OFFICIAL MINUTES

CITY OF NORTH BAY VILLAGE
REGULAR CITY COMMISSION MEETING
TUESDAY, FEBRUARY 14, 2012

7:30 P.M

A Regular Meeting of the City of North Bay Village Commission was held on Tuesday, February 14, 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 7:39 p.m. by Mayor Connie Leon-Kreps, and the Pledge of allegiance was recited. The following were present:

Mayor Connie Leon-Kreps
Vice Mayor Eddie Lim
Commissioner Richard Chervony

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

Absent: Commissioner Paul Vogel was absent due to illness.

Commissioner Frank Rodriguez resigned from the Commission on January 31, 2012.

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

A motion was offered by Mayor Connie Leon-Kreps and seconded by Commissioner Richard Chervony to excuse Dr. Paul Vogel's absence. All voted in favor and the motion carried 3-0.

13B(1)

B. APPOINTMENT OF TREASURE ISLAND COMMISSIONER (PURSUANT TO SECTION 3.07(D), CITY CHARTER

Candidates Doris Acosta, of 1790 South Treasure Drive, Wendy Duval, of 7545 East Treasure Drive, Stuart Blumberg, of 7532 Cutlass Avenue, and Arnold Brun, of 7601 East Treasure Drive, addressed the Commission regarding their qualifications to fill the vacancy.

Candidate Reinaldo Trujillo was not present.

Following discussion on the qualifications of the candidates, Vice Mayor Eddie Lim moved to appoint Stuart Blumberg as Treasure Island Commissioner and Mayor Connie Leon-Kreps seconded the motion. The votes were as follows: Commissioner Richard Chervony-Yes, Mayor Connie Leon-Kreps-Yes, and Vice Mayor Eddie Lim-Yes. The motion carried 3-0.

C. OATH OF OFFICE

The oath of office was administered by City Clerk Yvonne Hamilton and Commissioner Blumberg took his place on the dais.

D. NEW ROLL CALL

The City Clerk called the roll and the following were present:

Mayor Connie Leon-Kreps
Vice Mayor Eddie Lim
Commissioner Richard Chervony
Commissioner Stuart Blumberg

2. A. PROCLAMATIONS AND AWARDS

There were no proclamations and awards.

B. SPECIAL PRESENTATIONS

There were no special presentations.

13 B (2)

C. ADDITIONS AND DELETIONS

There were no additions to or deletions from the agenda.

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

Alvin Blake, Vice Chair, reported on the January 26, 2012 board meeting where the purchase of financial software and the City's capital projects which included the seawall at Dr. Paul Vogel Park were discussed. Also addressed were the deficiencies that were reported in the 2010-2011 Audit Report. City staff informed the Board that most of the deficiencies were corrected. During discussion of the legal expenses, it was noted that an RFQ would be issued for legal services. The reduction in the ATS revenues was noted and it was mentioned that many Cities were suspending the program. However, it was noted that the program had served well as a safety feature. Mr. Blake further explained that Mr. Vericker had not attended any meetings, and there was a majority vote by the Board to remove him.

D. COMMUNITY ENHANCEMENT BOARD

Penelope Friedland, Chair, reported on the February 12, 2012 meeting. Chief Daniels had provided an update on crime; explained plans to use an experimental program with high resolution cameras that would read license plates from vehicles; announced the planning of Citizens Police Academy that is in the final stages; and plans efforts to hold meetings with the condo associations. He also advised the Board that "No Solicitation" signs could be posted on private properties to prevent solicitation. The Board also expressed concern about the loss of Royal Palm trees on North Bay Island.

Ms. Friedland further reported that the Board voted to re-create the Annual Beautification Award with categories for Single Family Residential, Residential Low-Rise, Residential High-Rise and Commercial, with a deadline for nominees at their April meeting and award the presentation at the May 12, 2012 City Commission Meeting. The Board requested that the City Commission announce the event and set a deadline for nominees. A motion was also made by the Board for the City Commission to discuss the hiring of an outside landscape consultant to ensure that the City's landscaping is being maintained in accordance with the contract requirements.

Commissioner Blumberg noted that the signs at the entrance to the City from the west are not lighted at night. He also suggested that the City replace the meeting notice signs with more professional ones. He expressed concern that the overgrown bulb-outs on Treasure Island would grow out into the street and interrupt traffic.

E. PLANNING & ZONING BOARD

A report was not provided.

F. YOUTH SERVICES BOARD

Kevin Vericker, member of the Citizens Budget & Oversight Board, reported on the February 13, 2012 meeting where discussions were held regarding youth services for North Bay Village. More specifically, the implementation of a background check policy for volunteers during City sponsored events for individuals who will be working with youths; shared recreational services with neighboring municipalities; creation of a Youth Services Directory on the City's website; and development of a Youth Services Master Plan. Mr. Vericker noted that City Manager Kelly briefed the Board on initial discussions with Miami Beach regarding the requirements for an Interlocal Agreement to address the shared services. He announced the next meeting for March 5, 2012 at 6:30 p.m.

4. PUBLIC SAFETY DISCUSSION

Chief Daniels presented the annual public safety report (1/11-1/12). He pointed out officers' activities such as 911 calls, radio traffic, and telephone calls to dispatch increased by 25% and officer initiated activities increased from 1,526 to 2,134. He explained that auto burglary was the largest category of crime due to vehicles being left unlocked, mostly in residential areas. He informed the community that a sexual offender is living in the City at 7601 East Treasure Drive.

13 B(4)

Mayor Leon-Kreps requested an update on the Citizens Police Academy.

Chief Daniels explained that the program is in the final planning stages. It is geared towards getting residents to become familiar with the community and would be for 8-9 weeks with a class size of approximately 20 residents.

The Chief mentioned the purchase of new police cars with funds from drug related seizures. He spoke about holding a contest to select the graphics for the vehicles.

Commissioner Blumberg asked if there was a breakdown in the numbers of the citations or if they were lumped together with the red light camera citations. Chief Daniels responded that the numbers do not include numbers from the red light camera program. A separate breakdown would be provided in March.

5. **COMMISSIONERS' REPORTS**

Commissioner Chervony reported on the following:

-The operation of the video cameras on North Bay Island and installation of "Under Surveillance" signs. He thanked Chief Daniels and the residents of North Bay Island for their assistance with this matter.
-His attendance at Miami-Dade Days in Tallahassee
-The need for installation of the City Hall sign.
-Economic development of the City with meetings with community leaders to identify empty businesses
-He volunteered to be the member of the Commission to supervise completion of Phase 1 of the causeway development
-Beginning the second phase of the causeway development
-Condominium Association management meeting on March 7, 2012 at 7:00 p.m.
-His Meeting with School Board member Karp for a Baccalaureate Program at Treasure Island Elementary School
-Time to review first quarter of the budget
-Annual spay and neuter program from February 21 through February 25.
-He urged members of the community to use the local post office.
-Bus benches not lighted at nights
-Holding a 4th of July event

Commissioner Lim reported on the following:

-His attendance at Miami-Dade Days in Tallahassee
-The installation of new signs on East Drive and West Drive advertising "no Parking on Tuesdays and Thursdays to allow the streets to be cleaned
-Installation of signs advertising that back-in parking is prohibited

13 B(5)

-Plans to install speed humps on Harbor Island
-Installation of new dog leash signs, "Littering prohibited" signs, and "slow down" signs similar to those in Hollywood – "we love our kids, slow down"
-Economic Development Task Force
-Community gardening on vacant lots in the City
-The need to upgrade the "Grove by the Bay" building
-Datronix electrical sign to replace existing meeting signs
-Lighting of entrance signs

Commissioner Blumberg reported that while he believes in the quality of life and importance of signage, he also feels that North Bay Village is devoid of color. As the City moves forward, he would like to see more color similar to those in the median strips on Alton Road, rather than just greenery.

Mayor Leon-Kreps suggested that City lobbyists Omar Franco and Fausto Gomez make a report at a Commission Meeting and that Congresswoman Wasserman Schultz be recognized for her work in assisting the city with obtaining grant funding for the sewer force main project. She spoke about her meeting with various delegates during her trip to Tallahassee for Miami-Dade Days where replacement of the causeway fencing was addressed. The matter was also brought to the attention of Gus Pego of the Florida Department of Transportation. The goal of the City for residents to use Miami Beach recreational facilities was discussed with Commissioner Sally Heyman and an Inerterlocal Agreement is being considered. Florida Department of Transportation was also contacted about adding shrubbery to the west end of the south side of the causeway to reduce the noise level that affects homeowners on North Bay Island. The Mayor announced the Garden Tour scheduled for March 31, 2012 from 10:00 a.m. to 2:00 p.m.

Commissioner Lim concurred that more plant color should be added to the City, and he suggested the planting of perennials or annuls to the mosaic pots on the causeway.

6. CITY ATTORNEY'S REPORT

City Attorney Boniske requested an Executive Session in the matter of James McVay/Dade County PBA vs. City of North Bay Village; FMCS Case No. 12-00643-3.

Commissioner Chervony requested that the City Attorney provide a report on the Isle of Dreams application.

7. CITY MANAGER'S REPORT

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City Manager Dennis Kelly reported that a request by Mr. Ronald Korman, of 7524 West Treasure Drive, for placement of a handicapped sign in front of his home was determined to be inappropriate following an analysis by the Police Chief and a review of the records. Excerpt from the Minutes of January 2008 revealed a motion by the Commission for staff to create an application process for on-street handicapped parking, so long as there was no parking on the property. DEP gave assurance of their support for the City's bay walk project. The Mayor of Miami Beach agreed on use of Normandy Park by the children of North Bay Village and an Interlocal agreement is being prepared. The City Manager announced a walk-through of the 79th Street Causeway Improvement project for February 17, 2012. Improvements to Dr. Paul Vogel Park are close to completion. Restrooms, which were not included as part of the original plans, are required pursuant to the Florida Building Code and they are estimated to cost of $120,000. Portables will be used to satisfy the requirements. The City could qualify for 50% of the cost under the Florida Inland Navigation District grant program where submittal of applications will start on April 1, 2012 with award of grant after October 1. The park is scheduled to be opened by the end of March to satisfy the current grant. Quotes will be received for a new seawall and cap at Dr. Paul Vogel Park.

8. <u>GOOD & WELFARE AT APPROXIMATELY 8:30 P.M.</u>

Elaine Beutel, of 7533 Hispanola Avenue, questioned the need for the pickup truck to drive behind the garbage truck during working hours. She also suggested that a school Crossing Guard be hired instead of a police officer performing those duties. She asked about the status of the underground electrical wiring project.

City Manager Kelly responded that Ms. Aletha Player had informed him that FPL is still working on the design, and the City will be notified once the design is completed.

Mayor Leon-Kreps mentioned that a workshop will be held on the matter.

Mrs. Gudrun Volker, of 7517 Cutlass Avenue, discussed the idea of making Treasure Island a gated community. She noted that the Treasure Island monument signs were too far out towards 79th Street.

Alvin Blake, Vice Chair of the Citizens Budget & Oversight Board, explained that the Board meets at 4:30 p.m. which provides opportunity for more administrative staff to attend the meetings and respond to questions. He referred to legal fees in excess of $11,000 for the recall issues and suggested the use of a retainer fee for legal services. He extended an invitation for volunteers to assist the Optimists Club at the Coconut Grove Arts Festival Saturday, Sunday, and Monday. He noted that the Ethics Commission had issued a determination of no wrong doing in the matter concerning Commissioner Vogel's cellular phone, and they had closed the case.

Scott Greenwald, of the Lexi, advised the Commission that the application submitted for the Isle of Dreams project should be reviewed within 60 days and he requested that a Special Meeting be set for the end of the month. He expressed concern that the applicant was asked to address tandem parking which is not allowed in the City.

Mike Miconey, of 7924 East Drive, spoke about the speeding on East Drive and also made a request for the installation of handicapped parking spaces.

Kevin Vericker, of 7520 Hispanola Avenue, discussed his request to the Budget & Oversight Board to hold meetings in the evening like other boards instead of during daytime business hours, which is not convenient for residents and prevents him from attending meetings because of a project that he works on from 4:00 p.m. to 6:30 p.m. Mr. Vericker referred to the complaint to the Ethics Commission regarding payment for two cellular phones for Commissioner Vogel and his spouse for seven years. He discussed that although a mistake was made and the Ethics Commission found that there were good intentions, the City has an obligation to start collecting the payments.

Fane Lozman, of 7918 West Drive, noted that Dr. Paul Vogel Park remains lighted through the nights and that the vacant lot at 8000 West Drive is being used as an industrial site. He advised that small boats are moored at Jerusalem Harbor, which should not happen.

Al Coletta, of 7904 West Drive, discussed the problem with lack of parking on West Drive due to residents of Bayshore Yacht & Tennis Club using on-street parking because they were told that they did not need parking in the condo association. He recalled that a dock was prevented from being built at 7910 West Drive because of shortage of nine parking spaces.

Dr. Donna Philips, of 1555 N. Treasure Drive and president of the condominium association reported that vehicles on the property were vandalized this past weekend and the gated community has had to deal with drug trafficking, public drunkenness, trespassing and theft of the association's property. She spoke about the difficulty in getting the police to respond. She suggested that police presence be increased inside of the condominium association.

At this time Commissioner Blumberg excused himself from the dais as he was just appointed to the Commission and was not prepared to vote, since he had also just received the agenda materials.

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 and zoning consent agenda items.

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

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

The City Clerk read the Ordinance by title.

Commissioner Lim reported that the City Clerk received a letter from Miami-Dade Elections Department requesting a change in the election qualifying dates to be no later than August 17, 2012, in order to meet statutory deadlines

13 B(9)

Mayor Leon-Kreps opened the floor to public comments and no one came forward to be heard.

A motion was offered by Vice Mayor Eddie Lim and seconded by Mayor Connie Leon-Kreps to approve the ordinance on first reading. The votes were as follows: Commissioner Richard Chervony-Yes, Mayor Connie Leon-Kreps-Yes, and Vice Mayor Eddie Lim-Yes. The motion carried 3-0.

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

The City Clerk read the Ordinance by title.

A motion was offered by Commissioner Richard Chervony to approve the Ordinance on first reading and Mayor Connie Leon-Kreps seconded the motion.

Assistant City Attorney Kathy Mehaffey explained that FEMA implemented the ordinance as part of the National Flood Insurance Program (NIP) that allows residents and businesses to purchase flood insurance. The City has been part of the NIP since 1972. The 2010 version of the Florida Building Code, which will become effective on March 15, 2012, requires, for the first time that all municipalities update their codes to address all flood damage prevention issues not covered in the Florida Building Code. This proposed ordinance starts with the base model and will address all of the flood development prevention issues that are not addressed in the Florida Building Code.

Mayor Leon-Kreps asked what effects the regulations would have on the residents.

City Attorney Mehaffey responded that the City is not part of the rating system, which would require a study. Being part of the National Flood Insurance Program will allow the City to implement the remainder of the program.

The Mayor opened the public hearing.

Fane Lozman, of 7918 West Drive, noted that municipalities spend millions of dollars to protect their waterfront. He referred to a DVD prepared by National Geographic with information concerning the millions of dollars that are spent to address rising waters and other flood situations.

The votes on the motion to approve the ordinance on first reading were as follows: Commissioner Richard Chervony-Yes, Mayor Connie Leon-Kreps-Yes, and Vice Mayor Eddie Lim-Yes. The motion carried 3-0.

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

The City Clerk read the resolution by title.

A motion was offered by Commissioner Chervony and seconded by Mayor Connie Leon-Kreps to approve the resolution.

Chief Robert Daniels reported that the expenditures will come from the law enforcement trust fund.

Mayor Connie Leon-Kreps opened the floor to public comments

Dr. Donna Philips, of 1555 N. Treasure Drive, expressed favor to the resolution as she felt the investigations would help the residents in her condominium association.

The Mayor closed the floor to public comments.

The votes on the motion to approve the resolution were as follows: Mayor Connie Leon-Kreps-Yes, Vice Mayor Eddie Lim-Yes, Commissioner Richard Chervony-Yes. The motion carried 3-0.

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

The City Clerk read the resolution by title.

A motion was offered by Commissioner Chervony and seconded by Vice Mayor Eddie Lim to approve the resolution.

Commissioner Richard Chervony reported that the Bill was temporarily deferred, but a proposed new Senate Bill 770 will exempt real estate businesses from paying the Business Tax Receipt Fees. The Commissioner requested to amend the resolution to reflect House Bills 4025 and 361 and Senate Bills 760 and 770.

The votes on the motion to approve the resolution were as follows: Vice Mayor Eddie Lim-Yes, Mayor Connie Leon-Kreps-Yes, and Commissioner Richard Chervony-Yes. The motion carried 3-0.

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

The City Clerk read the resolution by title.

A motion was offered by Commissioner Chervony and seconded by Mayor Connie Leon-Kreps to approve the resolution.

Commissioner Chervony reported that the Bill will affect condominiums as they might not be able to collect legally owed maintenance fees, attorney's fees, liens, and assessments when there are foreclosures.

Vice Mayor Lim spoke about the devastating impact passage of the legislation would have on the condominiums if they were not able to collect those fees.

Mayor Leon-Kreps advised that the matter was of critical concern.

Commissioner Chervony urged the condominium associations to voice their opposition to the legislation via emails to Tallahassee to their governor and to their representatives.

