



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

To: The Honorable Mayor and City Commissioners

From: Dennis W. Kelly, City Manager

Date: September 25, 2012

Subject: DOT 6-Local Funding Agreement (LFA)
Kennedy Causeway Renovation

During the City Commission meeting of September 11, 2012, the City Commission approved Resolution 2012-36 (copy attached) authorizing the City Manager to enter into a LFA with Florida Department of Transportation District 6 (DOT 6) for improvements to the Kennedy Causeway. Before committing to the LFA, it was represented to the Commission that staff would come back to the October 9, 2012 meeting to discuss the fiscal impact and review a draft LFA. DOT 6 did not have a blank LFA or template, but they did send us a sample of a LFA between them and Miami-Dade County (Seaport Department) executed this past February (copy attached).

In the course of working this project efforts were made to tie down the City's costs and source of funding. Neither could be found. Subsequently, Mr. Gary Ratay, P.E., Consulting Engineer with Kimley-Horn provided the attached estimate. The DOT 6 project will probably run from bascule bridge to bascule bridge. The City's interest will run from the west starting at the flat bridge at Channel 7 to the bascule bridge to the east. The distance for the City's interest is 0.63 miles. Using Mr. Ratay's top end estimate of \$3.5 million per mile of road, our project cost estimate would be about \$2,205,000 ($3,500,000 \times 0.63$).

Before proceeding with this project the Commission needs to decide if they want to continue based on the cost estimate and if so, how does the City pay for the project. The following are options available:

- A. Leverage CITT funds; this is a very limited option in that CITT funds generally come in at about \$225,000 per year. Other projects and programs come out of that money as well and would not leave a lot left over to pay back a loan or bond. Landscaping, city bus, street lights, street repairs, etc. all compete for CITT funds.
- B. Float a bond; this would require pledging a revenue source to pay the bond debt for a given period of time (as small as it is, probably not more than 5 or 7 years). I usually

14A(1)

estimate the cost of a bond at \$160,000 per year payment per \$1 million of the bond. This would equate to about \$360,000 per year for annual debt payment (short term) on a \$2,205,000 note.

- C. Bank loan; same as the bond issue but without a lot of the closing or issuance costs a bond would require.

The above options all require a funding source. One mill of ad valorem tax equals approximately \$600,000. A \$360,000 annual payment through the General Fund would equal about .60 of a mill.

This item is for discussion purposes only for the October Commission meeting, but a decision will need to be made by the November or December Commission meeting in order to meet DOT 6's schedule for this project year. Staff awaits your guidance and directive. Thank you.

14A(2)

RESOLUTION NO. 2012-36

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA AUTHORIZING THE CITY MANAGER TO ENTER INTO A LOCAL FUNDING AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS TO THE KENNEDY CAUSEWAY; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)

WHEREAS, the City desires to continue to improve and develop the remainder of the Kennedy Causeway; and

WHEREAS, the City is proposing to undertake a project with the same design standards as Phase 1 of the project, which will include the narrowing of the causeway median from its required width, narrowing of one or more travel lanes, and inclusion of a shared use path; and

WHEREAS, the design of the proposed improvement will vary from the standards set forth by the Florida Department of Transportation; and

WHEREAS, the City wishes to enter into a local funding agreement with the Florida Department of Transportation (FDOT) for Design Variances and for construction of the project.

WHEREAS, the City will receive a commitment from FDOT to remove the chain-link fence on the south side of the flat bridge.

NOW, THEREFORE, BE IT RESOLVED BY THE 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. Authorization of City Officials. The City Manager is authorized to enter into a local funding agreement with the Florida Department of Transportation for Design Variances and construction funding for improvements to Kennedy Causeway which will include the narrowing of the causeway median from its required width, the narrowing of one or more travel lanes, and the inclusion of a shared use path, subject to the approval as to form and legality by the City Attorney.

14A(3)

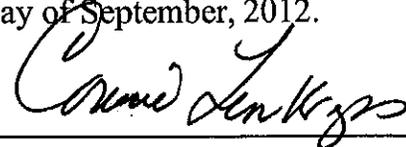
Section 3. Effective Date. This Resolution shall take effect immediately upon adoption.

The motion to adopt the foregoing Resolution was offered by Richard Chervony, seconded by Commissioner Stuart Blumberg.

FINAL VOTE AT ADOPTION:

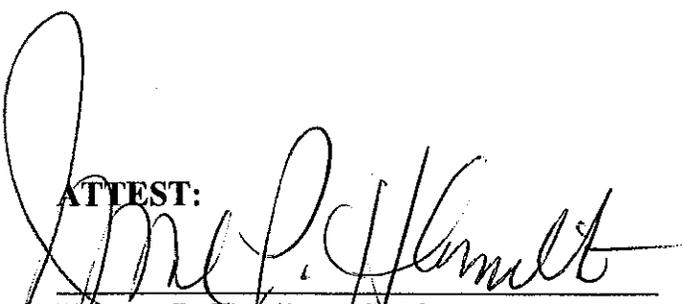
Mayor Connie Leon-Kreps	<u>Yes</u>
Vice Mayor Eddie Lim	<u>Yes</u>
Commissioner Stuart Blumberg	<u>Yes</u>
Commissioner Richard Chervony	<u>Yes</u>

PASSED AND ADOPTED this 14th day of September, 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

14A(4)



Florida Department of Transportation

RICK SCOTT
GOVERNOR

1000 NW 111 Avenue
Miami, FL 33172

ANANTH PRASAD, P.E.
SECRETARY

February 24, 2012

Mr. Patrick Shortal, P.E.
Chief, Engineering Services
Port of Miami
1015 N. America Way
Miami, Florida 33132

Re: **Locally Funded Agreement Execution & Payment Notice**
Project# 420124-1-62-01

Dear Mr. Shortal,

In accordance with the executed Agreement, the County shall have fourteen (14) calendar days from February 24, 2012 to furnish the Department, for deposit, the amount of THREE HUNDRED NINETY FOUR THOUSAND SEVEN HUNDRED ELEVEN DOLLARS AND SEVENTY ONE CENTS (\$394,711.71). Payment shall be made by one of two methods: 1) by check, with Financial Project No. **420124-1-62-01** clearly visible on the face of the check, mailed to the Department for processing at:

Florida Department of Transportation
Office of Comptroller
605 Suwannee Street
Tallahassee, FL 32399
Attn: LFA Section

or 2) by wire transfer, by following the detailed instructions in the enclosed 'Florida Department of Transportation Office of the Comptroller Wire Instructions'. (Recommended)

The Department looks forward to continuing this partnership with Miami-Dade County and stands ready to assist you with any questions or concerns you may have. You may contact me at 305-470-5112, if you require further assistance.

Sincerely,

Michelle Loren Meaux
Joint Participation Agreement Coordinator

enc: One (1) Original Agreement; Wire Instructions
cc: Carl Filer; File

www.dot.state.fl.us

14A(5)

LOCALLY FUNDED AGREEMENT

THIS LOCALLY FUNDED AGREEMENT (hereinafter 'Agreement') is made and entered into this 24 day of February, 2012, between the **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida, acting by and through its Seaport Department, hereinafter referred to as the 'COUNTY', and the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION** a component agency of the State of Florida, hereinafter referred to as the 'DEPARTMENT'.

RECITALS:

WHEREAS, the COUNTY has jurisdiction over and maintains west to east from Caribbean Way/rail bascule bridge intersection to Bahama Drive, and from south to north from Seaboard Marine's terminal yard to Port Boulevard, all inclusive to Dodge Island, within the corporate limits of the COUNTY; and

WHEREAS, the COUNTY has requested to utilize the DEPARTMENT's contract, C-9015, with URS Corporation Southern, herein after referred to as the 'CONSULTANT', to assist the COUNTY in developing a scope of services package for services on the implementation of a Rail Intermodal yard as an element and obligation under the Port of Miami's TIGER II grant award for the intermodal and rail reconnection project (Grant Number DTMA1G11006), to include support for the development of a Request for Proposal (RFP); and

WHEREAS, the DEPARTMENT has agreed to allow the COUNTY to utilize the DEPARTMENT's CONSULTANT to assist the COUNTY in developing a scope of services package for services on the implementation of a Rail Intermodal yard and access thereto, to include support for the development of a Request for Proposal (RFP), subject to the terms and conditions detailed in this Agreement; and

14A(6)

WHEREAS, the COUNTY shall fund the increased costs, under financial project number 420124-1-62-01, associated with assisting the COUNTY in the development of a scope of services package for services on the implementation of a Rail Intermodal yard and access thereto, to include support for the development of a Request for Proposal (RFP), hereinafter collectively called the 'PROJECT', and as detailed in the attached Exhibit "A", "Scope of Services", which is herein incorporated by reference; and

WHEREAS, the parties are authorized to enter into this Agreement pursuant to Sections 334.044(7) and 339.12 (2006), *Florida Statutes*, and authorize its officers to do so.

NOW, THEREFORE, in consideration of the premises, the mutual covenants and other valuable considerations contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The Recitals to this Agreement are true and correct and are incorporated herein by reference and made a part hereof.
2. **General Requirements**
 - (a) A true and correct copy of the Resolution of the COUNTY Commission approving this Agreement is attached hereto as Exhibit "C", 'MIAMI-DADE COUNTY RESOLUTION', and is incorporated herein by reference.
 - (b) The COUNTY shall:
 - i. utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the COUNTY during the term of the Agreement; and

14A(7)

- ii. include an express requirement in any subcontract that subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Agreement term.

- (c) The COUNTY will provide funding to the DEPARTMENT, in the aggregate amount of THREE HUNDRED NINETY FOUR THOUSAND SEVEN HUNDRED ELEVEN DOLLARS AND SEVENTY ONE CENTS (\$394,711.71), for the PROJECT, subject further to the provisions in Section 3 of this Agreement and as outlined in the attachment Exhibit "B", "Financial Summary", which is herein incorporated by reference.

- (d) The DEPARTMENT's CONSULTANT will not commence work on the PROJECT until the COUNTY's funding for the PROJECT is on deposit with the DEPARTMENT.

- (e) Upon the receipt, authorization and encumbrance of funding received from the COUNTY as a result of this Agreement, the DEPARTMENT's CONSULTANT will commence work on the PROJECT.

3. Financial Provisions.

- (a) The COUNTY agrees that it will, no later than fourteen (14) calendar days after the DEPARTMENT's execution of this Agreement, furnish the DEPARTMENT an advance deposit in the amount of THREE HUNDRED NINETY FOUR THOUSAND SEVEN HUNDRED ELEVEN DOLLARS AND SEVENTY ONE CENTS (\$394,711.71) for full payment of the estimated PROJECT cost for Locally Funded

14A(8)

project number 420124-1-62-01. The advance deposit shall be the total estimated PROJECT cost plus allowances. The DEPARTMENT may utilize this deposit for payment of the costs of the PROJECT.

- (b) If the negotiated amount plus allowances is in excess of the advance deposit amount, the COUNTY will provide an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT, so that the total deposit is equal to the accepted negotiated amount plus allowances. The DEPARTMENT will notify the COUNTY as soon as it becomes apparent the accepted negotiated amount, plus allowances, is in excess of the advance deposit amount. However, failure of the DEPARTMENT to so notify the COUNTY shall not relieve the COUNTY from its obligation to pay for its full participation on final accounting as provided herein below. If the COUNTY cannot provide the additional deposit within fourteen (14) days, a letter must be submitted to and approved by the DEPARTMENT's project manager indicating when the deposit will be made. The COUNTY understands the request and approval of the additional time could delay the PROJECT, and additional costs may be incurred due to a delay of the PROJECT.
- (c) If accepted negotiated amount plus allowances is less than the advance deposit amount, the DEPARTMENT will refund the amount that the advance deposit exceeds the negotiated amount plus allowances if such refund is requested by the COUNTY in writing.
- (d) Should PROJECT modifications or changes to negotiated items occur that increase the COUNTY's total PROJECT costs, the COUNTY will be notified by the

14A(9)

DEPARTMENT accordingly. The COUNTY agrees to provide, without delay, in advance of additional work being performed, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund its share of the PROJECT. The DEPARTMENT shall notify the COUNTY as soon as it becomes apparent the actual costs will overrun the negotiated amount. However, failure of the DEPARTMENT to so notify the COUNTY shall not relieve the COUNTY from its obligation to pay for its full participation during the PROJECT and on final accounting as provided herein below. Funds due from the COUNTY during the PROJECT not paid within forty (40) calendar days from the date of the invoice are subject to an interest charge at a rate established pursuant to **Section 55.03, Florida Statutes (F.S.)**.

- (e) The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred and sixty (360) days of final payment to the CONSULTANT. The DEPARTMENT considers the PROJECT complete when final payment has been made to the CONSULTANT, not when the work is complete. All PROJECT cost records and accounts shall be subject to audit by a representative of the COUNTY for a period of three (3) years after final close out of the PROJECT. The COUNTY will be notified of the final cost. Both parties agree that in the event final accounting of total PROJECT costs pursuant to the terms of this agreement is less than the total deposit to date, a refund of the excess will be made by the DEPARTMENT to the COUNTY. If the final accounting is not performed within three hundred and sixty (360) days, the COUNTY is not relieved from its obligation to pay.

14A(10)

- (f) In the event the final accounting of total PROJECT costs is greater than the total deposits to date, the COUNTY will pay the additional amount within forty (40) calendar days from the date of the invoice from the DEPARTMENT. The COUNTY agrees to pay interest at a rate as established pursuant to Section 55.03, F.S., on any invoice not paid within forty (40) calendar days until the invoice is paid.
- (g) The payment of funds under this Locally Funded Agreement will be made directly to the DEPARTMENT for deposit and as provided in the attached Memorandum of Agreement (MOA) between the COUNTY, Department and the State of Florida, Department of Financial Services, Division of Treasury.
- (h) Nothing in this Agreement shall be construed to violate the provisions of Section 339.135(6)(a), Florida Statutes, which provides as follows:

“The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the Comptroller of the Department that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in

excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year.”

4. **Effective Date of this Agreement.** This Agreement shall become effective upon execution by the COUNTY and the DEPARTMENT and as of the date set forth on page one (1) hereof.
5. **Termination for Convenience.** It is expressly understood and agreed that the COUNTY may terminate this Agreement, in total or part, without cause or penalty, by providing thirty (30) days prior written notification from the COUNTY; in which event the COUNTY's sole obligation to the DEPARTMENT shall be for the fees of the CONSULTANT for those units or section of work previously authorized for the PROJECT, in accordance with the Department's Contract, C-9015. Such payment shall be fully reimbursing the DEPARTMENT for all amounts owed to its CONSULTANT for the PROJECT, in accordance with the terms of the DEPARTMENT's Contract, C-9015. In the event this amount is less than the amount deposited by the COUNTY pursuant to Section 3 of this Agreement, the DEPARTMENT shall return such sums to the COUNTY as soon as practicable thereafter. Upon such termination, the COUNTY may, without penalty or other obligation to the DEPARTMENT or its CONSULTANT, elect to employ other persons to perform the same or similar services.
6. **Provisions Separable.** The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.
7. **Amendment of Agreement.** This Agreement may only be amended by mutual agreement of the DEPARTMENT and the COUNTY, expressed in writing and executed and delivered by

each. An amendment to the AGREEMENT shall be requested when adding funds and/or revising the scope of services.

8. **Notices.** All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered (personally, by courier service such as Federal Express, or by other messenger) against receipt or upon actual receipt of registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

- (a) If to the COUNTY: Port of Miami
1015 N. America Way
Miami, Florida 33132
Attention: Patrick Shortal, P.E.
Chief, Engineering Services

- (b) If to the DEPARTMENT: Florida Department of Transportation
1000 NW 111 Avenue, Room 6202B
Miami, Florida 33172
Attention: Michelle L. Meaux, JPA Coordinator

Any party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

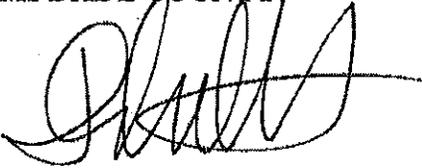
9. **Entire Agreement.** This Agreement, including its attached Exhibits, contain the sole and entire Agreement between the parties with respect to such subject matter and supersede any and all other prior written or oral agreements between them with respect to such subject matter.

10. **Binding Effect.** This Agreement shall be binding upon the parties and their respective representatives, successors and assigns.

11. **Waiver.** Waiver by either party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement.
12. **Captions.** The captions contained in this Agreement are inserted only as a matter of convenience or reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any of its provisions.
13. **Absence of Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to (a) confer upon any entity or person other than the parties and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement.
14. **Other Documents.** The parties shall take all such actions and execute all such documents which may be reasonably necessary to carry out the purposes of this Agreement, whether or not specifically provided for in this Agreement; provided that the parties further acknowledge that certain additional actions by the COUNTY may require approval by the COUNTY Commission, and, to the extent such approval is required by applicable law, obtaining such approval shall be a condition to the obligations of the COUNTY under this Section.
15. **Governing Law.** This Agreement and the interpretation of its terms shall be governed by the laws of the State of Florida, without application of conflicts of law principles. Venue for any judicial, administrative or other action to enforce or construe any term of this Agreement or arising from or relating to this Agreement shall lie exclusively in Miami-Dade County, Florida.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the day and year first above written, the MIAMI-DADE COUNTY, signing by and through its County Manager, and the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, signing by and through its District Secretary, each duly authorized to execute same.

MIAMI-DADE COUNTY:

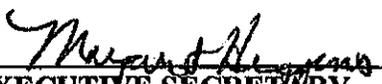

BY: COUNTY MAYOR

**STATE OF FLORIDA,
DEPARTMENT OF TRANSPORTATION:**

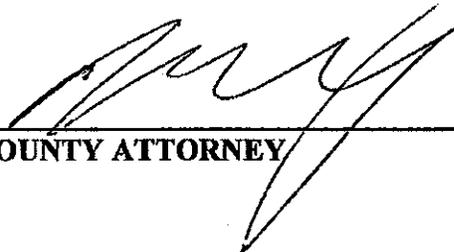
 for
BY: DISTRICT SECRETARY

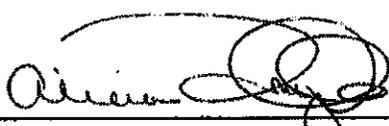

ATTEST: (SEAL) COUNTY CLERK




ATTEST: (SEAL) EXECUTIVE SECRETARY

LEGAL REVIEW:


COUNTY ATTORNEY


DISTRICT CHIEF COUNSEL

14A(15)

EXHIBIT 'A'

SCOPE OF SERVICES

The PROJECT work consists of the CONSULTANT assisting the COUNTY with the rail intermodal program support services and scope package development to include the preparation of a detailed scope of work, development of specifications in coordination with FEC, preparation of schedule and update of the preliminary engineer's cost estimate to align the program with grant schedule and funding requirements, and development of a phased concept in the preparation of a procurement package(s) to meet the objectives of the rail intermodal program, while meeting the Port of Miami (POM) Tunnel obligations. The scope package will include as reference information all data collected, such as electronic and/or hard copy information related to as-built drawings from utility agency owners (UAO), existing and new survey and geotechnical data provided by the Seaport, design plans/as-built drawings for adjacent Seaport development projects, and available Project Development and Environmental (PD&E) documents. The CONSULTANT will coordinate with the FEC and its consultant(s), the DEPARTMENT, the COUNTY, Port tenants and users, UAO, and with federal, state and local agencies. The rail program support services effort will also include the preparation of a rail yard operations study to determine the most efficient rail intermodal yard layout and equipment required during construction of the Port of Miami Tunnel and in the final configuration. The scope also includes providing permitting coordination assistance and support as required during the procurement of the rail program package(s).

