PASSED AND ADOPTED** this \_\_\_\_ day of February, 2012.

\_\_\_\_\_  
Connie Leon-Kreps, Mayor

**11D(2)**

**ATTEST:**

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Yvonne P. Hamilton, CMC  
City Clerk

**APPROVED AS TO FORM FOR THE USE  
OF THE CITY OF NORTH BAY VILLAGE:**

---

Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.  
City Attorney

City of North Bay Village Resolution: Opposing Florida House Bill 4025 and Florida Senate Bill 760 to Repeal Chapter 205,  
Business Tax Receipts.



## City of North Bay Village

Administrative Offices

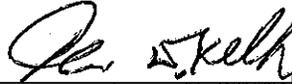
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Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

### MEMORANDUM City of North Bay Village

**DATE:** February 7, 2012

**TO:** Yvonne P. Hamilton, CMC  
City Clerk

**FROM:**   
Dennis Kelly, City Manager

  
Dr. Richard Chervony  
Commissioner

**SUBJECT:** Introduction of Resolution

---

Pursuant to Section 3.08 of the City Charter, I hereby introduce the following Resolution:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, OPPOSING FLORIDA HOUSE BILL 4025, FLORIDA SENATE BILL 760, AND ANY COMPANION OR SUBSTITUTE BILLS, PROPOSING TO REPEAL CHAPTER 205 OF THE FLORIDA STATUTES WHICH WOULD ELIMINATE THE LOCAL BUSINESS TAX ACT RESULTING IN A LOSS OF REVENUE TO THE CITY OF NORTH BAY VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Accordingly, please place the item on the next available agenda.

RC:DK:yph

11D(4)

Mayor  
Connie Leon-Kreps

Vice Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, OPPOSING HOUSE BILL 319 PENDING IN THE FLORIDA LEGISLATURE RELATED TO CONDOMINIUM ASSOCIATIONS; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY COMMISSIONER CHERVONY AND CITY MANAGER DENNIS KELLY)**

WHEREAS, the City of North Bay Village (the "City"), through its Code of Ordinances and Land Development Regulations provides tools and regulations to guide and maintain development in order to protect and enhance the physical environment of the City for the health, safety and welfare of its residents; and

WHEREAS, the City maintains standards for landscaping and property maintenance, among others; and

WHEREAS, local government regulations and standard development patterns often result in the physical concentration of condominium developments; and

WHEREAS, Condominium Associations are responsible for maintaining the common public areas in order to maintain the character and quality of the development, protect the health and safety of its residents and visitors, and preserve the economic viability of the development; and

WHEREAS, the physical appearance of each individual condominium development impacts the neighboring developments, the neighborhood, and the City as a whole; and

**WHEREAS**, proposed House Bill 319 (“HB 319”) would significantly reduce the authority of Condominium Associations to collect legally owed Maintenance Fees, Legal Fees and Costs, Interest and Penalties on unit owners who have defaulted on payment of their Monthly Maintenance Fees which fees are essential to even the minimal maintenance of the condominium facilities; and

**WHEREAS**, if the Condominium Association loses the ability to collect these fees, the property owners that have not defaulted on their legal obligation to pay the monthly maintenance fees will ultimately end up paying for those who have defaulted causing Condominium Associations that are already financially troubled to become financially fragile; and

**WHEREAS**, the City Commission believes that this reduction in the authority of Condominium Associations to collect these fees will create a significant threat to the economic capability of Condominium Associations to maintain their properties; and

**WHEREAS**, the inability of Condominium Associations to fund and maintain their properties will result in property deterioration and blighting of the property; and

**WHEREAS**, the impacts of blighted properties travels quickly throughout neighborhoods resulting in further economic decline over larger geographic areas; and

**WHEREAS**, the vast majority of the City’s residential units are in condominium buildings; and

**WHEREAS**, the City Commission desires to maintain the character, standards of living and economic viability of its neighborhoods including its significant multifamily, condominium neighborhoods; and

**WHEREAS**, the statutory limits on the collection of Monthly Maintenance Fees, Legal Fees and Costs, Interest and Penalties from defaulting unit owners or their lenders as proposed in HB 319 would result in a significant loss in the capabilities of these Condominiums Associations to maintain their properties, thereby making the units within the condominium more difficult to sell or rent, creating even further economic instability.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:**

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

**Section 2.** **Opposition of HB 319.** The City of North Bay Village (the "City") hereby opposes the passage of House Bill 319 and any related or companion legislation that would serve to reduce or limit a Condominium Associations' authority to collect all outstanding Monthly Maintenance Fees, Attorneys Fees and Costs, Interest and Penalties.

**Section 3.** **Transmittal.** The City Clerk is hereby directed to transmit copies of this Resolution to the Governor of the State of Florida, the President of the Florida Senate, the Speaker of the Florida House of Representatives, any Members of the Florida House of Representatives or Florida Senate introducing legislation in accordance with the terms of this Resolution, the Members of the Miami-Dade County Legislative Delegation and the Mayors and Members of the governing bodies of the local governments within Miami-Dade County.

**Section 4. Effective Date.** This Resolution shall take effect immediately upon adoption.

The motion to adopt the foregoing Resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_.

**FINAL VOTE AT ADOPTION:**

Mayor Connie Leon-Kreps \_\_\_\_\_  
Vice Mayor Eddie Lim \_\_\_\_\_  
Commissioner Richard Chervony \_\_\_\_\_  
Commissioner Paul Vogel \_\_\_\_\_

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Connie Leon-Kreps, Mayor

**ATTEST:**

\_\_\_\_\_  
Yvonne P. Hamilton, CMC  
City Clerk

**APPROVED AS TO FORM FOR THE USE  
OF THE CITY OF NORTH BAY VILLAGE:**

\_\_\_\_\_  
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.  
City Attorney

11E(4)



## City of North Bay Village

### Administrative Offices

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### MEMORANDUM City of North Bay Village

**DATE:** February 7, 2012

**TO:** Yvonne P. Hamilton, CMC  
City Clerk

**FROM:**   
Dennis Kelly  
City Manager

**SUBJECT:** Introduction of Resolution

---

Pursuant to Section 3.08 of the City Charter, I hereby introduce the following Ordinance:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, OPPOSING HOUSE BILL 319 PENDING IN THE FLORIDA LEGISLATURE RELATED TO CONDOMINIUM ASSOCIATIONS; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.**

Accordingly, please place the item on the next available agenda.

DK:yph

Mayor  
Connie Leon-Kreps

Vice-Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

11E(5)



## City of North Bay Village

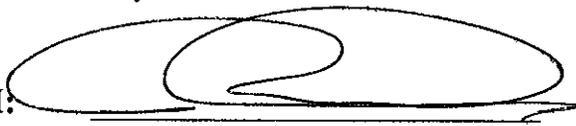
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### MEMORANDUM City of North Bay Village

**DATE:** February 7, 2012

**TO:** Yvonne P. Hamilton, CMC  
City Clerk

**FROM:**   
Dr. Richard Chervony  
Commissioner

**SUBJECT:** Introduction of Resolution

---

Pursuant to Section 3.08 of the City Charter, I hereby introduce the following Ordinance:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, OPPOSING HOUSE BILL 319 PENDING IN THE FLORIDA LEGISLATURE RELATED TO CONDOMINIUM ASSOCIATIONS; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.**

Accordingly, please place the item on the next available agenda.

DK:yph

Mayor  
Connie Leon-Kreps

Vice Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

11E(6)



## City of North Bay Village

### Administrative Offices

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### CITY OF NORTH BAY VILLAGE RECOMMENDATION MEMORANDUM

**DATE:** February 14, 2012

**TO:** Mayor Connie Leon Kreps  
Vice-Mayor Eddie Lim  
Commissioner Richard Chervony  
Commissioner Paul Vogel

**FROM:** Dennis Kelly, City Manager 

**SUBJECT:** Request for Qualifications (RFQ) – Legal Services

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**RECOMMENDATION:** It is recommended that the City Commission approve the attached resolution allowing for advertisement of a RFQ for Legal Services and allowing for the creation of a seven (7) person Legal Services RFQ Review/ Selection Committee whose purpose will be to review each RFQ submitted and make a recommendation to the City on the appropriate candidate(s) to provide the City's Legal Services. If the creation of this Selection Committee is approved, the City Manager, HR Manager and City Clerk will begin the Committee recruiting process immediately.

**BACKGROUND:** Weiss Serota has been providing the City's Legal Services for the approximate length of time of 1½ years-since July 2010. The City is extremely pleased with their level of knowledge and professionalism in all aspects of the law: General Counsel, Labor Relations and Planning and Zoning. The City's existing contract with Weiss Serota allows for billing of services on an hourly basis. The City feels that at the moment it is in its best interest to advertise an RFQ for Legal Services in order to obtain Legal Counsel that will continue to provide sound and professional legal advice and that will possibly allow the City to save money for these legal services. The City feels that this could be accomplished by looking into entering into a type of contract that works on a retainer basis.

Mayor  
Connie Leon-Kreps

Vice-Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

**11/FCO**

**MEMO TO CITY COMMISSION**  
**FEBRUARY 14, 2012**  
**PAGE 2 OF 2**

The City administration, if directed by the City Commission, will in the coming months advertise an RFQ for Legal Services that will lay out the ground work for the type of qualifications that the City feels is important when providing this type of service to us. Once the City is in receipt of the interested parties' responses to the RFQ and in order to perform the best review possible of each submitted response, it is in the City's best interest to create a RFQ Review/Selection Committee. This Selection Committee should meet after working hours for an anticipated total of approximately 5 or 6 half hour to hour-long meetings in order to properly review each submission in detail for accuracy, qualifications and overall general content. It is recommended that the Committee consist of a total of 7 members made up of the following combination of individuals: (3) Surrounding City /County Managers and/or Administrators & local judges and or attorneys; (1) NBV City Staff Member; (1) Budget and Oversight Committee Member; and (2) NBV City residents with legal or human resource background. Any practicing attorneys that participate in the Selection Committee will not be allowed to submit a response to the RFQ. The City Manager, HR Manager (City Staff Liaison) and City Clerk will also be present at each Selection Committee meeting to answer any questions and provide general guidance to the Committee Members, if needed.