The votes on the motion to approve the resolution were as follows: Mayor Connie Leon-Kreps-Yes, Vice Mayor Eddie Lim-Yes, Commissioner Richard Chervony-Yes. The motion carried 3-0.

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

The City Clerk read the resolution by title.

Mayor Leon-Kreps discussed the idea of the resolution for a firm or individual to provide legal services under a retainer fee.

City Manager Kelly discussed the creation of a five to seven member selection committee consisting of residents with legal background and professionals outside of the City such as an attorney from Miami Dade League of Cities, and retired judges to assist with review of the responses to the RFQ.

Mayor Leon-Kreps opened the floor to public comments and no one came forward to be heard.

A motion was offered by Mayor Connie Leon-Kreps and seconded by Commissioner Richard Chervony to approve the resolution. The votes were as follows: Vice Mayor Eddie Lim-Yes, Commissioner Richard Chervony-Yes, and Mayor Connie Leon-Kreps-Yes. The motion carried 3-0.

12. PUBLIC HEARINGS INCLUDING ORDINANCES FOR SECOND READING

There were no public hearings or ordinances for second reading.

13. UNFINISHED BUSINESS

There was no unfinished business.

14. NEW BUSINESS

A. APPOINTMENT OF MEMBERS TO THE ADVISORY CHARTER REVIEW BOARD

A motion was offered by Mayor Connie Leon-Kreps and seconded by Commissioner Richard Chervony to appoint Alvin Blake as the North Bay Island representative, Max Crown as the Treasure Island representative, Jorge Gonzalez as the Harbor Island representative, Roy Martayan as the At-Large representative, and Robert Pushkin. The motion carried 3-0.

A motion was offered by Commissioner Richard Chervony and seconded by Mayor Connie Leon-Kreps to appoint Tony Crapp as a non-voting member to the Board. The votes were as follows: Vice Mayor Eddie Lim-Yes, Mayor Connie Leon-Kreps-Yes, and Commissioner Richard Chervony-Yes. The motion carried 3-0.

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

Commissioner Chervony asked his fellow commissioners to repeal the resolution, which will allow them to place items on the agenda without first scheduling the item on the agenda as new business and obtaining a consensus from the Commission to do so; especially when items require immediate attention.

Vice Mayor Leon-Kreps spoke about the amount of legal time and resources expended on preparing items for policy legislation for the agenda.

The Mayor opened the floor to public comments and there were none.

A motion was offered by Commissioner Richard Chervony and seconded by Mayor Connie Leon-Kreps to approve the resolution. The votes were as follows: Vice Mayor Eddie Lim-Yes, Mayor Connie Leon-Kreps-Yes, and Commissioner Richard Chervony-Yes. The motion carried 3-0.

15. APPROVAL OF MINUTES

A. REGULAR MEETING - JANUARY 10, 2012

A motion was offered by Vice Mayor Eddie Lim and seconded by Commissioner Richard Chervony to approve the Minutes of January 10, 2012 as submitted. The Motion carried 3-0.

16. ADJOURNMENT

The meeting adjourned at 10:37 p.m.

Prepared and submitted by:

Yvonne P. Hamilton, CMC, City Clerk

Adopted by the City of North Bay Village on
This____ day of_____ 2012.

_____

Connie Leon-Kreps, Mayor

(Note: This document does not reflect a true verbatim record of the meeting. This is a summarization of the proceedings. 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, DECEMBER 13, 2011

7:30 P.M

The Regular Meeting of the City of North Bay Village Commission was held on Tuesday, December 13, 2011, 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 7:32 p.m. by Mayor Connie Leon-Kreps, and the Pledge was recited. The following were present:

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

Interim City Manager Robert Daniels
City Attorney Nina Boniske
Assistant City Attorney Kathy Mehaffey
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.

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

13 B (16)

2. A. PROCLAMATIONS AND AWARDS

1. COMMISSIONER PAUL VOGEL (FLORIDA LEAGUE OF CITIES)

Mr. Jim McGinn from the Florida League of Cities Board of Directors, Inc. read and presented a resolution to Commissioner Vogel for 20 years of service. He commended Dr. Vogel for his dedication and outstanding public service.

2. MAYOR CONNIE LEON-KREPS AND VICE MAYOR EDDIE LIM-CERTIFICATE OF COMPLETION-FLORIDA LEAGUE OF CITIES ADVANCED INSTITUTE FOR ELECTED MUNICIPAL OFFICIALS

Mr. McGinn also presented Mayor Leon-Kreps and Vice Mayor Lim with Certificates of Completion for their attendance at the Florida League of Cities Advance Institute for Elected Officials.

B. SPECIAL PRESENTATIONS

There were no special presentations.

C. ADDITIONS AND DELETIONS

No items were added to or deleted from the agenda.

3. BOARD REPORTS

A. ANIMAL CONTROL ADVISORY BOARD

A report was not provided.

B. ARTS, CULTURAL & SPECIAL EVENTS BOARD

Member Scott Grenald announced the City's holiday event scheduled for December 19, 2011 from 2:30 p.m. to 5:30 p.m.

13 B(17)

C. CITIZENS BUDGET AND OVERSIGHT BOARD

Vice Chair Al Blake commended Interim City Manager Daniels for his work. He reported on the December 8, 2011 meeting where an update on the City's budget and the capital projects (sewer force main, beautification of the causeway, demolition of the old City Hall, and improvements to Dr. Paul Vogel Park) were provided and the purchase of the financial software for more efficient reporting was discussed.

D. COMMUNITY ENHANCEMENT BOARD

Vice Chair Ann Bakst reported that the board met on December 1, 2011 and it was discussed that the east side of the causeway has been neglected. The Board suggested that the next part of the improvements to the causeway should be from the east side to Hispanola Avenue and the center should be the last phase. The Board also discussed that the buttonwood trees are not pruned correctly, and the palm trees which are not in season and are slowly growing do not belong next to them.

E. PLANNING & ZONING BOARD

Vice Chair Reinaldo Trujillo stated that a report will be provided when the agenda item addressed by the board is being presented to the Commission.

F. YOUTH SERVICES BOARD

Chair Kevin Vericker reported on the November 22, 2011 meeting where the following were discussed:

1) City to create administrative policy requiring background criminal checks on volunteers who participate in City events involving children
2) Creation of a Youth Services Directory with support from the City to include all activities available for children
3) Shared recreational services with neighboring municipalities.

Mr. Vericker announced the next board meeting for January 5, 2012.

At this time Penelope Friedland, Chair of the Community Enhancement Board, reported that the Board also requested that the City look into the legality of installing "No Soliciting" signs at the entrances to the islands and discussed partnering with Corporal Weinstein to review parking issues on Treasure Island.

4. PUBLIC SAFETY DISCUSSION

Acting Chief Brian Collins reported that there was a reduction in the crime rate. He urged the residents to be vigilant of their surroundings.

5. COMMISSIONERS' REPORTS

Commissioner Chervony suggested that a member of the Commission should be appointed to oversee the 79th Street Causeway project and to look into use of Normandy Isle Parks by the residents. He thanked Mr. Robert Daniels for his work as Interim City Manager.

Commissioner Lim reported on his attendance at the "Best Practice Training" offered by the Florida League of Cities. He spoke about the creation of a Police Academy for the City of North Bay Village and use of the vacant lots in the City for community gardens to plant herbs and vegetables. He requested that the street sweeper be used on Harbor Island to remove foliage and litter that have accumulated in the last two weeks. He thanked Robert Daniels for his work as the Interim City Manager.

Mayor Leon-Kreps thanked and commended Interim City Manager Daniels for his work. She encouraged the residents to utilize the Post Office that is located in the City. She brought up comments received by residents about the difference in the landscaping on the causeway which lacks continuity on the north side and the south side. The Mayor invited the residents to attend the City's holiday party on December 19, 2011 from 2:30 p.m. to 5:30 p.m., and she thanked everyone who contributed to the event.

Jorge Puig, the 79th Street Project Landscape Architect with AECOM, 800 Douglas Entrance, North Tower, 2nd Floor, Coral Gables, FL 33134, responded to questions concerning the discrepancy between the plantings on the north and south side of the 79th Street Causeway improvement project. He described the reasons why some of the plants are shorter on one side than on the other due to the timing of the plantings. He explained that the plantings on the south side with the stronger green color were installed over a year ago and they have grown a lot since; whereas the plants on the north side that give the green background are short and are not that visible compare to the white ones, which is why the north side looks like it has more white than green color. Additionally, the south side gives a different background. Also, many of the large trees that existed before remained on the south side.

Mr. Puig further explained that there is limited space to place those trees on the north side because there were not a lot of large trees to remain. He informed the Commission that with time, there will be more uniformity with the plants on both sides of the causeway. He pointed out that the curb sides on the north side of the causeway prevents a continuous ground cover feel that is on the south side and there are different effects that cause the design to vary a little. As to the trimming of the silver buttonwoods, three or four concepts were presented to the public during the approval process, and the main request was to have majool date palms as the signature tree along the causeway as well as on the sides and on the medians. The silver buttonwoods were to be planted only in the areas that they are currently located. In order to continue the idea of the date palms, they were placed in between the silver buttonwoods. Regarding the trimming of the trees, Mr. Puig stated that while he could not respond to how the trees were trimmed since he has not conducted the final walkthrough yet, if they were trimmed in accordance with the horticultural standards, they would regenerate because they are native plants that are accustomed to hurricanes and will regenerate after pruning.

The Mayor expressed her concern about comments that the silver buttonwoods were hacked by the landscaper.

Public Works Director Sam Zamacona read a letter into the record from Faith Garcia, Certified Arborist (International Society of Arborist Association) who represented Groundkeepers, Inc., the City's landscaper. The letter stated that the silver buttonwoods on North Bay Island had extensive damage on all sides due to overgrown limbs that grew into oncoming traffic and from the equipment used while planting the new trees. The trees are native and should come back from extensive damage after necessary pruning. The arborist indicated that the trees should never have been planted in the center median due to their large canopy they become a hazard to the whole traveling vehicles on the causeway. Therefore, by cutting back the trees and maintaining causeway clearance, they will regenerate in this controlled environment.

The Mayor asked that the letter from the arborist be placed on the City's website.

Martin Vila, from M. Vila & Associates, Inc., 12097 N.W. 98th Avenue, Hialeah Gardens, FL 33018, outlined the maintenance and construction schedule for the improvements to Dr. Paul Vogel Park and the 79th Street Causeway beautification project. Mr. Vila reported that the sprinkler system and the time for operation are being changed. As to the 79th Street Causeway project, the North Bay Island Wall will be pressure cleaned on December 15; the ground cover of North Bay Island and the causeway median in front of the old Fire Station are scheduled to be completed the following week by Valleycrest; the north crosswalk is scheduled to be completed by December 23; and the palm trees have been relocated as close as possible to the water main as requested. Regarding the Dr. Paul Vogel Park, cleaning and grubbing; electrical undergrounding; water and sewer underground piping; and relocation of playground equipment were completed. Drainage installation; concrete slab for the playground; irrigation piping; and asphalt walkway base are scheduled to be done this week. Asphalt placement of the walkway; exercise station pumping pads; final electrical, except for the shelters, are scheduled to be completed next week; and installation of the playground equipment will commence next week with completion in a week and a half.

The Mayor asked if there is a drain at the entrance to the restaurant property at 1335 Kennedy Causeway where a lake forms when it rains. Mr. Puig responded that the area may be covered with plantings, which will only be until the landscaping work is completed. Mr. Zamacona noted that silk fencing had been installed to protect the storm inlet.

The Mayor asked why there was no continuity with the plants on the north and south sides of the causeway with short bushes and large brown leaves on the north side versus bigger, greener plants on the south side. Mr. Puig reiterated that the appearance of the plantings have to do with the length of time that they are planted. He offered to walkthrough the project with the Mayor.

Commissioner Chervony brought to the attention of Mr. Puig the two dead palm trees on the west end of the North Bay Island Wall on the south side. He pointed out that the deep green plants that have grown very tall are blocking the sprinkler system so that those trees directly in front get all the water and the rest do not get any.

Mr. Puig responded that, as the designer of the project, he is responsible for inspecting it; and during the inspection, he will generate a list of items to be addressed including dead plant materials. He mentioned that it is standard for plants to block sprinkler systems, but the problem could be addressed with maintenance and proper watering.

Commissioner Chervony brought up the fact that AECOM is responsible for maintaining the project, since it has not yet been turned over to the City. The Commissioner asked when the light on the causeway signs will be turned on.

Vice Mayor Lim inquired about the scheduled walkthrough of the project and whether or not another one will be done prior to the company turning over the project to the City. Mr. Puig stated that the walkthrough could possibly occur the first week of January after the contractor advises that all the items are completed. Thereafter, another walkthrough will be conducted with the City engineer or staff and the contractor. The Vice Mayor requested that a copy of the schedule be placed on the website.

In response to comments by Mr. Vericker about use of the recreational youth services at Miami Beach, the Mayor discussed that she has been in contact with Miami Beach to obtain permission for the children of North Bay Village to have the benefit of use of the pool and recreational center at Normandy Isle. Additionally, discussions are underway with Miami Shores to collaborate and partner with them for use of their recreational facilities.

6. CITY ATTORNEY'S REPORT

A report was not provided.

7. CITY MANAGER'S REPORT

Interim City Manager Daniels reported that staff is in the process of looking at the next phase of improvements to Dr. Paul Vogel Park. He mentioned that a Request for Qualifications is in process for work on the seawall. A rendering was submitted to the Community Enhancement Board, and they were not in favor of having docks at that location. He stated that the docks will be included as an option, and the Commission will make the decision. He mentioned plans for a boardwalk behind the park property. The City Manager announced the City's holiday party for December 19, 2011 from 2:30 p.m. to 5:30 p.m. and a ceremony on December 16, 2011 at 9:30 a.m. for installation of the flag pole at City Hall.

Interim City Manager Daniels thanked the City Commission and staff for their support. He discussed a list of accomplishments during his tenure which include the extension of the grant for development of the park until March 31, 2012; setting the development of the park in motion for now and in the future with physical construction set to be completed in mid January; development of a list of capital projects; creation of a fixed asset inventory; work on purchasing financial software; successful completion of the sewer force main project; work to demolish the old City Hall building; work on City Hall Pump Station; review of aging infrastructure on the water and sewer line; upgrade of the website; web casting with cataloguing of City Commission Meetings; the 79th Street Causeway beautification project; and moving forward with funding for a plaza on the east side of the City.

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

Reinaldo Trujillo, of 7601 East Treasure Drive, addressed the Commission and commended the Police Department for its quick response to a break-in that occurred at Grand View Palace over the weekend. He suggested that the City create a list of the disabled veterans who live in the City, find out what their needs are, and try to assist them.

Al Coletta, of 7904 West Drive, addressed the Commission and complained that the City Planner did not approve an application for a Jet Ski business at Bayshore Marina after the applicant had applied many months ago and was told that the business would be approved once the marina was licensed.

Al Blake, of 7601 Coquina Drive, congratulated Mayor Connie Leon-Kreps and Vice Mayor Eddie Lim on their new appointments, and he suggested that the issue with Coletta should be looked at.

Penelope Friedland, of 7500 Miami View Drive, addressed the Commission and spoke in opposition to a strip club at 1415 Kennedy Causeway.

City Attorney Boniske explained that any item regarding the pending quasi-judicial zoning application should be addressed during that particular hearing. Therefore, statements made tonight regarding the quasi-judicial hearing will be included as part of the record.

Kevin Vericker, of 7520 Hispanola Avenue, addressed the Commission and discussed that key details in the Isle of Dreams project were overlooked. He urged the City Planner and the legal staff to be fully prepared and to review the plans in advance before submitting them to the Commission.

Lisa Baron, of 7501 Beach View Drive, addressed the Commission and suggested that codes should be applied to something that the community does not want. She asked when the matter of the Isle of Dreams development will come before the Commission and how it would be advertised. She was concerned that the meeting would be advertised with only 72-hour notice like a similar as alleged by Kevin Vericker. She urged the City to assist small business owners who are struggling.

City Clerk Hamilton explained that notices would be posted on the City's website and in the *Miami Herald*. She clarified that a meeting with only 72-hour public notice did not occur.

Fane Lozman, of 7918 West Drive, addressed the Commission and commended Chief Daniels for his work as Interim City Manager. He concurred that businesses were stalled, delayed, and threatened and questioned why the Jet Ski business at Coletta's Marina was not approved, when a similar business was approved for the Racquet Club in the past and why Mr. Greenwald was not allowed to develop

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Kenneth Stowe, of 7521 Miami View Drive, addressed the Commission and suggested that the moral compass of North Bay Village be kept in the right direction. He hoped for the Commission to hear, listen, and adhere to the people when the matter concerning the adult entertainment club was heard. He commended Chief Daniels and the Commission for their work.

Jorge Brito, of 1865 Kennedy Causeway, addressed the Commission and commended Interim City Manager Daniels for his work. He approved of the monies spent for training that was undertaken by the members of the Commission which provided education on ethics to provide full representation.

Nancy Sonnett-Selwyn, of 7512 Cutlass Avenue, asked that past action in delaying approval of businesses not be repeated.