The CONSULTANT will provide program coordination and scheduling review, utility coordination, technical support, and guidance for adherence to the strategic project goals and objectives, adherence to the TIGER II Rail Intermodal Grant, the Port of Miami Tunnel Project, the Port's 2035 Master Plan, and the Port's obligations with its tenants through existing agreements and to all Port users. Responsibilities will include assisting the COUNTY with the phasing and operating plan of the rail facility, the rail bascule bridge and railroad crossings, access management, and the circulation within the COUNTY to meet the grant schedule requirements. The CONSULTANT will also provide assistance with utility coordination for all the COUNTY owned utilities, including water, sewer, electrical, and fiber optic, and assist in coordination between the POM, the DEPARTMENT, the Concessionaire, FP&L and AT&T for all utilities on Dodge Island. Coordinate the PROJECT with ongoing and planned roadway, infrastructure, terminal improvement, and Security Gate improvement projects at the POM, and provide technical services as necessary to facilitate interface with other projects.

Phase I Services

Phase IA

Phase IA of the railroad intermodal yard program will include the analysis and development of the rail yard layout concept. The concept for the rail intermodal yard must be phased to meet all federal, FEC, and tunnel requirements. The CONSULTANT will provide assistance in finalizing a phased rail intermodal yard concept that is integrated with the construction sequencing of the tunnel project, and maximizes the use of working track during construction as well as in the final condition. The CONSULTANT will evaluate the phases of track and gantry foundations installation, access management, security requirements, drainage and lighting requirements, and will coordinate with all

necessary Agencies in order to assist the COUNTY in meeting the grant scope, schedule and funding requirements, as well as all federal regulations. Utility coordination will also be performed to reflect and accommodate all utility modifications being installed as part of the tunnel project. The CONSULTANT will also assist the COUNTY in the review and implementation of the geotechnical and surveying investigations by others, as well as coordinate with the COUNTY's gate study consultant to optimize access to and from the railroad intermodal yard.

Phase IB

The CONSULTANT will develop an overall operations plan for the COUNTY's on-dock intermodal yard (IY) during the interim phase of operation (POM tunnel construction) and in the final condition. The purpose of this rail operations study is to provide time and motion analysis (to include gang sizes and equipment), prospective costs, as well as detailing options for the relationship between union and non-union labor and terminal facilities. The rail yard operations study will encompass several operating modes as the system migrates from the interim phase during construction of the tunnel to full capacity. Phase IB services include:

- Meeting with the COUNTY to understand the proposed terminal configuration.
- Meeting with the Port of Miami Marine Terminal operators to determine their intermodal cargo throughput requirements and transfer mode of cargo from their terminals to the IY.
- Meeting with stevedore organizations to receive their input to complete the study.
- Identifying and quantifying anticipated throughput that will be imported and exported (via rail)
- Utilizing an existing accepted design for both the IY and off-site trackage; and identifying improvements required to make the operation a viable, seamless, transfer of goods between the port and the railroad.
- Reviewing both FEC and Seaboard Marine's IY operations plan, and incorporating and/or suggesting modifications as necessary.
- Providing a detailed daily and weekly IY operations scenario. A narrative with graphics is to be incorporated into the rail operations report.
- Coordinating findings and proposals from both FEC and Seaboard Marine's operations report into a single document. Determining compatibility with COUNTY's IY operations.
- Providing an operating model to include gang sizes, time and motion analysis, equipment requirements, etc.
- Providing a comprehensive operating cost model for each developed operating scenario. The model will allow for a total cost calculation, as well as a break-out of costs incurred by stevedores, within terminal yards, within intermodal yard, including equipment acquisition and maintenance, etc. These costs will be compared to costs associated with existing dray operation to the FEC's Hialeah yard.
- Providing future costs for the year 2020.
- Describing operating scenarios due to both union and non-union trades. Providing graphics if necessary as presentation material.

Phase II Services

The CONSULTANT will assist the COUNTY in developing a scope of services package that meets all funding and scheduling requirements for the implementation of the rail intermodal yard, which

includes support for the development of a Request for Proposal (RFP) scope of services package for Design/Build (D/B) Services. The construction of the Intermodal Yard at the Port of Miami includes the phased design and construction of two "working tracks", "run-around/storage tracks", concrete runways/foundations for gantry system, paved truck lanes and container storage area, drainage system and utility adjustments. The CONSULTANT will closely work with and provide support to the Port of Miami Chief of Engineering Services in the coordination of on-going and planned future developments adjacent to the project site, including the POM Tunnel project. Phase II rail program support services include:

- Assisting in the development of a scope of services/RFP package, including a detailed scope of work, concept sheets, and existing data relevant to the site (as-built drawings, geotechnical reports, etc.)
- Providing permitting coordination assistance as required
- Coordinating with FEC on track and pavement specifications
- Updating the preliminary cost estimate to be consistent with grant funding
- Preparing a schedule to meet grant and FEC requirements
- Performing and coordinating site reviews with the FEC and the D/B firms as required
- Preparing responses to questions during proposal preparation phase
- Attending presentations as required
- Coordinating with POM Divisions including Security, Operations, Finance, etc.

Meetings

It is anticipated that meetings will take place for the following activities:

- Site reconnaissance meeting to review the site and plan the work
- Weekly coordination meetings/teleconferences with the FEC and the COUNTY
- Preliminary findings meeting following the update of the rail concept
- Meeting following submittal of the draft scope package
- Final meeting for coordination of procurement package(s)

Optional Services may be provided at the request of the COUNTY:

- a) Review of Design/Build Firm's contract documents for compliance with the Port's requirements and specifications, as well as all applicable federal, state and local standards and regulations.
- b) Assistance with the preparation of specifications for procurement of gantry system.
- c) Preparation of plans and assistance with the specifications for the electrical substation to provide power to the gantry system.

Information to be provided by the COUNTY for use in development of the scope of services:

- a) Geotechnical Engineering reports
- b) Survey data including available topographic information and elevations.

DEPARTMENT Financial Project Number: **420124-1-62-01**

COUNTY: **Miami-Dade**

DEPARTMENT Project Manager: **Teresa Alvarez, P.E. 305-640-7557**

COUNTY Project Manager: **Patrick Shortal, P.E. 305-329-4034**

14A(19)

EXHIBIT 'B'

FINANCIAL SUMMARY

The DEPARTMENT's Work Program allocates the following funding, programmed under Financial Project Number 420124-1-62-01, for PROJECT completion:

<u>Fiscal Year:</u>	<u>Amount:</u>	<u>Fund Type:</u>
2011/2012	\$394,711.71	Local Funds (LF)

MIAMI-DADE COUNTY FINANCIAL RESPONSIBILITY: \$394,711.71

Incorporated herein by reference is Exhibit "B1", fee estimate.

EXHIBIT 'C'

MIAMI-DADE COUNTY RESOLUTION

To be attached hereto and incorporated herein once ratified by the Board of COUNTY Commissioners.



Miami-Dade Legislative Item File Number: 120017

[Printable PDF Format](#)



[Clerk's Official Copy](#)

File Number: 120017 **File Type:** Resolution **Status:** Adopted
Version: 0 **Reference:** R-39-12 **Control:** Board of County Commissioners

File Name: LOCALLY FUNDED AGREEMENT **Introduced:** 1/5/2012

Requester: Port of Miami **Cost:** **Final Action:** 1/24/2012

Agenda Date: 1/24/2012 **Agenda Item Number:** 8K4

Notes: Title: RESOLUTION AUTHORIZING LOCALLY FUNDED AGREEMENT "AGREEMENT" BETWEEN MIAMI-DADE COUNTY AND FLORIDA DEPARTMENT OF TRANSPORTATION "FDOT" IN THE AMOUNT OF \$394,711.71; AND AUTHORIZING THE MAYOR OR THE MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ANY CANCELLATION AND RENEWAL PROVISIONS THEREIN

Indexes: FLORIDA DEPARTMENT OF TRANSPORTATION

Sponsors: Rebeca Sosa, Prime Sponsor

Sunset Provision: No **Effective Date:** **Expiration Date:**

Registered Lobbyist: None Listed

Legislative History

Acting Body	Date	Agenda Item	Action	Sent To	Due Date	Returned Pass/Fail
Board of County Commissioners	1/24/2012	8K4	Adopted			P
Economic Development & Social Services Committee	1/11/2012	3D	Forwarded to the BCC by the BCC Chairperson with a favorable recommendation			P
County Attorney	1/5/2012		Assigned	Richard Seavey	1/5/2012	

14A(22)

County Mayor	1/5/2012	Assigned	County Attorney	2/7/2012
REPORT:	Port of Miami - Comm. Sosa Sponsor - pending cmte - Attachment: Memorandum of Agreement			

County Mayor	1/5/2012	Assigned	Jack Osterholt	1/4/2012
--------------	----------	----------	----------------	----------

Legislative Text

TITLE

RESOLUTION AUTHORIZING LOCALLY FUNDED AGREEMENT "AGREEMENT" BETWEEN MIAMI-DADE COUNTY AND FLORIDA DEPARTMENT OF TRANSPORTATION "FDOT" IN THE AMOUNT OF \$394,711.71; AND AUTHORIZING THE MAYOR OR THE MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ANY CANCELLATION AND RENEWAL PROVISIONS THEREIN

BODY

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,
 NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board

Section 1. Approves the Locally Funded Agreement between Miami-Dade County and the Florida Department of Transportation, in substantially the form attached hereto and made a part hereof; and
 Section 2. Authorizes the Mayor or the Mayor's Designee to execute this Agreement after review and approval by the County Attorney's Office and to exercise any cancellation and renewal provisions therein.

HEADER

Date:

To: Honorable Chairman Joe A. Martinez
 and Members, Board of County Commissioners
 From: Carlos A. Gimenez
 Mayor

Subject: Locally Funded Agreement between Miami-Dade County and the Florida Department of Transportation

STAFF RECOMMENDATION
RECOMMENDATION

It is recommended that the Board approve the accompanying resolution authorizing the execution of a Locally Funded Agreement "Agreement" between Miami-Dade County and the Florida Department of Transportation "FDOT" allowing for the utilization and reimbursement of an FDOT professional services agreement. The Port of Miami is in the development phase to implement a TIGER II grant for rail re-instatement to the Port of Miami in conjunction with Florida East Coast Railway "FEC" and the FDOT. The Port must complete the design and construction work under this grant by 2013. This Agreement will allow URS Corporation Southern "URS" to provide feasibility, technical support, and

14A(23)

support in the preparation of scope of services and Request for Proposal "RFP" package(s) in order to implement work under the schedule and constraints of the grant program.

SCOPE

The Port of Miami is located within District 5 – Commissioner Bruno A. Barreiro. The impact of this agenda item is countywide as the Seaport is a regional asset and generates employment for residents throughout Miami-Dade County.

FISCAL IMPACT/FUNDING SOURCE

The Local Funding Agreement with FDOT is for \$394,711.71. It will be funded from the Seaport's \$4.8 million share of funding to the full implementation of the Port of Miami Intermodal and Rail Reconnection Project (Project) under the TIGER II Grant Agreement. The Project in its entirety is estimated to cost \$49.4 million and is funded by the U.S. DOT (\$22.767 million), FDOT (\$10.9 million), the Florida East Coast Railway (\$10.9 million), the Port of Miami (\$4.8 million) and the City of Miami (\$50,000). The total authorization for the entire on-Port rail project, which includes the intermodal rail yard development, will not exceed \$25.067 million. This figure equals the \$22.767 million DOT grant, plus \$2.3 million pledged by the Seaport to this project under the TIGER II Grant Agreement for on-Port work. The County's (Seaport's) \$4.8 million contribution will be paid from bond proceeds, and it is included in the 2011-12 Proposed Budget and Multi-Year Capital Plan, Funded Projects – Transportation, page 43, Project # 641780.

TRACK RECORD/MONITOR

The Port of Miami staff responsible for monitoring this Agreement are Dorian Valdes, Assistant Director for Capital Development, and Kevin Lynskey, Assistant Director for Business Initiatives.

MANAGER'S BACKGROUND BACKGROUND

The Port of Miami is undergoing its most significant cargo facility expansion in 30 years, putting in place three critical pieces of infrastructure that are timed with - and in anticipation of - the 2014 Panama Canal expansion. These assets all revolve around access: deeper waters to accommodate a new Post-Panamax class of mega-container vessel, twin tunnels to provide direct highway access, and an on-dock intermodal rail system to facilitate the movement of goods to distant markets and to better leverage the Hialeah Railyard as our 'inland port'.

The Port of Miami's intermodal and rail reconnection project was developed jointly with the FEC and resulted in a successful 2010 U.S Department of Transportation TIGER II grant. The project entails approximately \$49M in investment in on-Port (\$25M) and off-Port (\$24M million) improvements, and the TIGER II grant was made available to cover the costs of the on-Port Improvements.

The on-Port work entails three principal improvements. First, the existing single-leaf rail bascule bridge, which has been non-operational since Hurricane Wilma, will be rehabilitated and strengthened to accept higher loading consistent with current design standards and a double stacking operation. Second, a railroad intermodal yard consisting of new rail lines (3 or more parallel tracks of between 9,000 and 12,000 feet total in length) will be designed, constructed, and installed. Third, a gantry system (loading and related yard equipment) will be procured and installed, as well.

This proposed Agreement involves the second project element, the implementation of an on-port railroad intermodal yard. The Agreement allows URS to assist the Port in developing a scope of services package for Design/Build services, including the development of a RFP, for moving forward on procurement package(s) in order to implement work under the schedule and constraints of the grant program. The Maritime Administration (MARAD), which is the agency of the U.S. Department of Transportation that supervises the Tiger II Grant, has approved of this collaborative arrangement and

14A(24)

its continued approval will be sought throughout the course of this Agreement.

Justification for Local Funding Agreement Approach

URS is the owner's representative for the Port of Miami under a FDOT tunnel contract in the implementation of the Port of Miami Tunnel project. As part of the Master Agreement between the FDOT and Miami-Dade County, FDOT is responsible for the management and implementation of the tunnel project in financial partnership with the County. FDOT has entered into a 35-year public-private partnership with Miami Access Tunnel LLC (Concessionaire) to design, build, finance, operate and maintain the Port of Miami Tunnel. Substantial Completion for the construction phase of this project is scheduled for May 2014. To accommodate the tunnel and its access roadways, the County conveyed certain permanent and temporary construction easements to FDOT within Dodge Island for the construction, operations, and maintenance of the tunnel project. Additionally, the Concessionaire's scope of work includes the design and construction for the removal and relocation of the Port's existing rail within the temporary construction easement. Approximately 2,400 feet of rail will be installed under the concession agreement as a replacement for the existing, impacted rail.

The scope of work under the TIGER II grant includes the design and construction of a rail intermodal yard at the Port. This work is accomplished by extending the existing railroad line entering Dodge Island to serve as a working lead track, adding a second working track parallel to the lead line, and constructing a maximum of two additional tracks to support the intermodal operation. The Port's rail and the proposed rail intermodal facility are located just south and north of Port Boulevard and the Seaboard Marine Cargo Terminal, respectively. About one third of the TIGER II grant work falls within portions of the Concessionaire's temporary construction easement and their zone of influence. Due to the complexity of the tunnel construction operations and the Concessionaire's need for accessing the work site during different stages of construction, certain areas of the Concessionaire easements cannot revert back to the County until 2014. Heavy coordination between stakeholders in these two adjacent projects will be paramount in successfully meeting all County obligations related to the tunnel and to the TIGER II grant programs.

To ensure continuity of operations with the least disruption to its tenants and users, the Seaport requests that URS provide the aforementioned services due to this firm's active technical role representing the County in the tunnel project. URS fully understands the direct and indirect impacts of the rail intermodal implementation during the construction of the Port of Miami Tunnel project. At this time, URS is assisting the County in negotiating rail scope modifications in the tunnel concession agreement to accommodate the rail intermodal concept. The rail intermodal and the tunnel share a construction interface along the south side of Port Boulevard and it is critical that any and all procurement package(s) for the rail intermodal program be developed with a complete understanding of the constraints imposed under the concession agreement for the tunnel. FDOT has been a partner with the Port of Miami in ascertaining how the County can implement the rail intermodal scope of services during the construction of the tunnel. With URS providing feasibility review, technical support and design criteria for the rail intermodal program, while simultaneously incorporating protections to ensure all County tunnel obligations are met, the Seaport is assured of close coordination for both programs, which will be in the best interest of the County.

Delegated Authority

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond that specified in the resolution which include the authority for the Mayor or designee to execute the Agreement.

Deputy Mayor

[Home](#) | [Agendas](#) | [Minutes](#) | [Legislative Search](#) | [Lobbyist Registration](#) | [Legislative Reports](#)
[2012 BCC Meeting Calendar](#) | [Miami-Dade County Code of Ordinances](#) | [ADA Notice](#) |

[Home](#) | [Using Our Site](#) | [About](#) | [Phone Directory](#) | [Privacy](#) | [Disclaimer](#)

E-mail your comments, questions and suggestions to [Webmaster](#)

Web Site © 2012 Miami-Dade County.
All rights reserved.

14A(26)

Dennis Kelly

From: Gary.Ratay@kimley-horn.com
Sent: Monday, September 24, 2012 9:56 AM
To: Dennis Kelly
Subject: FDOT RRR Project with City variances

Dennis,

As discussed last Friday, based on FDOT cost per mile models, I estimate in very round numbers that the variances proposed on 79th Causeway would range in the **\$3.0 to \$3.5 million dollar range per mile of road**. Assuming bascule bridge to bascule bridge or an approximate distance of 1.6 miles, I would roughly estimate your project between **\$4.8 and \$5.6 million dollars**. If your limits of project are something less than bascule bridge to bascule bridge (such as not touching the new renovated area, approximately 0.2 miles) the cost would be reduced accordingly.

Again, these are very preliminary numbers based on widening sidewalks, narrowing medians, removing/adding travel lane widths, modifying drainage, minor signal modifications, and restriping throughout the project. It does not include any structural modification that may be triggered by modifying the travel lanes on the two flat bridges or the installation of new traffic signals if needed.

If you have any questions, please call me.

Gary R Ratay, PE

Kimley-Horn and Associates, Inc.
5200 NW 33rd Avenue, Suite 109
Fort Lauderdale, FL 33309

Phone: 954-535-5100
Fax: 954-739-2247
Cell: 954-646-3509
E-Mail: gary.ratay@kimley-horn.com

14A(27)

OFFICIAL MINUTES

**CITY OF NORTH BAY VILLAGE
SPECIAL CITY COMMISSION MEETING
TUESDAY, JULY 31, 2012
8:0 P.M. (OR AS SOON AS POSSIBLE THEREAFTER)**

1. CALL TO ORDER; PLEDGE OF ALLEGIANCE; ROLL CALL

The meeting was called to order at 8:00 p.m. by Mayor Connie Leon-Kreps at 8:00 p.m.

Present at Roll Call were Mayor Connie Leon- Kreps, Vice Mayor Eddie Lim, Commissioner Stuart Blumberg, and Commissioner Richard Chervony. As a quorum was determined to be present, the meeting commenced.

Also present were City Manager Dennis Kelly, Finance Director Bert Wrains, Public Works Director Sam Zamacona, Chief Robert Daniels, HR Manager Jenice Rosado, City Attorney Nina Boniske and Yvonne P. Hamilton, City Clerk.

The City Clerk read the Resolution by title.

2. RESOLUTION

The City Clerk read the Resolution by title.