The City's HR Manager has created the RFQ attached. In writing this RFQ she reached out to various agencies such as the Florida League of Cities and surrounding municipalities for advice and documentation that would assist us in creating the most comprehensive RFQ possible. We are very happy with the end result and hope that it will allow us to achieve optimal responses from interested parties.

The City anticipates advertising the RFQ in: *The Miami Herald, The Florida Bar Association, The Miami Dade County Bar Association and The Sun Sentinel*. After all methods of advertisement have been properly circulated, the City will impose a 30-day RFQ submission deadline. The City will conduct a public opening of the RFQ on a designated date and time.

**BUDGETARY IMPACT:** There is no budgetary impact resulting from the creation of this RFQ or Selection Committee. The cost for advertising the RFQ in the newspapers of choosing will be in the approximate range of \$1,000.00. During the Selection Committee recruiting process, the City will notify each possible member that their services will be in kind.

**PERSONNEL IMPACT:** This RFQ process will require the coordination of City Staff which includes the City Manager, City Human Resource Manager (Staff Liaison) and the City Clerk.

**CONTACT:** Dennis Kelly, City Manager

11/12



**RFQ No. NBV-2012-01**

**"City of North Bay  
Village Legal Services"**

The City of North Bay Village is seeking Sealed Qualifications from qualified Florida Bar Licensed attorneys and or firms to provide Legal Services for the City. The attorneys and or firms submitting requests should have expertise in areas of: General Counsel, Labor Relations and Planning / Zoning Land Use, on a contractual basis under the approval by the City Commission, and on an at-will basis. The attorneys and or firms submitting requests should have expertise in areas of: General Counsel, Labor Relations and Planning / Zoning Land Use. The legal services include all aspects of municipal law and litigation, and will provide legal advise to the City, its Officials, Officers, Agencies, Boards, Committees, Departments and department employees, and require the availability of the attorneys and firms to attend meetings within the City, as needed, and to provide legal assistance in a prompt and efficient manner. The City will consider hiring separate firms and/or attorneys to handle each of the different areas of expertise detailed above but will also consider hiring the same firm and / or attorney to provide advice for all three areas. Sealed responses must be received by the Office of the City Clerk, either by mail or hand delivery, no later than **10:00 A.M. local time on Tuesday, , 2012** and must be clearly labeled with the above RFQ title and number. A public opening will take place at 10:00 A.M. in the City Commission Chambers located at City Hall on the same date. This Request for Qualifications (RFQ) is available upon written or email request to the City Clerk [yvonne.hamilton@nbvillage.com](mailto:yvonne.hamilton@nbvillage.com) or by visiting the Office of The City Clerk (located in City Hall) office Mon- Fri 9:00 a.m- 4:00 p.m. 1700 Kennedy Causeway Suite 132, North Bay Village, Florida, 33141. All requests must be accompanied by a name, address, phone and fax number and email address. To verify receipt of request please contact Yvonne Hamiltom at the above email address. The City reserves the right at any time to modify, waive or otherwise vary the terms and conditions of the RFQ including but not limited to deadlines for submission, submission requirements and the Scope of Work. The City also further reserves the right to reject any or all submittals, to cancel or withdraw this RFQ at any time. Selection is dependent upon the negotiation mutually negotiable contract(s) with the successful proposer(s). All RFQ's must be submitted in accordance with the instructions to Proposers as the RFQ specifications.

**11F(3)**



## City of North Bay Village

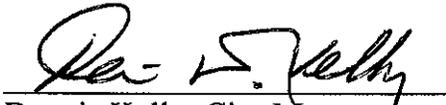
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### MEMORANDUM City of North Bay Village

**DATE:** February 8, 2012

**TO:** Yvonne P. Hamilton, CMC  
City Clerk

**FROM:**   
Dennis Kelly, City Manager

**SUBJECT:** Introduction of Resolution

---

Pursuant to Section 3.08 of the City Charter, I hereby introduce the following Ordinance:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA AUTHORIZING THE CITY MANAGER TO ISSUE A REQUEST FOR QUALIFICATIONS FOR LEGAL SERVICES; CARRY OUT THE AIMS OF THIS RESOLUTION; AND SETTING AN EFFECTIVE DATE.**

Accordingly, please place the item on the next available agenda.

DK;yph

Mayor  
Connie Leon-Kreps

Vice-Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

11F(4)



## City of North Bay Village

Administrative Offices

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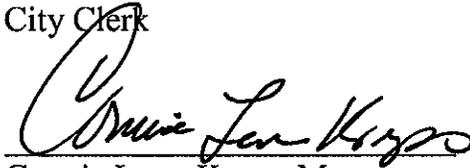
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### MEMORANDUM City of North Bay Village

**DATE:** February 8, 2012

**TO:** Yvonne P. Hamilton, CMC  
City Clerk

**FROM:**

  
Connie Leon-Kreps, Mayor

**SUBJECT:** Introduction of Resolution

---

Pursuant to Section 3.08 of the City Charter, I hereby introduce the following Resolution:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA AUTHORIZING THE CITY MANAGER TO ISSUE A REQUEST FOR QUALIFICATIONS FOR LEGAL SERVICES; CARRY OUT THE AIMS OF THIS RESOLUTION; AND SETTING AN EFFECTIVE DATE.**

Accordingly, please place the item on the next available agenda.

CLK;yph

Mayor  
Connie Leon-Kreps

Vice-Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

**11F(5)**

RESOLUTION NO: \_\_\_\_\_

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA AUTHORIZING THE CITY MANAGER TO ISSUE A REQUEST FOR QUALIFICATIONS FOR LEGAL SERVICES; CARRY OUT THE AIMS OF THIS RESOLUTION; AND SETTING AN EFFECTIVE DATE. (INTRODUCED BY MAYOR CONNIE LEON-KREPS AND CITY MANAGER DENNIS KELLY)**

**WHEREAS**, Chapter 3, Section 3.06(H) of the City Charter authorizes the City Commission to appoint or remove the City Attorney by a majority vote; and

**WHEREAS**, on July 21, 2010 the City Commission appointed Weiss Serota Helfman Pastoriza Cole & Boniske, P.L as Interim City Attorney until the appointment of a permanent City Attorney; and

**WHEREAS**, the City Commission finds that it is in the best interest of the City to select a permanent City Attorney that will continue to provide sound and professional legal advice through a competitive selection process.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1:** **Recitals:** The foregoing whereas clauses and recitals are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

**Section 2.** **Authorization of City Officials:** The City Manager is hereby authorized to solicit Request for Qualifications from qualified law firms and individual attorneys wishing to provide legal services to the City.

**Section 3.** **Advertisement:** The City Manager is hereby authorized to advertise the Request for Qualifications in accordance with the City's procurement regulations.

11F(6)

**Section 4. Creation of Review Committee:** The City Manager is hereby authorized to create a seven (7) person Review/Selection Committee consisting of three (3) City/County Managers and/or Administrators and local judges and/or attorneys; one (1) North Bay Village City staff member; one (1) member from the Citizens Budget & Oversight Board; and two (2) North Bay Village residents with legal or human resource background to make a recommendation to the Commission regarding the appropriate candidate/s to provide legal services to the City.

**Section 5. Effective Date.** That this Resolution shall take effect immediately upon approval.

The motion to adopt the foregoing Resolution was offered by \_\_\_\_\_, seconded by \_\_\_\_\_.

**FINAL VOTE AT ADOPTION:**

Mayor Connie Leon-Kreps \_\_\_\_\_  
Vice Mayor Eddie Lim \_\_\_\_\_  
Commissioner Richard Chervony \_\_\_\_\_  
Commissioner Frank Rodriguez \_\_\_\_\_  
Commissioner Paul Vogel \_\_\_\_\_

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Connie Leon-Kreps, Mayor

**ATTEST:**

\_\_\_\_\_  
Yvonne P. Hamilton  
City Clerk

**APPROVED AS TO FORM FOR USE ONLY BY  
THE CITY OF NORTH BAY VILLAGE:**

\_\_\_\_\_  
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

11F(7)



**City of  
North Bay Village  
REQUEST FOR QUALIFICATIONS**

The City of North Bay Village, Florida, hereinafter referred to as City, will receive sealed responses. The submittal, consisting of an original unbound response, ten (10) additional copies, and one (1) electronic copy via a CD to the Office of the City Clerk, City of North Bay Village City Hall, 1700 Kennedy Causeway, Suite 132, North Bay Village, Florida 33141, for furnishing the services described below:

**Legal Services  
RFQ No. NBV-2012-01**

Sealed responses must be received by the Office of the City Clerk, either by mail or hand delivery, no later than **10:00 A.M. local time on Tuesday, , 2012** and must be clearly labeled with the above RFQ title and number. A public opening will take place at 10:00 A.M. in the City Commission Chambers located at City Hall on the same date. Any responses improperly labeled and/or received after 10:00 A.M. local time on said date will not be accepted under any circumstances. Any uncertainty regarding the label and time a Response is received shall be cause for rejection of the response and disqualification of the respondent.

Responses are subject to the attached standard terms and conditions contained in the complete bid package. Interested respondents who wish to respond to this RFQ can obtain the complete bid package at the City Clerk's office Monday through Friday from 9:00 A.M. to 4:00 P.M. or can email their request for RFQ to [Yvonne.Hamilton@nbvillage.com](mailto:Yvonne.Hamilton@nbvillage.com). All requests must be accompanied by a name, address, phone, fax and email address. To verify receipt of this request please contact Yvonne Hamilton, City Clerk.

The City reserves the right to reject any and all responses, to waive any informalities or irregularities in any responses received, to re-advertise for responses, to award in whole or in part to one or more respondents, or take any other such actions that may be deemed to be in the best interests of the City.