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 be considered separately.**

A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE APPROPRIATION OF $7,000 OF AVAILABLE NON-APPROPRIATED POLICE FEDERAL FORFEITURE FUNDS FROM THE LAW ENFORCEMENT TRUST FUND (FUND 07); AUTHORIZING THE DISBURSEMENT AND EXPENDITURE OF SUCH FUNDS FOR THE PURCHASE OF GLOCK PISTOLS AND AMMUNITION; PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

B. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE APPROPRIATION OF $10,500 OF AVAILABLE NON-APPROPRIATED POLICE FEDERAL FORFEITURE FUNDS FROM THE LAW ENFORCEMENT TRUST FUND (FUND 07); AUTHORIZING THE DISBURSEMENT AND EXPENDITURE OF SUCH FUNDS FOR OUTFITTING 30 POLICE VEHICLES WITH FIRST AID AND TRAUMA KITS; PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

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C. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE APPROPRIATION OF $41,110 OF AVAILABLE NON-APPROPRIATED POLICE FEDERAL FORFEITURE FUNDS FROM THE LAW ENFORCEMENT TRUST FUND (FUND 07); AUTHORIZING THE DISBURSEMENT AND EXPENDITURE OF SUCH FUNDS FOR THE PURCHASE OF EXTENDED WARRANTIES ON POLICE VEHICLES; PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

D. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE APPROPRIATION OF $50,000 OF AVAILABLE NON-APPROPRIATED POLICE FEDERAL FORFEITURE FUNDS FROM THE LAW ENFORCEMENT TRUST FUND (FUND 07); AUTHORIZING THE DISBURSEMENT AND EXPENDITURE OF SUCH FUNDS FOR LAW ENFORCEMENT PERSONNEL OVERTIME; PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

E. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING PROJECT AGREEMENT 02-12 BETWEEN KIMLEY-HORN AND ASSOCIATES, INC., AND THE CITY OF NORTH BAY VILLAGE FOR DESIGN, PERMITTING AND ADMINISTRATIVE SERVICES TO CONNECT THE CITY HALL PUMP STATION TO THE CITY'S NEW FORCE MAIN SYSTEM; AUTHORIZING CITY OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS OF THE PROJECT AGREEMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROJECT AGREEMENT; AUTHORIZING THE CITY MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

F. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING AMENDMENT NO. 1 TO THE CLEAN WATER STATE REVOLVING FUND CONSTRUCTION LOAN AGREEMENT, NO. WW803061, BETWEEN THE CITY AND THE STATE OF FLORIDA, DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE FORCE MAIN REHABILITATION DESIGN-BUILD PROJECT PERTAINING TO THE LOAN REPAYMENT SCHEDULE; AUTHORIZING CITY OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS OF THE AMENDMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

A motion was offered by Mayor Connie Leon-Kreps and seconded by Vice Mayor Eddie Lim to approve the items on the Consent Agenda. The votes were as follows: Vice Mayor Eddie Lim-Yes, Commissioner Richard Chervony, Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-Yes, and Mayor Connie Leon-Kreps-Yes. The motion carried 5-0.

10. PLANNING & ZONING CONSENT AGENDA

There were no planning and zoning consent agenda items.

11. ORDINANCES FOR FIRST READING AND RESOLUTIONS

The City Clerk read the ordinance by title.

A. **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE CITY OF NORTH BAY VILLAGE BY AMENDING CHAPTER 95 TO CREATE RE-OCCUPANCY CERTIFICATE AND INSPECTION PROCEDURES, SET FEES AND PROVIDE FOR PENALTIES; AMENDING CHAPTER 153 TO SET PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)*** **- DEFERRED TO DECEMBER 13, 2011.**

Interim City Manager Daniels reported that the ordinance was discussed at the last Commission Meeting and there were some concerns relating to the movement of amnesty that has been done in other jurisdictions. Staff has since reviewed the ordinance and found that two separate City ordinances would be required to address the re-occupancy certificate and the amnesty on building fines. Therefore, no changes were made.

Mayor Leon-Kreps asked what effect the ordinance would have on homes that were built in 1958 that might not be up to code.

Mr. Annese explained that one of the reasons for the ordinance is to make sure that the structure is still a single-family home; that no additional work has been done; and that all life-safety issues are addressed prior to re-occupancy. Additionally, open permits will be reviewed, since the Building Department is having problems with people purchasing homes where there are still open permits.

Mayor Leon-Kreps questioned the fairness in penalizing homeowners at this point who have had additions to their homes and work done over 20 years ago.

Interim City Manager Daniels clarified that the Re-occupancy Certificate inspection will address life safety issues like exposed electrical wiring, exhaust fans in garages that could be hazardous to individuals, and water leaks. And while the fact that someone had their garage converted over 40 years ago should be noted, the intent is to make sure that residential units are safe for the residents and to protect the new owners taking occupancy of the homes.

Commissioner Lim further clarified that the re-occupancy inspection will only take place when the house is being sold and will provide the new owner with the status of the house versus the requirements of the City Code.

Mayor Leon-Kreps suggested that notice be given with a grace period to allow the property owner to resolve the issues before the City becomes involved.

Vice Mayor Lim spoke about the importance of re-occupancy and stated that the City would only inspect the property when there is a sale. He discussed his request to staff to look into the code relief program being addressed by the county to identify building code issues that are noncompliant and providing two years to fix the problems.

Commissioner Chervony discussed that the Re-occupancy Certificate applies to re-sales and only those people who have converted their one-bedrooms with a den into a two-bedroom apartments to avoid having the extra parking space, who have made major modifications to their homes by either adding a second floor kitchen, converting a garage into another apartment that is being rented or that they plan to rent will be concerned about this matter. He added that the City will inspect the property at the time of sale with the new way of review and charge $250 for the recertification.

Commissioner Rodriguez asked about the number of open permits and the dates involved.

Chief Building Official Annese responded that a survey of the open permits has not been conducted.

Commissioner Rodriguez opined that the City has no business becoming involved in this area of re-occupancy and that it was uncalled for. He mentioned that different inspections are done by the title company when a property is sold. Additionally, some people might not be able to bring their homes up to code. He suggested that the matter be tabled until the new manager was on staff.

Mr. Annese mentioned that homes being built are inspected to make sure they are done properly and there is a procedure in place for a 40-year recertification for commercial buildings to address structural or electrical problems, which is a life safety issue that would help to maintain the buildings in the City.

Without objection, Interim City Manager Daniels withdrew the ordinance for further consideration.

12. PUBLIC HEARINGS INCLUDING ORDINANCES FOR SECOND READING

There were no items for public hearing or ordinances for second reading.

13. UNFINISHED BUSINESS

There was no unfinished business.

14. NEW BUSINESS

A. TELEVISING OF ALL CITY MEETINGS (*COMMISSIONER FRANK RODRIGUEZ)*

Commissioner Rodriguez reported that he was addressed by a resident of the City when the matter concerning the adult entertainment club was being heard by the Planning & Zoning Board as to whether the City meetings could be televised. Accordingly, he was requesting that all meetings of the City including all advisory board meetings be televised and be placed on the website for public viewing.

Mayor Leon-Kreps thought that it was a good idea to televise the meetings, and she asked about the cost involved.

Interim City Manager Daniels explained that the estimated cost to televise the board meetings is $500 to $600 per month extra including appropriate cataloguing and payment to the technician. He suggested that the matter be addressed during the next budget year if it was the desire of the Commission to implement the request. Otherwise, funding will have to be addressed through the reserves or through another funding source.

Commissioner Rodriguez questioned the high cost estimated for recording the meetings with only one camera.

Commissioner Lim asked if the reason for televising all of the meetings, considering the cost involved, was to address only a few residents who could not attend meetings. He suggested that the advisory board members should have input in the matter.

No action was taken on the matter. Commissioner Rodriguez decided to meet with the new City Manager to address the issue.

15. APPROVAL OF MINUTES

No Minutes were approved.

16. ADJOURNMENT

The meeting adjourned at 9:29 p.m. following a motion to adjourn by Vice Mayor Connie Leon-Kreps, seconded by Commissioner Eddie Lim.

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.)

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OFFICIAL MINUTES

CITY OF NORTH BAY VILLAGE
SPECIAL CITY COMMISSION MEETING
TUESDAY, NOVEMBER 29, 2011

6:30 P.M

A Special Meeting of the City of North Bay Village Commission was held on Tuesday, November 29, 2011, 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 6:33 p.m. by Mayor Connie Leon-Kreps, and the Pledge of Allegiance was recited. The following were present:

Mayor Connie Leon-Kreps
Vice Mayor Eddie Lim
Commissioner Frank Rodriguez
Commissioner Paul Vogel

Interim City Manager Robert Daniels
City Attorney Nina Boniske
Assistant City Attorney Kathy Mehaffey
Finance Director Gerard Pirri
Public Works Director Sam Zamacona
City Clerk Yvonne P. Hamilton

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

2. **APPOINTMENT OF INTERIM COMMISSIONER (Section 3.07(E)(a), City Charter)**

The following candidates submitted "Letters of Interest" for the vacancy:

1. Ann Bakst, of 1865 Kennedy Causeway
2. Barry Beschel, 7914 Harbor Island Drive
3. Arnold Z. Braun, 7601 East Treasure Drive
4. Richard Chervony, 7601 Center Bay Drive
5. Jorge Gonzalez, 7900 Harbor Island Drive
6. Scott Grenald, 7700 Beach View Drive

13 B (3a)

7. Kenneth Stowe,7521 Miami View Drive
8. Reinaldo Trujillo, 7601 East Treasure Drive
9. Kevin Vericker, 7520 Hispanola Avenue

Mr. Braun did not attend the meeting.

At the suggestion of Commissioner Rodriguez and without objection, the names of the candidates were arranged in alphabetical order, and the candidates made presentations to the Commission regarding their interest in the vacancy.

Mayor Leon-Kreps opened the floor to public comments.

Scott Greenwald, developer of the Lexi, spoke about Mr. Vericker not attending meetings as a member of the Citizens Budget & Oversight Board.

Elaine Beutel, of 7513 Hispanola Avenue, advised the Commission to appoint somebody who would best serve the City.

Fane Lozman, of 7918 West Drive, opposed Kevin Vericker and Reinaldo Trujillo qualifications for the Commission vacancy.

Al Coletta, of 7904 West Drive, discussed the need for the Commission to take action that is in the best interest of the City.

Jorge Piedra, of 7505 Hispanola Avenue, asked the Commission to consider Jorge Gonzalez for the position.

Jorge Brito, of 1865 Kennedy Causeway, suggested that the Commission appoint somebody who is new to the City government.

Ann Bakst, of 1865 Kennedy Causeway, spoke about her community service including her membership on the Beautification Board, the Civil Service board, and the Community Enhancement Board.

Jorge Brito, of 1865 Kennedy Causeway, suggested that the Commission appoint a new face to the Commission.

At this time Reinaldo Trujillo withdrew his name from consideration for the Interim Commissioner.

Nancy Sonnett-Selwyn, of 7512 Cutlass Avenue, expressed her support for Kenneth Stowe and Kevin Vericker.

13 B (33)

The Commission thanked all of the applicants for their interest in the City.

The Mayor closed the floor to public comments.

A motion was offered by Commissioner Eddie Lim and seconded by Vice Mayor Connie Leon-Kreps to appoint Richard Chervony as Interim Commissioner. The votes were as follow: Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-No, Vice Mayor Connie Leon-Kreps-Yes, and Commissioner Eddie Lim-Yes. The motion carried 3-1.

B. OATH OF OFFICE

Interim Commissioner Richard Chervony took his place on the Commission dais, and City Clerk Yvonne P. Hamilton administered the Oath of Office.

3. NEW ROLL CALL

City Clerk Yvonne P. Hamilton called the roll, and all five members of the Commissioner were present.

4. APPOINTMENT OF INTERIM VICE MAYOR (3.07e(a)

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Interim Commissioner Chervony to appoint Commissioner Eddie Lim as Interim Vice Mayor. The votes were as follow: Commissioner Eddie Lim-Yes, Interim Commissioner Richard Chervony-Yes, Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-No, and Vice Mayor Connie Leon-Kreps-Yes. The motion carried 4-1.

5. APPOINTMENT OF MAYOR (The Mayor must be appointed from the originally remaining four (4) commissioners.)

A. COMMISSION ACTION (If the Commission does not fill the mayoral position within 30 days from November 11, 2011, a Special Election will be required.)

A motion was offered by Interim Vice Mayor Eddie Lim and seconded by Interim Commissioner Richard Chervony to appoint Vice Mayor Connie Leon-Kreps to Mayor. The votes were as follow: Interim Commissioner Richard Chervony-Yes, Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-No, Vice Mayor Connie Leon-Kreps-Yes, and Interim Mayor Eddie Lim-Yes. The motion carried 4-1.

13 B (34)

6. **FILLING COMMISSION VACANCY CREATED BY APPOINTMENT OF MAYOR (3.07D)**

A motion was offered by Interim Vice Mayor Eddie Lim and seconded by Mayor Connie Leon-Kreps to appoint Interim Commissioner Richard Chervony as At-Large Commissioner. The votes were as follow: Interim Commissioner Richard Chervony-Yes, Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-No, Mayor Connie Leon-Kreps-Yes, and Interim Vice Mayor Eddie Lim-Yes. The motion carried 4-1.

7. **APPOINTMENT OF VICE MAYOR (3.07(F)**

A motion was offered by Mayor Connie Leon-Kreps and seconded by Commissioner Richard Chervony to appoint Interim Vice Mayor Eddie Lim as Vice Mayor. The votes were as follow: Interim Vice Mayor Eddie Lim-Yes, Commissioner Richard Chervony-Yes, Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-No, and Mayor Connie Leon-Kreps-Yes. The motion carried 4-1.

8. **RESOLUTION**

The following Resolution was read, by title, by City Clerk Yvonne P. Hamilton.

A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING THE EMPLOYMENT AGREEMENT BETWEEN DENNIS KELLY AND THE CITY OF NORTH BAY VILLAGE; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

Interim City Manager Robert Daniels mentioned that Commissioner Rodriguez participated in the committee to negotiate the contract for City Manager Dennis Kelly.

Mayor Leon-Kreps thanked Commissioner Rodriguez for his work with the contract.

City Manager appointee Dennis Kelly commended Commissioner Rodriguez and the City Attorney for their work with the contract.

13 B (35)

Reinaldo Trujillo, of 7601 East Treasure Drive, opined that it was an error to give the top salary with an added bonus after a six-month evaluation. He suggested that the beginning salary should be less than $130,000 after successful review.

Fane Lozman, of 7918 West Drive, suggested that a provision should be included in the contract to prevent the City Manager from bringing suit against the City in the event he is terminated

City Attorney Boniske explained that the contract does not provide a dollar amount for the bonus and that it was not a requirement for the Commission to give the bonus, rather it was at their discretion. And if the City Commission determined that they no longer desire the City Manager's services for any reason, legally he is required to be paid based on the provisions of the contract.

A motion was offered by Mayor Connie Leon-Kreps and seconded by Commissioner Frank Rodriguez to approve the Resolution. The votes were as follow: Vice Mayor Eddie Lim-Yes, Commissioner Richard Chervony-Yes, Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-Yes, and Mayor Connie Leon-Kreps-Yes. The motion carried 5-0.

9. ADJOURNMENT

The meeting adjourned at 8:02 p.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: This document does not reflect a true verbatim record of the meeting. This is a summarization of the proceedings. 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, NOVEMBER 8, 2011

7:30 P.M

The Regular Meeting of the City of North Bay Village Commission was held on Tuesday, November 8, 2011, 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 7:36 p.m. by Mayor Corina S. Esquijarosa, and the Pledge was recited. The following were present:

Mayor Corina S. Esquijarosa
Vice Mayor Connie Leon-Kreps
Commissioner Eddie Lim
Commissioner Frank Rodriguez
Commissioner Paul Vogel

Interim City Manager Robert Daniels
City Attorney Nina Boniske
Assistant City Attorney Kathy Mehaffey
Finance Director Gerard Pirri
Public Works Director Sam Zamacona
City Clerk Yvonne P. Hamilton

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

Mayor Esquijarosa read the rules of decorum to be followed during the proceedings.

2. A. **PROCLAMATIONS AND AWARDS**

There were no proclamations and awards.

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B. SPECIAL PRESENTATIONS

1. KEEFE MCCULLOUGH & CO., LLP PRESENTATION OF AUDIT FOR FISCAL YEAR 2009-2010

Ken Smith, Partner, presented the audit report. He discussed a situation where the City did not follow its obligation under GASB Statement No. 45, Accounting and Financial Reporting by Employers for Post-Employment Benefits Other than Pensions ("OPEB"). He pointed out that the City had a fund balance of $2.7 Million at the end of the year, which represents 44.4% of the general fund expenditures excluding restricted sources, such as grants. He referred to the $2.5 Million in the Utility Fund, which included grant revenues for capital projects.

Commissioner Lim discussed a finding in the report that the City does not perform an annual physical inventory of fixed assets.

Mr. Smith explained that the old antiquated financial system used by the City does not allow for bank reconciliations and closing procedures for books and records.

Commissioner Lim expressed concern in regard to the finding that reconciliations of the City's operating cash accounts had not been performed for a significant portion of the fiscal year.

Mr. Smith discussed the issue as a significant finding that needs to be addressed.

Commissioner Lim asked Mr. Smith if he had looked into how the City can increase revenues.