- A. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA DETERMINING THE PROPOSED MILLAGE RATES AND SETTING THE DATE, TIME AND PLACE OF PUBLIC HEARINGS TO ADOPT THE TENTATIVE AND FINAL MILLAGE AND BUDGET FOR FISCAL YEAR 2012-13 AS REQUIRED BY LAW; DIRECTING THE CITY CLERK TO FILE SAID RESOLUTION WITH THE PROPERTY APPRAISER OF MIAMI-DADE COUNTY; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)**

The City Attorney advised that the proposed millage rate as well as the date and time of the public hearings should be read into the record. The City Attorney also advised that the references tonight should be to a "proposed millage, and a "tentative budget"; and additionally that they would be passing a "proposed debt service millage."

City Manager Kelly explained that the proposed millage was to be found in section 2 of the draft resolution, which is posted at 4.7772 dollars per 1000 dollars of assessed property. In section 4 of the draft resolution was the debt service millage rate which is proposed at 1.2355 mills.

Interim Finance Director Wrains clarified for the Vice Mayor that the proposed debt service millage rate is that which is necessary to generate the money to pay the debt service for next year as well as to make up part of the City's deficit. Although the bonds had been voter approved, the debt service millage rate had not been, since the rate came in after the bonds were issued. However, if the debt service millage were not paid, then the City would be in the position of defaulting on the bonds and would need to go back out to market.

Commissioner Richard Chervony received confirmation that the proposed millage rate of 4.7772 maintained the current rate as the preliminary rate, meaning that the Commission would not be able to go any higher if they found it to be necessary without advertising another public hearing for the higher rate. The City Manager suggested that if the Commission felt they might need a higher rate in order to address any issues, then it would be easier to advertise a higher rate now, which could then be lowered if they so decided, without another publicly advertised hearing. The City Manager advised that staff had been able to balance the budget at the proposed rate, but the Commission might choose to make a policy decision to save reserve funds and go up on the rate in order to fund certain projects. Staff was neutral on the policy decision.

Commissioner Chervony confirmed with the Interim Finance Director and the City Manager that they were comfortable that the proposed rate was adequate to accomplish everything, including paying back any of the current year overspending, the wish list items for next year, and maintaining proper staffing and services.

Commissioner Richard Chervony offered a motion to adopt the proposed millage rate of 4.7772 mills and the proposed debt service millage rate of 1.2355, seconded by Commissioner Stuart Blumberg.

The City Attorney advised that the rolled back rate be read into the record. Commissioner Chervony found that the rolled back rate was stated in section 3 of the Resolution as 4.6864; Interim Finance Director Bert Wrains and City Manager Dennis Kelly advised that the number in the Resolution was incorrect, and that the correct rolled back rate was 4.6195 as listed in the special handout.

Commissioner Richard Chervony offered an amended motion, seconded by Commissioner Stuart Blumberg.

Commissioner Richard Chervony offered an amended motion to adopt the amended Resolution with the proposed millage rate of 4.7772 mills, the proposed debt service millage rate of 1.2355 mills and the corrected rolled back rate of 4.6195 mills, seconded by Commissioner Stuart Blumberg. The votes were as follows: Commissioner Stuart Blumberg –Yes; Mayor Connie Leon-Kreps –Yes; Vice Mayor Eddie Lim –Yes; Commissioner Richard Chervony –Yes.

City Manager Dennis Kelly announced that the 1st Public Hearing will be held on Tuesday, September 13, 2012 at 6:30 P.M., and the second and final Public Hearing will be held on Tuesday, September 27, 2012, here in the City Commission Chambers.

1. ADJOURNMENT

A motion was offered by Mayor Connie Leon-Kreps to adjourn. Commissioner Stuart Blumberg seconded the motion, and the meeting adjourned at 9:30 p.m. upon a vote of 4-0.

*Prepared by: Yvonne P. Hamilton, CMC
City Clerk
Katharine Price, Clerical Assistant*

*Adopted by the City of North Bay Village on
this _____ day of _____.*

Connie Leon-Kreps, Mayor

(Note: The Minutes are not a verbatim record of the meeting. A copy of the audio recording is available at the City Clerk's Office until the time for disposition in accordance with the Records Disposition and other Public Records Law.)

15A(4)

OFFICIAL MINUTES

**CITY OF NORTH BAY VILLAGE
BUDGET WORKSHOP**

**CITY COMMISSION CHAMBERS
1700 KENNEDY CAUSEWAY, SUITE 132
NORTH BAY VILLAGE, FL 33141**

TUESDAY, JULY 31, 2012

6:00 P.M.

The meeting was called to order at 6:00 P.M.; present at Roll Call were Mayor Connie Leon-Kreps, Vice Mayor Eddie Lim; Commissioner Stuart Blumberg, and Commissioner Richard Chervony. Also present were City Manager Dennis Kelly, Chief Robert Daniels, Public Works Director, Sam Zamacona, Human Resources Manager Jenice Rosado, Finance Director Bert Wrains, City Attorney Nina Boniske, and City Clerk Yvonne P. Hamilton.

1. DISCUSSION REGARDING THE PROPOSED GENERAL OPERATING BUDGET FOR FISCAL YEAR 2012-2013

City Manager Dennis Kelly explained that certain items were being presented as addendums separately from the overall budget, either because they were not prepared in time to be included or because they are large or extraordinary expense items for the Commission's consideration. The budget was to be presented in two parts: first, revenues, which were largely non-discretionary and derived mainly from sources such as taxes and franchise fees; and second, expenses, much of which was maintained at the same level as last year's budget. The City Manager announced that property assessments in the City had stabilized and were even with last year's assessments, unlike prior years in which assessments had fallen. The budget was balanced at the current rate of 4.7772 mills.

Interim Finance Director Bert Wrains went over the major revenue categories, including: ad valorem taxes, which could be adjusted by setting a millage rate; licenses and permits, which included what used to be called occupational licenses but was now called business taxes; intergovernmental revenues, the figures for which were supplied to the City as a best estimate of coming revenues; charges for services, the largest amount being for records research; and fines and forfeitures, which included the ATS traffic light camera program fines and Code Enforcement fines.

He noted that traffic light fine revenues were listed as zero, since there were no revenues remaining after expenses. The Mayor suggested that the value of the ATS traffic light program needed to be reconsidered. The City Manager responded that the contract was due to be renegotiated this fall and the goal of the renegotiations would be to generate 5% to 10% of fines collected as revenue for the City after expenses.

As for Code Enforcement fines, while they were budgeted at \$148,000 in the current budget, in fact only \$15,000 had been collected (a number similar to the collections of the year preceding), and this was the amount in the new budget.

Vice Mayor Lim and Commissioner Blumberg asked how it had come to be that \$148,000 was budgeted last year, and the City Manager and Interim Finance Director surmised that it had been a last minute action to balance the budget, and that staff had thought aggressive action could collect large outstanding liens. The City Manager went on to say that lien collection was always an uncertainty, and could not be budgeted except for the amount that historical collection results indicated was reasonable to expect. He intended to bring policy to the Commission for its consideration to tighten collection activity on non-homestead properties by starting foreclosure activities when lien amounts reached a certain benchmark. Commissioner Blumberg asked what became of windfall, unbudgeted lien collections, and was informed that they went into the General Fund as undesignated reserve funds, to be brought back before the City Commission for appropriation.

Commissioner Richard Chervony noted that \$60,000 was budgeted for local business taxes, and wondered how the change in State law regarding jurisdictions over taxes collected from realtors affected that figure, and the Interim Finance Director and City Manager responded that it was an unknown variable.

Vice Mayor Lim pointed out that there was a \$0 item line for newsletter advertising revenue, found under charges for services, and since the newsletter no longer existed he suggested removing the item line. The Mayor suggested the possibility of selling advertising on the City website, and the Interim Finance Director mentioned that advertising was a potentially sore subject involving controversy over who was and wasn't allowed to advertise.

Commissioner Blumberg asked if no federal grants were expected in the upcoming year, and Mr. Wrains replied that while no grants were coming to the General Fund to offset those expenses, State and FIND grants were accounted for in capital.

City Manager Kelly summarized that the assessed value upon which ad valorem taxes were based was \$636 million, whereas the City assessment had previously peaked at around \$1 billion. There was a nominal increase in assessed value from the previous year, and the resulting millage roll back rate was 4.6915, from the prior year's millage rate of 4.7772. Keeping the same millage rate would increase the City's budget by \$54,000. Commissioner Blumberg questioned why, if the millage rate of 4.6915 generates \$2,984,000, was the figure of only \$2,887,000 in the budget. Interim Finance Director Wrains explained that a discount for early payment applied, therefore some of the money levied was lost and only 95% of what was levied could be budgeted. Vice Mayor Lim asked for explanation of a reference in the budget book to a roll back rate of 4.6864, and Mr. Wrains responded that 4.9615 was the correct roll back rate and any other reference would be an error. The Vice Mayor discussed other ways the City might raise revenue, and the Mayor suggested that it could be the topic of another workshop.

The Mayor opened the meeting to the public. Resident Kevin Vericker of Hispanola Avenue mentioned that there could be issues and future litigation regarding the manner in which property valuations had been conducted, in view of the fact that some data, such the results of foreclosure sales, had not been included when making the assessments. He wondered how confident the City could be of its figures if the underlying valuations were challenged. Mr. Wrains responded that Value Adjustment Board ran all year long, the assessor was governed constitutionally to follow certain procedures, and the City did not have the resources to challenge the numbers. The City Manager added that collections had been helped by a law change requiring 75% of assessed taxes to be paid before going before the Value Adjustment Board.

The City Manager turned to expenditures in the budget, including the categories of personnel, operations and maintenance, and capital expenses as outlined in the Uniform Code of Accounts required by the State of Florida, and began with the presentation of recommended changes to personnel. Commissioner Blumberg wished to first go on record stating that neither City Administration nor anyone on the dais had knowledge of what it took to run a city of this size, and challenged the current administration to perform such an analysis before considering any changes to personnel.

Interim Finance Director Bert Wrains described three new positions and the conversion of an existing position: Special Events/H.R. Clerk to work with the City Manager and Assistant City Manager on City events, economic development, and Human Resources tasks; Assistant City Manager/H.R. Manager (listed in the budget as Deputy City Manager), a conversion of the existing position of H.R. Manager; Executive Assistant to the City Manager and City Commission, noting the City Manager's current assistant was also being consumed by lien search, front desk, and building department duties, and also that the Commission had asked for assistance in performing some of their official duties; and the budgeted new position of Accounting Clerk I in the Finance Department, to facilitate timely work in response to Audit concerns about controls, timeliness and adequate staffing in that department.

Mr. Wrains next addressed Police Department staffing, noting that the budget included the new position Assistant Police Chief, using money that had been funded in 2012 and used as a payout to the previous Police Chief. Additionally it was recommended to contract out the positions of morning and afternoon school crossing guards, instead of using sworn law enforcement officers as was currently done.

Increased budget costs from these position changes were listed as \$15,000 plus fringe costs for the Assistant City Manager position conversion, \$45,696 for the Executive Assistant, and \$35,000 for crossing guards from an outside vendor for three locations. The City Manager added that the Commission could bear in mind as a reference point in future discussions and union negotiations addressing across the board staff salary increases, that each 1% COLA adjustment would cost the City \$30,000.

Commissioner Blumberg felt that an overall personnel template to address the City's operational functions was needed before adding particular staff positions. The Mayor observed that the City was currently understaffed in various areas. The City Manager suggested that as all cities have lost in assessed value, there have been wide-spread cuts that have hampered operations. He observed that even with the addition of these recommended positions there was still a net loss in City positions compared with several years earlier. He agreed that a survey of citizens' service expectations, a "level of service" analysis, and an organizational analysis performed as objectively as possible by an outside firm was needed, and that this would take around six months to complete.

The Mayor opened the meeting to the public, and resident Elaine Beutel urged the City to try to get along with what we have now and refrain from spending additional money on audits or studies.

Commissioner Chervony was in favor of most of the personnel recommendations, but was concerned about funding them, and suggested that there needed to be cuts in other areas of the budget. He referred to the audit report recommending that Police Department expenses be brought down. Commissioner Blumberg agreed that 67% of the budget devoted to the Police Department was a large figure, and questioned the need for the position of Assistant Police Chief, saying he would prefer to use the money to fund the IB Program or implement new financial software, to better the future of the City. Vice Mayor Lim agreed with Commissioner Chervony and was in favor of the new positions, particularly noting the absence of staff to help with marketing the City, and suggested that expenses might be cut in the Police Department which he felt used too large a percentage of the budget.

The Mayor opened the meeting to the public. Resident Elaine Beutel expressed her approval of using crossing guards, and said that while she felt the City should cut back its spending, she did not necessarily mean the Police Department.

The Mayor asked Police Chief Daniels to address the Commission regarding the Assistant Police Chief position and the two police officer positions that had been supported by forfeiture funds for the last two years. Chief Daniels took the podium and referred to a survey done which showed that the City's ratio of 3.54 police officers per 1000 in population compared closely with the ratios found in the cities around us, and reminded the Commission of the impact on crime of City's location on the Causeway. Chief Daniels said he would welcome a citizen survey to address the question of level of service, such as the desired officer response time. With regard to the Assistant Police Chief position, he viewed it as necessary in order to have someone available to serve as acting Police Chief; and with regard to the two police officer positions currently funded by forfeiture funds, they were not part of the new budget although he hoped that a grant from COPS might materialize for them. The Mayor was concerned about the possible loss of two officers and suggested employing an Assistant Police Chief on a part-time basis only.

Commissioner Chervony asked to be given clarification later on the expense for additional benefits for two of the police officers, which were significantly larger than the amounts for additional benefits for the other officers. He also observed that out of 24 police officers, only 9 were patrol officer and the rest were rank, resulting in "more Chiefs than Indians". Chief Daniels explained that realistically there were 13 patrol officers, including 4 with the title of Corporal who were like "master police officers", trained to act as Sergeants when needed in order to cut down on overtime costs and decrease liability from negligent supervision.

Commissioner Blumberg asked Chief Daniels if his overall budget could be reduced without reducing service, and Chief Daniels responded that he didn't know. Commissioner Blumberg asked if the addition of an Assistant Police Chief would shorten response times, and Chief Daniels responded that it would not.

The Mayor opened the meeting to the public. Resident Gudrun Volker of Cutlass Ave. asked whether there were State or County funds available for the Police Department, and why it was necessary to have four Detectives. The City Manager explained that grant funds were not generically available to be disbursed to police departments, that they were tied to specific uses and specific programs being run, and that the City appeared to be capitalizing on every grant available to it citywide. Chief Daniels explained that two of the four Detectives were assigned to the DEA working on cases that brought in an average of \$400,000 a year in revenue to the Police Department, and which had recently purchased the police vehicles.

Mayor Connie Leon-Kreps asked about the percentage of City budget used by the Police Department as compared with other cities like Surfside. The Chief replied that percentages were misleading, and what needed to be looked at was the dollar figure it cost each citizen for police services. Surfside included in their overall budget some services which North Bay Village did not, like a fire department, and therefore their police department had a smaller percentage of what was a larger number of personnel overall. The City Manager concurred, adding that libraries and recreation departments were also services which added personnel to other city budgets and diluted the percentage of budget given to police personnel. A better comparison of costs between police departments could be made by comparing the unit costs of employees.

The Mayor opened the meeting to the public, and resident Max Crown of S. Treasure Drive recalled that Deede Weithorn had recommended to the City that their Police Department not exceed 60% of their budget; and he informed the Commission of the percentages in the following cities: Surfside-45.6%; Miami Shores-46.1%; El Portal-48.1%; and Bal Harbor-47.3%. He estimated that reducing the percentage share of North Bay Village's budget from 67% to 60% meant cutting \$270,000 from the Police Department budget. Finally, he agreed with the City Manager that it would be instructive to look at the dollar cost per officer, and suggested that the ratio of officers to supervisory staff was unbalanced. Chief Daniels responded that both Surfside and Miami Shores supported their own fire departments, and so gave a correspondingly lower overall percentage of their budgets to their police departments. He went on to explain that 24-7 public safety functions, which included both police and fire departments, were always the most expensive part of any city.

Resident Mario Garcia suggested directing the Chief to find and eliminate waste in the budget, which he believed must exist, in order to shrink it, and giving the Chief a desired level of reduction His opinion was that everyone needed to share the burden of controlling the budget.

Commissioner Blumberg agreed that percentages did not tell the story, mentioned that \$145,000 for an Assistant Police Chief was a large number, looked at past years' budgets to find fluctuations in the Police Department budget as compared with the City's operating expenses, and suggested that Chief Daniels could find ways to respond to concerns about the Police Department budget without reducing service.

Resident Elaine Beutel suggested leaving the Police Department alone, saying that they were needed and wanted, only wishing they did more to enforce stop signs, and expressing appreciation for the help they had given her mother.

The Mayor recognized Mr. David Richardson, a candidate for the Florida House of Representatives, and recessed to convene the scheduled 8:00 meeting that was advertised, regarding the Resolution on determining the proposed millage rates. At 8:25, the Budget Workshop was resumed.

City Manager Kelly went over a list that had been distributed of eight items not included in the budget, some of which had possible funding sources apart from the General Fund, including:

1. Updating the City Code (proffered by the Planning & Zoning Board), at an estimated cost of \$50,000 and suggested to be funded out of the reserves as a one-time cost, not to be repeated for 4 or 5 years.
2. International Baccalaureate (I.B.) Program, presented with 4 different alternatives that had been discussed at the public information meeting, and described on the hand-out.
3. Master Recreation Plan, recommended by the Youth Services Board, to be funded from the Parks & Recreation Trust Fund, which contained \$350,000 in developer impact fees that needed to either be spent in the next five years or returned to the developer. The fund had recently been brought to the City's attention by Mr. Wrains.
4. Technology upgrade, as a separate matter from the budgeted software upgrade, for the use of iPhones, iPads, and PC's for Department Heads and Commissioners.
5. Entranceway signage, a one-time cost recommended to be funded out of reserves, estimated in a range of \$30,000 to \$90,000.
6. Website upgrade, estimated at \$15,000 and funded out of reserves.
7. Special events fund, covering fireworks for the 4th of July, and holiday and seasonal banners for the utility poles, funded by the Parks & Recreation Trust Fund.
8. Speed humps for Harbor Island, estimated at \$4500 and to be funded out of the Transportation Fund.

The City Manager recommended that the first three items be given priority. He also mentioned that if grants did not materialize to finish the restrooms and seawall in Vogel Park, the Parks & Recreation Trust Fund could be used. The Mayor asked if the Fund could be used for the I.B. Program, and was told that it could not be.

Commissioner Chervony said that he was under the impression that laptops had been purchased for the Commissioners but not handed out; the City Manager clarified that there were several replacement laptops in inventory, and the Commissioner was welcome to use one if it were needed.

Commissioner Chervony emphasized the importance of the I.B. Program and the City's need to support it, making a five year commitment to the program, with the option to reevaluate it after three years. However, given the first year cost of \$130,000 and perhaps \$100,000 a year thereafter, he also saw the need to develop a revenue source to pay for it, suggesting that some kind of fee be created, perhaps impact or permit fees. In the event that Miami-Dade expanded support of the program for its schools, Commissioner Chervony urged that there should be an agreement in place that the City's school should be the first to receive it and the City would no longer need to pay for it.

The City Manager cautioned that for legal reasons impact fees could probably not be used, also that sustainability would be an issue going forward with any revenue source used, and building fees were extremely variable. He said that the School District contract for the I.B. Program would govern the future of its relationship with the City, and could be ready for the Commission to examine at its September meeting if there were general support now on the Commission for proceeding.