Dennis Kelly  
City Manager

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## **BACKGROUND**

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### **LEGAL SERVICES**

The City of North Bay Village, Florida, a *three island paradise* municipality within Miami Dade County with a population of approximately 7200 is seeking highly qualified attorneys and or firms who are inspired by the interesting challenges of an active small community.

The City is looking for attorneys and or firms with expertise in areas of: General Counsel, Labor Relations and Planning / Zoning Land Use. The attorneys and or firms that that will be hired will need to be qualified Florida Bar licensed Attorneys or Firms willing and able to provide sound legal advice in the three areas designated above.

The City will consider hiring separate firms and/or attorneys to handle each of the different areas of expertise detailed above but will also consider hiring the same firm and / or attorney to provide advice for all three areas. Therefore, an attorney and or firm may prepare a proposal to provide all of the legal services described or they may prepare a proposal to provide services for specific areas or representation. The City is looking to enter into a retainer type of agreement for each of these legal services.

## **SCOPE AND PURPOSE**

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### **LEGAL SERVICES**

#### **SPECIFIC DUTIES AND RESPONSIBILITIES:**

The proposing attorneys or firms shall be responsible for and must demonstrate the ability to perform the following scope of services within the three levels of expertise: General Counsel, Labor Relations and Planning/Zoning Land Use:

- f Preparation and review of all ordinances, resolutions, contracts, interlocal agreements, employment agreements, RFQ's/RFP's, bonds, legal opinions, deeds, leases, and such other legal or written instruments in which the City is concerned and shall endorse on each approval as to form, language, and execution thereof.

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- f* Prosecute and defend, for and on behalf of the City against any and all complaints, suits and controversies in which the City is a party, before any court or other legally constituted tribunal.
- f* Render such opinions on legal matters affecting the City as the Commission may direct.
- f* Attendance at all required meetings and engagement of all such agreements as required by Commission as a condition of employment including, but not limited City Commission Meetings, including special and emergency meetings, and all required committee or agency meetings.
- f* Performance of such other professional duties and functions as may be required by ordinance or resolution of the Commission or the City Charter.
- f* Provision of legal services includes providing advice all aspects of municipal law and litigation, and will provide legal advice to the City, its Officials, Officers, Agencies, Boards, Committees, Departments and department employees, and require the availability of the attorneys and firms to attend meetings within the City, as needed, and to provide legal assistance in a prompt and efficient manner. Advice should be provided on local government law and procedures including, but not limited to, Florida Statutes §166 titled Municipalities, appropriations, procurement, competitive bidding, Ethics Code for Public Officials, conflicts of interest and parliamentary procedure. Additionally, Florida Statutes §119 titled Public Records.
- f* Advice on matters including, but not limited to, zoning, land use, labor, utilities and municipal finance litigation.
- f* Review, at the manager's or department director's request, correspondence, contracts, standard operating procedures, and any and all other documents or processes.
- f* Advise the Commission, City Manager, and department heads in all cases when a legal opinion is required and requested.
- f* Represent the City in all matters in which the City has an interest coming before any court or tribunal, except in such cases as other arrangements may be specifically made by the Commission.
- f* Serve as liaison with independent counsel when required.

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**MINIMUM QUALIFICATIONS:**

For consideration for this Legal Services RFQ, Respondents shall be licensed attorneys in good standing with the Florida Bar and, immediately preceding the time of appointment, shall possess either a minimum of ten (10) years experience practicing law in the courts of the State of Florida, of which a minimum of Seven (7) years consist of practice in the area of municipal government law and minimum of four (4) years experience in each separate expertise area of advice: General Counsel, Labor Relations and Planning /Zoning Land Use.

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# GENERAL CONDITIONS & INFORMATION

LEGAL SERVICES

## 1. Submission of Request for Qualifications

Attorney or Firms shall submit one original unbound Response, ten (10) photocopies, and one (1) electronic copy via a CD.

Request for Qualifications (RFQ) must be in conformance with the detailed submittal instructions and must be delivered by mail, courier or personal delivery by the time and date indicated in the legal notice. **RFQ No. NBV 2012-01 LEGAL SERVICES RESPONSE SUBMITTALS NOT RECEIVED BY THE DATE AND TIME SPECIFIED SHALL BE REFUSED.** The time indicated by the time clock in the City Clerk office is considered the official time of receipt. No faxed or email RFQ responses will be accepted.

RFQ's may be submitted in person or by mail to the following address:

### **In Person/Courier/By Mail:**

City of North Bay Village  
City Hall Building  
1700 Kennedy Causeway, Suite 132  
North Bay Village, FL 33141  
ATTN: CITY CLERK'S OFFICE

Upon submission, all documents become the property of the City of North Bay Village and are subject to public records laws.

## 2. Rules, Regulations, Laws, Ordinances, & Licenses

The awarded attorneys or firms shall observe and obey all laws, ordinances, rules, and regulations of the federal, state, County and local municipality, which may be applicable to the service being provided. The awarded attorneys or firms shall have or be responsible for obtaining all necessary permits or licenses required in order to provide this service.

## 3. Requests for Additional Information or Questions

Any requests for additional information or clarification should be submitted in writing to the Office of The City Clerk located in City Hall or by email **10:00 A.M. local time on Friday, , 2012** to the attention of Yvonne Hamilton, City Clerk, [Yvonne.hamilton@nbvillage.com](mailto:Yvonne.hamilton@nbvillage.com).

The issuance of a written addendum is the only official method whereby interpretation and/or clarification of information can be given. If any addendums are issued to this RFQ, the City will notify all prospective attorneys or firms via email.

It shall be the responsibility of each attorney or firm, prior to submitting the response, to contact the City Clerk to determine if addenda were issued and to acknowledge such addendums on the Response.

#### 4. Lobbying

All attorneys or firms and their agents who intend to submit, or who submitted, bids or responses for this City of North Bay Village Legal Services RFQ, are hereby placed on formal notice that neither City Commissioners, candidates for City Commissioner, nor any employee of the City of North Bay Village are to be lobbied either individually or collectively concerning this City of North Bay Village Legal Services RFQ.

Contact shall only be made through regularly scheduled Commission meetings, or meetings scheduled through the City Clerk, which are for the purposes of obtaining additional or clarifying information.

#### 5. Reserves the Right

The City anticipates awarding a minimum of one contract or a maximum of three contracts for legal services as a result of this RFQ. The City, however, reserves the right to reject any and all submitted Responses and to further define or limit the scope of the award, to waive any informalities or irregularities in any responses, re-advertise for responses, to award in whole or in part to one or more respondents, or take any other action that may be deemed to be in the best interests of the City.

The City reserves the right to request additional information from attorneys or firms as deemed necessary. Notice is also given of the possibility that an award may be made without discussion or after limited negotiations. It is, therefore, important that all the parts of the Request for Qualifications be completed in all respects.

The City reserves the right to negotiate modifications to the response submittals that it deems acceptable, reject any and all RFQ responses in its sole discretion, and to waive minor irregularities in the procedures.

#### 6. Contract Cancellation

The resulting agreement(s)/contract(s) may be canceled at any time by the City of North Bay Village without cause, upon a thirty (30) day written cancellation notice.

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7. Ownership of Preliminary and Final Records

All preliminary and final documentation and records shall become and remain the sole property of the City. The awarded attorneys or firms shall maintain original documents thereof for its records and for its future professional endeavors and provide reproducible copies to the City. In the event of termination of the agreement, the proposing attorneys or firms shall cease work and deliver to the City all documents (including reports and all other data and material prepared or obtained by the awarded attorneys or firms in connection with the City of North Bay Village Legal Services RFQ), as well as all documents bearing the professional seal of the attorney or firm. The City shall, upon delivery of the aforesaid documents, pay the attorneys or firms and the attorneys or firms shall accept as full payment for its services there under, a sum of money equal to the percentage of the work done by the attorneys or firms and accepted as satisfactory to the City.

8. Indemnification

The proposing attorneys or firms shall indemnify and hold harmless the City, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the proposing attorneys or firms and any persons employed or utilized by proposing attorneys or firms, under this solicitation, and in the performance of this contract.

9. Equal Employment

In accordance with Federal, State and Local law, the proposing attorneys or firms will not discriminate against any employees or applicants for employment because of race, color, ethnicity, religion, sex, sexual orientation, national origin or handicap. The proposing attorneys or firms will be required to comply with all aspects of the Americans with Disabilities Act (ADA) during the performance of this contract.

10. Insurance

10.1 Without limiting its liability, the proposing attorneys or firms shall be required to procure and maintain at its own expense during the life of the Contract, insurance of the types and in the minimum amounts stated below as will protect the proposing attorneys or firms, from claims which may arise out of or result from the proposing attorney's or firm's execution of a contract with the City of North Bay Village for Legal Services, whether such execution by himself or by any sub-consultant, or by anyone

directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

**Workers' Compensation Insurance** covering all employees meeting statutory limits in compliance with all applicable state and federal laws. The policy must include employer's Liability with a minimum limit of \$1,000,000.00 for each accident.

**Comprehensive General Liability** coverage shall have minimum limits of \$1,000,000.00 per occurrence, combined single limit for bodily injury liability and property damage liability. This shall include premises and/or operations; independent contractors and products and/or completed operations; broad form property damage; and contractual liability endorsement.

**Business Vehicular Liability** coverage shall have minimum limits of \$1,000,000.00 per occurrence. Combined Single Limit for Bodily Injury Liability, and Property Damage Liability: This shall include Owned Vehicles, Hired and non-Owned Vehicles and Employees Non-Ownership.

**Professional Liability** (errors and omissions) coverage shall have minimum limits of \$1,000,000.00 per occurrence with respect to negligent acts, errors or omissions in connection with the professional services to be provided and any deductible not to exceed \$20,000.00 each claim.

**10.2 The City shall be listed as an additional insured on the general liability policy.** In the event the insurance coverage expires prior to completion of the term for City of North Bay Village Legal services contract, a renewal certificate shall be issued 30 days prior to said expiration date. The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy.