Mr. Smith explained that his concentration was on the audit and not on generating revenues. He noted that when performing the audit, if he sees something that is being used by other agencies that the City is not taking advantage of, he would recommend it.

Commissioner Lim discussed that Mr. Ken Smalls of the Florida League of Cities taught ways on how cities can increase revenues.

Mr. Smith pointed out that comments generated some years ago regarding the maintenance of grants were not addressed.

Vice Mayor Leon-Kreps voiced concerns about the deficiencies that were found.

Mr. Smith explained that the deficiencies were discussed with the City Manager, and measures were being taken to address the recommendations.

Mayor Esquijarosa asked if the issue with the bank reconciliations could damage the City and affect grants that the City could apply for.

Mr. Smith explained that the City may not be recommended for a grant, if the bank reconciliations are not done timely.

Vice Mayor Leon-Kreps asked Mr. Smith if he had recommended financial software that would meet the needs of the Finance Department.

Mr. Smith discussed that he had recommended software that would grow with the operating system.

Commissioner Lim asked Interim City Manager Daniels if a deadline was established to purchase the software.

Interim City Manager Daniels explained that Finance Director Gerard Pirri would be looking for a software system and the method to obtain it during the first quarter of the fiscal year. He further explained that the City was looking to have an integrated system with modules for the Building Department and administration.

Discussion ensued regarding problems with the lighting for the entrance sign to the west of the City.

Elaine Beutel, of 7533 Hispanola Avenue, suggested that M. Vila & Associates, Inc. should be responsible for maintaining the sign.

Garry Beltran, of 7513 Hispanola Avenue, noted that the light was fixed after a recommendation by the Community Enhancement Board. It worked for three months and went off again.

Jorge Piedra, of 7505 Hispanola Avenue, discussed that the Treasure Island Sign was torn down. He suggested that M. Vila should finish the 79th Street Causeway improvements.

Mr. Gary, of 7545 East Treasure Drive, questioned why the bank reconciliations were not being done in a timely manner.

Interim City Manager Daniels explained that the issue of the bank reconciliations is a recurring problem that is being addressed by the Finance Director.

Mayor Esquijarosa asked if the problem can be fixed prior to obtaining the financial software.

Interim City Manager Daniels explained that the problem can be fixed, but it is easier to do with the software. The Mayor suggested the use of part-time help to ensure that the reconciliations are done in a timely manner.

Max Crown, of 1620 South Treasure Drive, inquired about the status of the $300,000 grant for Dr. Paul Vogel Park.

Interim City Manager Daniels explained that the upland improvements are moving forward before the extension on the grant expires.

C. ADDITIONS AND DELETIONS

Without objection, Commissioner Lim requested that Item 14B be heard after Item 9.

3. BOARD REPORTS

A. ANIMAL CONTROL ADVISORY BOARD

A report was not provided.

B. ARTS, CULTURAL & SPECIAL EVENTS BOARD

Member Scott Grenald reported that the Board met on October 19, 2011 and discussed plans for the City's Halloween Party, which was subsequently cancelled.

C. CITIZENS BUDGET AND OVERSIGHT BOARD

Chair Al Gentry reported that the Board met on November 3, 2011 and reviewed the audit findings and responses where emphasis was placed on issues concerning the bank reconciliations, the fixed assets inventory, and obtaining financial software.

D. COMMUNITY ENHANCEMENT BOARD

A report was not provided.

E. PLANNING & ZONING BOARD

Chair Reinaldo Trujillo announced the next Board Meeting for November 15, 2011.

F. YOUTH SERVICES BOARD

Chair Kevin Vericker reported on the October 18, 2011 meeting where discussion was held on implementing a policy to conduct criminal background checks of volunteers who participate in youth programs, which the Police Department is continuing to explore; the creation of a Youth Services Directory with all services available to youths to be placed on the City's website; and a request for the City to explore the option for North Bay Village residents to pay a reduced rate to participate in youth programs offered by neighboring cities. He announced the next meeting for November 15, 2011.

Commissioner Lim suggested that the Youth Services Board identify a list of programs in which the residents are interested and submit the information to the Commission the first week of January 2012.

Mr. Vericker suggested that the City Commission should approach the various cities. He explained that the Board was looking at activities in Miami Beach such as the basketball league, Police Cadets, Cheerleading, and general recreation and cultural events. He noted that Miami Shores offers adult exercise classes.

Discussion ensued regarding attendance at the various Board Meetings. It was suggested that the members of the Board be reminded of the importance of attending meetings. Commissioner Lim suggested that the Chair of the Boards should send the Vice Chair or a representative to provide a report at the Commission Meetings if they are unable to attend.

Mayor Esquijarosa mentioned the idea of the City paying the difference in the price for residents to participate in recreational activities offered by adjoining municipalities.

G. CITY MANAGER REVIEW COMMITTEE

Chair of the Committee Reinaldo Trujillo advised the Commission to look at what is beneficial to the City when considering the contract for the new City Manager.

Mayor Esquijarosa recessed the meeting for five minutes at 9:17 p.m.

4. PUBLIC SAFETY DISCUSSION

There was no public safety discussion.

5. COMMISSIONERS' REPORTS

Commissioner Lim reported on his attendance at the Florida League of Cities 85th Annual Conference and the Miami-Dade County League of Cities Meeting where the keynote speaker addressed the issue of "ethics" and stressed the paramount importance of ethical practices for elected officials. Additionally, the first resolution adopted by Miami-Dade County League of Cities also focused on "ethics". He also mentioned his attendance with the Vice Mayor's at the Advanced Institute for Elected Officials in Orlando in October. He further reported on the illegal operation of a car wash on Harbor Island.

Interim City Manager Daniels stated that the matter is being looked at.

Vice Mayor Leon-Kreps reported that she had signed all of the checks prepared by the City during the month of October in Mayor Esquijarosa's absence. She discussed her attendance at the same conferences attended by Commissioner Lim on how to serve with integrity and ethics. She explained that she had spoken to a representative of FPL about the underground project which is in Phase 4. She asked the City Manager to assist residents who had expressed concern about the design, layout, and upkeep of the 79th Street Causeway project. She suggested that shirts with the city logo be provided to temporary workers to identify them. The Vice Mayor asked the City Manager if the sewer pumps on North Bay Island were working properly.

Interim City Manager Daniels stated that the pumps were working properly.

Mayor Esquijarosa asked the City Manager to look into complaints of trash and debris along the swale area in the area of 1801 South Treasure Drive. She also reported that South Treasure Drive is flooded when there is a lot of rain.

13 B(42)

Interim City Manager Daniels stated that most of the flooding is taken care of when the storm drains are cleaned, because the water table does not allow for run-off into the bay.

Mayor Esquijarosa asked Interim City Manager Daniels to look into the feasibility of obtaining grants from the State or from Miami-Dade County to address the cat problem in the City.

6. CITY ATTORNEY'S REPORT

A report was not provided.

7. CITY MANAGER'S REPORT

Interim City Manager Daniels reported on the following:

a. Commencement of the Fixed Assets inventory
b. Resolution of the audio problems with viewing the Commission Meetings
c. 2009 EEOC case by an officer that was found to be unsubstantiated

Discussion ensued regarding update of the City's website. The City Manager explained that most of the content has been updated, and plans are in the works to archive Commission Meetings

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

Good and Welfare commenced at 8:27 p.m.

Al Coletta, of 7904 West Drive, addressed the Commission and urged them to carefully review the severance package for the City Manager.

Jorge Robinson, of 1455 N. Treasure Drive, PHB, addressed the Commission and complained that Channel 7 installed lighting in their parking lot which violates Section 152.155 of the City Code.

Vice Mayor Leon-Kreps noted that the Code Enforcement Officer will address the matter this evening.

Elaine Beutel, of 7533 Hispanola Avenue, addressed the Commission and reported that certain residents are refusing to allow FPL to cut trees on their properties that are growing into the power lines.

Alvin Blake, of 7601 Coquina Drive, questioned members of the Commission about making a decision on selecting a new City Manager when they did not interview the candidates.

Mayor Esquijarosa explained that she was unable to attend the interviews, but she had reviewed the video recording of the session, even though she did not interview the candidates personally.

Fane Lozman, of 7918 West Drive, addressed the Commission and stated that it was important for the members of the Commission to interview the candidates. He discussed the process for a recall election.

Esther Alexander, of 1881 Kennedy Causeway, addressed the Commission and reported that half of the colors on the entrance sign to North Bay Island are missing.

Commissioner Lim mentioned that the subject of the lights was brought up in August.

Mayor Esquijarosa asked Public Works Director Sam Zamacona when the City will take over the project.

Mr. Zamacona stated that M. Vila & Associates has control of the project until it is turned over to the City.

Miguel Vila stated that there is an electrical issue with the original design. The manufacturer was contacted, and they will try to resolve the problem by the end of the week.

Mayor Esquijarosa requested the removal of Item 9D from the Consent Agenda. Item 9D was heard after Item 11A.

9. CONSENT AGENDA

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 FOR THE CITY'S CRIMINAL JUSTICE RECORDS IMPROVEMENT PROJECT; AUTHORIZING CITY OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS OF THE AGREEMENT; AUTHORIZING THE APPROPRIATE OFFICIALS TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. *(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)*

B. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING THE PROJECT AGREEMENT BETWEEN KIMLEY-HORN AND ASSOCIATES, INC., FOR ADDITIONAL DESIGN SERVICES FOR COMPLETION OF THE FORCEMAIN REHABILITATION DESIGN BUILD PROJECT; AUTHORIZING CITY OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS OF THE PROJECT AGREEMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROJECT AGREEMENT; AUTHORIZING THE CITY MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE. *(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)*

C. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING AN AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE CITY OF NORTH BAY VILLAGE FOR IMPROVEMENTS TO DR. PAUL VOGEL COMMUNITY PARK; AUTHORIZING CITY OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS OF THE AGREEMENT; AUTHORIZING THE APPROPRIATE OFFICIALS TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. *(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)*

13 B(45)

A motion was offered by Mayor Corina S. Esquijarosa and seconded by Vice Mayor Connie Leon-Kreps to approve Consent Agenda Items 9A, 9B and 9C. The votes were as follows: Vice Mayor Connie Leon-Kreps-Yes, Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-Yes, and Mayor Corina S. Esquijarosa-Yes. The motion carried 5-0.

10. PLANNING & ZONING CONSENT AGENDA

There was no Planning & Zoning Consent Agenda item.

11. ORDINANCES FOR FIRST READING AND RESOLUTIONS

The City Clerk read the Ordinance by title.

A. **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE CITY OF NORTH BAY VILLAGE BY AMENDING CHAPTER 95 TO CREATE RE-OCCUPANCY CERTIFICATE AND INSPECTION PROCEDURES, SET FEES AND PROVIDE FOR PENALTIES; AMENDING CHAPTER 153 TO SET PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

Interim City Manager Robert Daniels reported that the ordinance was addressed six months ago. He explained that the purpose of the ordinance was to require the Building Department to conduct inspections when homes are sold to ensure that life-safety components were still intact and that illegal modifications are brought into compliance.

Vice Mayor Leon-Kreps inquired as to whether the provisions of the ordinance would apply to condominiums.

Chief Building Official Annese said yes.

Mayor Esquijarosa expressed concern that enforcement of the ordinance could delay sale of units.

It was suggested that the prospective purchaser could be allowed to obtain the unit with the condition to address the outstanding issues.

Commissioner Lim suggested that the ordinance be put on hold while staff reviews the Miami-Dade County Amnesty Code Relief Program which provides amnesty and relief for all code violations for two years with no questions asked.

A motion was offered by Commissioner Lim and seconded by Mayor Corina S. Esquijarosa to defer consideration of the ordinance to December 13, 2011 for staff to review the Miami-Dade County Amnesty Relief Program. The motion carried 5-0.

Danielle Blake, of the Miami Association of Realtors, 700 S. Royal Poinciana Blvd., #400, Miami, FL 33141, submitted a letter into the record expressing concern that Item 11A, which creates a Certificate of Re-Occupancy. Would hinder the real estate market recovery. (Exhibit 1)

ITEM 9D

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO CHANGE ORDER NUMBER 3 WITH M. VILA & ASSOCIATES, INC. FOR ADDITIONAL CITY IMPROVEMENTS TO INCLUDE DR. PAUL VOGEL COMMUNITY PARK; SETTING AN EFFECTIVE DATE. ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

The City Clerk read the resolution by title.

Ralph Rosado, with C3TS, presented the plans for improvements to Dr. Paul Vogel Park.

Miguel Vila, of M. Vila Associates, Inc., reported that the project is expected to be completed by January 2012.

Fane Lozman, of 7918 West Drive, suggested that a bathroom should be included because children play in the park.

Commissioner Vogel left the meeting at 10:20 p.m. as he was not feeling well.

13 B(47)

A motion was offered by Mayor Corina S. Esquijarosa who moved from the Chair and seconded by Commissioner Frank Rodriguez to continue the meeting to 1:00 a.m. The motion carried 4-0.

Mayor Esquijarosa suggested that exercise equipment be included in the improvements.

Public Works Director Sam Zamacona explained that $25,000 could go towards the purchase of exercise equipment.

Vice Mayor Leon-Kreps questioned the necessity for all of the shade trees and flowers.

Mr. Vila explained that all underground work will be done first.

Al Coletta, of 7904 West Drive, suggested that the bathroom should be built.

Ann Bakst, of 1865 Kennedy Causeway, explained that the plan for the park was designed over a year and a half ago. She concurred that the bathroom should be built first.

A motion was offered by Mayor Corina S. Esquijarosa who moved from the Chair and seconded by Commissioner Frank Rodriguez to approve $25,000 for purchase of exercise equipment for Dr. Paul Vogel Park. The votes were as follows: Vice Mayor Connie Leon-Kreps-Yes, Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Absent, Commissioner Frank Rodriguez-Yes, and Mayor Corina S. Esquijarosa-Yes. The motion carried 4-0.

13 B (48)

12. PUBLIC HEARINGS INCLUDING ORDINANCES FOR SECOND READING

The City Clerk read the ordinance by titled.

A. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 54 "EMERGENCY MANAGEMENT," CHAPTER 93, "FIRE PREVENTION," CHAPTER 96, "NUISANCES, NOISE," CHAPTER 110, "GENERAL LICENSING AND OTHER PROVISIONS," CHAPTER 135, "OFFENSES AGAINST PUBLIC PEACE AND SAFETY," AND CHAPTER 153, "CODE ENFORCEMENT," TO ADDRESS FIREARM REGULATIONS PREEMPTED BY STATE LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. *(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)* - SECOND READING-PUBLIC HEARING

Assistant City Attorney Kathy Mehaffey explained the purpose of the ordinance was to address changes in State law.

A motion was offered by Mayor Corina S. Esquijarosa who moved from the Chair and seconded by Commissioner Frank Rodriguez to approve the ordinance on second reading. The votes were as follow: Vice Mayor Connie Leon-Kreps-Yes, Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Absent, Commissioner Frank Rodriguez-Yes, and Mayor Corina S. Esquijarosa-Yes. The motion carried 4-0.

The City Clerk read the request into the record.

B. A REQUEST BY THE PROPERTY OWNER OF 1520 SOUTH TREASURE DRIVE, LOT 23, BLOCK 1, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR MODIFICATIONS TO PREVIOUSLY APPROVED PLANS FOR CONSTRUCTION OF A DOCK. (ITEM 12C DEFERRED FROM OCTOBER 11, 2011)

Chief Building Official Richard Annese reported that some modifications were made to the plans that were previously approved by the City Commission on February 22, 2011. He explained that the dock has been extended to 47 feet, and it was approved by DERM. The applicant also provided a Marine Survey. He recommended that the request be approved.

Vice Mayor Leon-Kreps asked if any of the neighbors objected to the construction of the dock.

Mr. Annese said no.

Assistant City Attorney Mehaffey advised the Commission on the procedures for the quasi-judicial hearing.

City Clerk Hamilton swore in those individuals who indicated that they would provide testimony.

All members of the Commission indicated that they did not have any ex parte communication.

Mayor Esquijarosa opened the Public Hearing.

Fane Lozman, of 7918 West Drive, alleged that contractors who build docks do not have the proper maritime license to work in the City.

Al Coletta, of 7904 West Drive, spoke in support of the request.

Nancy Sonnett-Selwyn, of 7512 Cutlass Avenue, noted that the neighbor who complained at the previous meeting had requested that the dock be built further out in order not to interfere with his view.

A motion was offered by Commissioner Frank Rodriguez and seconded by Mayor Corina S. Esquijarosa to approve the request. The votes were as follow: Mayor Corina S. Esquijarosa-No, Vice Mayor Connie Leon-Kreps-Yes, Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Absent, and Commissioner Frank Rodriguez-Yes. The motion carried 3-1.

13. UNFINISHED BUSINESS

There was no unfinished business.

14. NEW BUSINESS

A. SITE PLAN APPLICATION REQUIREMENTS

Interim City Manager Daniels explained that Section 152.105(C) of the City Code requires the applicant to submit a scale model of the proposed development. He noted that the matter concerns the pending Isle of Dreams project. He also informed the Commission that it was not a requirement for the model to be provided for the previous project. He mentioned that the applicant had submitted a three-dimensional imaging.