Commissioner Blumberg asked that the list be refined to identify items as one-time or recurring, and suggested that the website upgrade might be paid for by a corporate sponsor advertising on it. The City Attorney agreed to look into it, and thought it was comparable to selling naming rights, which was done in other cities. Commissioner Chervony asked for an estimated total of the items if the two items to be funded by the Parks & Recreation Trust Fund were removed, and the estimate was around \$300,000.

Vice Mayor Lin asked for clarification that these were the multi-purpose LED signs that had been proposed for City announcements, and asked how the cost was determined. Public Works Director confirmed that they were those signs, and that signs for the two Causeway entrances to the City were priced at \$15,000 each, while the upper cost estimate of \$90,000 would include similar signs at all the entrances to the islands within the City

The mayor opened the meeting to the public, and resident Elaine Beutel objected to spending money on the signs, saying that they were unnecessary.

Commissioner Stuart Blumberg clarified that he thought welcome signs at the entrances were a necessity for the City, but wondered if the cost of community signs might be able to be paid by advertising. The City Attorney offered to look into it, comparing it to advertising on the bus shelters, and warning that anything approaching a billboard could conflict with City zoning code.

Resident Andreana Jackson of S. Treasure Drive thought the City might not be able to attract any advertisers. Commissioner Blumberg speculated that Atlantic Broadband, serving all of the City residents, was a potential sponsor.

Resident Gudrun Volker of Cutlass Avenue, questioned the signage, seeking clarification as to whether this were not an element of the Causeway improvement project, and suggesting that the existing lit sign at the west entrance might have the words "welcome to" added to it.

Resident Mario Garcia affirmed the important of informing the City's residents, and spoke in support of LED signs at the east and west entrances while cautioning that they should not become a distraction to drivers. However, he felt that \$15,000 for community signs was excessive, and suggested finding a lower cost alternative.

Resident Kevin Vericker recommended Android smart phones and Costco in the place of iPhone and iPad as better and faster, with twice the warranty and half the expense.

Al Coletta of 7904 West Drive suggested approaching Channel 7 to sponsor the signs.

Vice Mayor Lim questioned the adequacy of the cost figure quoted for the speed humps, and Public Works Director Zamacona responded that the figure was based on a signed proposal from a reputable company for DOT construction grade speed humps.

The City Manager clarified that the items on the list were all one-time expenses except for the I.B. program, and concluded his presentation after informing the Commission that upcoming union negotiations were open to public observation, though not participation.

Mayor Connie Leon-Kreps expressed her approval of all the items, with the exception that the cost of the signs was too high, and giving priority to the first three items on the list. She asked what would be required after the Master Recreation Plan was completed. The City Manager responded that it had been a concern of the Youth Services Board that children found very little recreational opportunity in the City. He proposed that the City negotiate with the School District to obtain a long term lease for the use of the vacant field behind Treasure Island Elementary School, and for that a Master Recreation Plan was needed as justification in front of the School District. The Master Recreation Plan would perform a cohort analysis of the needs of different age groups projected from five to fifteen years into the future.

Commissioner Blumberg requested that Chief Daniels supply an estimate of the cost to reinstate PAAL, which he agreed should be brought back to the City, to the Commission by the next meeting. Chief Daniels suggested that the greatest cost was associated with personnel, and that a conflict existed with the commitment to maintaining police response times while not increasing personnel costs.

Commissioner Blumberg asked for clarification on whether fireworks were treated as a one-time expense or a recurring cost. The City Manager responded that they were treated as a one-time expense because they were not mandatory and could always be eliminated. Commissioner Blumberg suggested that residents should be given the certainty of a 4th of July celebration rather than being subjected to an annual budget consideration.

Mayor Connie Leon-Kreps thought it might be possible to share the cost with other cities by collaborating on fireworks in the middle of the bay. The Mayor also wondered whether PAAL might be funded from the Parks & Recreation Trust Fund.

Commissioner Chervony noted that out of a "piggy bank" of \$703,000 in uncommitted reserve funds, approximately \$300,000 was designated for the wish list. However, he pointed out, the City had overspent \$160,000 in the Street Maintenance Fund, an unknown amount for legal expenses, and an unknown amount for personnel related items. He hoped that the City would be able to confine itself to the \$703,000 in uncommitted reserves without dipping into the additional \$1 million in reserves.

Commissioner Chervony sought clarification on whether or not the services of Lourdes Abadin would be needed in the future to assist the Finance Department. Mr. Wrains responded that her contract had expired and that he had not used her services. Commissioner Chervony inquired as well into whether the services of the company that advised the City on its investments would be required under the new Finance Director. The City Manager responded that the company advised the City on its bond issues and he foresaw a need for them with City Hall and underground utilities on the horizon, although he did not see the need to renew Ms. Abadin's contract.

Commissioner Chervony expressed special concern about the funding for street maintenance in the upcoming year, noting the overspending of \$160,000 in the current year due to landscaping and other items, and suggesting these costs needed to be better monitored and curtailed. Likewise, he expressed concern about legal services and landscape maintenance, offering the opinion that with the addition of new landscaping and Vogel Park, landscape maintenance was underbudgeted and would potentially be a liability to the General Fund reserves.

The Mayor had agreed that sufficient funds needed to be budgeted for landscape maintenance, observing that weeding was not being done; and also asked about the state of the sanitation trucks which seemed to be frequently broken down.

The City Manager explained that there would be an item on the September agenda regarding the sanitation trucks, and that with two trucks the City was vulnerable to a breakdown. There were three options to consider: one, to franchise out all or part (i.e. commercial but not residential) of the sanitation service; two, contract back-up services from a private company; or three, buy a third truck, and then keep the old truck either as back-up or to rotate with the other trucks on a monthly basis to allow one truck the time to be serviced properly and reduce overall wear.

The Mayor opened the meeting to the public. Resident Gudrun Volker suggested leasing a truck for three years until finances improved. Public Works Director Zamacona explained that \$63,000 for leasing a truck was already in the current budget. There was discussion about the expected lifespan of a sanitation truck. Resident Al Coletta advised, from his perspective as a former towing company owner, that with proper maintenance the trucks could last forever, and that the hydraulics were the issue and could be addressed by finding a local company that rebuilt them.

The City Manager complimented Interim Finance Director Wrains and his staff for their work on the budget, while at the same time completing the City audit, and announced his intention to submit it for the GFOA budget award.

2. ADJOURNMENT

The Mayor adjourned the Budget Workshop meeting at 9:20 P.M.

*Prepared by: Yvonne P. Hamilton, CMC
City Clerk
Katharine Price, Clerical Assistant*

*Adopted by the City of North Bay Village on
this _____ day of _____.*

Connie Leon-Kreps, Mayor

(Note: The Minutes are not a verbatim record of the meeting. A copy of the audio recording is available at the City Clerk's Office until the time for disposition in accordance with the Records Disposition and other Public Records Law.)

OFFICIAL MINUTES

**CITY OF NORTH BAY VILLAGE
REGULAR MEETING
TUESDAY, JUNE 12, 2012**

7:30 P.M

The Regular Meeting of the City of North Bay Village Commission was held on Tuesday, June 6, 2012, at the City Commission Chambers (1700 Kennedy Causeway, #132, North Bay Village, FL 33141).

CALL TO ORDER

The meeting was called to order by Mayor Connie Leon-Kreps at 7:43 P.M.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Ms. Rosa Neely.

ROLL CALL

Present at Roll Call were Mayor Connie Leon-Kreps, Vice Mayor Eddie Lim, Commissioner Stuart Blumberg and Commissioner Richard Chervony.

As a quorum was present, the meeting commenced.

Also present were City Manager Dennis Kelly, Interim Finance Director Bert Wrains, Interim City Planner James LaRue, the City Attorney, City Clerk Yvonne Hamilton, Human Resource Manager Jenice Rosado, City Attorney Nina Boniske, Assistant City Attorney Kathy Mehaffey, and Acting Police Chief James McCready.

Commissioner Paul Vogel was absent due to illness.

A. DR. PAUL VOGEL'S ABSENCE

A motion was offered by Commissioner Richard Chervony and seconded by Commissioner Stuart Blumberg to excuse the absence of Commissioner Paul Vogel.

Mayor Connie Leon-Kreps asked the Commission to address the continuing absence of Commissioner Vogel.

Vice Mayor Eddie Lim suggested that out of respect for Dr. Vogel's service, which had led the City to name him Mayor Emeritus, and to not infringe on his privacy, no drastic action be taken on account of the absences caused by his illness. The Vice Mayor believed that the City Charter required the removal of a Commissioner after four unexcused absences, upon which he could be removed from office by the Governor. He noted that City Clerk was in communication with the Governor's office to clarify this and suggested that things continue as they were.

Commissioner Stuart Blumberg called for a vote on the question.

Mayor Connie Leon-Kreps commented upon Dr. Paul Vogel's service to the City, which led to the City naming a park after him. Nonetheless, she felt that the subject of his absences needed public discussion by the City Commission. The Mayor asked the City Clerk what Mrs. Vogel had communicated to her about Commissioner Vogel, and was informed by the City Clerk that he was hospitalized.

The votes on the motion were as follow: Vice Mayor Eddie Lim-Yes; Commissioner Richard Chervony-Yes; Commissioner Stuart Blumberg-Yes; and Mayor Connie Leon-Kreps-Yes. The motion carried 4-0.

1. **PROCLAMATIONS AND AWARDS**

A. **BEAUTIFICATION AWARDS**

City Manager Dennis Kelly explained that the Beautification Awards had been reinstated by the Community Enhancement Board to recognize those property owners whose properties contributed to the enhancement and beautification of the City. The awards were presented by Mayor Connie Leon-Kreps and members of the Community Enhancement Board: Chair Penelope Friedland, Vice Chair Ann Bakst, and Board member Doris Acosta.

SINGLE-FAMILY RESIDENTIAL

The award winner was the home at 7610 Miami View Drive, which was notable for its beautiful use of native plantings. The award was to be sent to Mr. and Mrs. Pfeiffer, who were not present.

LOW-RISE RESIDENTIAL

The award winner was "The Breeze" on Treasure Island. Representative Rick Muller was present to accept the award.

HIGH-RISE RESIDENTIAL

The award winner was the "360" condominium on Harbor Island. A delegation from the building was present to accept the award.

The City Manager pointed out to the audience the new feature, "Where is the Pride", displaying city event photographs as a result of Commissioner Blumberg's suggestion. The Mayor thanked the Commissioner for contributing this idea.

B. SPECIAL PRESENTATIONS

1. CLAIRE TOMLIN/FARMER'S MARKET (VICE MAYOR EDDIE LIM)

Claire Tomlin, owner of the Farmer's Market for the last 17 years, was introduced to the podium by Vice Mayor Lim. She explained that she had been in discussions with the City, together with residents Benjia Morgenstern and Candis Mason, about the possibility of doing a farmer's market event in the City. The owners of the Crab House had offered their location for the event. Ms. Tomlin cited two primary reasons for holding the event; one, for the fresh local produce and accompanying items such as honey from beekeepers and bread from bakers; and two, to meet one's neighbors in a community oriented setting. She briefly described some of the other market events she organizes, including one nearby in Normandy Village, and said her vendors had expressed interest in participating in a market in North Bay Village. Having access to around 150 vendors, she suggested that the City might want to begin with a market of about 20 vendors. However, the market could be whatever the City wished it to be, and City organizations like the Optimist Club could also set up tables promoting their own causes. Ms. Tomlin distributed artwork created to showcase a future North Bay Village market event, and suggested a start date of November 10th, after the elections.

The Mayor opened the meeting to public comment.

Ann Bakst, a resident at 1865 Kennedy Causeway, suggested that with the nearby market in Normandy already being held on Saturday, and the inability of the Orthodox community to attend a Saturday market, the City should plan their event for Sundays. She also suggested that it be a green market only, eliminating vendors dealing in goods like jewelry and clothing. Mayor Connie Leon-Kreps responded this was an initial presentation and that the logistics of the event could be addressed in the future.

Arlene Manton Levy of 7900 Harbor Island Drive, remarked that the farmer's market organized by Ms. Tomlin at Jackson Memorial Hospital had contributed to strengthening their sense of community, along with great food and market choices. She believed it was a family oriented event that would be good for the City.

Vice Mayor Eddie Lim explained that Candis Mason and Benjia Morgenstern were assisting, but there was no formal organization dealing with the creation of a farmer's market; he reached out to those who might be interested in volunteering. He proposed starting modestly with 20-25 vendors, and striving for quality vendors, unlike some of those he had seen at the market on 71st St. Ms. Tomlin agreed with the Vice Mayor, and again emphasized that the market could be as the City wished it to be. She pointed out that she would be seeking a permit from the City to hold the event. The Vice Mayor also suggested holding a ribbon cutting ceremony for the inaugural market event and promoting it on the City website. He asked the opinion of his fellow Commission members.

Commissioner Stuart Blumberg had questions for Ms. Tomlin from a business standpoint. He asked and learned from her that there were two other companies that also ran farmer's markets. He pointed out that the promotional artwork clearly identified North Bay Village, asked if the City would be providing any services or staff such as police, and wondered how a problem, such as a fight erupting, would be handled. Ms. Tomlin responded that using City services was not in the plan, although the City could choose to do that if it wished; and that problems had been very rare at her events, but if need be she would call 911. The City was named in the artwork to identify the location, and it had been thought that both the event and the promotion of the City's name were good things for the City.

Commissioner Blumberg suggested that the City would be liable if anything went wrong, but he was seeking to protect the City's interests and compensate the taxpayers for any potential costs. He noted that Miami Beach had a contract with Ms. Tomlin and got money from the event, and that competitive bidding could be involved.

Claire Tomlin explained that she carried \$2 million in general liability insurance, which also covered any number of additionally involved groups; the City could be covered if it wished. She stated that while she was present to discuss any contractual issues, there had been thought that since the event was proposed to be held on private property, a contract with the City would not be necessary. Ms. Tomlin summarized the history of the Miami Beach farmer's market, which had been a Lincoln Road special event that she had restarted when it lapsed, in response to residents' requests. Subsequently, Miami Beach had asked for a percentage of revenue, fixed at 10%; later she had won the contract in competitive bidding for 15%. Ms. Tomlin said she was open to negotiating a contract if the City wished to be a partner.

The Mayor urged that a positive attitude be maintained and asked what action was next required; the City Manager explained this was a presentation only and that no action was required for now by the Commission. When an application for a permit was received, the City would process it like any other permit application; he recommended that an application be submitted within the next two months if a November date for the event was planned.

Resident Ann Bakst of 1865 Kennedy Causeway suggested that if the City were to benefit the event should be held on City property rather than the Crab House, where she felt space was too restricted for vendors and visitors. Vice Mayor Lim felt that the space was adequate, and pointed out the advantage of the visibility from the Causeway.

Mario Garcia, a resident at 7540 Cutlass Ave., recommended not over-complicating things. A permit for one event could be issued to see how it went; otherwise the City might never know whether or not this was a positive thing for the City to have.

Mrs. Trujillo, a resident of the Grandview Palace, suggested using the City bus to bring residents to and from the market in order to alleviate the parking problems.

C. ADDITIONS AND DELETIONS

The Mayor suggested the addition of a discussion to address questions regarding the legal RFQ; Commissioner Blumberg asked to delay the discussion to give everyone an opportunity to read it first, and the Mayor concurred.

Commissioner Richard Chervony asked that the report from the Advisory Charter Review Board be heard first, which was changed without objection.

2. BOARD REPORTS

A. ANIMAL CONTROL ADVISORY BOARD

There was no report from the Animal Control Advisory Board.

B. ARTS, CULTURAL & SPECIAL EVENTS BOARD

There was no report from the Arts, Cultural & Special Events Board.

C. CITIZENS BUDGET AND OVERSIGHT BOARD

There was no report from the Citizens Budget and Oversight Board.

D. COMMUNITY ENHANCEMENT BOARD

Penelope Friedland, the Chair of the Community Enhancement Board, announced that the plaques for the Beautification Awards had been sponsored by WSVN, as intermediated by Commissioner Chervony. She and the Mayor gave the award to the winner of the Single Family Home Category, Mr. Oliver Pfeffer, who was present to receive it.

Ms. Friedland spoke of revisiting the Code to deal with regulating chain link fences on the sides of corner properties. She invited Commissioner Chervony to visit the Board to explain in greater detail his ideas about a campaign to solicit contributions toward the improvements of Dr. Paul Vogel Park. She informed the Commission that the Board had recommended alternating pink and white flowers in the mosaic planters on the Causeway. The Board had also discussed at length the lack of maintenance on the commercial properties on the Causeway and felt the attention of the Code Enforcement Officer to this was needed. Finally, she spoke of Board member Doris Acosta's ongoing efforts to obtain information about the City landscape maintenance contracts and schedules, in order to provide the Board's assistance in moving forward with the City's landscape maintenance contract. Ms. Friedland addressed the chain link fence on the south side of the causeway, which the Board had recommended removing and wished the Commission to place on its agenda. The Board was asking for a cost estimate for the City to remove the fence.

She posed a question to the City Attorney, as to whether it was a requirement to be a qualified voter in the City in order to be eligible to serve on any of the City's boards. The City Attorney responded that all the boards with the exception of the Youth Services Board which allowed for the possibility that youth might serve as Board members, required their members to be qualified electors of the City.

Finally, Ms. Friedland read out an email from Board member Candis Mason requesting better response and communication from the Commission on the items discussed and published in the Board's minutes, asking to be included in any updates on items in which the Board had an interest.

E. PLANNING & ZONING BOARD

The Chair of the Planning & Zoning Board, Reinaldo Trujillo, reported that the last Board meeting addressed a special use exception request by Miguel Fornella for a jet ski rental business to be operated at a commercial marina on Harbor Island, changes in the ordinances dealing with adult entertainment, and a proposal by the Youth Services Board for a Master Recreational Plan which will be discussed in more detail later in the meeting.

Commissioner Blumberg pointed out that the Board's recommendation regarding the changes to Section 152 of the City Code were not included in the Minutes. Mr. Trujillo replied that the Board had voted 4-0 to recommend approving the changes.

F. YOUTH SERVICES BOARD

Kevin Vericker, Chair of the Youth Services Board, reported on the Board's meeting of the previous night where the Board had selected the third Monday of every month to hold its meeting and had addressed the subject of a Master Recreational Plan, to be developed in conjunction with the Planning & Zoning Board and any other boards that expressed interest, and to be later presented as an item for inclusion in the City budget in July. It was learned that Nelly Lopez had resigned from the Board and Mr. Vericker stated that the Board had voted to recommend that she be replaced. Other topics discussed by the Board were review of the inclusion of Youth Services money in the Police Department budget; the efforts of the Board over the last 3 months to ascertain the future plans for PAAL; and instituting the International Baccalaureate Program at Treasure Island Elementary School. He suggested the idea of scheduling a public presentation meeting to gather more information regarding the program, its costs, and its benefits.

Commissioner Blumberg offered his understanding that of all the schools in Miami Beach and its surrounding communities, Treasure Island Elementary School was the only school that was not part of the I.B. Program., and that the Mayor of Miami Beach had hoped that North Bay Village would, sooner rather than later, participate. Commissioner Blumberg felt that serious consideration should be given to supporting the program.

The Mayor called for a 5 minute recess.

G. ADVISORY CHARTER REVIEW BOARD

(Without objection, this Item was heard during the meeting before the other Board reports.)

Robert Pushkin, Chair of the Advisory Charter Review Board, presented the report, highlighting the Board's recommendations for revision of the Charter detailed in the package presented to the City Commission:

Renaming the City by removing the words "City of" from City of North Bay Village. The Board had voted in favor of this name change, and then reconsidered the potential cost to the City. It had been decided to obtain a ball park estimate of the cost from administration, and to leave the decision up to the City Commission once they had been supplied with a cost estimate.