10.3 Unless otherwise specified, it shall be the responsibility of the proposing attorneys or firms to insure that all sub-consultants comply with the same insurance requirements herein. All proposer certificates of insurance must be on file with and approved by the City before the commencement of work activities. Waivers of subrogation shall also be provided upon approval of the applicable insurers.

10.4 The proposing attorneys or firms shall "flow down" the requirements of this provision to all sub-consultants.

10.5 The limits of insurance required above must be retained throughout the term of the contract (s). The proposing attorneys or firms must notify the City immediately if any of the required coverage limits are reduced due to claim activity or for any other reason.

10.6 Policies should be written on an "occurrence" basis.

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11. Opening of Request for Qualifications

RFQ will be opened and evaluated after the final date and time set for receipt. The City may request proposing attorney(s) or firm(s) considered for award to make an oral presentation to a selection board or to submit additional data.

12. Rejection of Response Submittals

The City reserves the right to reject any and all response submittals to this RFQ. It also reserves the right to waive any minor irregularities in connection with any and all response submittals to this RFQ, to re-advertise for responses, to award in whole or in part or in part to one or more respondents, or take any other actions that may be deemed in the best interests of the City.

13. Acceptance of Response Submittal

Within ninety (90) days after the final submission date for Request for Qualifications, the City will act upon them. The successful attorneys or firms will be requested to enter into negotiations to produce a contract(s) for The City of North Bay Village Legal Services. The City reserves the right to terminate negotiations in the event it deems progress towards a contract(s) to be insufficient.

14. Applicable Law

All applicable laws and regulations of the State of Florida and ordinances and regulations of the County, and City of North Bay Village will apply to any resulting agreement and venue for any action arising out of any agreement and such right shall remain solely with the County if in Circuit Court, the City if in County Court, and In the Southern District of Florida if in Federal Court.

15. Qualification of Proposing Attorney or Firm

Response submittals to this RFQ will be considered from attorneys of firms normally engaged in providing the services requested. The proposing attorneys or firms must demonstrate adequate experience, organization, offices, equipment and personnel to ensure prompt and efficient service to the City of North Bay Village. The City reserves the right, before recommending any award, to inspect the offices and organization or to take any other action necessary to determine ability to perform in accordance with the specifications, terms and conditions. The City of North Bay Village will determine whether the evidence of ability to perform is satisfactory and reserves the right to reject all response submittals to this RFQ where evidence submitted, or investigation and evaluation, indicates inability of attorney(s) or firm(s) to perform.

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16. Designated Contact

The awarded attorneys or firms shall appoint a person to act as a primary contact with the City of North Bay Village. This person or back-up shall be readily available during normal work hours by phone, email, or in person, and shall be knowledgeable of the terms of the contract.

17. Deviations from Specifications

The awarded attorneys or firms shall clearly indicate, as applicable, all areas in which the services proposed do not fully comply with the requirements of this RFQ. The decision as to whether an item fully complies with the stated requirements rests solely with the City of North Bay Village.

18. Precedence of Conditions

The proposing attorneys or firms, by virtue of submitting a response, agrees that City's General Provisions, Terms and Conditions herein will take precedence over any terms and conditions submitted with the response, either appearing separately or included.

19. Response Withdrawal

After response submittals for this RFQ are opened, corrections or modifications to responses are not permitted, but the proposing attorneys or firms may be permitted to withdraw an erroneous response prior to the proposal award by City Commission, if the following is established:

19.1 That the proposing attorney or firm acted in good faith in submitting the response;

19.2 That the error was not the result of gross negligence or willful inattention on the part of the attorney or firm;

19.3 That the error was discovered and communicated to the City within twenty-four (24) hours of opening the response submittals received, along with a request for permission to withdraw the response; or

19.4 The attorney or firm submits documentation and an explanation of how the response submittal error was made.

**11F(18)**

## 20. Public Entity Crimes

A person or affiliate who was placed on the Convicted Vendors List following a conviction for a public entity crime may not submit a response on a contract to provide any services to a public entity, may not submit RFQ on leases of real property to a public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for a period of 36 months from the date of being placed on the Convicted Vendors List.

## 21. Contingent Fees Prohibited

The proposing attorneys or firms must warrant that it has not employed or retained a company or person, other than a bona fide employee, contractor, sub-consultant or subcontractor, working in its employ, to solicit or secure a contract with the City, and that it has not paid or agreed to pay any person, company, corporation, individual or firm other than a bona fide employee, contractor subcontractor or sub-consultant, working in its employ, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of a contract with the City.

## 22. City of North Bay Village Attorney Records

All records in any manner whatsoever assigned to the City of North Bay Village attorney or firm, or any designated portion thereof which are in the possession of the proposing attorney or firm or proposing attorney's or firm's sub-consultants, shall be made available, upon request by the City, for inspection and copying upon written request of the City. Additionally, said records shall be made available, upon request by the City to any state, federal or other regulatory authorities and any such authority may review the same. Said records include, but are not limited to, all submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings which document and relate to the City of North Bay Village. Said records expressly include those documents reflecting the time expended by the proposing attorney or firm and its personnel in performing the obligations of the agreement and the records of expenses incurred by the proposing attorney or firm in its performance under said contract.

## 23. Auditable Records

The proposing attorney or firm shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting principles, and the City reserves the right to determine record-keeping method in the event of non-conformity. These records shall be

maintained for five (5) years after final payment has been made and shall be readily available to City personnel with reasonable notice, and to other persons in accordance with the Florida Law.

24. Unauthorized Persons/Aliens

The employment of unauthorized persons/alien by any attorney or firm is considered a violation of Federal Law. If the contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this RFQ. This applies to any contractors, sub-contractors or consultants used by the attorney or firm as well.

25. Waiver

Failure of the City to take any action with respect to any breach of any term, covenant, provision or condition contained in the agreement, or any instance of default there under by the awarded attorneys or firms should not be deemed to be a waiver of any default or breach by the City.

26. Attorney's Fees

Should it become necessary for the City to bring any action against the awarded attorneys or firms to enforce any of the covenants, provisions, terms or conditions of the agreement, the awarded attorneys or firms will pay all costs attendant thereto, including reasonable attorney's fees for the City.

27. Cone of Silence

You are hereby advised that this Invitation to Bid is subject to the "Cone of Silence" in accordance with Section 38.18 of the City of North Bay Village Code of Ordinances. From the time of advertising until the City Manager issues his recommendation, there is a prohibition on communication with the City's professional staff. This ordinance does not apply to oral communications at pre-submittal conferences, oral presentations before evaluation committees contract discussions made to City Commission during any duly noticed public meeting, contract negotiations with the staff following the award of a bid by any City Commission, or communication in writing at any time with any City employee, official, or member of the City Commission unless specifically prohibited. A copy of all written communications must be filed with the City Clerk. A proposer who violates these provisions shall not be considered for this RFQ.

## SUBMISSION REQUIREMENTS

LEGAL SERVICES

It is imperative that the information submitted is precise, clear, and complete. All submittals must be presented in an original unbound response and ten (10) additional copies an 8 1/2" x 11", tabbed for the following format (submittals not conforming to this format may be disqualified from further consideration), and electronically via a CD.

Request for Qualifications (RFQ) should include the requirements listed below. Submittals submitted without meeting ALL the requirements may be considered non-responsive.

### I. Format

Sections and subsections should correspond in sequence with those identified below. All additional information that the attorney(s) / firm(s) believes is unique to a section and does not fit the established outline may be included at the end of each section under a subheading "Additional Information."

The following information shall be provided in the order detailed: **failure to provide any one part of this section without appropriate explanation may result in disqualification of Response.**

- a. **Title Page** - List the RFQ subject, the name of the attorney or firm, address, telephone number, email address, contact person and date.
- b. **Table of contents** - Include a clear identification of the material included in the submittal by page number.
- c. **Letter of Interest** -- Limit two (2) pages. Identify which type of legal service(s) you and/or the firm is willing to provide: General Counsel, Labor Relations, Planning/Zoning Land Use. Make a positive commitment to perform the required work within a specified timeline, acknowledgement of receipt of addenda. Give the name(s) of the person(s) who will be authorized to make representation for the attorney or firm, their title, phone number and email address.
- d. **Qualifications and Experience**
  - I. Provide a brief discussion of the **attorney or firm's understanding and approach** to the work described herein (if you would like to represent the City in more than one area please detail the attorney or firms understanding for each type of Legal Service).