A motion was offered by Mayor Corina S. Esquijarosa and seconded by Vice Mayor Connie Leon-Kreps to remove the Site Plan requirements for the scale model pursuant to Section 152.105(C) of the City Code. The votes were as follows: Vice Mayor Connie Leon-Kreps-Yes, Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Absent, Commissioner Frank Rodriguez-Yes, and Mayor Corina S. Esquijarosa-Yes. The motion carried 4-0.

B. APPOINTMENT OF CITY MANAGER PURSUANT TO ARTICLE, IV, SECTION 4.01 OF THE CITY CHARTER.

A. Ranking of Candidates

A motion was offered by Mayor Corina S. Esquijarosa and seconded by Commissioner Rodriguez for each member of the Commission to select the names of the top two candidates. The votes were as follows: Vice Mayor Connie Leon-Kreps-Yes, Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-Yes, and Mayor Corina S. Esquijarosa-Yes. The motion carried 5-0.

The selections were as follows:

Commissioner Eddie Lim selected Dennis Kelly as his number one candidate.

Commissioner Paul Vogel selected Dennis Kelly as his number one candidate.

Commissioner Frank Rodriguez selected Ralph Rosado as his number one candidate.

Vice Mayor Connie Leon-Kreps selected Dennis Kelly as her number one candidate.

Mayor Corina S. Esquijarosa selected Ralph Rosado as her number one candidate.

Gudrun Volker, of 7517 Cutlass Avenue, questioned the purpose of the City Manager Review Committee because Mr. Rosado was selected as a top candidate, and he was not interviewed by the committee. She pointed out that he applied after the deadline and should have been excluded.

Scott Greenwald, developer of the Lexi, 1700 Kennedy Causeway, urged the Commission to try to make decisions collectively to get the City Manager working on the right track.

Nancy Sonnett-Selwyn, of 7512 Cutlass Avenue, suggested that the City Commission pick somebody who can handle the needs of the City so long as the requirements of the Charter are followed. She encouraged Commissioner Paul Vogel to resign, since he is no longer capable.

Reinaldo Trujillo, of 7601 East Treasure Drive and Chair of the City Manager Review Committee suggested that the Commission set goals and procedures for the City Manager to follow. He also suggested that the City Commission select from among the candidates that were submitted by the committee. He explained that Mr. Rosado has not been a City Manager, which is what the City needs.

Vice Mayor Leon-Kreps explained that each member of the Commission had the opportunity to choose a candidate to serve on the City Manager Review Committee.

Mayor Esquijarosa mentioned that Vice Mayor Leon-Kreps had recommended Mr. Rosado for an interview, after the fact.

Vice Mayor Leon-Kreps explained that she had extended a professional courtesy to Mr. Rosado after his request to her for an interview.

Commissioner Lim stated that although he was in favor of giving Mr. Rosado a chance for an interview, he did not select him because he did not have any hands-on experience.

Alvin Blake, of 7601 Coquina Drive, questioned how Mr. Rosado was selected by two members of the Commission when he has never been a City Manager.

Mayor Esquijarosa pointed out that she had reviewed the recording of the interviews, and Commissioner Vogel did not interview the candidates.

Jorge Brito, of 1865 Kennedy Causeway, hoped for Mr. Kelly to be the right person for the job. He discussed that Commissioner Vogel had not participated in the issue.

Fane Lozman, of 7918 West Drive, explained that it is the duty of each member of the Commission to interview the candidates.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to appoint Dennis Kelly as the City Manager. The votes were as follows: Vice Mayor Connie Leon-Kreps-Yes, Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-Yes, Mayor Corina S. Esquijarosa-Yes, and Vice Mayor Connie Leon-Kreps-Yes. The motion carried 5-0.

B. Authorizing negotiation of salary and terms of condition of employment with selected candidate.

The following terms were discussed for inclusion in the City Manager's contract: Salary of $130,000 with benefits totaling $176,000; a maximum severance according to Florida Statutes, which will be on a graduated basis with an increase as the City Manager proves himself; vacation on an accrued basis to be used by a certain time; car allowance; and a one-year benchmark where guidelines will be set for six months. The term of the contract will be for three years.

Without objection, Commissioner Rodriguez volunteered to work with the City Attorney to negotiate a contract with Dennis Kelly.

A motion was offered by Commissioner Eddie Lim and seconded by Mayor Corina S. Esquijarosa authorizing the City Attorney to negotiate a contract with Dennis Kelly for submittal to the City Commission within two weeks. The votes were as follows: Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-Yes, Mayor Corina S. Esquijarosa-Yes, Connie Leon-Kreps-Yes, and Commissioner Eddie Lim-Yes. The motion carried 5-0.

15. APPROVAL OF MINUTES

A. REGULAR CITY COMMISSION MEETING – JULY 26, 2011
B. TENTATIVE BUDGET PUBLIC HEARING – SEPTEMBER 6, 2011
C. SPECIAL CITY COMMISSION MEETING – SEPTEMBER 20, 2011

A motion was offered by Mayor Corina S. Esquijarosa and seconded by Commissioner Frank Rodriguez to approve the Minutes as submitted. The votes were as follows: Vice Mayor Connie Leon-Kreps-Yes, Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Absent, Commissioner Frank Rodriguez-Yes, and Mayor Corina S. Esquijarosa-Yes. The motion carried 4-0.

16. ADJOURNMENT

The meeting adjourned at 12:35 p.m.

Prepared and submitted by:

Yvonne P. Hamilton, CMC, City Clerk

Adopted by the City of North Bay Village on this ___ day of _____2012.

_____
Connie Leon-Kreps, Mayor

(Note: This document does not reflect a true verbatim record of the meeting. This is a summarization of the proceedings. 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.)

13 B(54)

OFFICIAL MINUTES

CITY OF NORTH BAY VILLAGE
SPECIAL MEETING
TUESDAY, NOVEMBER 1, 2011

6:30 P.M

A Special Meeting of the City of North Bay Village Commission was held on Tuesday, November 1, 2011, 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 6:33 p.m. by Vice Mayor Connie Leon-Kreps, and the Pledge of Allegiance was recited. The following were present:

Vice Mayor Connie Leon-Kreps
Commissioner Eddie Lim
Commissioner Frank Rodriguez
Commissioner Paul Vogel

Mayor Corina S. Esquijarosa was absent.

Interim City Manager Robert Daniels
City Attorney Nina Boniske
Finance Director Gerard Pirri
Public Works Director Sam Zamacona
City Clerk Yvonne P. Hamilton

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

2. **INTERVIEW OF CITY MANAGER CANDIDATES: (NAMES LISTED IN ALPHABETICAL ORDER)**

Prior to the meeting Mr. Fields requested that he be interviewed first due to a prior engagement. There was no objection and the City Commission interviewed the following candidates as to their qualifications for the position of City Manager.

13 B(55)

A. **KENNETH FIELDS**
B. **JONATHAN EVANS**
C. **W.D. HIGGINBOTHAM**
D. **DENNIS KELLY**
E. **PETER LOMBARDI**
F. **RALPH ROSADO**

3. **ADJOURNMENT**

The meeting adjourned at 8:45

Prepared and submitted by:

Yvonne P. Hamilton, CMC, City Clerk

Adopted by the City of North Bay Village on this ___ day of _____ 2012.

_____

Connie Leon-Kreps, Mayor

(Note: This document does not reflect a true verbatim record of the meeting. This is a summarization of the proceedings. 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.)

13B(56)

OFFICIAL MINUTES

CITY OF NORTH BAY VILLAGE
REGULAR CITY COMMISSION MEETING
TUESDAY, OCTOBER 11, 2011

7:30 P.M

The Regular Meeting of the City of North Bay Village Commission was held on Tuesday, October 11, 2011, 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 7:39 p.m. by Vice Mayor Connie Leon-Kreps, and the Pledge was recited. The following were present:

Vice Mayor Connie Leon-Kreps
Commissioner Eddie Lim
Commissioner Frank Rodriguez

Absent: Mayor Corina S. Esquijarosa
Commissioner Paul Vogel

Interim City Manager Robert Daniels
City Attorney Nina Boniske
Assistant City Attorney Kathy Mehaffey
Finance Director Gerard Pirri
Public Works Director Sam Zamacona
City Clerk Yvonne P. Hamilton

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

A. ABSENCE – COMMISSIONER PAUL VOGEL

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to excuse the absences of Mayor Corina S. Esquijarosa and Commissioner Paul Vogel. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Frank Rodriguez-Yes, and Vice Mayor Leon-Kreps-Yes. The motion carried 3-0.

13 B(57)

(**Note:** Commissioner Rodriguez left the meeting at 9:20 p.m., and Commissioner Vogel arrived at 9:45 p.m.)

2. A. PROCLAMATIONS AND AWARDS

There were no proclamations and awards.

B. SPECIAL PRESENTATIONS

There were no special presentations.

C. ADDITIONS AND DELETIONS

Without objection, Vice Mayor Leon-Kreps withdrew Item 11E from the agenda and items were heard out of order.

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

A report was not provided.

D. COMMUNITY ENHANCEMENT BOARD

A report was not provided.

E. PLANNING & ZONING BOARD

A report was not provided.

F. YOUTH SERVICES BOARD

A report was not provided.

G. CITY MANAGER REVIEW COMMITTEE

A report was not provided.

4. PUBLIC SAFETY DISCUSSION

There was no public safety discussion.

5. COMMISSIONERS' REPORTS

There were no reports.

6. CITY ATTORNEY'S REPORT

City Attorney Nina Boniske requested to file an appeal in the matter of Dade County Police Benevolent Association, Inc. vs. City of North Bay Village Police Department, FMCS 10-04747-3.

A motion as offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Paul Vogel to file an appeal in the case of Dade County Police Benevolent Association, Inc. vs. City of North Bay Village Police Department, FMCS 10-04747-3. The votes were as follow: Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Yes, and Mayor Connie Vice-Kreps-Yes. The motion carried 3-0.

7. CITY MANAGER'S REPORT

A report was not provided.

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

Elaine Beutel, of 7533 Hispanola Avenue, addressed the Commission and commended Commissioner Paul Vogel for attending the meeting in spite of his illness.

Scott Greenwald, developer of the Indigo Lofts, requested that the Commission readdress the ordinance to permit mixed- use zoning at 7904 West Drive, 7910 West Drive, and 7914-7918 West Drive that was passed contrary to the Comprehensive Plan by first amending the Comprehensive Plan and then changing the zoning of the properties. (An ordinance was not passed to permit mixed use at 7910 West Drive and 7914-7918 West Drive.)

Gudrun Volker, of 7517 Cutlass Avenue, discussed the power outages that have been occurring on Treasure Island. She urged the Commission to adopt regulations to prohibit trees on private properties from growing into FPL lines, which has been the cause of outages.

Vice Mayor Leon-Kreps noted that she had contacted FPL about correcting the outage problems and answers will be provided at the next Commission Meeting.

9. **CONSENT AGENDA**

A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, RELATING TO THE PUBLIC WELFARE, AUTHORIZING THE CITY MANAGER, ON BEHALF OF THE NORTH BAY VILLAGE POLICE DEPARTMENT TO ENTER INTO A LAW ENFORCEMENT MUTUAL AID AGREEMENT WITH THE TOWN OF MEDLEY; SETTING AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

B. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING RENEWAL PRICING FOR THE CITY'S GROUP INSURANCE PROGRAM TO NEIGHBORHOOD/UNITED HEALTH CARE FOR HEALTH AND VISION INSURANCE AND TO BLUE CROSS BLUE SHIELD OF FLORIDA FOR DENTAL INSURANCE; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY REQUIRED AGREEMENTS; AUTHORIZING THE CITY OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF ANY AGREEMENTS; AUTHORIZING THE EXPENDITURE OF BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

13 B (60)

C. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING THE LITIGATION STIPULATION AND AGREEMENT OF SETTLEMENT WITH GARY NALEPA, ON BEHALF OF HIMSELF AND THE CLASS; AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE THE SETTLEMENT AGREEMENT AND ANY ADDITIONAL DOCUMENTS PERTAINING TO THE SETTLEMENT AGREEMENT AND TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY CITY MANAGER ROBERT DANIELS)***

D. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, DIRECTING THE CITY MANAGER TO TAKE ALL STEPS NECESSARY TO COMPLETE THE DESIGN OF DR. PAUL VOGEL COMMUNITY PARK, TO PREPARE THE APPROPRIATE PROCUREMENT DOCUMENTS FOR THE CONSTRUCTION OF THE IMPROVEMENTS, TO INITIATE THE PROCUREMENT PROCESS; AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY ACTIONS TO COMPLY WITH GRANT REQUIREMENTS; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY REQUIRED EXTENSIONS TO EXISTING AGREEMENTS OR OTHER ASSOCIATED DOCUMENTS PERTAINING TO THE DESIGN OR CONSTRUCTION AND GRANTS FOR IMPROVEMENTS TO DR. PAUL VOGEL COMMUNITY PARK; AUTHORIZING THE EXPENDITURE OF BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

The City Clerk read the resolution by title.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to approve the Consent Agenda Items. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Absent, Commissioner Frank Rodriguez-Yes, Mayor Corina S. Esquijarosa-Absent, and Vice Mayor Leon-Kreps-Yes. The motion carried 3-0.

10. PLANNING & ZONING CONSENT AGENDA

There were no planning and zoning consent agenda items.

11. ORDINANCES FOR FIRST READING AND RESOLUTIONS

The City Clerk read the resolution by caption.

A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, IMPLEMENTING RULES AND PROCEDURES UNDER WHICH MEMBERS OF THE CITY COMMISSION MAY PARTICIPATE IN REGULAR AND SPECIAL COMMISSION MEETINGS VIA TELEPHONE CONFERENCE OR BY OTHER INTERACTIVE ELECTRONIC TECHNOLOGY; AND PROVIDING AN EFFECTIVE DATE.** ***(INTRODUCED BY COMMISSIONER FRANK RODRIGUEZ)***

Commissioner Rodriguez explained that the purpose of the resolution was to allow Commissioner Vogel to participate in the meetings remotely from his home while he was ill.

Commissioner Lim asked if the ordinance was drafted by the City Attorney.

Commissioner Rodriguez responded that the resolution was drafted by the City Clerk and was reviewed by the City Attorney.

Commissioner Lim mentioned that while the resolution has merit, some of the provisions like Sections 4 and 6 seem opened to different interpretations.

City Attorney Boniske clarified that the City Attorney did not suggest the language.

Vice Mayor Leon-Kreps expressed concern to the appearance of discrimination and targeting of the commissioner who was absent because he was seriously ill.

City Attorney Boniske pointed out Section 8 of the resolution which deals with reasonable accommodations under the Americans with Disability Act (ADA).

Commissioner Lim suggested the removal of Sections 3 and 6, and the addition of a new Section 4.

Elaine Beutel expressed support for the amendment.

Jorge Brito agreed with the provisions regarding the ADA regulations.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to approve the Resolution with amendment to Sections 3 and 6. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Frank Rodriguez-No, and Vice Mayor Connie Leon-Kreps-Yes.

As the sponsor of the resolution, Commissioner Rodriguez withdrew the item from the agenda.

The motion and the second to approve the resolution were withdrawn.

B. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE APPROPRIATION OF $937,530 OF AVAILABLE NON-APPROPRIATED POLICE FEDERAL FORFEITURE FUNDS (FUND 07) AND THE DISBURSEMENT OF SUCH FUNDS FOR LAW ENFORCEMENT EXPENSES AS SET FORTH HEREIN; PROVIDING FOR AN EFFECTIVE DATE. ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

The City Clerk read the resolution by title.

Interim City Manager Daniels reported that $1.5 Million was received into the Law Enforcement Trust Fund, and he discussed use of the monies to replace 19 vehicles, to purchase laptop computers, and to fund the salaries of two-full time police officers for one year.

Commissioner Lim asked about the appropriateness of the expenditures.

Interim City Manager Daniels responded that the expenses were reviewed and approved by the City Attorney.

Commissioner Lim asked about the urgency of purchasing the vehicles.

Interim City Manager Daniels explained that the vehicles would have to be purchased with monies from the general fund, if the forfeiture funds were not available.

Commissioner Rodriguez questioned the amount of $220,000 for the two full-time police officers.

Interim City Manager Daniels explained that the Police Department has the opportunity to replace two officers whose salaries were not included in the budget.

Commissioner Rodriguez asked if the two Police Officers who were laid could be rehired.

Interim City Manager Daniels responded that there is no guarantee that money would be received next year to fund the positions.

City Attorney Boniske clarified that the federal guidelines allow the use of forfeiture monies to fund the cost of officers' salary for one year.

Commissioner Rodriguez stated his intent to support the resolution since he was against the termination of two Police Officers.

Vice Mayor Leon-Kreps clarified that the funds were being taken from the forfeiture account rather than from the general fund.

Vice Mayor Leon-Kreps opened the floor to public comments.

Residents Richard Chervony and Elaine Beutel expressed support for the forfeiture expenditures.

Bobby Jenkins, District Director of the Fraternal Order of Police, introduced himself to the Commission.

Jorge Brito asked if any officers were laid off.

Interim City Manager Daniels responded that one Police Officer position was frozen and one Police Officer was laid off.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to approve the Resolution. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Frank Rodriguez-Yes, and Vice Mayor Connie Leon-Kreps-Yes. The motion carried 3-0.

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

The City Clerk read the resolution by title.

Vice Mayor Leon-Kreps reported that the City Commission was looking for volunteers to assist in amending the City Charter.