Addition of the name "City Clerk" to section 3.01(b), reflecting the decision taken in 2006 to make the City Clerk an appointed position working for the City Commission and not the City Manager.

Vice Mayor Lim offered the suggestion to change the wording in Section 3.01 describing the composition of the City Commission from Mayor, Vice Mayor, and three Commissioners; to instead say four Commissioners with one of them appointed as Vice Mayor. Commissioner Chervony thought that might effectively be a double title. Mr. Pushkin asked the City Attorney's thoughts, who suggested limiting current discussion to the Board's prepared recommendations rather than addressing the entire Charter. She informed the City Commission that they had the power to recommend any Charter revisions they chose, and until the end of July to present them to the Elections Department. The Mayor suggested that the City Commission could hold a special meeting to discuss additional Charter revisions if needed; the Vice Mayor concurred and withdrew the question.

Regarding the Board's recommendation for section 3.04 addressing the compensation paid to the Mayor and Commissioners, Mr. Pushkin summarized it as replacing the C.P.I. adjustment factor with an across the board \$25 increase in monthly compensation for both the Mayor and the Commissioners. He reported that the Board strongly recommended offering this recommendation as separate item not tied into the vote approving the entire Charter, since although this was in effect a salary reduction, there was the possibility that the current climate could cause people to view any idea of a salary increase in a negative way and vote no.

Regarding Section 3.06 "limitations on powers of the commission", he referred to parts A, B, and C, where there was reference to the Commission being allowed to spend 20% of the current annual fiscal budget. Mr. Pushkin pointed out that with a current annual fiscal budget of \$16-17 million this was calculated to be \$3.4 million that the Commission had the power to spend. The recommendation was to change the wording to 20% of the total annual operating budget, estimated now at about \$7 million, and reducing the spending powers of the Commission to that amount. A referendum would be required in order to exceed that spending limit, now around \$1.4 million.

In part G of the same section, "appointments or removals of City personnel prohibited", the City Clerk had been omitted and was now added. In part J it was added that a Commissioner could not be appointed to a paid position for two years following their leaving office. In part K dealing with nepotism the addition of the words "or affinity to" meant that no person related to a member of the City Commission by blood or marriage could be appointed to a City position.

In Section 3.07 dealing with vacancies, the language had been simplified, substituting the words "City Charter" for "procedures set forth above." In parts A, B, and E, words had been added to make the language clearer. In the section dealing with extraordinary vacancies, more language was simplified.

Regarding the section dealing with ordinance and resolutions, it was noted that emergency ordinances, 30.07(d), said that two thirds of the membership must vote in favor of an emergency ordinance; while the Charter called for three members to vote in favor. It was recommended that the Charter be changed from three votes to four votes, and the City Commission revisit 30.07(d).

The Board recommended that the deadline for presenting ordinances be changed from 48 hours to 3 business days before the City Commission meeting.

To Section 4.01 dealing with the City Manager, typographical corrections were made, and part H was added requiring approval by the Commission for outside employment of the City Manager.

Regarding nepotism as related to City staff at the level of Department Head or above, the same change was made as the one that pertained to the city Commission.

More recommended changes included residency requirements for the City Commission, increased from 6 months to 1 year, and the City Attorney confirmed that this conformed to case law that had been upheld in the State of Florida. Petition forms for candidates for the Commission were to be uniformly provided by the City Clerk. Filing fees for candidates were proposed to be increased from \$100 to \$250 to better reimburse costs. Additional language had been added limiting the involvement of non-elected City employees, both on and off duty, in City elections.

With regard to advisory boards, it was recommended that no individual should serve more than two consecutive terms on the same advisory board, to promote the circulation of fresh ideas. This did not prohibit individuals from then serving on another advisory board.

In Section 7.03 dealing with preparation and submission of the budget, the Charter called for tax increase notices to be sent out; Mr. Pushkin advised that this was never done, and that this notification was properly done in the form of TRIM notices sent out by the County.

The Board recommended the addition of a requirement that anyone with check signing authority on City accounts be required to post a bond.

Wording in the City's Oath of Office had been changed to specify that oath taker would also uphold the laws of the City of North Bay Village.

In Section 10.13(b), it was added that the Planning & Zoning Board in cooperation with the City Attorney was charged with reviewing and updating the Zoning, Comprehensive Plan and related Code at a maximum interval of every 5 years, commencing in 2013. Mr. Pushkin observed that the City had talked for years about updating an improving it's zoning codes but had not done so, and felt that making it part of the Charter meant that it would be addressed. If the recommendation passed, the Board felt the City should begin the process in March of 2013.

Mr. Pushkin concluded with Section 10.14 dealing with violations; the words "City officials and employees shall follow the provisions of this Charter" were described as being in clear language.

The Mayor thanked Mr. Pushkin and the Board members for their efforts. Commissioner Blumberg asked what the next step was for the Commission; and the City Manager advised that the Commission should hold a special meeting to decide on the recommendations before the required publication dates for the referendum, preferably before their next regular meeting in July.

Mayor Connie Leon Kreps moved to receive the recommendations from the Charter Review Advisory Board, seconded by Commissioner Stuart Blumberg. The votes were as follow: Vice Mayor Eddie Lim-Yes; Commissioner Richard Chervony-Yes; Commissioner Stuart Blumberg-Yes; and Mayor Connie Leon-Kreps-Yes. The motion carried 4-0.

The Mayor recessed the meeting.

3. PUBLIC SAFETY DISCUSSION

The Mayor called the meeting to order at 9:48 P.M. and continued with Item 3, Public Safety Discussion presented by Lt. McCready of the Police Department who informed the City Commission that along with the advent of summer vacation, a slight increase in juvenile crime had been seen. A curfew for those under the age of 17 was in effect after 11:00 P.M. on Sunday to Friday and after midnight on Saturday. Juveniles found on the street after curfew would be picked up by the police, and residents were asked to call the police if they saw juveniles after curfew.

Sgt. Amy Suarez announced that the Police Academy, a nine week program teaching the average citizen about what the police do, was beginning a week after the coming Thursday, June 21st from 6 to 8 P.M.. The program included a ride-along component, and background checks were required for all applicants. Enrollment was unlimited by number, open to all those over the age of 18, and applications could be found on the City website.

4. COMMISSIONERS' REPORTS

Commissioner Richard Chervony thanked Chair Bob Pushkin and all the members of the Advisory Charter Review Board for their long hours of work on an overdue revision of the Charter; announced that the community park had been re-opened and re-christened Dr. Paul Vogel Park; and finally, he thanked Lt. Brian Collins and Lt. McCready for leading the hurricane preparedness discussion at the condominium meeting, and also thanked Evan Glassman for his presentation on insurance for the condo market.

Vice Mayor Lim suggested posting a notice regarding the Police Academy and promoting it as much as possible. He thanked Bob Pushkin, Chair of the Advisory Charter Review Board; Kevin Vericker, Chair of the Youth Services Board; and all the advisory boards for their time and efforts; and he commented on the successful re-opening ceremony at Dr. Paul Vogel Park.

The Vice Mayor reported on attending the annual event held in Washington, D.C. by the Florida League of Cities, FAST (Federal Action Strike Team) on May 8th and 9th. A main agenda item was economic recovery, incorporating the theme that strong cities equal a strong economy. He suggested that the institution of a re-occupancy inspection certificate in the City be preceded by an amnesty program, as had been done in Miami Beach, to allow property owners to bring work that had been done under previous Code and without proof of permits into compliance with current Code.

The Vice Mayor commented upon the Interim Finance Director's observation that the City had no master plan for updating its computer system, and the need for city-wide integrated information sharing along with a new financial software program.

He reported on the Community Gardening concept, which he planned to submit to the Community Enhancement Board, and for which was sought a suitable piece of land to use.

Finally, Vice Mayor Lim expressed his concern about the effect that Spain's banking crisis might have on City finances, since Sabadell, a Spanish bank, held \$3.3 million of the City's cash position and \$1.6 million of its project funds. He requested the City Manager and Interim Finance Director to look into it.

Commissioner Stuart Blumberg echoed the thanks given to board members by the other Commissioners, and reported that he had received a letter from the Dade County School Board dated May 18th on how to replant the trees planted in the bulb outs on Treasure Island, replanting them at both Treasure Island Elementary School and at an agricultural school run by the County. He planned to propose that this be accepted at the next meeting in July. He also planned to have an agenda item for the next meeting abolishing the community meeting signs currently in use by the City, having the City use instead its website for community meeting information, as patterned after other cities.

While the City Code called for the posting of meeting notices on bulletin boards, he suggested that the use of the City Hall bulletin board would serve the purpose.

Mayor Connie Leon-Kreps reported her intention to ensure that the City Commission Meeting Agenda was available five days before the scheduled meeting, as per the City Resolution. She observed that this was a matter of staffing, with a few available staff members in City Hall responsible for multiple tasks, and that staff working after hours to provide agenda at the last minute to Commissioners and residents would be a thing of the past. Her goal was to have in all respects a professionally run city, and would be addressed in a meeting with the City Manager, City Clerk, and City Attorney.

The Mayor stated that it was important to present notices of important information to residents in the most convenient and accessible way possible, as requested by many residents who did not receive notifications of meetings and events; therefore, she had requested of the City Manager that he look into signs that could be strategically placed to give them the best notification along multiple routes into the City.

The Mayor noted that the Optimist Club luncheon of last week, and the F.O.P in partnership with them, demonstrated that the community was working together for the betterment of youths. She was also gratified by the many applications for service on the City advisory boards which showed pride in the City; and commended the service of those sitting on the boards.

The Mayor announced that to ease the discomfort of sitting on hard chairs for extended periods of time at City meetings, the City had begun and would continue the purchase of cushioned chairs for use at the meetings.

She asked the City Manager to elaborate regarding the removal of chain link fence on the Causeway, which she believed required permission from the State, and to follow up with the Community Enhancement Board regarding their inquiries. She also asked the City Manager to elaborate on the International Baccalaureate Program, for which a meeting was being scheduled.

5. CITY ATTORNEY'S REPORT

City Attorney Boniske reported that the City Commission had been provided with a copy of an order that had been received today with regard to the case of Isle of Dreams vs. City of North Bay Village from Federal Judge Ungaro, granting the City's motion of summary judgment of dismissal of the case. Therefore, the City had won the first round, although the Isle of Dreams still had 30 days to appeal and 28 days to file for a rehearing. She had no written report to present; but in response to Commissioner Blumberg's request for written reports, starting next month there would be a written report from legal as well, highlighting their activities over the month.

7. **CITY MANAGER'S REPORT**

Commissioner Stuart Blumberg strongly objected to not being supplied with a written report from the City Manager, as he had asked on record at the previous meeting and with all in agreement. The City Manager apologized and at the request of the Mayor, and with the agreement of Commissioner Blumberg, proceeded to make the report orally.

City Manager Kelly reported on the training given by the Ethics Commission, and that the Commission members would be polled to find a convenient date for the training session. He informed the Commission that there would be a presentation made by City staff and the grant consultants this coming Saturday in Cocoa Beach, Fl. To FIND (Florida Inland Navigation District), on the City's pending grants. He announced the Legal Services Request for Qualifications was out and the "cone of silence" was in effect. Questions about it could be made as long as those questions were in an open meeting. He directed the Commission's attention to a copy of the City's strategic plan, which had been distributed to them. Applications for Finance Director and City Planner had been received and recommendations were expected for the July meeting.

City Manager Kelly noted that in the Commissioners' package they would find bids for beginning the process of the demolition of old City Hall and he described this as beginning the process of reaching toward the construction of a new City Hall, Police Station, and Fire Station. The RFQ for the architectural design was expected to reach the Commission by August or September. In light of complexity of the many issues to be addressed in conjunction with the project, he recommended establishing a second Commission meeting with a one item agenda to relieve the agenda of the Regular City Commission Meeting and to fully inform the Commission at every step of the process. He conceived of this special meeting as taking place over the next 12 to 18 months as needed, being limited to 2 hours in length, and being attended by the relevant resource personnel.

The City Manager introduced Interim Finance Director Wrains to the podium to make the Finance Report and to update the Commission on findings about outsourcing done in other cities. Mr. Wrains began with the "Budget-in-Brief thru May 31, 2012." He explained the format changes to the report, which included a projection to the end of the year, made in his professional estimation. This projection had the City's General Fund at 1.6% under budget, considered to be a very good performance, and requiring some future adjustments, either by reducing expenditures or reallocating budgets.

With regard to the concerns about Sabadell Bank mentioned earlier, Mr. Wrains explained that the bank was part of a depository program run by the State Treasurer's Office, which required the bank to collateralize public deposits, and all banks holding public money to share in covering any member bank's loss of that public money. Being a member of a state collateralized pool, no one member bank was a source of concern.

Mr. Wrains turned to the City's other funds, which he described as being in good shape; and month to month revenues and expenses for all departments, which he still needed to fine tune but felt were not a problem.

The Interim Finance Director next addressed the topic of outsourcing. He discussed the elements to consider in weighing the advantages of outsourcing, including both cost and level of service. Some functions might be best served by larger entities with large investments in systems that had excess capacity to sell, for example, a fire department with low call volume. Other functions such as Human Resources or reception might have service benefits through the cross training of staff and the personal encounter which pleased residents and that was to be found in small entities as compared with larger ones. Cost factors were found to exist in a wide range, and the only way to determine them was to put a formal bid out. The polling of several cities in Dade and Broward counties with regard to their outsourcing, presented in his report, showed that Broward County outsourced a great deal of their police, fire, and building services but kept the rest in-house, with the exception of Weston, West Park, and Southwest Ranches which outsourced basically everything. Dade County presented a full spectrum of degree to which cities outsourced.

Commissioner Blumberg asked the Interim Finance Director if the report on outsourcing could be presented in matrix form for easier comparison of other cities and their outsourcing activities. His second question was regarding the financial statement and the section on capital, about which he expressed concern and had not found addressed in the minutes of the Citizens Budget and Oversight Committee, as to why \$1 million in capital revenue was shown but only \$4,000 taken in so far. He wished to know when and from where the revenue was expected to be coming; and Mr. Wrains promised to email him with the specific details.

City Manager Kelly informed the Commission that a series of meetings with representatives from Miami Beach and the School Board had been held regarding the International Baccalaureate Program and suggested a community-wide meeting on the topic. The expense of the program was estimated to be \$130,000 at maximum, and various funding options could be explored. A community meeting would help gauge the level of support for the program.

Commissioner Richard Chervony asked the City Manager if the contract with the audio-visual service provider had been terminated; the City Manager responded that there never had been a contract, and that the audio-visual service was now included in the City's IT service provider's responsibilities.

Commissioner Chervony also had concerns about the legal services RFQ, saying that he was concerned about the short two week time frame; that he found the section on page 16 and 17 dealing with "cost proposal" confusing; and finally that he felt the wording of the RFQ advertisement might mislead certain specialist legal service providers to think that they were not eligible to apply.

He asked to be notified if any questions were received from applicants on these matters; the City Manager responded that he needed to check on procedure for any amendments with the consulting attorney on the RFQ, which was not the firm of Weiss Serota, who was potentially one of the applicants. The City Attorney cautioned that as a general matter and not specific to the legal services RFQ, amendments could be made but with the "cone of silence" in place all oral communications needed be in the context of a public meeting, and private communications regarding administrative issues needed to be in writing with a copy given to the City Clerk. The Mayor asked whether the date could be changed unilaterally by one Commissioner or if the City Commission needed to vote to change it; the City Attorney believed that since the City Manager had set the date, the City Manager could change the date.

Mayor Connie Leon-Kreps asked the City's accounting firm to candidly explain the reasons that the City audit had not been completed on time. Ken Smith of Keefe McCullough & Co. explained that he was dependent on having the necessary information prepared and brought to him by the client, and while the material portion had been given to him on Friday, there was still some final information to be prepared and submitted to him. The audit was close to finishing, drafts were planned for this week and the management responses to the audit findings to be issued also need to be incorporated. The Mayor asked whether the new Interim Finance Director had been efficiently cooperating, and Mr. Smith replied that he had been.

Commissioner Richard Chervony addressed Mr. Smith, saying that he had been asking for the financial status of the City since December, and Mr. Smith responded that he had been before the Oversight Board, but not been asked to report before the Commission. Commissioner Chervony pointed out that his contract called for a rough of the audit to be prepared by January 8th; Mr. Smith responded that this was true provided the City had supplied the necessary information, and it had not. The Commissioner referred to minutes from the April 25th meeting of the Citizens Budget and Oversight Board that stated that the audit would be completed a week after receiving about a half dozen more items from the City, and asked whether those items had not been received. Mr. Smith explained that among those items were bank reconciliations and fixed asset schedules, which he had just received last Friday, and the draft audit was to follow a week later as promised. Commissioner Chervony sought and received assurance that the audit would be completed in time to file with the State at the end of June as required, and that Mr. Smith would appear before the Commission in July to answer any questions they might have about the audit.

Commissioner Stuart Blumberg wished to know whether missing the January 8th deadline for an audit rough had anything to do with the change in City Managers; Mr. Smith responded that it had not; that he had been told the documents would not be ready until January 17th; and then had still been forced to begin the audit without all documents at hand. Commissioner Blumberg confirmed that it was the Finance Director who had not supplied the needed documents.

The Commissioner asked whether Mr. Smith's firm had been concerned about the City hiring an outside firm to do a special audit; Mr. Smith responded that it was not unusual to have an outside firm to do the type of engagement that had been contracted by the City, an AUP or Agreed Upon Procedures audit, to supplement the regular audit or to target and control a particular avenue of examination. While Mr Smith would have been concerned had it appeared to be a fraud investigation, he had requested and examined the outside auditor's engagement letter and found that it addressed policies and procedures, which he considered to be a normal undertaking. Commissioner Blumberg confirmed that Mr. Smith had been unaware of the special meeting to address hiring an outside auditor, or that an outside auditor had been engaged until after the event.

Mayor Connie Leon-Kreps stated that she was aware of the good reputation of Mr. Smith's firm from speaking with other cities that had engaged their services, and noted that the City had undergone a series of management changes in the recent past, including two Interim City Managers prior to the current City Manager, and a Financial Director that was recently let go and replaced by a competent financial professional to help put things in order. The Mayor commented it was known, and reported by the Oversight Board, that there were weaknesses in the Finance Department and that bank reconciliations not being done had previously been a problem for the City.

Mr. Smith noted that bank reconciliations had been communicated to be a material weakness in the prior audit report, and that he had needed to do the bank reconciliations himself last year in order to complete the audit. Commissioner Chervony asked the Mayor why she had not communicated her knowledge of the City's finances to him when he had questioned them. As a newer member of the Commission, he felt he had not been properly informed since joining the Commission in December, and had never been told by anyone on the Commission dais or in the City Manager's office that the Finance Director was not performing his function. The Mayor replied that finance was not her area of expertise, and reporting on financial information was a matter for experts.

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

Good & Welfare was begun after the report from the Charter Advisory Review Board was completed.

The first speaker was Ann Bakst of 1865 Kennedy Causeway, who thanked the Mayor for adding Item 11E to the Agenda, prohibiting the sale of synthetic drugs. She hoped it passed and was enforced at all the convenience stores of the City.

The next speaker was Doris Acosta, a resident of 1790 S. Treasure Drive, announced that the Optimist Club had held its annual scholarship awards ceremony and handed out \$4,500 in scholarships directly to students, as well as a \$500 award from the Fraternal Order of Police. She commented on the recommendation to revise the Charter to restrict Board membership to two consecutive years on the same board; making the observation that it was difficult to get volunteers to fill open board positions and the City could be hurt by instituting such a restriction.