2. Provide **resumes** of the attorney/firm; and in the case of law firms, resumes of the individual attorney(s) who will work on City matters and a statement identifying the individual attorney who will attend meetings and have primary responsibility for City matters and whether that attorney(s) represents other municipalities (if you would like to represent the City in more than one legal area please detail the above for each area) and provide the proximity in miles of the attorney(s)/firms(s) offices to City Hall. The resume of each individual attorney must also list if they have ever been under review by any Bar Association, Court or Ethical Commission. If they have been under review they must list the date, reason and outcome.
3. A list of any other attorneys or law firms with whom the attorney/firm has a contractual relationship or other business affiliation; and, in the case of law firms, a list of all attorneys in the firm.
4. A disclosure of the following: (a) any relationships between the attorney or attorneys of the firm and any Commission member, his/her spouse, or family; (b) any relationship between attorney or attorneys of the firm and any business or entity owned by a Commission member or their family or in which a Commission member or their family has or had an interest; (c) any other information concerning any relationships between the attorney or attorneys of the firm and any Commission member which the Applicant deems might be relevant to the Commission's consideration; (d) such other governmental or quasi-governmental entities which are represented by the attorney or the attorneys of the firm, and the nature of the representation in such matters; and (e) a "conflict list" if same is maintained by the attorney or the firm.
5. The Attorneys/Firms shall be expected to provide the following minimum legal services including, but not limited to, the following for each area of legal expertise: General Counsel, Labor Relations and Planning/Zoning and Land Use:
  - a. Attendance at all meetings of the City Commission, including special and emergency meetings, and all required committee, agency, board or union meetings. General Counsel must attend all City Commission meetings or any other meetings as needed; Labor Relations and Planning/Zoning Land Use attorneys shall attend any meetings as directed by the City Manager;
  - b. Preparation of any and all necessary resolutions and ordinances;
  - c. Preparation of any and all legal opinions;
  - d. Preparation and review of any and all contracts, memorandum of understanding, and such other related documentation; and
  - e. Serve as liaison with outside counsel when so required

6. Provide three (3) professional references; preferably local government agencies with, at the minimum, the following information (if you would like to represent the City in more than one legal area please detail references for each area)

1. Client Name
2. Client Address
3. Contact Individual Name and Title
4. Contact Phone
5. General Description of the services provided to the client

- e. Proposer's **Certification and Non-Collusive Affidavit**
- f. The City Attorneys/Firms, whether an individual or a law firm, will not be permitted to represent any client before the Commission or any committee, department or agency of the City, and will agree not to undertake any other private representation which might create a conflict of interest with the City. The City Attorneys/Firms may not represent any Commission member, individually, or, any member of their family or any business in which the Commission member of their family has an interest.
- g. All Responses received will be considered public records. The City will consider all Responses using such criteria as the Commission may adopt at its sole discretion. The attorneys or law firms selected will be required to enter into a formal agreement with the City, prior to the execution of which the City shall reserve all rights, including the right to change its selection in the sole discretion of the City.
- h. Sworn Statement Under Section 287.133(3)(a), Florida Statutes, On **Public Entity Crimes**.
- i. **Cost Proposal** – All responses must be computed on a flat total fee basis akin to a salaried position and must detail the type of legal services you will provide for the particular flat total fee.

## EVALUATION AND SELECTION

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### LEGAL SERVICES

1. Qualifications shall be reviewed in detail by a Legal Services Selection Advisory Committee and ultimately by the City Manager and City Commission.

Determination shall include, but not be limited to, the following:

- A. The proposer's demonstrated understanding of the City's requirements and plans for meeting the same;
  - B. The professional qualifications and related experience of the persons assigned to this contract;
  - C. The prior experience and references of the proposer;
  - D. The size and organizational structure of the proposer; and,
  - E. The cost proposal.
2. The Selection Committee will present the City Manager with their top candidates at which point the City Manager may request that each identified attorneys or firms make a presentation and be available for an interview. All expenses, including travel expenses for interviews, incurred in the preparation of the response shall be borne by the proposer. After presentations and/or interviews are completed, the respondents shall be presented for consideration and approval at a City Commission meeting.
3. The City will negotiate a contract(s) with the top ranked attorneys or firms. Should the City in its sole discretion be unable to negotiate a satisfactory contract(s), which is competitive, reasonable, and adequate, negotiations with that attorney/firm shall terminate and the City commission shall proceed to negotiate a contract(s) with the next highest ranked attorney/ firm; and, ultimately, should all such negotiations fail, all responses shall be rejected and this solicitation shall be re-issued.

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**PUBLIC ENTITY CRIMES AND CONFLICTS OF INTEREST**

LEGAL SERVICES

Pursuant to the provisions of Paragraph (2) (a) of Section 287.133, Florida State Statutes – “A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded to perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount category two of section 287.017, Florida Statutes, for thirty six (36) months from the date of being placed on the convicted vendor list”.

The award of any contract hereunder is subject to the provisions of Chapter 112, Florida State Statutes. BIDDERS must disclose with their bids, the name of any officer, director, partner, associate or agent who is also an officer or employee of the City of North Bay Village or its agencies.

**SWORN STATEMENT PURSUANT TO SECTION 287.133 (3)(a),  
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

**THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.**

I. This sworn statement is submitted to \_\_\_\_\_  
[print name of the public entity]

by \_\_\_\_\_  
[print individual's name and title]

for \_\_\_\_\_  
[print name of entity submitting sworn statement]

whose business address is \_\_\_\_\_

and (if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_.)

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2. I understand that a "public entity crime" as defined in Paragraph 287.133 (1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to , any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
  
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133 (1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.
  
4. I understand that an "affiliate" as defined in Paragraph 287.133 (1)(a), Florida Statutes, means:  
A predecessor or successor of a person convicted of a public entity crime; or  
An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in any person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
  
5. I understand that a "person" as defined in Paragraph 287.133 (1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services led by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
  
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. [Indicate which statement applies.]

11F(27)

\_\_\_\_\_ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent of July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. {attach a copy of the final order.}

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH I (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY, AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
[signature]

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_ Personally known or

\_\_\_\_\_ Produced identification

Notary Public – State of \_\_\_\_\_

My commission expires \_\_\_\_\_

\_\_\_\_\_  
(Type of identification)

(Printed, typed or stamped commissioned name of notary public)

Form PUR 7068 (Rev.06/11/92)

## **DRUG FREE WORKPLACE**

---

### **LEGAL SERVICES**

Whenever two or more Bids which are equal with respect to price, quality and service are received by the State or by any political subdivisions for the procurement of commodities or contractual services, a Bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie Bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under Bid a copy of the statement specified in Subsection (1).
4. In the statement specified in Subsection (1), notify the employees, that, as a condition of working on the commodities or contractual services that are under Bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program, if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

**11F(29)**

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

PROPOSER's

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

**NON-COLLUSION AFFIDAVIT**

LEGAL SERVICES

STATE OF FLORIDA )  
 )  
COUNTY OF MIAMI-DADE )

\_\_\_\_\_ being first duly sworn, deposes and says that:

- (1) He/She/They is/are the \_\_\_\_\_ (Owner, Partner, Officer, Representative or Agent) of \_\_\_\_\_ the PROPOSER that has submitted the attached proposal;
- (2) He/She/They is/are fully informed respecting the preparation and contents of the attached proposal and of all pertinent circumstances respecting such proposal;
- (3) Such Proposal is genuine and is not a collusive or sham proposal;
- (4) Neither the said PROPOSER nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other proposer, firm, or person to submit a collusive or sham proposal in connection with the Work for which the attached Proposal has been submitted; or to refrain from proposing in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any proposer, firm, or person to fix any overhead, profit, or cost elements of the Proposal or of any other proposal, or to fix any overhead, profit, or cost elements of the Proposal Price or the proposal price of any other proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Work;
- (5) The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the PROPOSER or any other of its agents, representatives, owners, employees or parties of interest, including this affiant.

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

**11F(31)**



## City of North Bay Village

### Administrative Offices

1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141  
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

## CITY OF NORTH BAY VILLAGE MEMORANDUM

**DATE:** February 8, 2012

**TO:** Mayor Connie Leon-Kreps  
Vice Mayor Eddie Lim  
Commissioner Richard Chervony  
Commissioner Paul Vogel

**FROM:** Dennis Kelly  
City Manager 

**SUBJECT:** Appointment of Members – Advisory Charter Review Board

---

The City Commission adopted Resolution No. 2011-51 creating an Advisory Charter Review Board comprising of five (5) voting members and two non-voting members. The Mayor and Commissioners shall each nominate one voting member, who shall be from the district the Commissioner represents. All appointees shall be subject to a majority vote by the Commission.

The following residents have applied for membership to the Board:

### North Bay Island

1. Alvin Blake
2. Roy Martayan

### Treasure Island

1. Max Crown
2. Robert Pushkin

### Harbor Island

1. Jorge Gonzalez

DK/yph

Mayor  
Connie Leon-Kreps

Vice-Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

14A(1)

**CITY OF NORTH BAY VILLAGE  
ADVISORY CHARTER REVIEW BOARD APPLICATION**

(Please type or print)

FEB 9 PM 1:10

Please submit a completed application to:  
City of North Bay Village  
1700 Kennedy Causeway, #132  
North Bay Village, FL 33141

NAME: AL BLAKE  
ADDRESS: 7601 CORONA DRIVE  
CITY: N. BAY VILLAGE STATE: FL ZIP CODE: 33141

(Are your home address and telephone number(s) exempt from public records disclosure pursuant to Section 119.07, Florida Statutes? If yes, please indicate the nature of your exemption (you are a current or former law enforcement officer, certified firefighter, prosecutor, judge, human resource director; etc.):

Home Phone: 305-757-6894 Cellular Phone: 308-979-7604 Fax Number: \_\_\_\_\_

E-mail address: ABLAKE@EARTHLINK.NET

Occupation: Retired

Place of Employment: N/A

Education: BBA in Acctg

Professional/Civic Organizations: Optimist Club of North Bay Village

Do you reside in the City? Yes  No   
If yes, how many years: 46

In the past, have you served on any City Advisory Board(s) Yes  No   
If yes, name of Board(s): PT 7, Civil Service, Budget Oversight Committee, Charter Review Board, City Mgr Selection Committee

Are you currently serving on an Advisory Board(s)? Yes  No   
If yes, name of board(s): Budget Oversight Committee

What qualifications do you have which will be a benefit if you were appointed to this Board? You may attach a letter, resume, or any additional information you consider pertinent.  
Past Commissioner + Vice-Mayor, Served on Civil Service Board, Planning + Zoning Board, Charter Review Board, City Mgr Selection Board, Budget + Oversight Committee

Explain why you wish to serve on this advisory board: I've lived in NBV for over 46 years and have been involved in most aspects of the City during these years. I care deeply about NBV & want to continue to serve in any capacity I can.

I hereby certify that all statements made by me on this application are correct to the best of my knowledge and recollection.