Commissioner Rodriguez opposed to the five-year residency requirement outlined in the resolution.

Commissioner Lim suggested that residents with over five years of experience in the City would be able to provide historical perspective.

City Manager Daniels announced that technical difficulties were being experienced which prevented live broadcast of the meeting.

Gudrun Volker and Elaine Beutel agreed with the five-year residency requirement.

Commissioner Rodriguez left the meeting at approximately 9:20 p.m. due to an emergency.

Vice Mayor Leon-Kreps recessed the meeting.

Commissioner Vogel attended the meeting at approximately 9:45 p.m. and the meeting recommenced.

City Clerk Hamilton conducted a new roll call and the following members of the Commissioner were present: Vice Mayor Connie Leon-Kreps, Commissioner Eddie Lim, and Commissioner Paul Vogel.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to excuse Commissioner Rodriguez's absence. The motion carried 3-0 on a roll call vote.

Kathy Penrod, of 1881 Kennedy Causeway, discussed her disqualification as a candidate for the board because of her three-year residency even with a Master's Degree in Public Administration.

Vice Mayor Leon-Kreps closed the floor to public comments.

Commissioner Lim suggested that the Chair allow other individuals to participate as cooperative members.

Vice Mayor Leon-Kreps encouraged Ms. Penrod to still participate in the board meetings, to join other boards, and to become familiar with the City.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to approve the resolution. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Frank Rodriguez-Yes, and Vice Mayor Connie Leon-Kreps-Yes. The motion carried 3-0.

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

The City Clerk read the resolution by title.

Interim City Manager Daniels explained that as the administration looks to the budget process and for ways to contain cost; he was recommending as cost savings to the General Fund that the City Commission accept project items for discussion and approval and subsequently allow staff to research the items prior to submitting the issues as resolutions/ordinances to the Commission. This process would save time and money to staff and contract officials, as well as avoid items being submitted to the Commission, then being rejected or different versions of similar requests being submitted.

Mayor Leon-Kreps asked how emergency issues would be addressed.

Interim City Manager Daniels responded that the City Manager has the responsibility of dealing with emergency situations in the best interest of the city.

Commissioner Lim expressed his favor to passage of the resolution considering the cost effectiveness and use of limited resources.

Vice Mayor Leon-Kreps opened the floor to public comments, and no one came forward to be heard.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to approve the resolution. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Frank Rodriguez-Yes, and Vice Mayor Connie Leon-Kreps-Yes. The motion carried 3-0.

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

Vice Mayor Leon-Kreps withdrew the item from the agenda.

F. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 54, "EMERGENCY MANAGEMENT," CHAPTER 93, "FIRE PREVENTION," CHAPTER 96, "NUISANCES, NOISE," CHAPTER 110, "GENERAL LICENSING AND OTHER PROVISIONS," CHAPTER 135, "OFFENSES AGAINST PUBLIC PEACE AND SAFETY," AND CHAPTER 153, "CODE ENFORCEMENT," TO ADDRESS FIREARM REGULATIONS PREEMPTED BY STATE LAW; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. *(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)*

The City Clerk read the ordinance by title.

Interim City Manager Daniels explained that the State Legislature trumped local jurisdictions on where guns can be carried as part of the concealed firearms permits. The ordinance was reviewed by the City Attorney and revisions have been made to ensure compliance.

Assistant City Attorney Kathy Mehaffey explained that there are extensive penalties (up to $5,000 individual penalty) for enforcing or authorizing any legal action that is contrary to state law. The proposed ordinance amends the City Code to remove any provisions that are contrary to state law. A number of provisions have been illegal for many years, but like many other jurisdictions, they have not been enforced in order to comply with state law. The new state legislation imposes these significant penalties so that it is much safer for both employees and commissioners to remove those provisions from the code prevent any accidental enforcement.

Vice Mayor Leon-Kreps opened the floor to public comments and no one came forward to be heard.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to approve the ordinance on first reading. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Frank Rodriguez-Yes, and Vice Mayor Connie Leon-Kreps-Yes. The motion carried 3-0.

12. PUBLIC HEARINGS INCLUDING ORDINANCES FOR SECOND READING

The City Clerk read the ordinance by title.

A. AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE FIVE-YEAR SCHEDULE OF CAPITAL IMPROVEMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; SETTING AN EFFECTIVE DATE. *(SECOND READING)* – PUBLIC HEARING

Interim City Manager Daniels reported that the ordinance was heard on first reading at the last Commission Meeting.

Ralph Rosado, Grant Consultant with Corzo Castella Carballo Thompson Salman, P.A. of 901 Ponce De Leon, 901 Ponce De Leon Boulevard, Suite 900, Coral Gables, Florida 33134 discussed the Five-Year Capital Plan. In order for the City to apply for grants for the Dr. Paul Vogel Park and the plaza project at the eastern edge of the City, the projects have to be included in the plan. The projects were adopted as part of the city's budget so the numbers reflect a combination of current grants and monies that have already been allocated. Approximately $185,000 has already been spent on Dr. Paul Vogel Park. The City received a Florida Inland Navigational District (FIND) grant for $300,000 for work on the seawall, docks, and anything adjacent to the park, excluding upland improvement; $60,000 was received from the State Coastal Management Program; and $415,000 was allocated in the budget for Fiscal Year 2012. Mr. Rosado further reported that an extension to the end of the year was received on the plaza area renovation, which would include landscaping, a walkway, shared use path, lighting, benches with an overall budget of $500,000, after he and the City Manager met with Commissioner Sally Heyman. The City will apply for a grant which will cover approximately $200,000 of the cost of the project and will need to secure the balance. Other grants will be available at the beginning of next year and the city would be eligible to apply for them. The idea is to obtain as much money from outside sources as possible so that taxpayers do not have to fund cost of the projects.

Vice Mayor Leon-Kreps opened the floor to public comments. No one came forward to be heard.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Paul Vogel to approve the resolution. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Yes, and Mayor Connie Vice Leon-Kreps-Yes. The motion carried 3-0.

B. A REQUEST BY SABOR LATIN AMERICA CONCERNING PROPERTY AT 1880 – 79TH STREET CAUSEWAY, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

A VARIANCE PURSUANT TO SECTION 111.03 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES FROM THE STRICT APPLICATION OF SECTIONS 111.12(A) (1) AND 111.12(B) (1) FOR THE ISSUANCE OF A BUSINESS TAX RECEIPT TO PERMIT THE SALE AND ON PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN 500 FEET OF A PUBLIC SCHOOL AND WITHIN 300 FEET OF AN EXISTING RESTAURANT, LOUNGE, AND NIGHTCLUB HOLDING A 4COP LICENSE.

The City Clerk read the request into the record.

City Attorney Boniske read the procedures for the quasi judicial proceeding pursuant to Section 29 of the City Code.

City Clerk Yvonne Hamilton swore in those individuals who indicated that they would provide testimony.

City Attorney Boniske advised the members of the Commission that they are required to disclose any communication they might have had regarding the request.

Vice Mayor Leon-Kreps disclosed communication with the applicant to apologize for delay of the meeting to hear the request. Commissioner Eddie Lim disclosed communication with the applicant to clarify the hearing date.

City Planner Alex David submitted the Staff Report into the record, and he recommended approval of the request to sell beer and wine at the rest located at 1880 – 79th Street Causeway.

13 B (69)

Applicant Rafael Ramirez made a brief presentation to the Commission and explained his intent to operate a long-established restaurant in the City that sells Columbian food.

Vice Mayor Leon-Kreps opened the Public Hearing.

Reinaldo Trujillo, of 7601 East Treasure Drive and Chairman of the Planning & Zoning Board, reported that the Board approved the request by a unanimous decision. He stated his support for the request although there were some issues concerning the close proximity to the Treasure Island Elementary School and neighboring businesses that also sell beer and wine.

Scott Greenwald, of 1700 Kennedy Causeway, spoke of the importance of having the business in the City and the difficulty of starting a business. He suggested that the sale of beer and wine by nearby establishments was not an issue in the surrounding area.

James Carter, of 7516 West Treasure Drive and member of the Planning & Zoning Board, spoke in favor of the request.

Vice Mayor Leon-Kreps closed the Public Hearing.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to approve the request with the following conditions:

1. The alcoholic beverages shall be consumed on the premises with the operation of the restaurant only.

2. The establishment shall be allowed to sell, serve, and dispense alcoholic beverages for consumption on the premises between the hours of 10:00 a.m. and 2:00 a.m.

3. Sale of package goods, i.e., alcohol for off-premises consumption, shall be prohibited.

The votes were as follows: Commissioner Paul Vogel-Yes, Commissioner Eddie Lim-Yes, and Vice Mayor Connie Leon-Kreps-Yes. The motion carried 3-0.

13 B (90)

C. A REQUEST BY THE PROPERTY OWNER OF 1520 SOUTH TREASURE DRIVE, LOT 23, BLOCK 1, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR MODIFICATIONS TO PREVIOUSLY APPROVED PLANS FOR CONSTRUCTION OF A DOCK.

The City Clerk read the request into the record.

Interim City Manager Daniels requested that the matter be deferred to the Commission Meeting scheduled for November 8, 2011 at 7:30 p.m. due to the absence of the Marine Survey that is required as part of the application for a waiver before the Commission.

Robert Rossi, contractor for the applicant, responded that the Marine Survey was completed by DERM. He expressed concern that the item was being deferred for the fourth time and that he was contacted about cancellation of the last meeting only two hours before.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to defer the request to the City Commission Meeting of November 8, 2011 at 7:30 p.m. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Yes, and Vice Mayor Connie Leon-Kreps-Yes. The motion carried 3-0.

13. UNFINISHED BUSINESS

A. CITY MANAGER VACANCY

Interim City Manager Daniels recommended that the City Commission hold a special meeting on November 1, 2012 to interview the five city manager candidates recommended by the City Manager Review Committee along with any other names provided by members of the Commission based on the resolution setting forth the interview process. He also suggested that the Commission could conduct individual interviews at City Hall earlier during the day. He requested authorization to pay the cost for travel and hotel accommodations for the candidates who live outside of the state and in Central Florida.

13 B(11)

Commissioner Lim thanked Alvin Blake, Jorge Gonzalez, Reinaldo Trujillo, Mike Tannhauser, and Roger Carlton, City Manager of Surfside, for serving on the City Manager Interview Committee. He supported the Interim City Manager's recommendation to hold private interviews with the candidates followed by public interviews before making a short list of the applicants based on criteria of experience, presentation, public relations, etc., prior to voting on the matter.

Interim City Manager Daniels read the names of the five finalists into the record: Peter Lombardi, Kenneth Fields, Dennis Kelly, Jonathan Evans, and W.D. Higginbotham, Jr.

Vice Mayor Leon-Kreps requested that Ralph Rosado's name be added to the list of candidates to be interviewed because he showed interest in the position, and she would like to provide him with an opportunity to be interviewed.

Interim City Manager Daniels noted that any member of the Commission can provide additional names of individuals to be interviewed according to the resolution adopting the city manager selection process.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to accept the names of the five candidates recommended by the City Manager Review Committee: Peter Lombardi, Kenneth Fields, Dennis Kelly, Jonathan Evans, and W.D. Higginbotham, Jr. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Yes, and Vice Mayor Connie Leon-Kreps-Yes. The motion carried 3-0.

14. NEW BUSINESS

A. APPOINTMENT OF MEMBER TO THE PLANNING & ZONING BOARD

City Clerk Yvonne Hamilton read the names of the applicants into the record: Ann Bakst and Arlene Rock, of Treasure Island and Carmen Lizardi and Jorge Gonzalez, of Harbor Island.

A motion was offered by Commissioner Eddie Lim and seconded by Vice Mayor Connie Leon-Kreps to appoint Jorge Gonzalez to the Planning & Zoning Board.

Commissioner Lim mentioned that Mr. Gonzalez was a great asset to the committee to select the City Manager and he currently oversees 11 condominium associations at the 360 development.

The votes were as follows: Commissioner Paul Vogel-Yes, Vice Mayor Connie Leon-Kreps-Yes, and Commissioner Eddie Lim-Yes. The motion carried 3-0.

15. APPROVAL OF MINUTES

A.1 Special City Commission Meeting - June 30, 2011
A. Special City Commission Meeting – May 24, 2011
B. Regular City Commission Meeting – May 10, 2011
C. Special City Commission Meeting –April 27, 2011
D. Regular City Commission Meeting – April 12, 2011
E. City Commission Workshop-March 22, 2011
F. Special City Commission Meeting – March 22, 2011
G. Regular City Commission Meeting – February 22, 2011
H. Special City Commission Meeting – January 25, 2011
I. Regular City Commission Meeting – January 11, 2011
K. Special City Commission Meeting – December 30, 2010
J. Regular City Commission Meeting – December 14, 2010
L. Regular City Commission Meeting – November 30, 2010
M. Special City Commission Meeting – November 1, 2010
N. Regular City Commission Meeting – October 19, 2010
O. Regular City Commission Meeting – September 28, 2010
P. Regular City Commission Meeting – September 14, 2010
Q Special City Commission Meeting – September 14, 2010

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to approve the Minutes. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Yes, and Mayor Connie Leon-Kreps-Yes. The motion carried 3-0.

13 B(13)

16. ADJOURNMENT

The meeting adjourned at 11:40 p.m.

Prepared and submitted by:

Yvonne P. Hamilton, CMC
City Clerk

Adopted by the City Commission on
this _____ day of _____2012.

_____
Connie Leon-Kreps, Mayor

(Note: This document does not reflect a true verbatim record of the meeting. This is a summarization of the proceedings. 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.)

13 B (74)

OFFICIAL MINUTES

CITY OF NORTH BAY VILLAGE
FINAL BUDGET PUBLIC HEARING
TUESDAY, SEPTEMBER 20, 2011

6:00 P.M.

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

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

Mayor Corina S. Esquijarosa called the Final Budget Public Meeting of the City Commission to order at 7:34 p.m., and the Pledge of Allegiance to the Flag was recited. The following members of the Commission were present at roll call:

Mayor Corina S. Esquijarosa
Vice Mayor Connie Leon-Kreps
Commissioner Eddie Lim
Commissioner Frank Rodriguez
Commissioner Paul Vogel

The following staff members were present:

Interim City Manager Robert Daniels
City Attorney Nina Boniske
Assistant City Attorney Kathryn Mehaffey
Financial Planner Lourdes Abadin
Finance Director Gerard Pirri
Public Works Director Samuel Zamacona
City Clerk Yvonne P. Hamilton

2. PUBLIC HEARING ON THE FINAL MILLAGE AND FINAL BUDGET FOR FISCAL YEAR 2011-2012.

13 B (75)

City of North Bay Village

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

CITY OF NORTH BAY VILLAGE
MEMORANDUM

DATE: July 10, 2012

TO: Mayor Connie Leon-Kreps
Vice Mayor Eddie Lim
Commissioner Stuart Blumberg
Commissioner Richard Chervony

FROM: Dennis Kelly
City Manager

SUBJECT: Relocation of Live Oaks

RECOMMENDATION:

It is recommended that the City Commission discuss the relocation of 96 Live Oak Trees from the Treasure Island Bulb Outs. Thirty (30) of the live oaks to be permanently relocated at the Treasure Island Elementary School and Sixty-six (66) of the live oaks to be temporarily relocated at William H. Turner Technical Education Center and/or other MDCPS District locations for future use by the City.

BACKGROUND:

The City Commission awarded Bid No. 2009-04 for the construction of Bulb-Outs with Landscaping on Treasure Island Streets to Ocean Palm Enterprises on July 27, 2009 at a bid price of $309,011.25.

1HB(1)

REASON

Commissioner Stuart Blumberg and some residents have expressed their wish for more colorful plantings to enhance the community. Accordingly, the Live Oaks will be replaced with colorful native plants pursuant to Chapter 100 of the City Code and after review by the Community Enhancement Board and approval by the Commission.

ADDITIONAL INFORMATION:

The City will perform initial maintenance of all 96 trees and enter into an agreement with the provisions to maintain ownership of sixty-six (66) of the live oaks planted at the temporary holding site and may remove them by the City at a later date at its sole expense.

Miami-Dade County's Tree Removal Permit Application Package must be filled out signed by a Landscape Architect or a Florida Certified Arborist. Important requirements that will need to be included:

1. Tree Removal/Relocation Inspection & Permit Fees Attached.
2. All "regular-sized" trees removed, except for the exempt or prohibited species, must be replaced with an equal amount (100%) of tree canopy.
3. A landscape plan must be submitted and approved by DERM prior to permit issuance. A performance bond is required for the cost of the canopy replacement. The bond must be submitted prior to permit issuance.

The relocation of the trees must abide by the North Bay Village Code of Ordinances, Title IX, GENERAL REGULATIONS, Chapter 100, TREE PRESERVATION AND PROTECTION. Important requirements that will need to be included:

1. Permit application required.

The Community Enhancement Board has not voted on this item as of today's date.

Pursuant to the existing contract with Groundkeepers, Inc. the City can engage their services to relocate the trees, rather than bidding out the service.

14B(2)

BUDGETARY IMPACT:

Account No. 01-018-541-5323
Contract Services – Ground Maintenance

Amount: $ 9,600 for root pruning 60 days prior to relocation and watering.

$19,604 for relocation and watering of the trees for 2 months, three days per week.