The next speaker was Jacci Seskin, who identified herself as currently working for the State Attorney's office and running for County Court and asked for the support of those in the City.

The next speaker was Nancy Sonnett-Selwyn, of 7512 Cutlass Ave., who suggested that for various reasons, including not having attended a Commission meeting in a long time, the resignation of Commissioner Vogel should be sought, and that his resignation would have the effect of preserving rather than violating his dignity. She also agreed with the recommendation to limit service on the Boards to two consecutive years, especially in the case of the Planning & Zoning Board and the Citizens Budget and Oversight Board, on which other people would like the opportunity to serve.

The next speaker was Kevin Vericker of 7520 Hispanola Ave., who spoke against the recommendation regarding term limits for boards, for which some expertise was required and for which volunteers could be scarce. He was opposed philosophically to the idea of term limits; and while he felt the Commission should review the performance of board members for effectiveness, he suggested this be addressed as policy and not codified in the Charter.

The next speaker was George Brito of 1865 Kennedy Causeway, who noted the absence of Commissioner Vogel, and expressed his opinion that it was a disservice by the Commission to the voters and residents of the City to continue to excuse his absence, despite the respect felt for Commissioner Vogel.

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.**

- A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING THE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF NORTH BAY VILLAGE ACCEPTANCE OF GRANT FUNDS IN THE AMOUNT OF \$35,000 FOR THE DEVELOPMENT AND IMPLEMENTATION OF THE INTERFACE BETWEEN THE CITY'S EXISTING RECORDS MANAGEMENT SYSTEM AND THE NEW THINKSTREAM ARREST-A-FORM AUTOMATION SOLUTION; AUTHORIZING CITY OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS OF THE AGREEMENT; AUTHORIZING THE APPROPRIATE OFFICIALS TO EXECUTE THE AGREEMENT; AUTHORIZING THE EXPENDITURE OF BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)**

A motion was offered by Commissioner Stuart Blumberg to approve the consent agenda, seconded by Commissioner Richard Chervony. The votes were as follow: Mayor Connie Leon-Kreps-Yes; Vice Mayor Eddie Lim-Yes; Commissioner Richard Chervony-Yes; and Commissioner Stuart Blumberg-Yes. The motion carried 4-0.

10. **PLANNING & ZONING CONSENT AGENDA**

There was no planning and zoning consent agenda items.

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

- A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXPEND \$490 FOR INSTALLATION OF LANDSCAPING AT THE ENTRANCE TO NORTH BAY ISLAND; SETTING AN EFFECTIVE DATE. INTRODUCED BY CITY MANAGER DENNIS KELLY)**

Vice Mayor Lim asked why an expense of only \$490 required a resolution. The Mayor clarified that after a \$12,000 change order following a punch list walk thru on the Causeway project had been denied and the City Manager had been given direction not to spend any further money on the Causeway without approval. Commissioner Blumberg sought to confirm that this was not any part of the previously denied \$12,000 change order. Commissioner Chervony suggested that this was something that should be addressed privately by the homeowners if they were bothered by it. Public Works Director Zamacona explained that the proposed planting was on City property, and would fill a gap where a tree had been removed after it died.

Commissioner Chervony questioned that the palm tree which had died was capable of hiding the fence and whether it was suitable to replace it with \$490 worth of plantings. Vice Mayor Lim thought the City should authorize the expense, since it was on the public right-of-way; and the Mayor agreed, because that the planting was on City property and appropriate to protect the effect of the other landscaping improvements in which the City had invested.

Vice Mayor Eddie Lim offered a motion to approve the Resolution authorizing the planting and Mayor Connie Leon-Kreps seconded the motion. The votes were as follow: Commissioner Richard Chervony-No; Commissioner Stuart Blumberg-Yes; Mayor Connie Leon-Kreps-Yes; and Vice Mayor Eddie Lim-Yes. The motion carried 3-1.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER AND AWARDED BID NO. NBV 2012-01 FOR DEMOLITION OF THE CITY HALL BUILDING AT 7903 EAST DRIVE TO THE BG GROUP, LLC AT THE BID PRICE OF \$64,650.00; APPROVING THE CONTRACT FOR CITY HALL DEMOLITION; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE CITY MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)

The City Clerk read the Resolution by title.

Commissioner Richard Chervony asked whether the demolition would have any impact on the pending land swap; the City Manager answered that the land swap stood alone and there was no impact.

Vice Mayor Lim suggested that in the future a voluminous proposal such as this, which took up 200 pages, might be better posted on the website to be read rather than printed out. He also suggested that since there was a book being written about the City, pictures be taken before, during, and after the demolition for posterity, and the City Manager concurred.

Commissioner Chervony asked whether an appropriate performance bond was included in the bid price, and the City Manager responded that it was.

The Mayor opened the meeting to public comment. There were no public comments, and the meeting was closed to the public.

Commissioner Stuart Blumberg moved to approve the Resolution and Mayor Connie Leon-Kreps seconded the motion. The votes were as follow: Commissioner Richard Chervony-Yes; Vice Mayor Eddie Lim-Yes; Mayor Connie Leon-Kreps-Yes; and Commissioner Stuart Blumberg-Yes. The motion carried 4-0.

D. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING THE CONTRIBUTION OF \$10,000.00 TO MIAMI-DADE COUNTY COMMUNITY SCHOOLS TO SUPPORT THE 2012 SUMMER CAMP SERVICES FOR THE CHILDREN OF THE CITY; AND PROVIDING AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)

The proposed Resolution requests the expenditure of \$10,000 to Miami-Dade County Community Schools to assist in providing 2012 Summer Camp services.

Human Resource Manager Jenice Rosado explained that last year the City had been awarded grant funds of \$134,000 annually for 3 years, to be renewed every year, for the purpose of free after-school care and summer camp for a maximum enrollment of 50 children. It was in the City's interest, she said, to maintain its relationship with the Community Schools program to provide services for the overflow of children who were not able to enroll in the free grant program, which was fully enrolled and had a waiting list; as well as to provide for the day when the grant program would expire.

The item had not been specifically budgeted, but it was proposed to fund it from the special promotions account which contained around \$20,000.

Commissioner Richard Chervony suggested that in the future the item be budgeted for at least \$10,000, and thus it would be guaranteed funding without coming before the Commission.

The Mayor opened the meeting to public comment. Resident Kevin Vericker spoke in favor of the item, and agreed with the Commissioner's point on budgeting and added that there should be clarity in budgeting for Youth Services.

The Mayor then closed the meeting to the public.

Commissioner Richard Chervony offered a motion to approve the Resolution, and Commissioner Stuart Blumberg seconded the motion. The votes were as follow: Commissioner Stuart Blumberg-Yes; Mayor Connie Leon-Kreps - Yes; Vice Mayor Eddie Lim-Yes; and Commissioner Richard Chervony-Yes. The motion carried 4-0.

D. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING A PURCHASE ORDER/QUOTE WITH C&L GRAPHICS FOR THE PURCHASE AND INSTALLATION OF FOUR SIGNS AT DR. PAUL VOGEL COMMUNITY PARK; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO IMPLEMENT THE PURCHASE ORDER/QUOTE; AUTHORIZING THE EXPENDITURE OF \$15,657 FOR THE SIGNAGE; AUTHORIZING CITY OFFICIALS TO EXECUTE DOCUMENTS; AND PROVIDING AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)

Public Works Director Sam Zamacona took the podium to explain that the item covered the fabrication and installation of Dr. Paul Vogel Park signage designed by Tom Grabowski, who had also designed the City's new entrance and monument signs. The signage included the park's identity sign, hours and rules of usage, and dedication sign.

The Public Works Director pointed out that the plans called for additional signs, that were not addressed by this item, and which would be undertaken at a later date.

The Mayor asked whether the parks rules included no smoking, and the City Attorney explained that State law preempted the use of a park-wide no smoking rule, but might possibly allow it for limited areas such as shelters, etc. The Public Works Director suggested that the no smoking rule might be posted on the playground rules sign and in the public restroom.

The Mayor asked if this was a budgeted amount, and the Public Works Director affirmed that this was in the Capital Projects budget. He added that if this item were approved, the park's budget would have around \$20,000 left, which would be proposed at a later Commission meeting to be spent procuring two additional picnic shelters.

Commissioner Chervony asked how much of the Safe Neighborhood Parks \$415,000 in grant money remained. The Public Works Director responded that pending litigation with M. Vila; around \$35,000- \$36,000 was left. Commissioner Chervony understood that of this, \$16,000 was for signage, and \$20,000 for shelters. He wondered if the \$20,000 could instead be applied to matching FIND funds for the restroom or seawall. Grant consultant Ralph Rosado explained that it was unlikely that that the time period in which funds must be spent, which was elapsing in weeks, could be extended to the next fiscal year, and that there were also issues about the approved scope of work.

Commissioner Chervony asked when they could expect to close out the expenses in this park. Mr. Rosado replied that the City could expect the three grants for the park closed out and to be reimbursed close to 100% of their costs once the final \$36,000 had been spent and all contracted elements had been installed, the vendors paid, and receipts presented to prove it. Commissioner Chervony clarified that he meant, rather, the seemingly endless stream of additional projects related to the park, such as the restrooms and seawall and signage to come. Overall, he felt that too much money had been spent on this small neighborhood park already. The Mayor inquired as to the source of the funds for the park, and Mr. Rosado responded that it was from grant money from Safe Neighborhood Parks plus the required matching funds. Commissioner Chervony confirmed that of the approximately \$15,000 to be spent on the signage, only \$7,500 was grant money and the other \$7,500 was from the City's own pockets. The Mayor urged that the Commission move forward and complete the park for the sake of the residents and the children.

Vice Mayor Lim suggested that some costs might be recovered by advertising the park for rent.

The Mayor opened the meeting to public discussion. Resident Ann Bakst of 1865 Kennedy Causeway objected to the expense of the signs, and felt that a separate dedication sign was unnecessary. She also felt that the Community Enhancement Board should have been consulted before many of the park's design decisions were made.

Commissioner Blumberg mentioned an existing stone in the ground dedicating the park to Dr. Paul Vogel, and questioned the need for another dedication sign. The Mayor learned from the Public Works Director that the Community Enhancement Board had not been consulted about the park signage, and suggested that this needed to be done out of respect for the Board before going forward.

Resident Gudrun Volker pointed out that with a proposed name change for the City pending, no final decision should be made on signage before knowing the outcome of that proposal.

The Mayor, with the concurrence of the Commission, directed the City Manager to bring the item to the Community Enhancement Board for their recommendation, and to make note of the proposal to change the name of the City.

A motion was offered by Commissioner Stuart Blumberg and seconded by Vice Mayor Eddie Lim to extend the length of the meeting. All voted in favor and the motion carried 4-0.

- E. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, SUPPORTING THE ADOPTION OF LEGISLATION PROHIBITING THE SALE OF SYNTHETIC CANNABINOIDS, COMMONLY KNOWN AS SYNTHETIC MARIJUANA, BY THE MIAMI-DADE COUNTY COMMISSION; PROVIDING FOR TRANSMITTAL; AND SETTING AN EFFECTIVE DATE. (INTRODUCED BY MAYOR CONNIE LEON-KREPS)**

The City Clerk read the Resolution by title.

The Mayor opened the meeting to public comment. Resident Ann Bakst spoke in favor of the Resolution. There were no other speakers and the meeting was closed to public comment.

Commissioner Stuart Blumberg moved to approve the Resolution, seconded by Vice Mayor Eddie Lim. The votes were as follow: Mayor Connie Leon-Kreps – Yes; Vice Mayor Eddie Lim-Yes; Commissioner Richard Chervony-Yes; and Commissioner Stuart Blumberg-Yes. The motion carried 4-0.

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

There was none.

13. **UNFINISHED BUSINESS**

- A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA ACCEPTING/DENYING THE REQUEST BY NORTH BAY VILLAGE INVESTMENT TRUST, LLC TO REDUCE PREVIOUSLY ASSESSED CODE COMPLIANCE FINES FOR CASE NO. 10-001 AND UTILITY COSTS AND PENALTIES; DIRECTING THE CITY MANAGER TO EXECUTE ANY REQUIRED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)**

The City Clerk read the Resolution by title.

The Mayor noted that the case history before them had inconsistencies and was incomplete, and asked why it was coming to the Commission.

City Manager Dennis Kelly explained that according to City precedent, there existed examples of settlements being decided by the Commission, as well as by the City administrative staff alone, which he thought was a mistaken practice. He considered this a test to establish a future policy for this type of case.

Michael Rose, the representative for the property owner, spoke regarding two issues: one, Code Enforcement violations; and two, accruing penalties for non-payment of utility bills. With regard to the Code enforcement violations he claimed that they been issued violations by a previous Code Enforcement Officer in 2008 (for overgrown grass) and 2009, had corrected the violations, and had been issued violations again in 2010 (for rubbish and trash). In 2010, he claimed, they received certified notice of the violations for the first time and asked for a Special Magistrate hearing for all previous violations, held on May 19, 2010. According to Mr. Rose, the required corrections were made within the deadline given, and letters were sent to the City but no acknowledgement received that the matter was resolved. Later a judgment order was issued and recorded, and accruing fines now totaled \$163,000. Most recently, they had met with the City Manager and Mr. Murray the current Code Enforcement Officer, who sent them a letter that the violations had been corrected.

Mr. Rose then spoke regarding a utility bill of around \$200 plus accruing penalties of around \$40,000. He explained that the property had been acquired via foreclosure in 2008, and that he had tried to obtain an explanation for over two years from then Finance Director Pirri regarding charges for water and sanitation services that were not being supplied to the property. Mr. Rose maintained that the accruing penalties should never have been imposed, since the original charges were in error.

The bill had recently been recalculated to reflect a stormwater charge of \$2,900 covering the last several years, which he expressed willingness to pay immediately if they were thus charged. He asked the Commission to release them from the penalties.

The Mayor noted that the letters to which Mr. Rose referred were not in the Commission's packet, and the dates and other information at hand were conflicting; therefore she was not able to make a determination at this time. Commissioner Blumberg criticized the City Manager and current administration's presentation of incomplete supporting documentation. Vice Mayor Lim commented that during a meeting with Mr. Rose's assistant, the Commission had seen the letters being discussed. While he was in agreement that the case showed serious lapses in the City's previous internal controls regarding fines and citations he thought that they should now be considering the staff's recommendation for settlement, and offered a motion to approve it, which was not seconded. The rest of the Commission did not recall reading the letters during meetings with Mr. Rose's assistant, and agreed that they were unable to vote on a matter of this financial consequence without complete information. Commissioner Chervony pointed out the letter from the Code Enforcement Officer gave a compliance date of March 19, 2012 but did not allude to previous inspections or violations. As to utility bills, he referred to other issues with other properties regarding the forgiveness of utility bills and thought this was part of a larger issue that could not be addressed now.

The Mayor opened the meeting to public comment. Resident Reinaldo Trujillo gave a history of the property in question, describing numerous violations, beyond those that had been described, going back many years and which had not been fixed until they were recorded and penalties imposed. With regard to utility service, he informed the Commission that the property had previously had a trailer with all utilities supplied by the City, and that unpaid utility bills were often transferred to new owners. Mr. Trujillo also alluded to the issue of water bills on properties that had been calculated with penalties compounded upon penalties. These bills, he explained, had been forgiven because it had been determined that compounding penalties in this manner was incorrect.

Resident Ann Bakst spoke next and asked whether the new owners had either not supplied their correct mailing address, or had ignored bills sent to them. There were no further speakers and the Mayor closed the meeting to the public.

Commissioner Stuart Blumberg offered a motion to defer the Resolution in Item 13A to the next meeting of the City Commission in order to obtain all of the needed documentation to support a decision; the motion was seconded by Mayor Connie Leon-Kreps. The votes were as follow: Mayor Connie Leon-Kreps –Yes; Commissioner Richard Chervony –Yes; Vice Mayor Eddie Lim – No; Commissioner Stuart Blumberg – Yes. The motion carried 3-1.

Michael Rose asked that the penalties stop accruing from this date, while awaiting the decision. The Mayor responded that that the matter needed to be reviewed with the City Manager, the Finance Department, and the Code Enforcement Officer.

The Mayor opened the meeting to public comment. Bunny Hart of 7901 Hispanola Avenue asked if there were records of any previous payments, and thought penalties should stop from this day forward.

The City Attorney informed the Commission that there were two sets of penalties involved; one, the Code Enforcement penalties, which had been stopped with Code Enforcement Officer Murray's letter dated March 19, 2012; and two, the water bill which continued to compound while unpaid per City Code. The City Attorney also informed the Commission that per the City Code, the only group that can compromise a Code Enforcement lien is the City Commission; it is not in the purview of the City Manager, and the Special Magistrate lost jurisdiction after he issued an order.

14. NEW BUSINESS

A. DISCUSSION/CITY MANAGER (COMMISSIONER RICHARD CHERVONY)

Commissioner Richard Chervony discussed evaluating the performance of the City Manager upon the completion of his first 180 days in office, which would occur next week. He criticized the City Manager's performance, citing communication, budget, and audit issues, and referred to the special audit ordered by the City Commission because of their lack of certainty regarding the City finances. Commissioner Chervony complained of deficient progress made on a range of issues including the chain link fence on the Causeway, the Baywalk project, the legal services RFQ, the landscape maintenance RFP, and the timely completion of the audit and budget. He held the City Manager responsible for overspending on the park and Causeway projects, and criticized expenditures in the past month on padded chairs for City meetings, customer service training for staff, and an unauthorized welcome sign.

Therefore, Commissioner Chervony made a motion to terminate the City Manager's employment, and Commissioner Blumberg seconded the motion.

Mayor Connie-Leon Kreps agreed that the City Manager's performance could be improved, and urged the City Manager to take the criticism to heart. She asked, however, that the full picture be considered out of fairness, mentioning the management turn-over that the City had undergone, with two preceding interim City Managers, and suggesting that the City Manager might not be supplied with all the tools and staff to facilitate the many tasks before him. The Mayor went on to say that the City was now in need of stability, and suggested at least waiting until the budget process was over.

Commissioner Stuart Blumberg offered that the conduct of the night's meeting was an example of why the City Manager should be removed, and expressed his lack of trust in the communication from the current management.

The Mayor agreed that communication had been a problem, but thought that there were problems in the City that predated the six month tenure of the City Manager, and for which he was being blamed. She added that the expenditures on padded chairs and customer service training were made at her direction to the City Manager

Commissioner Chervony concluded he had been misled in the matter of the unauthorized welcome sign and that had caused him to lose all trust in the City Manager, and Commissioner Blumberg concurred.

The Mayor asked for the City Manager to reply, and he responded that he had tried to rush production of the sign believing that the Commission had reached a consensus and given him direction to move forward quickly, and then he had rescinded the order for the sign when questions were later raised about aesthetics. He acknowledged that he was finding it difficult to follow directions given by individual members of the Commission on different items, and resolved to consult the Commission as a whole in the future. Commissioner Blumberg strongly disagreed that the City Manager had been directed to proceed with ordering the sign, but the Mayor recalled that there had been a consensus expressed at a prior Commission meeting.

Vice Mayor Eddie Lim agreed with the Mayor's comments, and felt that terminating the City Manager at this time would be disruptive to the City.

The votes on the motion to terminate the employment of the City Manager were as follow: Commissioner Stuart Blumberg – Yes; Mayor Connie Leon- Kreps – No; Vice Mayor Eddie Lim – No; Commissioner Richard Chervony – Yes. The motion failed 2-2.