Signature: Al Blake Date: 2/8/12

**14A(2)**

CITY OF NORTH BAY VILLAGE  
ADVISORY CHARTER REVIEW BOARD APPLICATION

(Please type or print)

Please submit a completed application to:  
City of North Bay Village  
1700 Kennedy Causeway, #132  
North Bay Village, FL 33141

NAME: ROY MARTIN  
ADDRESS: 7630 MIAMI VIEW DR.  
CITY: NORTH BAY VILLAGE STATE: FL ZIP CODE: 33141

(Are your home address and telephone number(s) exempt from public records disclosure pursuant to Section 119.07, Florida Statutes? If yes, please indicate the nature of your exemption (you are a current or former law enforcement officer, certified firefighter, prosecutor, judge, human resource director; etc.):

Home Phone: (305) 542-1426 Cellular Phone: (305) 762-7543 Fax Number: (305) 866-7874

E-mail address: baymar@the-beach.net

Occupation: SELF-EMPLOYED.

Place of Employment: BAYMAR HOTELS & PROPERTIES, INC.

Education: UNIVERSITY

Professional/Civic Organizations: TWICE BEAUTIFICATION BOARD  
ONCE PLANNING & ZONING BOARD  
ROTARY CLUB

Do you reside in the City? Yes  No   
If yes, how many years: 12 YEARS.

In the past, have you served on any City Advisory Board(s) Yes  No   
If yes, name of Board(s): PLANNING & ZONING BOARD  
TWICE-BEAUTIFICATION BOARD

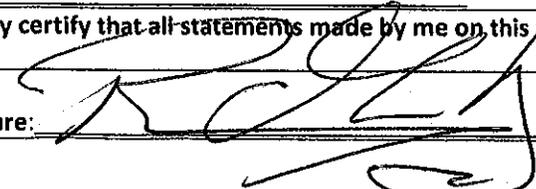
Are you currently serving on an Advisory Board(s)? Yes  No   
If yes, name of board(s):

What qualifications do you have which will be a benefit if you were appointed to this Board? You may attach a letter, resume, or any additional information you consider pertinent.

KNOWLEDGE OF ZONING & ORDINANCES  
UNIVERSITY DEGREE (COMMERCIAL & FINANCIAL SCIENCES)

Explain why you wish to serve on this advisory board: AS ALWAYS TO SERVE  
MY COMMUNITY.

I hereby certify that all statements made by me on this application are correct to the best of my knowledge and recollection.

Signature: 

Date: 02/07/12

14A(2)(A)

**CITY OF NORTH BAY VILLAGE  
ADVISORY CHARTER REVIEW BOARD APPLICATION**

JAN 31 PM 2:46

(Please type or print)

Please submit a completed application to:  
City of North Bay Village  
1700 Kennedy Causeway, #132  
North Bay Village, FL 33141

NAME: MAX CROWN  
ADDRESS: 1620 South TREASURE DRIVE  
CITY: NORTH BAY VILLAGE STATE: FL ZIP CODE: 33141

(Are your home address and telephone number(s) exempt from public records disclosure pursuant to Section 119.07, Florida Statutes? If yes, please indicate the nature of your exemption (you are a current or former law enforcement officer, certified firefighter, prosecutor, judge, human resource director; etc.):

Home Phone: 305-864-4308 Cellular Phone: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail address: tm.crown@peoplepc.com

Occupation: Aviation Safety Inspector

Place of Employment: Federal Aviation Administration

Education: Bachelor of Science - Business Administration

Professional/Civic  
Organizations: \_\_\_\_\_

Do you reside in the City? Yes  No   
If yes, how many years: 20

In the past, have you served on any City Advisory Board(s) Yes  No   
If yes, name of Board(s) Citizen's Budget Oversight Board

Are you currently serving on an Advisory Board(s)? Yes  No   
If yes, name of board(s): Citizen's Budget Oversight Board

What qualifications do you have which will be a benefit if you were appointed to this Board? You may attach a letter, resume, or any additional information you consider pertinent.

I have worked on the Citizen's Budget Oversight Board for two terms and have a vision of what the city needs.

Explain why you wish to serve on this advisory board:

The Charter is the foundation for which our city governs and should be updated periodically to reflect the times we live in. I believe I can contribute to this process.

I hereby certify that all statements made by me on this application are correct to the best of my knowledge and recollection.

Signature: Max Crown

Date: 1/31/12

**14A(3)**

CITY OF NORTH BAY VILLAGE  
ADVISORY CHARTER REVIEW BOARD APPLICATION

(Please type or print)

JAN 30 AM 8:45

Please submit a completed application to:  
City of North Bay Village  
1700 Kennedy Causeway, #132  
North Bay Village, FL 33141

JAN 30 AM 8:45

NAME: ROBERT R. PUSHKIN  
ADDRESS: 7545 CUTLASS AVE  
CITY: NBV STATE: FL ZIP CODE: 33141

(Are your home address and telephone number(s) exempt from public records disclosure pursuant to Section 119.07, Florida Statutes? If yes, please indicate the nature of your exemption (you are a current or former law enforcement officer, certified firefighter, prosecutor, judge, human resource director; etc.):

Home Phone: 305-865-5633 Cellular Phone: 305-332-0371 Fax Number: N/A

E-mail address: PUSHKINR@ATLANTICBB.NET

Occupation: RETIRED

Place of Employment: N/A

Education: \_\_\_\_\_

Professional/Civic Organizations: \_\_\_\_\_

Do you reside in the City? Yes  No   
If yes, how many years: 25

In the past, have you served on any City Advisory Board(s) Yes  No   
If yes, name of Board(s) PENSION - CIVIL SERVICE - HARBOR ISLAND PARKING - PLANNING & ZONING BOARD - 2000 CHARTER REVIEW BOARD

Are you currently serving on an Advisory Board(s)? Yes  No   
If yes, name of board(s): \_\_\_\_\_

What qualifications do you have which will be a benefit if you were appointed to this Board? You may attach a letter, resume, or any additional information you consider pertinent.  
PREVIOUS EXP. ON CHARTER REVIEW BOARD 2000. NUMEROUS ADMINISTRATION POSITIONS IN THE CITY

Explain why you wish to serve on this advisory board: TO HELP THE CITY MOVE FORWARD BY REVIEWING & SUGGESTING CHANGES TO THE CHARTER IF FOUND TO BE NEEDED.

I hereby certify that all statements made by me on this application are correct to the best of my knowledge and recollection.

Signature: [Signature] Date: 1/27/12

14A(4)

2 4 1 8 1 2 0

# CITY OF NORTH BAY VILLAGE ADVISORY CHARTER REVIEW BOARD APPLICATION

(Please type or print)

Please submit a completed application to:  
City of North Bay Village  
1700 Kennedy Causeway, #132  
North Bay Village, FL 33141

NAME: JORGE GONZALEZ

ADDRESS: 1900 HARBOR IS DR.

CITY: NBV STATE: FL ZIP CODE: 33141

(Are your home address and telephone number(s) exempt from public records disclosure pursuant to Section 119.07, Florida Statutes? If yes, please indicate the nature of your exemption (you are a current or former law enforcement officer, certified firefighter, prosecutor, judge, human resource director, etc.):

Home Phone: \_\_\_\_\_ Cellular Phone: (305) 793-8828 Fax Number: (786) 464-0767

E-mail address: Jorge@Solexint.com

Occupation: BUSINESS OWNER

Place of Employment: SOLEX INTERNATIONAL

Education: BS ENGINEERING, MBA

Professional/Civic Organizations: OPTIMINT CLUB

Do you reside in the City? Yes  No  5  
If yes, how many years: \_\_\_\_\_

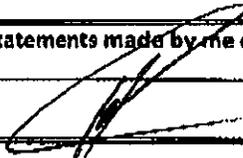
In the past, have you served on any City Advisory Board(s) Yes  No   
If yes, name of Board(s): CITY MANAGER SELECTION BD, P + Z BD

Are you currently serving on an Advisory Board(s)? Yes  No  P + Z BD  
If yes, name of board(s): \_\_\_\_\_

What qualifications do you have which will be a benefit if you were appointed to this Board? You may attach a letter, resume, or any additional information you consider pertinent. SEE ATTACHED

Explain why you wish to serve on this advisory board: CONTRIBUTE TO THE CITY AND IMPROVE LIVING STANDARDS OF ITS RESIDENTS

I hereby certify that all statements made by me on this application are correct to the best of my knowledge and recollection.

Signature:  Date: 2/1/2012

14A(5)

February 1, 2012

Dear Yvonne,

SENT VIA FAX

I'm interested in joining Advisory Charter Review Board. I'm a resident of North Bay Village residing at 360 Condominium located at 7900 Harbor Island Dr. I've been a resident of NBV since 2007.

I have been elected President to the Board of Directors of Condo A, the largest association at 360 for the last two years consecutively. I'm currently President of three of the four boards of the community, including the Master board. Among other responsibilities, I oversee a combined budget for all three associations of \$2.54M. Through active participation in the budget process, I have contributed to lowering the expenses while improving the services rendered to the community. This year will be reducing the monthly assessments to the owners of the largest association in the community by over 2%.

I'm the CEO/CFO of Solex International, LLC. of which I own 50%. I'm responsible for managing the overall budget and oversee all financial matters related to the operation of the business. Solex is a start up distribution business to Latin America in its first year of operation. Our first year sales will be \$3,000,000 and operating budget of \$130,000.

I was employed with Hewlett-Packard Co. from 1996-2004 in the capacity of Business Development Manager for Latin America. My responsibilities included managing a \$2,000,000 annual budget to fund Sales and Marketing activities of consumer products on annual revenues of \$150,000,000 for the product categories.

From 2002 - 2008 I co-owned, and was active in Atlas Property Management Services, Inc. Atlas is a property management company specializing in Condominium Associations. My responsibilities included developing individual budgets tailored to each community association we managed.

I have an Engineering degree from the University of Florida and an MBA from Nova Southeastern University with focus on Finance. I'm also a licensed Real Estate Broker and own a real estate brokerage firm.

My skills include excellent oral and written communication in both English and Spanish, conversational in Portuguese. I'm fully computer literate and familiar with the most widely used accounting and business productivity software, including the MS suite.

I'm an effective negotiator and have good people skills: good listener, fair minded, understanding and sympathetic to other points of view, I look for win-win solutions as the best approach to conflict resolution.