$ 1,664 County Permit cost (600 + 28 + 65 + 65+265 + 576 + 65)

Tree Trust Fund charge of $150 per tree that does not survive the relocation may apply.

City Tree Removal and Relocation Permit Fee may be waived by the City Manager.

Tree Replacement cost to be determined.

PERSONNEL IMPACT:

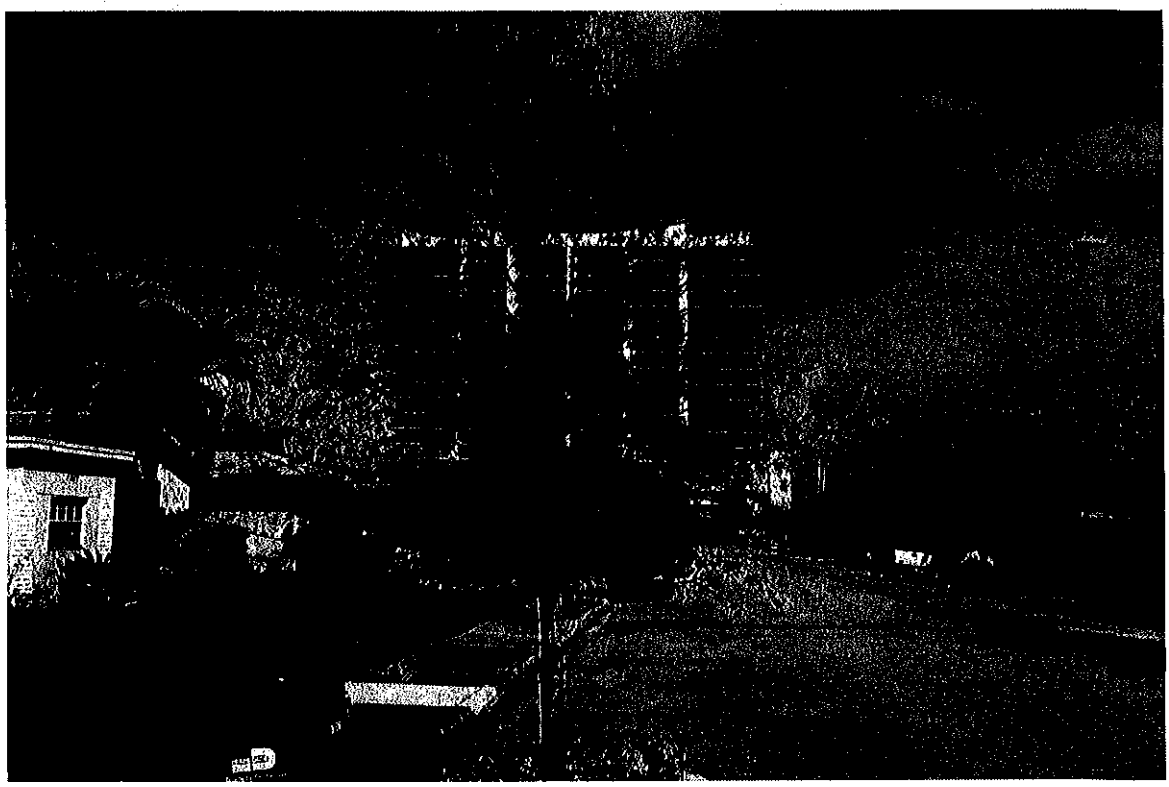
None

CONTACT:

Dennis Kelly, City Manager

DK:yph

14B(3)



14B(4)

Miami-Dade County Public Schools
giving our students the world

Superintendent of Schools
Alberto M. Carvalho

Miami-Dade County School Board
Perla Tabares Hantman, Chair
Dr. Lawrence S. Feldman, Vice Chair
Dr. Dorothy Bendross-Mindingall
Carlos L. Curbelo
Renier Diaz de la Portilla
Dr. Wilbert "Tee" Holloway
Dr. Martin Karp
Dr. Marta Pérez
Raquel A. Regalado

May 18, 2012

Mr. Sam Zamacona, Public Works Director
City of North Bay Village
1700 Kennedy Causeway, Suite 132
North Bay Village, FL 33141

Dear Mr. Zamacona:

As recently discussed with you, I am confirming that we are prepared to accommodate up to 96 Live Oak trees owned by the City of North Bay Village (City). Approximately 30 to 35 trees will be permanently installed at Treasure Island Elementary School with the remaining trees placed in temporary holding at William H. Turner Technical Education Center and/or other District locations, for future use by the City. It is our understanding that the City would relocate, install and perform initial maintenance on the trees at its sole expense. While the District would take possession of the trees at Treasure Island Elementary upon installation by the City, trees placed at the temporary holding site may be removed by the City at a later date at its sole expense.

Please let me know when you are prepared to proceed. My office will draft necessary documents detailing terms of this agreement for approval and execution by both entities. If there are any questions or you need further information, please contact me at 305-995-7849 (office), or 786-229-2179 (cell).

Sincerely,

DWayne Willis, Supervisor II
Facilities Operations, Maintenance

DW:tsa

Cc: Mr. Jaime G. Torrens
Mr. Carl Nicoleau
Mr. Francis Hoar

14B(5)

Miami-Dade County's

Tree Removal Permit Application Package

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MIAMI-DADE COUNTY

Miami-Dade County
Department of Environmental Resources Management
701 NW 1st Court, 7th floor, Miami, Florida 33136
Phone: (305) 372-6574 Fax: (305) 350-6203

Tenemos disponibles paquetes para solicitar el permiso de remoción de árboles en español. Para más información llame al (305) 372-6574

On the web at: *www.miamidade.gov/derm*

This booklet is provided as a public service by the Miami-Dade County Department of Environmental Resources Management (DERM). Miami-Dade County provides equal access and equal opportunity in employment and services and does not discriminate on the basis of handicap.

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No Permits Required unless the Trees are in a Natural Forest Community (NFC) or a protected preserve such as EEL lands.

**Photos of the trees should be taken before the trees are removed. Keep the photos for your records.
**Trees can only be removed with the property owner's consent.
**Photos & information may be viewed at http://www.miamidade.gov/derm/Plants/

Prohibited Tree Species:

1. Australian Pine (Causuarina equisetifolia)
2. Banyan Fig (Ficus benghalensis)
3. Bishopwood (Bischofia javanica)
4. Brazilian jasmine (Jasminum fluminese)
5. Brazilian pepper (Schinus terbinthifolius)
6. Carrot wood (Cupaniopsis anacardiosdes)
7. Castor bean (Ricinus communis)
8. Catclaw mimosa (Mimosa pigra)
9. Day blooming jasmine (Cestrum diurnum)
10. Earleaf acacia (Acacia auriculiformis)
11. Gold coast jasmine (Jasminum dichotomum)
12. Governor's plum (Flacourtia indica)
13. Indian rosewood (Dalbergia sissoo)
14. Lather leaf (Colubrina asiatica)
15. Laurel fig (Ficus microcarpa)
16. Lead tree (Leucaena leucocephala)
17. Lofty fig (Ficus altissima)
18. Mahoe (Hibiscus tiliaceus)
19. Melaleuca (Melaleuca quinqenervia)
20. Queensland umbrella tree (Schefflera actinophylla)
21. Red sandalwood (Adenanthera pavonina)
22. Seaside mahoe (Thespesia populnea)
23. Shoebutton ardisia (Ardisia elliptica)
24. Tropical soda apple (Solanum viarum)
25. Woman's tongue (Albizia lebbeck)
26. Woodrose (Merremia tuberose)

Additional Trees that are Exempt from Permitting:

27. Guavas (Psidium guajava) -Exempt from permitting
28. Norfolk Island Pine (Araucaria heterophylla) -Exempt from permitting
29. Poison Wood (Metopium toxiferum) - Exempt from permitting

Other Prohibited Plants (they are not trees):

1. Air Potato (Dioscorea bulbifera)
2. Burma Reed (Neyraudia reynaudiana)
3. Climbing Fern (Lygodium spp.)
4. Napier Grass (Pennisetum purpureum)

Common Types of Ficus Trees:

1. Ficus altisima – lofty fig, council fig, false banyan
   - prohibited
2. Ficus aurea – strangler fig
   - native
3. Ficus behghalensis – banyan tree
   - prohibited
4. Ficus benjamina – weeping fig
   - non-native; never specimen size
5. Ficus citrifolia – shortleaf fig
   - native
6. Ficus elastica – Indian rubber tree
   - non-native; never specimen size
7. Ficus lyrata – fiddleleaf fig
   - non-native; never specimen size
8. Ficus microcarpa, Ficus nitida, Ficus retusa -Cuban laurel
   - prohibited
9. Ficus religiosa – bo fig
   - non-native; never specimen size

**Non-native and native Ficus trees require a permit prior to removal or relocation.

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Special Permits and Requirements

Tree removal permit applications involving a building permit must include the following items:

1. A completed tree removal application form along with non-refundable application and initial inspection fees.

2. Two copies of a site plan. This site plan must show all proposed site improvements, including driveway, septic tank, pool, tennis court, utility lines, sewer lines, setbacks and any accessory buildings.

3. At the discretion of DERM, a tree survey may be required. Please see DERM *Tree Survey Guidelines and Specifications* for further information. Please be advised that DERM may require the property and area of proposed construction staked prior to inspection.

4. All permits require the full replacement of tree canopy. DERM approval of a tree replacement or landscaping plan may be required prior to the issuance of this tree removal permit. Please read the tree replacement requirement section for details.

Tree removal permit applications involving new road construction or any improvement in road right-of-ways must include the following items:

1. A completed tree removal application form along with non-refundable application and initial inspection fees.

2. Two copies of the paving and drainage plan with the locations of all trees to be affected. Please be advised that the center line and/or limits of construction must be staked prior to inspection and subsequent permit issuance.

3. All permits require the full replacement of tree canopy. DERM approval of a tree replacement plan or landscaping plan may be required prior to issuance of this tree removal permit.

Tree removal applications for work in a Natural Forest Community must include the following items:

1. A completed tree removal application form. Upon receipt of an application to do work within a Natural Forest Community (NFC), DERM biologists will inspect the site to verify that it meets the definition of a NFC.

2. Two copies of a site plan. This site plan must show the proposed site improvements, setbacks, including driveway, septic tank, pool, tennis court, utility lines, sewer lines, and any accessory buildings.

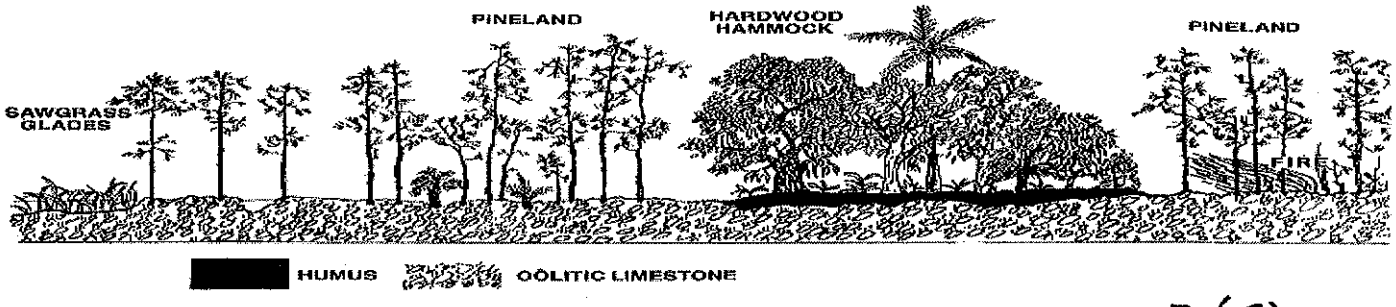
3. Prior to the issuance of a permit to remove all or portion of a NFC for site development, a restrictive covenant may be executed to provide for the preservation and management of the remaining forest community. Blank shell forms of the covenant document form are available from DERM upon request.

Note: Contact a biologist at (305) 372-6574 for information about these requirements.

Tree Replacement Requirements :

1. Tree canopy replacement will be required as a condition of every tree removal permit. Replacement Tree Plan forms are available upon request and may be used when the canopy impacted is less than 10,000 square feet. (See Canopy Credit Formulas on page 1).

2. When replacement tree canopy exceeds 10,000 square feet, a landscape plan must be submitted and approved by DERM prior to permit issuance. A performance bond is required for the cost of the canopy replacement. The bond must be submitted prior to permit issuance. The Department accepts letters of credit and certificates of deposits for the bond.



PINE AND HAMMOCK RIDGE

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General Information

Section 24-49 of the Miami-Dade County Code mandates the protection of Dade County's tree and forest resources. The following information should assist you in understanding Miami-Dade County tree and forest protection requirements. Please take the time to read this information carefully before filling out the attached application.

Where and when are tree removal permits required?

Tree removal permits are required for the cutting down, bulldozing, removal or relocation of any tree in Miami-Dade County, except for certain exemptions listed on Page 3. Permits are also required for any work in any designated Natural Forest Community (i.e. pinelands, hammocks). DERM may require the property owner to modify a site plan to preserve tree and forest resources.

Note: A tree is defined as any woody or fibrous perennial plant having a minimum trunk dbh* of three inches or greater or with an Over All Height (OAH) of twelve or more feet.

What about the trimming of trees?

Tree removal permits are not required for the selective pruning of trees, provided the pruning is done according to the most recent American National Standards (ANSI) A-300 Standard Practices for Tree Care Operations. However, excessive pruning (i.e. hatracking, topping, etc.) which results in the effective destruction of a tree constitutes a violation of Section 24-49 of the environmental Code of Miami-Dade County. Any other activity that can effectively destroy a tree, such as trunk girdling, excessive root cutting, or use of tree-killing chemicals, also violates Miami-Dade County Code.

Who administers the Miami-Dade County tree and forest protection program?

Miami-Dade County Department of Environmental Resources Management (DERM), Urban Tree Program, Code Enforcement Section.

Who must apply for a tree removal permit?

The owner of the property upon which the tree removal work will occur must sign the tree removal permit. The owner may designate an agent to sign the application and permit by submitting a letter of authorization to DERM.

What types of tree and forest resources does the ordinance protect?

There are three categories of protected tree resources in Miami-Dade County: "Regular-size" trees (less than 18" dbh), "specimen-size" trees (18" or greater dbh), and Natural Forest Communities which includes grasses, shrubs, and trees.

Will I be required to replant trees for the ones that I remove?

All "regular-sized" trees you remove -- except for the exempt or prohibited species -- must be replaced with an equal amount (100%) of tree canopy. "Specimen-sized" trees require double canopy replacement. This is accomplished by planting trees from the categories below:

Canopy Credit Formulas

Replacement Canopy Type	*Min. Size At Planting*	*Canopy Credit (Sq ft)*
Shade Tree 1	12' OAH*	500
Shade Tree 2	8' OAH	300
Palm 1	10' OAH	300
Palm 2	3' OAH	100
Small Tree	6' OAH	200

**OAH = Over All Height*

You may be required to replant more than one type of tree.

What about stands of natural forest such as hardwood hammocks or pinelands?

If a site has been designated as a Natural Forest Community or if you think a site may be a Natural Forest Community, please contact the DERM Forest Resources Program at **(305) 372-6548** for information.

What fees do I have to pay for a tree removal permit?

A non-refundable application fee (based on zoning) and initial inspection fee is required upon permit application submission. Additional fees may be charged at the time of permit issuance. See the fee schedule on Page 5.

What happens if I do not comply with the conditions and requirements of my tree removal permit or remove a tree or forest without a permit?

You may be issued a "Notice of Violation" and ordered to stop all land clearing and construction until you have complied with Section 24-49. Furthermore, you may be required to pay penalties for each violation and replace tree canopy.

How long will my tree removal permit be valid?

One year, but can be renewed by contacting DERM.

*** DBH (Diameter at Breast Height): Trunk diameter measured at 4 1/2 feet above ground.**

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MIAMI-DADE COUNTY

Department of Environmental Resources Management
Tree Program - Enforcement Section
701 NW 1st Court, Suite 700
Miami, Florida 33136-3912
T 305-372-6574

www.miamidade.gov/derm

TREE REMOVAL PERMIT APPLICATION
Solicitud de permiso para remover árboles

Owner and Contractor Information / Información del Dueño y Contratista

Owner Name / Nombre del dueño: _____

Mailing Address / Dirección: _____

City / Ciudad: _____ State / Estado: _____ Zip Code / Código Postal: _____

Phone / Teléfono: _____ Fax/Email / Fax/Correo Electrónico: _____

Contractor / Agent Name / Contratista / Agente: _____

Address / Dirección: _____

City / Ciudad: _____ State / Estado: _____ Zip Code / Código Postal: _____

Contact Number / Teléfono: _____ Fax/Email / Fax/Correo Electrónico: _____

Site Location and Description / Descripción y Localización del Sitio

Address / Dirección: _____

Property Folio / Folio de la Propiedad: ____ - ____ - ____ - ____ Tamaño del Lote: _____

SEC.: _____ TWP: _____ RG: _____ LOT: _____ BLOCK: _____

Current Zoning / Zona Actual: _____ Subdivision / Sub-división: _____

Does intended use of property require rezoning or plat approval / El uso de su propiedad requiere que se cambie la zona o aprobación de un PLAT? Si_No

Work Description / Descripción del Trabajo

Building Permit Process / Número del Permiso de Construcción: _____

Number and type of trees to be removed or relocated / Cantidad de árboles que va a cortar o relocalizar: _____

Reason for relocation or removal / Razón por la que quiere remover o relocalizar los árboles: _____

Application attachments include / Documentos adicionales incluidos: _____

Signature of certification that all above information is correct / Firma que certifica que toda la información de arriba es correcta:

Print name / Nombre en letra molde: _____ Signature / Firma: _____

When the permit is ready, would you like it to be:_mailed or _will you pick it up in person /

Cuando el permiso este listo, le gustaría que:_lo envíen por correo o_lo recogerá en persona

Official Use Only / Solamente Para Uso Oficial

Received By (Recibido por) _____ Date Received (Fecha recibida) _____

Fees included (pagos incluidos) _____ Payment type: (Tipo de pago)

Devuelva esta solicitud completa a DERM, Tree Program, Enforcement Section

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§ 100.01 - Tree preservation and protection.