B. ENVIRONMENTAL PERMITTING UPDATE – BAYWALK PROJECT/PERMITTING PROCESS FOR SEAWALL AT DR.PAUL VOGEL PARK (RALPH ROSADO-CORZO CASTELLA CARBALLO THOMPSON SALMAN, P.A. (C3TS)

Commissioner Stuart Blumberg requested that the Commission take up action items next due to the lateness of the hour.

Mayor Connie Leon-Kreps offered a motion to defer Item 14B to the next meeting and Commissioner Stuart Blumberg seconded the motion, which carried 4-0.

C. APPOINTMENT OF MEMBERS TO THE BUSINESS DEVELOPMENT ADVISORY COMMITTEE, ARTS, CULTURAL AND SPECIAL EVENTS BOARD, AND YOUTH SERVICES BOARD

Commissioner Stuart Blumberg offered a motion to accept all the nominees named in the agenda package to the three boards, and Mayor Connie Leon-Kreps. Seconded the motion
The votes were as follow: Mayor Connie Leon-Kreps – Yes; Vice Mayor Eddie Lim – Yes; Commissioner Richard Chervony – Yes; Commissioner Stuart Blumberg –Yes.
The motion carried 4-0.

D. CANCELLATION OF AUGUST REGULAR CITY COMMISSION MEETING PURSUANT TO SECTION 3.06 OF THE CITY CHARTER

Vice Mayor Lim offered a motion to cancel the regular August Commission meeting, and Mayor Connie Leon-Kreps seconded the motion. The votes were as follow:
Commissioner Richard Chervony–No; Commissioner Stuart Blumberg – No; Mayor Connie Leon-Kreps – Yes; Vice Mayor Eddie Lim – Yes. The motion failed 2-2.

E. REMOVAL OF CITIZENS BUDGET & OVERSIGHT BOARD MEMBER (MAYOR CONNIE LEON-KREPS)

The Mayor explained that many emails had been received from residents calling for this action, and in light of the issues facing the City in connection with Board member Scott Greenwald and the perceived conflict of interest in having him sitting on the Board she was recommending the action of removing him from the Board.

The Mayor opened the meeting to public comment. Jerry Miller of 7901 Hispanola Avenue spoke on behalf of Scott Greenwald, saying that he was being treated unfairly and asking that the matter be tabled until Mr. Greenwald was back in town to defend himself. Resident Kevin Vericker spoke regarding the issues in which Mr. Greenwald was at odds with the City. Resident Reinaldo Trujillo spoke regarding the composition of the Board, saying that he had disagreed with the change that had added two businessmen to the Board and felt that only qualified residents should be members. There were no further speakers and the meeting was closed to public comment.

Mayor Connie Leon-Kreps offered a motion to remove Scott Greenwald from the Citizens Budget & Oversight Board and Commissioner Stuart Blumberg seconded the motion. The votes were as follow: Vice Mayor Eddie Lim –Yes; Commissioner Richard Chervony –Yes; Commissioner Stuart Blumberg –Yes; Mayor Connie Leon-Kreps – Yes. The motion carried 4-0.

F. FOURTH OF JULY CELEBRATION (MAYOR CONNIE LEON-KREPS)

Mayor Connie Leon-Kreps offered a motion to approve the City's Fourth of July Celebration, and Vice Mayor Eddie Lim. The votes were as follow: Vice Mayor Eddie Lim –Yes; Mayor Connie Leon-Kreps – Yes; Commissioner Richard Chervony – No; Commissioner Stuart Blumberg –Yes. The motion carried 3-1.

G. DESIGNATION OF VOTING DELEGATE – FLORIDA LEAGUE OF CITIES 86TH ANNUAL CONFERENCE

Commissioner Stuart Blumberg offered a motion nominating Vice Mayor Eddie Lim as the voting delegate to the Florida League of Cities, seconded by Mayor Connie Leon-Kreps. The votes were as follow: Vice Mayor Eddie Lim –Yes; Commissioner Richard Chervony –Yes; Mayor Connie Leon-Kreps – Yes; Commissioner Stuart Blumberg –Yes. The motion carried 4-0.

H. EAST ENTRANCE WELCOME SIGN PROPOSAL

This item will be submitted to the Community Enhancement Board for review.

15. APPROVAL OF MINUTES (DEFERRED FROM MAY 8, 2012)

- A. REGULAR CITY COMMISSION MEETING – FEBRUARY 14, 2012
- B. REGULAR CITY COMMISSION MEETING – DECEMBER 13, 2011
- C. SPECIAL CITY COMMISSION MEETING – NOVEMBER 29, 2011
- D. REGULAR CITY COMMISSION MEETING – NOVEMBER 8, 2011
- E. SPECIAL CITY COMMISSION MEETING – NOVEMBER 1, 2011
- F. REGULAR CITY COMMISSION MEETING – OCTOBER 11, 2011
- G. BUDGET PUBLIC HEARING – SEPTEMBER 20, 2011

No Minutes were approved.

The meeting adjourned at 2:00 a.m.

*Prepared and submitted by: Yvonne P. Hamilton, CMC
City Clerk
(Katherine Price, Clerical Assistant)*

*Adopted by the City of North Bay Village on
this _____ day of _____.*

Connie Leon-Kreps, Mayor

(Note: The Minutes are not a verbatim record of the meeting. A copy of the audio recording is available at the City Clerk's Office until the time for disposition in accordance with the Records Disposition and other Public Records Law.)

OFFICIAL MINUTES

**CITY OF NORTH BAY VILLAGE
REGULAR CITY COMMISSION MEETING
TUESDAY, MAY 8, 2012**

7:30 P.M

The Regular Meeting of the City of North Bay Village Commission was held on Tuesday, May 8, 2012 at the City Commission Chambers (1700 Kennedy Causeway, #132, North Bay Village, FL 33141).

1. **CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL.** The meeting was called to order at 7:38 p.m. by Mayor Connie Leon-Kreps, and the Pledge was recited. The following were present:

Mayor Connie Leon-Kreps
Commissioner Richard Chervony
Commissioner Stuart Blumberg

Commissioner Paul Vogel was absent due to illness.

Vice Mayor Eddie Lim was away attending the Federal Action Strike Team conference in Washington, D.C.

City Manager Dennis Kelly
Chief Robert Daniels
City Attorney Nina Boniske
Finance Director Gerard Pirri
Public Works Director Sam Zamacona
City Clerk Yvonne P. Hamilton
HR Manager Jenice Rosado

As a quorum was determined to be present, the meeting commenced.

A motion was offered by Commissioner Richard Chervony and seconded by Commissioner Stuart Blumberg to excuse Commissioner Vogel's absence. All voted in favor and the motion carried 3-0.

A motion was offered by Commissioner Blumberg and seconded by Mayor Connie Leon-Kreps to excuse Commissioner Lim's absence. The motion carried 2-1 with Commissioner Richard Chervony voting no.

Mayor Leon-Kreps read the rules of decorum to be followed during the proceedings.

2. A. **PROCLAMATIONS AND AWARDS**

1. **OFFICER JOSE MARTINEZ – NORTH BAY VILLAGE POLICE DEPARTMENT**

Officer Martinez was not present due to a medical issue. He was recognized for rescuing Mr. Paul Peberly's dog (1625 Kennedy Causeway) from the bay on April 29, 2012. Mr. Peberly commended and thanked Officer Martinez for saving his dog's life.

B. **SPECIAL PRESENTATIONS**

1. **OPTIMISTS ORATORICAL CONTEST WINNERS**

The Chair of the Optimists Oratorical Contest Penelope Friedland introduced the contest winners who recited their winning speeches.

C. **ADDITIONS AND DELETIONS**

City Manager Kelly informed the Commission that a request was received from the representative of the property for Item 11D on the agenda to defer the matter.

A motion was offered by Commissioner Stuart Blumberg and seconded by Commissioner Richard Chervony to accept the agenda as revised. All voted in favor and the motion carried 3-0.

Commissioner Blumberg suggested that the Chairs of the advisory boards be present at the Commission Meetings to answer questions of the Commission when the Minutes of their meetings are included in the agenda package, rather than giving an oral presentation on the same report.

3. BOARD REPORTS

A. ANIMAL CONTROL ADVISORY BOARD

A report was not provided.

B. ARTS, CULTURAL & SPECIAL EVENTS BOARD

A report was not provided.

C. CITIZENS BUDGET AND OVERSIGHT BOARD

Chair of the Board Al Gentry reported on the April 25, 2012 meeting where the City's grant consultant Ralph Rosado provided an update on the improvements to the Dr. Paul Vogel Park, Phase 1 of the Baywalk Project, and an overview of the current grant sources. During the meeting, City Manager Dennis Kelly also reported on the City's financial status.

D. COMMUNITY ENHANCEMENT BOARD

The Chair Penelope Friedland reported that a meeting did not occur due to lack of a quorum. She announced that WSVN had sponsored the purchase of the plaques for the beautification awards.

Regarding the placement of plantings in the pots on the causeway, Commissioner Blumberg suggested that the Public Works Director coordinate the placement of sample dwarf oleanders in the pots and that the members provide their individual opinions to the City Clerk.

E. PLANNING & ZONING BOARD

- 1.) **Budget Request/Review of Zoning Code (include memo)**
- 2.) **Commission Action**

The Vice Chair of the Board Jorge Gonzalez reported that at the March 20, 2012 meeting, the Board had made a request for a joint meeting with the City Commission to review the City's Zoning Code.

City Manager Kelly clarified the request by the Board to include a provision in the Charter for the Planning & Zoning Board to review the Zoning Code once every five years. A presentation was made before the Charter Review Board and they agreed to include the request in their next review of the Charter. He stated that the budget requirement for the work will be addressed during the budget calendar.

A motion was offered by Commissioner Stuart Blumberg and seconded by Commissioner Richard Chervony to authorize the Planning & Zoning Board to review the Charter every five years commencing now and for the Commission to meet with members of the Board.

Commissioner Chervony noted that a decision has to be made on the budget for the review. He stated his willingness to meet with the Board, but he suggested that the matter be addressed after the Special Financial Audit is provided to the Commission.

An amended motion was offered by Commissioner Stuart Blumberg and seconded by Commissioner Richard Chervony for the City Commission to meet jointly with the Planning & Zoning Board prior to June 12, 2012 after the Special Financial Audit has been received. All voted in favor and the motion carried 3-0.

City Attorney Boniske advised of the large amount of planning work that would be involved in the process of reviewing the Zoning Code.

F. YOUTH SERVICES BOARD

Kevin Vericker, Chair of the Youth Services Board, reported that the Board has been discussing the development of a youth services Master Plan for North Bay Village. He informed the Commission that a representative of the Board will address the matter before the Planning & Zoning Board on April 29, 2012. Mr. Vericker expressed concern that a request to the Police Department in April for an update on the PAAL program has not yet been addressed.

G. ADVISORY CHARTER REVIEW BOARD

A report was not provided.

4. **PUBLIC SAFETY DISCUSSION**

Chief Daniels announced a Law Enforcement Memorial Service in front of City Hall on May 15, 2012 at 10:00 a.m. to honor officers who have passed on. He provided an update on plans for a North Bay Village Police Academy from June 21 through August 16, 2012. The Chief discussed his plans to attend the Governor's Hurricane Conference this coming Sunday through Thursday at the Ft. Lauderdale Convention Center along with Lieutenant Brian Collins. He referred to the statistical report provided to the Commission with sectional areas and stated that uniform reports will be provided in January.

5. **COMMISSIONERS' REPORTS**

Commissioner Blumberg suggested that Chief Daniels contact Chief Martinez about attending Miami Beach Hotels Hurricane Seminar and to obtain a copy of their Hurricane Preparedness Manual for comparison with the North Bay Village manual.

Commissioner Chervony noted the increase in vehicular burglaries and asked how they can be deterred. Chief Daniels responded that the department is in the process of putting out flyers to notify residents to lock the doors to their vehicles and to secure their valuables so that they are not visible from the vehicles.

Commissioner Chervony thanked the Optimists Club for the oratorical contest; the Code Enforcement Officer for his efforts in having the front of the house at 7401 Beach View Drive cleaned up; and for the trimming of the Royal Palms. He mentioned that renovation of the Treasure House Building at 7525 East Treasure Drive is about to commence. He spoke about the need for up-lights for the North Bay Island entrance sign. He explained that Section 7.02 of the City Charter requires the independent audit to be submitted no later than April and the 2010-2011 report is yet to be provided to the City. He announced the Quarterly Condominium Meeting for June 6, 2012 at 7:00 p.m. where a guest speaker will address insurance in the condominium market. He mentioned the opening of Dr. Paul Vogel Park with guests of honor Senator Gwen Margolis and Commissioner Sally Heyman.

Mayor Connie Leon-Kreps reported on her attendance at the NALEO conference which was paid with grant funds, at no cost to the City. She thanked HR Manager Jenice Rosado and Executive Secretary Denese Fecht for their work on the grant application. She asked if the City was ready for the hurricane season. City Manager Kelly responded that staff is in the process of scheduling a hurricane workshop on Saturday and that he, the Public Works Director, and the Finance Director had a strategy meeting with Commissioner Sally Heyman. He noted that the Chief will be attending the Governor's Hurricane Conference and will provide a report when he returns.

6. CITY ATTORNEY'S REPORT

City Attorney Nina Boniske stated that she will report jointly with the City Manager on Item 7B (4). Commissioner Blumberg asked the City Attorney to provide written information on her report in the future.

7. CITY MANAGER'S REPORT

City Manager Dennis Kelly reported that the bids for Demolition of the City Hall Building have been issued; a pre-bid conference was held last week; and the bids will be submitted to the City on May 14, 2012. He discussed the planned grand opening of Dr. Paul Vogel Park where Channel 7 is expected to be present for the ribbon-cutting ceremony. As to the lighting for the entrance signs to Hispanola Avenue he reported that the light was mounted too close to the signs. Commissioner Blumberg asked the City Manager if the listing of issues Commissioner Chervony discussed regarding the park and the comments made by the Mayor at the last meeting were addressed.

A. FINANCIAL SOFTWARE UPDATE

City Manager Kelly explained that research was conducted on three different software systems and there were demonstrations by the companies. The members of the Citizens Budget & Oversight Board were invited to the demonstrations and the committee had recommended that the City not move forward with the software until Ms. Weithorn had submitted the special financial audit report.

15D(6)

Interim Finance Director Bert Wrains reported that Tyler Technology was the selected company and he had spoken to the sales representative about the matter. A similar system is being used by Wilton Manors and he will be performing an evaluation on their use of the system. He stated that the price is reasonable and half of the cost is to transfer and bring the data into the new system. He described the process for implementing the system. Commissioner Blumberg asked about the connection between putting the system on hold and Ms. Weithorn's report. Mr. Wrains responded that he did not see very much connection since what's important is how the system is accounted for, acquired, and paid for. Commissioner Blumberg asked why it is being postponed then. City Manager Kelly explained that the matter is being postponed on the prospect of contracting out the financial services. Commissioner Blumberg asked about the Citizens Budget & Oversight Board continuing to push for the financial software. Mr. Kelly stated that the Board liked Tyler software. Mayor Leon-Kreps clarified that the Board had postponed discussion on the software due to the special financial audit. Commissioner Chervony asked if the amount for the software will be included in next year's budget, since it was not stated. Mr. Wrains stated that \$124,000 is included for licensing for the software, training of staff, and transfer of data to the new system. Commissioner Chervony asked if other departments were included.

City Manager Kelly explained that the system has a number of modules attached to the software. Commissioner Chervony asked if the City was being premature in purchasing the system when an analysis is being done on outsourcing the services. Commissioner Blumberg stated that he would like to know the cost of the other modules in addition to the base cost for comparison with the cost of outsourcing. Mayor Leon-Kreps noted that the funds were appropriated in the 2011-2012 budget. City Manager Kelly confirmed that the funds have been budgeted for the software and the intention is to move forward with the purchase. Mayor Connie Leon-Kreps concurred that a comparison needs to be made to find out what is beneficial and cost effective, so that the Commission is better able to make a decision to meet the needs of the City.

B. DR. PAUL VOGEL PARK/CAUSEWAY PROJECT
1. CURRENT EXPENDITURES/GRANT FUNDS TO BE EXPENDED

City Grant Consultant Ralph Rosado reported that the permit for the renovation of seawall at Dr. Paul Vogel Park is close to being approved with review by U.S.

Army Corps of Engineers and DERM signing the documents after approval of a permit by the City.

**2. STATUS OF M. VILA & ASSOCIATES, INC. –
PERFORMANCE DUE TO DEFAULT**

City Manager Kelly reported that a limit of \$2 Million was approved for improvements to the causeway and \$2,216,000 has been spent. The money spent beyond the \$2 Million Dollars was the result of Change Orders that came before the Commission for approval of the additional cost. He stated that there is no more money to be spent and any further development on the east side of the causeway will not occur unless there is a bond issue. If the \$30,000 remaining from the Dr. Paul Vogel Park is not spent, it will go back to the program from which it was issued.

Commissioner Blumberg expressed concern that at some point in time the \$2 Million Dollar mark was reached and the Commission continued to approve the changes. He suggested that in the future a chart be prepared and submitted to the Commission with the available amount against the cost of the changes for similar projects. Discussion ensued regarding Exhibit 1 which outlined the cost of the projects with an amount of \$23,584 remaining.

3. RECOMMENDED COURSE OF ACTION

A motion was offered by Mayor Connie Leon-Kreps and seconded by Commissioner Blumberg to find M. Vila & Associates in default of the agreement with the City and for the City Manager and the City Attorney to proceed to take the necessary action to complete the scope of services. The votes were as follows: Commissioner Richard Chervony-No, Commissioner Stuart Blumberg-Yes, and Mayor Connie Leon-Kreps-Yes. The motion carried 2-1.

4. RETAINAGE/SURETY BOND

Commissioner Chervony suggested that a cap be placed on the amount to be spent for this purpose. City Attorney Boniske explained that the surety bond will be used to finish the job for the contract amount. If more than that amount is required, staff will bring the matter to the Commission for approval.

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

Elaine Beutel, of 7533 Cutlass Avenue, spoke about a mosquito problem on Treasure Island and the need for the area to be sprayed.

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.

There were no consent agenda items.

10. **PLANNING & ZONING CONSENT AGENDA**

There were no Planning & Zoning Consent Agenda items.

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

- A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA APPROVING THE SUBMITTAL OF AN APPLICATION FOR FINANCIAL ASSISTANCE UNDER THE FLORIDA INLAND NAVIGATION DISTRICT 2012 WATERWAYS ASSISTANCE PROGRAM FOR DR. PAUL VOGEL PARK IMPROVEMENTS; PROVIDING CERTIFICATIONS; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)**

The City Clerk read the Resolution by title.

The City's Grant Consultant, Ralph Rosado from C3TS, presented the items to the Commission and spoke of his efforts to obtain additional funding for the improvements to Dr. Paul Vogel Park.

A motion was offered by Commissioner Stuart Blumberg and seconded by Mayor Connie Leon-Kreps to approve the Resolution. The votes were as follows: Mayor Connie Leon-Kreps-Yes, Commissioner Richard Chervony-No, and Commissioner Stuart Blumberg-Yes. The motion carried 2-1.

- B. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA APPROVING THE SUBMITTAL OF AN APPLICATION FOR FINANCIAL ASSISTANCE UNDER THE FLORIDA INLAND NAVIGATION DISTRICT 2012 WATERWAYS ASSISTANCE PROGRAM FOR THE NORTH BAY VILLAGE BAYWALK PLAZA AREA; PROVIDING CERTIFICATIONS; AND PROVIDING FOR AN EFFECTIVE**

DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)

The City Clerk read the Resolution by title.

A motion was offered by Commissioner Stuart Blumberg and seconded by Mayor Connie Leon-Kreps to open the item for discussion.