I'm sure that I can make a contribution to the Advisory Charter Review Board and enjoy myself doing it. Please contact me at your convenience if you have any questions... 305-793-8828 / [jorge@solexint.com](mailto:jorge@solexint.com)

Jorge Gonzalez

14 A(6)

provisions of this Charter are intended to be not a new enactment but a continuation of such provisions of law and this Charter shall be so construed and applied.

(Res. No. 2000-41, 11-8-00, Election of 11-7-00)

#### 10.10. Transition ordinances.

The Commission shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within sixty (60) days of the first Commission meeting under this Charter for the purpose of facilitating the transition may be passed as emergency ordinances following the procedures in Article III except that transition ordinances shall be effective for up to ninety (90) days after enactment. Thereafter such ordinances may be readopted, renewed or otherwise continued only in the manner prescribed for normal ordinances in Article III.

#### 10.11. Resolving conflicts within charter.

Should there be a conflict or apparent conflict in the provisions of any one section of this Charter or between two (2) or more sections thereof, then the city attorney shall resolve such conflict or apparent conflict by a written ruling which shall be legal and binding unless invalidated by a court of competent jurisdiction.

(Res. No. 2000-41, 11-8-00, Election of 11-7-00)

#### 10.12. Severability clause.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

(Res. No. 2000-41, 11-8-00, Election of 11-7-00)

#### 10.13. Revision provision.

This Charter of the City must be reviewed six (6) years from November 8, 2000 and each sixth year thereafter by an Advisory Charter Review Board appointed by the Commission with a min-

imum of five (5) members with at least one (1) representative from each island; any proposed revisions to the Charter must meet the approval of the qualified electors of the City at an election to be held at the same time as the regularly scheduled municipal Commission election immediately following each sixth year Charter review. (Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2004-36, 7-13-04, Election of 11-2-04; Res. No. 2006-45, Pt. O, 8-28-06, Election of 11-7-06)

**RESOLUTION NO. 2011-51**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, ESTABLISHING AN ADVISORY CHARTER REVIEW BOARD; PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY VICE MAYOR CONNIE LEON-KREPS)**

**WHEREAS**, Article 10, Section 10.13, of the Charter of the City of North Bay Village provides for review of the City Charter once every six years; and

**WHEREAS**, the Charter was last amended by the Charter Review Advisory Committee in 2006 and approved by the voters in the same year, becoming effective on December 11, 2006; and

**WHEREAS**, the City Commission wishes to activate and appoint the Advisory Charter Review Board in preparation for the regularly scheduled 2012 municipal election pursuant to Section 10.13 of the City Charter.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA:**

**Section 1.** Recitals. The foregoing whereas clauses are hereby ratified and confirmed as being true; and the same are hereby made a specific part of this Resolution.

**Section 2.** Establishment of Advisory Charter Review Board. An Advisory Charter Review Board shall be established and appointed to review the Charter and make recommendations to the City Commission.

**Section 3.** Qualifications. To the extent possible, the Board shall be comprised of residents with current or past professional planning, zoning, legal, finance and business experience from within the City, who shall specifically meet the following qualifications:

1. Have been a resident of the City of North Bay Village for a minimum of five (5) years; and

2. Be actively engaged in:
  - a. activities within the City; or
  - b. employment, or past employment, in one of the identified fields of expertise.

**Section 4.** Appointment and Composition of Board. The Board shall consist of five (5) voting members and two (2) non-voting members. The Mayor and Commissioners shall each nominate one voting member, who shall be from the district the Commissioner represents. Two (2) additional non-voting members shall be appointed from outside governmental or governmental support organizations selected from a list of candidates and volunteers provided by the City Manager. All appointments shall be subject to a majority vote by the Commission. Nominees shall be a minimum of 18 years of age. Should a vacancy occur on the Board, the original nominating Commissioner shall nominate a replacement, subject to majority vote of the Commission, or if the Vacancy is for one (1) of the governmental members, the Commission shall, by majority vote, select an additional member from the list provided by the City Manager.

**Section 5.** Duties. The Advisory Charter Review Board shall:

1. Appoint its own chair and vice-chair;
2. Appoint a secretary, who shall keep an accurate record of the Board's meetings;
3. Review the City Charter to evaluate the Charter and identify proposed revisions;
4. Make periodic reports to the City Commission of the progress of their review; and
5. Submit a report of final recommendations no later than May 2012.

**Section 6.** Meetings. The Board shall meet monthly and at the call of the Chairperson and all meetings shall be open to the public. The Secretary shall keep minutes of the Board meetings. The approved minutes shall be filed with the City Clerk.

**Section 7.** Attendance. In the event a Board member fails to attend three (3) regularly scheduled meetings, the Board member shall automatically be removed from the Board. The vacancy shall be filled pursuant to Section 3 of this Resolution.

**Section 8.** Staffing. The City Manager and the City Clerk shall serve as staff to the Board.

**Section 9.** Board Termination. The Board shall be dissolved upon providing its final recommendations to the City Commission, who may approve, reject or modify the recommendations.

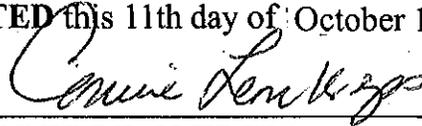
**Section 10.** Effective Date. That this Resolution shall take effect immediately upon adoption.

The motion to adopt the foregoing Resolution was offered by Vice Mayor Connie Leon-Kreps, seconded by Commissioner Eddie Lim.

**Final Votes at Adoption:**

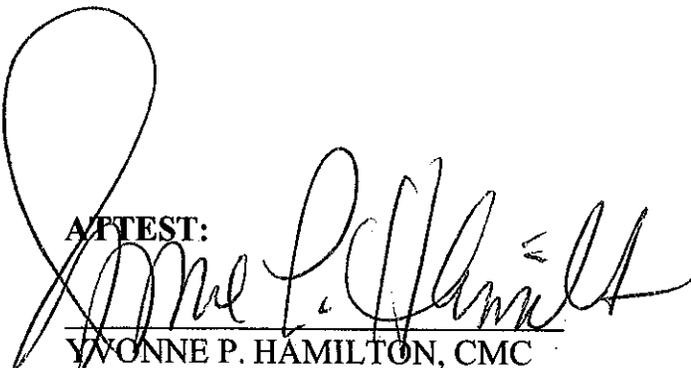
Mayor Corina S. Esquijarosa	<u>Absent</u>
Vice Mayor Connie Leon-Kreps	<u>Yes</u>
Commissioner Eddie Lim	<u>Yes</u>
Commissioner Frank Rodriguez	<u>Yes</u>
Commissioner Paul Vogel	<u>Absent</u>

**PASSED AND ADOPTED** this 11th day of October 11, 2011.



CONNIE LEON-KREPS  
VICE MAYOR

**ATTEST:**



YVONNE P. HAMILTON, CMC  
CITY CLERK

APPROVED AS TO FORM FOR USE BY  
THE CITY OF NORTH BAY VILLAGE ONLY:



Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.  
City Attorney



## City of North Bay Village

Administrative Offices

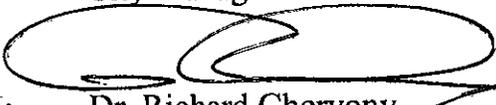
1700 Kennedy Causeway, Suite #132 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

### **CITY OF NORTH BAY VILLAGE MEMORANDUM**

**DATE:** February 3, 2012

**TO:** Dennis Kelly  
City Manager

**FROM:**   
Dr. Richard Chervony  
Commissioner

**SUBJECT:** Request to Repeal Resolution No. 2011-52

---

I hereby request the preparation of a resolution to repeal Resolution No. 2011-52 adopted on October 11, 2011 pertaining to the initiation of new policy legislation.

Chapter 3, Section 3.08 of the City Charter provides for each ordinance or resolution to be introduced by a member of the City Commission. The policy adopted under Resolution No. 2011-52 prohibits a member of the City Commission from making a request to the City Attorney or to the Administration to prepare an ordinance or a resolution for the agenda without first submitting the matter for consideration before the Commission.

This policy clearly removes the intent of the Charter by taking away the authority from any member of the Commission to introduce new policy legislation for approval or denial without prior consideration or authorization. Furthermore, there are occasions that time is of the essence and an item cannot wait over a month for action to be taken.

RC:yph

Mayor  
Connie Leon-Kreps

Vice-Mayor  
Eddie Lim

Commissioner  
Dr. Richard Chervony

Commissioner  
Dr. Paul Vogel

14BC11

**RESOLUTION NO. 2011-52**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA AMENDING THE COMMISSION MEETING AND AGENDA PROCEDURES TO PROVIDE PROCEDURES FOR THE INITIATION OF NEW POLICY LEGISLATION; AND PROVIDING AN EFFECTIVE DATE. (INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)**

**WHEREAS**, Section 3.09 A., "Meeting Procedures", of the Charter of the City of North Bay Village, Florida ("City") provides that the City Commission may establish its own rules of procedure and order of business; and

**WHEREAS**, Section 30.05, "Agenda Meeting procedures", of the City's Code of Ordinances provides that the "City Commission shall establish meeting and agenda procedures by Resolution"; and

**WHEREAS**, the City Commission adopted Resolution No. 2011-17 providing for such City Commission Meeting and Agenda Procedures; and

**WHEREAS**, in order to provide for the orderly and cost effective use of resources, the City Commission desires to provide procedures for the initiation of new policy legislation; and

**WHEREAS**, the City Commission finds that the adoption of these procedures is in the best interest of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA AS FOLLOWS:**

**Section 1.** The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

**Section 2.** The City Commission Meeting and Agenda Procedures are amended as follows<sup>1</sup>:

**North Bay Village City Commission Meeting and Agenda Procedures**

<sup>1</sup> Additions to the City Commission Meeting and Agenda Procedures are shown in underline. Deletions to the City Commission Meeting and Agenda Procedures are shown in ~~strikethrough~~.

5. **Agenda.**

B. *Who may place.* The Mayor, City Commissioners, City Manager, and City Attorney are authorized to place matters on the agenda of the City Commission Meeting for discussion and/or approval by the City Commission. While the City Manager may initiate the preparation of policy legislation or action by the City Attorney, in order to timely and efficiently manage the City, a Commission Member who wishes to request the preparation of policy legislation by the City Attorney or Administration shall place such requests for consideration by the City Commission under the New Business section of the agenda. A signed, written memorandum or form provided for such purposes shall state the purpose of the item/action, the major points to be covered, the reasons for necessary action, and the action desired by the Commission Member. Each Commission Member will be limited to three (3) New Business items per meeting. The request shall not be acted upon by the City Attorney or Administration until such request is approved by majority vote of the City Commission.

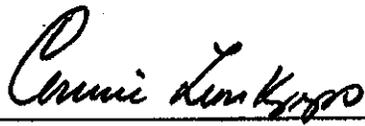
**Section 3.** Effective Date. This Resolution shall take effect immediately upon its adoption.

The motion to adopt the foregoing Resolution was offered by Vice Mayor Connie Leon-Kreps seconded by Commissioner Eddie Lim.

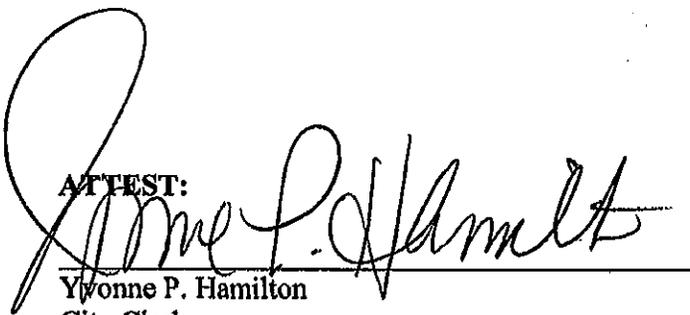
**FINAL VOTE AT ADOPTION:**

Mayor Corina S. Esquijarosa	<u>Absent</u>
Vice Mayor Connie Leon-Kreps	<u>Yes</u>
Commissioner Eddie Lim	<u>Yes</u>
Commissioner Frank Rodriguez	<u>Yes</u>
Commissioner Paul Vogel	<u>Absent</u>

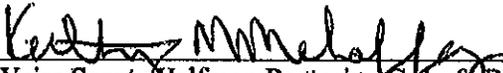
**PASSED AND ADOPTED** this 11th day of October, 2011.

  
\_\_\_\_\_  
Connie Leon-Kreps, Vice Mayor

**ATTEST:**

  
\_\_\_\_\_  
Yvonne P. Hamilton  
City Clerk

**APPROVED AS TO FORM FOR USE ONLY BY  
THE CITY OF NORTH BAY VILLAGE:**

  
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

City of North Bay Village Resolution: Procedures for New Policy Legislation

district fails to reside within the election district from which he was elected or appointed for any reason other than redistricting. Forfeiture shall be determined by the remaining members of the Commission.

C. *Forfeiture hearing.* A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a Public Hearing on demand and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing.

D. *Filling of vacancies on City Commission.* Any vacancy occurring for a City Commissioner shall be filled by the vote of the majority of the remaining members of said City Commission with the appointee serving until the remainder of the unexpired term until the next succeeding general City election and with any further remainder of said unexpired term to be filled by a Commissioner elected at said general election. If the remaining members of the City Commission shall fail or refuse to fill such vacancy within 30 days after it occurs, and if no general City election will be held within 90 days after the expiration of said 30 days, then a special election shall be called and held to elect a Commissioner to fill such vacancy for the remainder of the unexpired term. In the event that the position is that of Mayor, it must be filled from among the remaining Commissioners in accordance with the procedures set forth above.

E. In the event of the death, resignation, or removal of the Mayor, the Vice Mayor shall forthwith commence to serve as interim Mayor until the Mayor's position is filled by election or appointment.

- (a) When the Vice Mayor becomes interim Mayor, the Commission, by majority vote shall appoint an interim Commissioner from the Vice Mayor's vacant district to fill the Vice Mayor's vacant seat until the required election or appointment of the Mayor and the Commission shall, by majority vote, appoint one (1) of the Commissioners to serve as interim Vice Mayor.
- (b) The Commissioner serving as interim Mayor, or Vice Mayor, shall serve as Mayor, or Vice Mayor, until the newly elected or

appointed Mayor, or Vice Mayor, is sworn in as Mayor, or Vice Mayor. The interim Mayor, or Vice Mayor, shall return to the position of Commissioner previously held to serve the remainder of his or her unexpired term.

F. In the event of the death, resignation, or removal of the Vice Mayor, the Commission shall, by majority vote, elect one (1) of the Commissioners to serve as Vice Mayor.

G. *Extraordinary vacancies.* In the event that a majority of the members of the Commission are removed by death, disability, law or forfeiture of office, the governor shall make interim Commission appointments and the Commission shall call a special election as provided in D. above and such election shall be held in the same manner as the election held pursuant to the previous City Charter.  
(Res. No. 2000-41, 11-8-00, Election of 11-7-00;  
Res. No. 2004-38, § 1, 7-27-04, Election of 11-2-04;  
Res. No. 2006-45, Pt. D, 8-28-06, Election of 11-7-06)

### 3.071. Removals and suspensions from office of City Commission.

The Mayor and any City Commissioner may be removed from office by the electors of the City of North Bay Village pursuant to the provisions of § 100.361, Florida Statutes, and are further subject to removal and/or suspension from office pursuant to the provisions of § 112.51, Florida Statutes.

### 3.08. Ordinances and resolutions.

A. *Action requiring an ordinance.* In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the Commission shall be by ordinance which:

1. Adopt or amend an administrative code or establish, alter or abolish any city department or agency;
2. Establish a rule or regulation the violation of which carries a penalty;

3. Set service or user charges for municipal services or granting administrative authority for such charges;
4. Authorize the borrowing of money not inconsistent with the limitations established in this Charter, the state constitution and general law of the State of Florida;
5. Convey or lease or authorize by administrative action the conveyance or lease of any lands of the City;
6. Amend or repeal any ordinance previously adopted except as otherwise provided herein.

B. *Emergency ordinances.* To meet a public emergency affecting life, health, property or the public peace, the Commission may adopt one or more emergency ordinances, but the ordinances may not levy taxes; set service or user charges for any municipal services; amend or repeal any ordinance adopted by the people at the polls or by the Commission in compliance with an initiative petition; or authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter, if applicable.

1. *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.
2. *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but at least three (3) affirmative votes shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances.
3. *Effective date.* Emergency ordinances shall become effective upon adoption or at such other date as may be specified in the ordinance.

4. *Repeal.* Every emergency ordinance except emergency appropriations shall automatically stand repealed sixty (60) days following the date on which it was adopted, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

5. *Emergency appropriations.* The Commission may make emergency appropriations in the manner provided in this section and under Section 3.06 of this Charter. To the extent that there are no available un-appropriated revenues to meet such appropriations, the Commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

C. *Procedures for adoption of ordinances and resolutions.*

1. As used in this section, the following words and terms shall have the following meanings unless some other meaning is plainly indicated.
  - a. "Ordinance" means an official legislative action of the City Commission, which action is a regulation of a general and permanent nature and enforceable as a local law.
  - b. "Resolution" means an expression of the City Commission concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the City Commission.
2. Each ordinance or resolution shall be introduced by a member of the Commission or the City Manager, the City Attorney or

the City Clerk, so long as the information is provided within 48 hours of the scheduled meeting, in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection. The enacting clause of every ordinance shall be as follows: "Be it enacted, by the Commission of the City of North Bay Village . . ."

3. A proposed ordinance must be presented on at least two (2) separate Commission meetings. It may be read by title only. At least ten (10) days prior to the final adoption of the said ordinance the City shall publish once in a newspaper of general circulation in the City a notice of the proposed ordinance. The giving of said notice shall not apply to a proposed emergency ordinance. Said notice shall state the title or brief description of the proposed ordinance or ordinances; the date, time and place of the Commission meeting for enacting said ordinance; and the place or places within the City where said proposed ordinance may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

4. A majority of the members of the City Commission shall constitute a quorum. An affirmative vote of a majority of a quorum present shall be necessary to enact any ordinance or adopt any resolution; except that four (4) affirmative votes of the membership of the Commission is required to enact an emergency ordinance. On final passage, the vote of each member of the City Commission voting shall be entered on the official record of the meeting. All ordinances or resolutions

passed by the city Commission shall become effective after passage or as otherwise provided therein.

5. Every ordinance or resolution shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the mayor and the City Clerk.
6. The procedure as set forth herein shall constitute a uniform method for the adoption and enactment of the City ordinances and resolutions and shall be taken as cumulative to other methods now provided by law for adoption and enactment of City ordinances and resolutions. By future ordinance or charter amendment, the City may specify additional requirements for the adoption or enactment of ordinances or resolutions or prescribe procedures in greater detail than contained herein, provided such modifications are not in conflict with general law.

D. *Penalty for violation of ordinances.* Provisions governing the imposition of fines for violations of the Code shall be as prescribed within City Code Chapter 153, and, where applicable, Chapter 162, Florida Statutes.

(Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. E, 8-28-06, Election of 11-7-06; Res. No. 2008-27, § 1, 7-30-08, Election of 11-4-08)

### 3.09. Meeting procedures.

A. *Meetings.* The Commission shall meet regularly at least once in every month at such times and places as the Commission may prescribe by rule; however, the Commission, by majority vote, may elect not to have a Regular Meeting in either the month of July or the month of August for the purposes of allowing summer vacations.

B. *Rules and record.* The Commission shall determine its own rules of procedure and order of business and shall keep a record of such proceedings open for public inspection.

C. *Quorum.* A majority of the Commission shall constitute a quorum. Commissioners constituting less than a quorum shall have power to set and adjourn meeting dates and times.