Gudrun Volker, of 7517 Cutlass Avenue, asked about access to the proposed boardwalk on the north side of Treasure Island. Mr. Rosado referred to the conceptual design and stated that there are a series of places where the City could negotiate for a few feet of dedicated access. Ms. Volker pointed out that there is no parking in the area. Mr. Rosado stated that arrangements for parking can be made in the future.

Nancy Sonnett-Selwyn, of 7512 Cutlass Avenue, discussed that the leased portion for the project is very small. She informed the Commission that there has been talk about negotiating with the property owners on the north side of the causeway, such as the Kennedy House Condominium and Bay View Condominium, who have indicated that they do not want the boardwalk because they do not want people walking behind their properties. She suggested that the process should start over from the beginning and should not move forward until the matter has been discussed with residents and property owners and an agreement is reached to see if they would allow the use of their properties.

Mayor Leon-Kreps asked if any provisions had been made for the property owners on the north side of the causeway to dedicate easement for the boardwalk.

Commissioner Blumberg asked Mr. Rosado if there is a deadline for the grant application or if the item can be pulled from the agenda. The Commissioner requested that the City Manager prepare a package with information on the boardwalk.

Commissioner Blumberg withdrew his motion and Mayor Connie Leon-Kreps withdrew the second.

Mr. Rosado warned that the application will be disqualified if information is not submitted by June 1, 2012.

Ms. Selwyn stated her 46-year residency and noted that she is knowledgeable about the project and that she knew that the City did not have a decision from the property owners to allow the boardwalk to be built on their properties. She questioned the reason for having a project with little space, no safe way to access it and with no parking. She asked the Commission to take the information into consideration even if they proceeded to allow the application to be submitted in time, since there is more to the project than approving that one small portion.

Mario Garcia, of 7540 Cutlass Avenue, suggested that the area be beautified if the City receives some money, since it already has the land for 30 years.

- C. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING A DONATION IN SUPPORT OF THE REPRESENTATION OF JOSHUA D. NEELY, AS A NORTH BAY VILLAGE RESIDENT AND TREASURE ISLAND ELEMENTARY SCHOOL STUDENT, AT THE JUNIOR NATIONAL YOUNG LEADERS CONFERENCE; AND SETTING AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY)**

The City Clerk read the Resolution by title.

A motion was offered by Commissioner Richard Chervony and seconded by Commissioner Stuart Blumberg to approve the \$500 donation to Joshua D. Neely. All voted in favor and the motion carried 3-0.

- D. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA ACCEPTING/DENYING THE REQUEST BY NORTH BAY VILLAGE INVESTMENT TRUST, LLC TO REDUCE PREVIOUSLY ASSESSED CODE COMPLIANCE FINES FOR CASE NO. 10-001 AND UTILITY COSTS AND PENALTIES; DIRECTING THE CITY MANAGER TO EXECUTE ANY REQUIRED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY MANAGER DENNIS KELLY) – CONTINUED FROM APRIL 10, 2012**

This item was deferred to the next City Commission Meeting at the request

of Mr. Rose, the representative for the project.

12. PUBLIC HEARINGS INCLUDING ORDINANCES FOR SECOND READING

- A. A REQUEST BY SOTREZA, LLC ON BEHALF OF HARAMBAM CONGREGATION, INC. FOR A SPECIAL USE EXCEPTION, PURSUANT TO SECTION 152.098(A) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES TO OPERATE A PRE-SCHOOL/DAY CARE CENTER AT 7800 HISPANOLA AVENUE (FORMERLY USED AS A TEMPLE), LOTS 1 AND 2 AND EAST ½ OF LOT 3, BLOCK 1 OF COMMERCIAL ADDITION TO TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, WITHIN THE RM-40, MEDIUM DENSITY MULTIPLE FAMILY RESIDENTIAL ZONING DISTRICT. (PUBLIC HEARING)**

The City Clerk read the request into the record.

Following presentations by the applicant, Staff Report, Public Hearing and discussion the following motion was offered.

Commissioner Stuart Blumberg made a motion to approve the request with the following conditions and Mayor Connie Leon-Kreps seconded the motion:

1. The City Commission finds that the KLA School (described as an early learning/day nursery use), is either a non-profit use or qualifies as a "quasi-public" use that is consistent with the intent of the Institutional Future Land Use category.
2. The ingress/egress design will be altered showing entry through Pirates Alley and exit via North Treasure Drive; and during the site plan review it shall be shown that the drop-off and pick-up of students, and on-site parking needs can be accommodated in a safe and efficient manner.
3. The outdoor space/playground and fence must be maintained in proper condition.
4. All applicable licensing requirements enumerated in 402.305 FS pertaining to childcare facilities shall be adhered to.

5. All other license and building code requirements of the state, county and city shall be met.
6. All overflow parking from adjacent buildings shall cease.
7. The hours of operation shall be limited to the weekdays as requested by the applicant.

All voted in favor and the motion carried 4-0.

13. UNFINISHED BUSINESS

There was no unfinished business.

14. NEW BUSINESS

A. RFQ – LEGAL SERVICES (AARON COHEN/RFQ REVIEW/SELECTION COMMITTEE)

A motion was offered by Commissioner Stuart Blumberg and seconded by Commissioner Richard Chervony to disallow the entire RFQ process. All voted in favor and the motion carried 3-0.

B. DISCUSSION ITEMS (COMMISSIONER RICHARD CHERVONY)

1. CAUSEWAY IMPROVEMENT PLAN WITH FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT)

City Grant Consultant Ralph Rosado provided an update to the Commission on Florida Department of Transportation's Causeway Improvement Plan which would address a pedestrian bridge, proper lighting, and improvements to a portion of Pelican Harbor.

Public Works Director Sam Zamacona reported that the City Manager, Mr. Rosado, and he attended a Community Enhancement Board Meeting on March 20, 2012 and discussed with the Board that Gus Pego of FDOT had mentioned that the fence will be addressed in the department's five year plan.

2. STATUS OF CITY HALL DEMOLITION BID AND LANDSCAPING RFP

This item was not addressed.

3. EMERGENCY RESERVE FUND

Commissioner Richard Chervony suggested that five percent of the City's budget be dedicated to an Emergency Fund.

Commissioner Blumberg suggested that the Commission establish and define emergency first. Mayor Leon-Kreps concurred.

4. CONTINGENCY FUND

Commissioner Chervony suggested that the City Manager and all department heads plan their projects for the year and submit them all at once during the year. Projects that were not submitted would not be addressed until the following budget year, unless they are true emergencies.

Commissioner Blumberg expressed concern that information is being provided to the Citizens Budget & Oversight Board before it is provided to the Commission. He reminded his fellow commissioners and staff that the Commission is the one that should give directions to the Board.

At this time a motion was offered by Commissioner Richard Chervony and seconded by Mayor Connie Leon-Kreps to adjourn the meeting at 12:22 a.m. The motion carried 3-0.

C. POSSIBLE RESOLUTION – URGING THE GOVERNOR AND THE LEGISLATURE TO REVISIT THE STAND YOUR GROUND LAW (COMMISSIONER RICHARD CHERVONY)

This item was not addressed.

15. APPROVAL OF MINUTES

- A. REGULAR CITY COMMISSION MEETING – FEBRUARY 14, 2012**
- B. REGULAR CITY COMMISSION MEETING – DECEMBER 13, 2011**
- C. SPECIAL CITY COMMISSION MEETING – NOVEMBER 29, 2011**
- D. REGULAR CITY COMMISSION MEETING – NOVEMBER 8, 2011**
- E. SPECIAL CITY COMMISSION MEETING – NOVEMBER 1, 2011**
- F. REGULAR CITY COMMISSION MEETING – OCTOBER 11, 2011**

15D(14)

G. BUDGET PUBLIC HEARING – SEPTEMBER 20, 2011

This item was not addressed.

16. ADJOURNMENT

The meeting adjourned at 12:22 a.m.

*Prepared and submitted by: Yvonne P. Hamilton, CMC
City Clerk*

*Adopted by the City of North Bay Village on
this _____ day of _____.*

Connie Leon-Kreps, Mayor

(Note: The Minutes are not a verbatim record of the meeting. A copy of the audio recording is available at the City Clerk's Office until the time for disposition in accordance with the Records Disposition and other Public Records Law.)

OFFICIAL MINUTES

**SPECIAL CITY COMMISSION MEETING
CITY ADMINISTRATIVE OFFICES
1700 KENNEDY CAUSEWAY, #132
NORTH BAY VILLAGE, FL. 33141**

TUESDAY, MARCH 22, 2012

7:30 P.M.

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

The meeting was called to order by Mayor Connie Leon Kreps at 7:37 P.M. and the Pledge of Allegiance was recited. Present at Roll Call were Mayor Connie Leon-Kreps, Vice Mayor Eddie Lim, Commissioner Stuart Blumberg, and Commissioner Richard Chervony. Commissioner Paul Vogel was absent due to illness. As a quorum was determined to be present, the meeting commenced.

Commissioner Stuart Blumberg moved to excuse Commissioner Paul Vogel's absence, seconded by Vice Mayor Eddie Lim. The motion carried with all in favor 4-0.

Also present were City Manager Dennis Kelly, Finance Director Pirri, City Attorney Kathy Mehaffey HR Manager Jenice Rosado, and City Clerk Yvonne Hamilton.

2. NEW BUSINESS

A. DESIGNATING A CERTIFIED PUBLIC ACCOUNTANT TO CONDUCT A SPECIAL AUDIT OF THE CITY'S FINANCES.

Commissioner Stuart Blumberg explained that this idea had originated during the retreat attended by the Commission on March 17th, and was an outgrowth of the discussions at the last regular Commission meeting regarding issues such as: lack of funds for various proposed uses; apparent overspending on the Causeway project; unfunded upcoming Vogel Park expenses of \$200,000 for restrooms and the seawall; money being re-allocated for extra expense in the IT Department from a special events fund that the Commission had not been aware existed; the surprise of learning of windfall savings in the insurance costs, to be applied to the IT Department; and the suggestion by Citizens Budget & Oversight Board member Max Crown that the reserve fund was short \$400,000.

15 E(1)

The Commissioner had suggested that the City was in need of an independent and outside auditor to do a special audit of its finances, noting that language in the Code provides for special audits to be done, and the need for financial clarity when addressing the upcoming budget for the next year. He expressed dissatisfaction with the current auditor, and their lack of communication and attendance at Commission meetings. He noted that communication had been received from the Citizens Budget & Oversight Advisory Board making the recommendation to use the City's present auditor for the special audit if one were found to be necessary, and also to require the present auditor to furnish quarterly reports as had been expected from them, if it was found to be covered in the contract.

On the advice of the City Attorney, Commissioner Stuart Blumberg read into the record the following proposal from Deede Weithorn, Associate Director of Berkowitz Dick Pollack & Brant, who was recommended by the Commissioner as the best choice for an outside auditor, but who was unable to attend this meeting due to illness.

"We are proposing the following:

While audits may have various definitions to non-CPA's, in our profession they have very specific connotations. Therefore, to avoid confusion, we call limited auditing procedures "agreed upon procedures", and we propose that they include the following:

1. Interview the Mayor and Commission, either individually nor to exceed 15 minutes per elected official, or at a duly noticed public meeting not to exceed 2 hours, where the exact concerns can be better identified.
2. Designate one individual from the City of North Bay Village to act as the liaison for the project and give the authority to refine the scope of the procedures when necessary.
3. Summarize and prioritize the list of concerns determined in step 1. To assist in determining which exact procedures will be performed, the size of the samples to look at, the time period to examine and the time frame for reporting such findings.
4. Interview the City personnel involved in expenditures and budgeting to determine procedures used for posting, processing, approving, and recording expenditures including, on a limited basis, certain procurement policies.
5. Summarize those procedures and make recommendations for improvement.
6. Test, on a sample basis, adherence to policy for the posting, processing, approving, and recording of expenditures.
7. Test certain basic accounting functions to determine adherence to basic guidelines for timely completion of bank reconciliations, periodic reporting of your financial position, and maintenance of basic accounting records.
8. Assist in designing a periodic accounting package and deadlines for submission of these documents to provide the mayor, the commission, and the Public summarized data regarding the general financial position.

9. Review for selected accounts the budget versus actual expenditures and determine necessary policies, if any, to assist in adherence to the budgets, and that they are maintained.
10. Make general recommendations based upon findings from the procedures above. and present a final report.”

In the absence of Ms. Weithorn, Commissioner Blumberg supplied the information that the cost estimate was between \$20,000 and \$30,000, and that the special audit could be completed by June 1, 2012.

Mayor Connie Leon-Kreps had several comments to make. She concurred that there had been a lack of communication from the Finance Department, using the example of being informed of \$75,000 in insurance savings as an afterthought rather than as part of a financial report, and conceded that issues such as all the changes in management and lack of necessary financial software were also involved. The Mayor sought clarification as to whether or not the quarterly report that had been mentioned was required in the current auditor's contract. She referred to a limited financial audit dated April 15, 2011 that made a number of recommendations that had not been acted upon by the City, and questioned whether yet another audit and more expense in the Finance Department would help when action had not been taken on recommendations already before the City. She also questioned the timing of a new special audit, fearing that it would interfere with the audit already in progress and therefore the budget process, while having concerns that the Commission was not currently receiving the proper information. Last year's budget process, she pointed out, had been subject to many problems, which made her concerned about the upcoming budget; she suggested a workshop to address and clarify financial issues. Commissioner Blumberg blamed the lack of communication on Keefe McCullough, the current auditor, noting that they were not present at this meeting. He felt the special audit was not a waste of money, because it would let the City know how much was actually left to spend in the current year as requests for expenditures continued to come before the Commission. The Mayor sought to learn if Keefe McCullough had been notified of the meeting. Finance Director Pirri replied that the auditors had asked if they were needed at this meeting, and on the advice of the City Manager he had told them their presence was not required.

Vice Mayor Lim agreed with the sentiments expressed by the Mayor, questioned the necessity of the expense of \$20,000 to \$30,000 for a special outside audit, and thought that the current auditors were willing to supply quarterly reports, and amend the contract if it was not currently required by contract. He concurred with the recommendation of the Citizens Budget & Advisory Board to use the current auditors for any special audit that might be felt to be necessary.

Commissioner Richard Chervony made the statement that after four months on the dais, he was still waiting to acquire a financial picture of the City, and while he has been told the audit is coming, after the audit is completed the City will have waited 18 months to learn where they stood in September of last year, and will still not be up to date on their finances. He sought clarification as to whether quarterly reports existed or were provided for in the auditor's contract. The City Manager clarified that there was no quarterly report, and no requirement for one in their contract.

Commissioner Blumberg made reference to the City's financial problems, or challenges, and felt that it was not a waste to spend \$25,000 in order to learn where the City stood financially. Commissioner Chervony did not want to create a false sense of a financial situation, in his view the City was not bankrupt or "in the red." He wished, however, to know what the City had available to it when expenditures came before the Commission for a vote.

Lourdes Abadin of Estrada Hinojosa, the City's financial consultant, addressed the Commission on the subject of the City's accounting firm, its selection process, and their contract. She explained that the City was required to rotate accounting firms every three years, often enough for fresh eyes on the finances and not so often as to be disruptive. Last year was the first year of this three year engagement period. The RFP last year had included the requirement for a quarterly "report" (not a quarterly "audit", which has a different connotation), a service which not all applicants had been willing to provide. The selection committee composed of staff and residents, had ranked Keefe McCullough the highest. She did not know who had reviewed the contract, but the understanding had been that for the first year, no reports would be provided because a baseline needed to be established.

Ms. Abadin went on to describe the financial reports prepared for the City on a monthly basis, which show comparison of budgeted figures to actual figures in both dollar amounts and percentages by fund, for major accounts, as well as year-to-date projections and actuality. Commissioner Blumberg commented that the reports were full of holes, and Commissioner Chervony pointed out that there were lag times in some of the items reported of over 60 days, notably legal services expenditures which were not reported past December. Vice Mayor Lim felt that the report was not that difficult to understand, and he questioned how much the report could be improved, and at what expense.

The Mayor agreed that Berkowitz Dick Pollack & Brant was a good firm, and had uncovered money for the City when it was engaged for an assignment in 2009. She also felt that the current auditors had been lacking in their communications, and should have attended this meeting whether invited or not. Finance Director Pirri noted that the auditors had made reports to the Citizens Budget & Oversight Advisory Board.

Commissioner Blumberg felt that the Commission took precedence over the advisory board, and should receive the reports directly; Vice Mayor Lim commented that while he agreed that Keefe McCullough should have been present, the advisory boards were important and valuable.

The Mayor opened the meeting to the public at 8:30 P.M.

The first speaker was Bunny Hart, a resident of the Lexi, who questioned how they could be certain the City was not "in the red" if the finances were unknown.

The next speaker was Reinaldo Trujillo, a resident of 7601 E. Treasure Dr., who spoke to give background on the issues from his perspective as a former member of the City Commission. The Citizens Budget & Oversight Advisory Board had been created, he said, under his administration to provide eyes on the money coming and going within the City. Finances, he thought, should be considered to be the responsibility of every person present. Auditors, he explained, were engaged by the City for a limited time, and the current auditor had been engaged by the City on past occasions. When the City Commission had last sought to engage an accounting firm, the advisory board had recommended obtaining quarterly reports, and the City Commission had made that part of its selection process. The firm selected had expressed its willingness to do quarterly reports. Mr Trujillo questioned how that had been left out of the contract. As to the past performance of the current auditor, he noted that their first audit had not come in until September, by which time it was practically useless in the budget process. The reason they had given for this was that the City had not supplied them with the reconciliations, and in an effort to get them done former Interim City Manager Bob Pushkin had engaged an extra person to solely address the task. The accounting firm, he said, had advised the City that they could do the quarterly reports and be on time with the audit if the City maintained the bank reconciliations going forward; he questioned whether this had been done, and if the right information was available. Mr. Trujillo concluded that establishing the correct baseline should be the priority now.

The next speaker was resident Kevin Vericker, who congratulated the Commission on having a long overdue conversation regarding the City's finances. While the fundamental issue was establishing a starting point, in which the audit was instrumental, he recommended that going forward the City should implement operational statements using performance based costing (e.g.- how much does it cost to fill a pothole), which were not the type of financial statements supplied by auditors and were more complex in nature.

The meeting was closed to the public at 8:39 P.M.

Commissioner Stuart Blumberg called for the Commission to take this step, in an aggressive approach to doing the best for the City in a way that was fiscally responsible, and as a first step before incurring the expenses of implementing the ideas for the future of the City that had been discussed at the Commission's retreat.

Commissioner Stuart Blumberg moved that the firm of Berkowitz Dick Pollack & Brant, Certified Public Accountants & Consultants, LLP at 200 S. Biscayne Blvd., Miami, Fl., under the direction of Associate Director Deede Weithorn, be engaged to conduct a Special Audit of the City's finances, seconded by Commissioner Richard Chervony. The votes were as follow: Mayor Connie Leon-Kreps-Yes; Vice Mayor Eddie Lim-No; Commissioner Richard Chervony-Yes; and Commissioner Stuart Blumberg-Yes. The motion carried 3-1.

3. ADJOURNMENT

The meeting was adjourned at 8:42 P.M.

*Prepared by: Yvonne P. Hamilton, CMC
City Clerk
Katharine Price, Clerical Assistant*

*Adopted by the City of North Bay Village on
this _____ day of _____.*

Connie Leon-Kreps, Mayor

(Note: The Minutes are not a verbatim record of the meeting. A copy of the audio recording is available at the City Clerk's Office until the time for disposition in accordance with the Records Disposition and other Public Records Law.)