(A) *Generally.* These tree preservation and protection regulations ("tree regulations") shall be a minimum standard for the protection, removal and relocation of trees and shall be enforced by the City. It shall be unlawful for any person to abuse any tree by improper trimming, or to effectively destroy a tree not specifically exempted by this ordinance.

(B) *Definitions.*

(1) *Caliper* shall mean for trees less than four (4) inches in diameter, the trunk diameter measured at a height of six (6) inches above natural grade. For trees four (4) inches and greater in diameter, the trunk diameter measured at twelve (12) inches above natural grade.

(2) *Diameter at breast height* ("DBH") shall mean the diameter of a tree's trunk measured at a point four and one-half (4½) feet above the natural grade. In the case of multiple-trunked trees, the DBH shall mean the sum of each trunk's diameter measured at a height four and one-half (4½) feet above the natural grade.

(3) *Hat-racking* shall mean flat-cutting the top of a tree, severing the leader or leaders, or the removal of any branch three (3) inches or greater in diameter at any point other than the branch collar.

(4) *Native habitat* shall mean an area enhanced or landscaped with an appropriate mix of native trees, shrubs and ground cover species that resembles a native plant community or natural forest community in structure and composition or is naturally occurring.

(5) *Native plant community* shall mean a natural association of plants dominated by one or more prominent native plant species or characteristic physical attributes.

(6) *Native plant species* shall mean a plant species with a geographic distribution indigenous to all or part of Miami-Dade County. Plants which are described as being native to Miami-Dade County in botanical manuals such as, but not limited to, "A Flora of Tropical Florida" by Long and Lakela and "The Biology of Trees Native to Tropical Florida" by P.B. Tomlinson, are native plant species within the meaning of this definition.

(7) *Natural forest community* shall mean all assemblages of vegetation designated as natural forest communities on the Dade County Natural Forest Community Maps and approved by the Board of County Commissioners, pursuant to Resolution No. R-1764-84 and further defined in Section 24-3 of the Dade County Code.

(8) *Natural grade* shall mean the ground elevation of a property prior to the placement of any fill on the site.

(9) *Pruning* shall mean the removal of plant parts, dead or alive, in a careful and systematic manner so as not to damage the other parts of the plant.

(10) *Specimen tree* shall mean a tree with any individual trunk which has a DBH of eighteen (18) inches or greater, provided, however, that the following trees are not specimen trees:

a. All trees listed in (c)(1)e.2.;

b. Non-native fruit trees that are cultivated or grown for the specific purpose of producing edible fruit, including, but not limited, to mangos, avocados, or species of citrus;

c. Non-native species of the genus *fichus.*

(11) *Tree* shall mean a woody or fibrous perennial plan with a trunk having a minimum DBH of three (3) inches or with an overall height of twelve (12) feet.

(12) *Understory* shall mean the complex of woody, fibrous, herbaceous, and graminoid plant species that are typically associated with a natural forest community, native plant community, or native habitat.

(C) *Tree removal and relocation permits.*

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(1) *Permits required.*

a. *Tree removal.* A tree removal permit is required for the removal or relocation of any tree in the City not specifically exempted below. It shall be unlawful for any person, unless otherwise permitted by the terms of these tree regulations to do tree removal work or to abuse, hatrack,

or effectively destroy any tree, or to effectively destroy any understory in a natural forest community.

b. *Natural forest community.* In addition to the requirements set forth herein, if a tree is located in a natural forest community, a permit must be obtained, prior to removal, from the Miami-Dade County Department of Environmental Resources Management.

c. *Illegal removal.* Trees that have been removed illegally shall be replaced on the basis of two (2) caliper inches per each one caliper inch of tree removed [i.e., if a ten (10) inch caliper tree was removed, a total of twenty (20) caliper inches shall be re-planted to comply with this provision]. Specimen trees that have been removed illegally shall be replaced on the basis of four (4) caliper inches per each one caliper inch of tree removed. Trees shall be replanted on site and meet minimum standards for caliper and other provisions of these regulations, including height.

d. *Violations.* A City official shall not issue a tree removal permit that does not comply with these tree regulations. Any such permit issued in error or under false pretenses shall be void. It shall be unlawful for any person to violate or not comply with any of the conditions of a City tree removal or landscape permit.

1. *Mortgagees.* Any mortgagee with respect to property upon which any violation of these regulations has occurred shall not be liable for such violation unless, prior to said violation, said mortgagee has foreclosed upon said property or participated in the management or control of said property, or unless said mortgagee has effected or caused the tree ordinance violations occurring on said property.
2. *Prior actions.* If actions or omissions constituting a violation of these regulations occurred at a time when the completed actions or omissions were not prohibited by law, such completed actions or omissions shall not constitute a violation.

e. *Exemptions.* The following activities are exempt from tree removal permits, but may only be undertaken following an inspection by the Administrative Official.

1. Removal of any dead tree.
2. Removal of any of the following tree species (provided the tree is not within a natural forest community, in which case a permit must be obtained, prior to removal, from the Miami-Dade County Department of Environmental Resources Management):
   - (i) Melaluca quinqucaervia (cajeput/paperbark)
   - (ii) Adenanthcra pavonina (red sandalwood)
   - (iii) Casuarina equisetifolia (Australian pine, beefwood) Island
   - (iv) Cupaniopsis anacardioides (carrotwood)
   - (v) Schinus terebinthifolius (Brazilian pepper)
   - (vi) Dalbergia sissoo (Indian dalbergia, sissoo)
   - (vii) Bischofia javanica (bishopwood)
   - (viii) Ficus microcarpa (laurel fig)
   - (ix) Ricinus communis (castorbean)
   - (x) Psidium guajava (guava)
   - (xi) Flacourtia indica (governor's plum)
   - (xii) Albizia lebbek (woman's tongue)
   - (xiii) Hibiscus tiliaceus (mahoe)
   - (xiv) Acacia auriculaeformis (earleaf acacia)
   - (xv) Leucaena leucocephala (lead tree)
   - (xvi) Schefflera actinophylla Queensland Umbrella)
   - (xvii) Mimosa pigra (catclaw niimosa)
   - (xviii) Araucaria heterophylla (Norfolk Island Pine)
   - (xix) Thespesia populnea (seaside mahoe)
   - (xx) Metopium toxiferum (poison wood)

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(xxi) Hong Kong orchid tree
(xxii) Araucaria Heterohylla (Excelsa, Northfork Pine
(xxiii) Brassala Actinophyera (Schefflera)

3. Removal of any tree which has been destroyed or effectively destroyed by an act of God, or by acts outside of the control of any person, individually or otherwise, who has or had a legal, beneficial or equitable interest in the real property upon which such tree is located, which acts could not have been prevented by the exercise of reasonable care by that person. Where a tree has been destroyed or effectively destroyed as described above, it is the intent of this provision to exempt from liability for such destruction or effective destruction the person who has or had a legal beneficial or equitable interest in the real property upon which such tree is located if the person could not have prevented the destruction by the exercise of reasonable care.
4. Removing, trimming, cutting or altering of any mangrove tree or removal of any tree located upon land which is a wetland.
5. Review of projects involving tree removal or relocation. The Administrative Official shall review all applications for development approval to determine if the applicant must apply for a tree removal permit. The Administrative Official shall also review for the same purpose proposed plans for new roadways or improvements to highway design projects and proposed plans for new public parks and recreational facilities and other public facilities.
6. Tree pruning, provided that the trees are pruned in accordance with the following:
   (i) All cuts shall be clean, flush and at junctions, laterals or crotches. All cuts shall be made as close as possible to the trunk or parent limb, without cutting into the branch collar or leaving a protruding stub.
   (ii) Removal of dead wood, crossing branches, weak or insignificant branches, and suckers shall be accomplished simultaneously with any reduction in crown.
   (iii) Cutting of lateral branches that result in the removal of more than one-third (1/3) of all branches on one side of a tree shall only be allowed if required for hazard reduction or clearance pruning.
   (iv) Lifting of branches or tree thinning shall be designed to distribute over half of the tree mass in the lower two-thirds (2/3) of the tree.
   (v) No more than one-third (1/3) of a tree's living canopy shall be removed within a one-year period.
   (vi) Trees shall be pruned according to current ANSI A300 Standards and the Landscape Manual.

(2) *Permit application.* The Administrative Official shall provide permit application forms for removal or relocation of trees within the City. An owner, agent of the owner, or lessee of a property may apply for a tree removal permit. If the permit application is a lessee or agent of the owner, a statement from the property owner indicating that the owner has no objection to the proposed tree removal shall accompany the application. The permit applicant shall submit to the Administrative Official a completed application form. Permit application forms shall be accompanied by two (2) sets of site plans, which are subject to review and approval by the City Administrative Official. The site plan shall include the locations of all existing trees (including the sizes (DBH), type, location, and canopy spread) and all proposed structures or utilities which may require removal or relocation of trees. The Administrative Official may require that said plans be prepared by either a landscape architect, architect or an engineer registered in the state. If the submitted site plan does not provide sufficient information to determine which trees will be affected by the proposed development, the Administrative Official may require that a tree survey of the site be prepared and submitted for review.

On receipt of completed permit applications, the City Manager shall determine whether the site contains any portion of a natural forest community, trees subject to protection, or specimen tree(s). If a site contains any portion of a natural forest community, then the permit must be submitted for review by the Miami-Dade County Department of Environmental Resource Management [DERM];

(4 B (13)

(3) *Review and evaluation of permit application.* The Administrative Official shall conduct a review of each completed tree removal permit application. This review and all actions taken by the Administrative Official under the provisions of these tree regulations shall be conducted using best available practices from biology, botany, forestry, landscape architecture and other relevant fields, and shall be conducted in a manner that is consistent with all applicable goals, objectives and policies in the comprehensive development master plan. Upon receipt of a completed permit application, the Administrative Official shall visit the site and determine whether the site contains specimen trees or any other trees subject to the provisions of these regulations.

a. *Specimen trees.* If a site contains any specimen trees, then the provisions of subsection (4), "Specimen tree standards," shall apply.

b. *Natural forest community.* If a site contains any portion of a natural forest community, such portion shall be governed by the provisions of Section 24-60.2, et seq., of the Miami-Dade County Code of Ordinances. Further, tree removal from a natural forest community requires a permit from DERM.

c. *Other trees.* If there are trees present on a site other than any portion of a natural forest community or specimen trees, then the provisions of the (5) and (6) below, governing tree replacement requirements shall apply.

d. *Combination of tree types.* In the event that a site contains any combination of natural forest community, specimen trees or other trees, then the applicable provisions shall be applied in proportion to the presence of each type of tree or community.

(4) *Specimen tree standards.* The standards to be applied in reviewing tree removal applications involving specimen trees are as follows:

a. *Specimen trees application.* Specimen trees shall be preserved whenever reasonably possible. Upon receipt of an application to remove a specimen tree, the Administrative Official shall consider the following factors in evaluating said application:

1. Size and configuration of the property.
2. Size and configuration of any proposed.
3. Location of the tree relative to any proposed development.
4. Whether or not the tree can be preserved under the proposed plan or any alternative plan.
5. Health, condition and aesthetic qualities of the tree.
6. Whether the tree poses a threat to persons or property.

b. *Alternate plans.* If, upon review of the factors enumerated in subsection a. above, the Administrative Official determines that a specimen tree cannot reasonably be preserved under the proposed plan, then the applicant shall provide an alternate plan when feasible, which shall include preservation of the specimen tree and design alterations consistent with the scope and intent of the initially-proposed plan. Alterations consistent with the scope and intent of the initially proposed plan may include, but shall not be limited to:

1. An adjustment of building orientation on a site.
2. An adjustment of lot lines within a site proposal where said adjustment will not cause an unreasonable loss of usable space. An applicant shall have the burden of proof in the determination of what constitutes an unreasonable loss of usable space.

c. *Specimen tree relocation.* If preservation of the specimen tree and any alternate design consistent with the scope and intent of the initial plan are mutually exclusive, then the Administrative Official may issue a permit to relocate the specimen tree. If the tree removal permit requires relocation, then the applicant shall be required to relocate the tree in accordance with the standards set forth herein.

d. *Removal of specimen trees.* If relocation of the specimen tree is not feasible due to the size, health, location, species or any other factor, then a permit may be issued for removal, and tree replacement shall be required.

14B(14)

e. *Replacement requirements for specimen trees.* As a condition of the issuance of a tree removal permit for the removal of a specimen tree, tree replacement requirements shall be

twice those specified otherwise by these regulations in paragraph (6) below. For example, a tree with a canopy cover of two hundred (200) square feet shall be replaced with replacement trees having an impact area credit of eight hundred (800) square feet. In the event that replacement is not feasible on-site, then alternative off-site replacement shall be required or, as a last alternative, there shall be a contribution to the City Tree Trust Fund for the full value of the replacement trees. Additionally, there shall also be an equitable contribution to the City Tree Trust Fund for the irreplaceable loss of the aesthetic and environmental contributions of the specimen tree(s), according to a contribution schedule established by resolution of the City Commission.

f. *Exemptions.* An applicant may be exempt from the replacement requirements of paragraph e. above, but subject to the tree replacement requirements of paragraph (6) below, under the following circumstances:

1. Upon submittal of a statement from a certified arborist registered in the state which indicates that a specimen tree, due to disease, condition, growth habit or any other reasonable botanical factor, does not provide the aesthetic or environmental contribution associated with a specimen tree. Said statement shall include the specific reason(s) for the claimed exemption from the provisions of these regulations.
2. When a site contains more than one specimen tree, and fifty (50) percent or more of the existing specimen trees and at least fifty (50) percent of the existing specimen tree canopy area is preserved.

(5) *Replacement requirements for tree removal.* As a condition of the issuance of a tree removal permit, the permittee shall be required to replace trees that are authorized to be removed under the provisions of these tree regulations. The number of trees and number of species of trees required for replacement shall be determined according to the specifications contained herein. The Administrative Official may require that replacement shall be described in a landscape replacement plan which shall meet the minimum requirements of the Code. No tree removal permit shall be issued until the Administrative Official has approved said plan.

(6) *Procedures for determining tree replacement requirements.* The Administrative Official shall determine the total number and type of replacement trees required for the issuance of a tree removal permit according to the following procedural steps:

a. *Step 1: Determining existing tree canopy coverage on-site.* The area of existing tree canopy coverage of a site shall be determined by the Administrative Official, using one or any combination of the following methods: review of aerial photography; on-site inspection; and review of a tree survey. The Administrative Official may require the applicant to submit a tree survey for the purpose of this determination.

b. *Step 2: Determining impact area of proposed project.* The area of existing canopy coverage which will be lost (impact area) by the applicant's proposed development shall be determined by the Administrative Official based on a site plan and completed tree removal permit application.

c. *Step 3: Determining number of replacement trees required to be planted.* The total number of trees required for replacement shall be based on the impact area and the category of replacement tree selected by the applicant. Replacement tree categories shall compensate for the lost canopy.

Each replacement tree shall compensate at a ratio of 2:1 for a portion of the tree canopy lost in the impact area. For example, if the impact area is three hundred (300) square feet, replacement trees with a minimum impact area credit of six hundred (600) square feet will be required. The impact area credit is based on the canopy coverage the tree would normally be expected to have at maturity. The following table sets forth the credit which will be allowed for each category of replacement tree:

Category of Replacement Tree Impact Area Credit per Category of Replacement Tree

(in Square Feet)

14B(15)

Shade tree 1	500
Shade tree 2	300
Palm tree 1	300
Palm tree 2	100
Small tree	200

The categories of replacement trees are described in greater detail in subsection (6)f. In the event that a replacement tree actually has more canopy coverage at the time of planting than the amount of credit allowed under the table above, then the applicant shall receive full credit for the canopy coverage provided by the replacement tree at the time of planting and will not have to provide replacement trees in the 2:1 ratio.

The applicant shall submit a list of proposed replacement trees on a form provided by the Administrative Official, except that when the total number of replacement trees exceeds twenty (20), or when ten thousand (10,000) square feet of canopy replacement is required, the applicant shall submit a landscape replacement plan consistent with the provisions of the landscape regulations set forth in subsection (7) below. Proposed replacement lists or plans are subject to Administrative Official approval. The Administrative Official shall approve proposed replacement trees that are consistent with the standards of these tree regulations.

d. *Step 4: Location of replacement trees.* Specific placement of replacement trees on-site shall be determined by the applicant. If the site cannot accommodate the required replacement trees because of insufficient planting area as determined by the Administrative Official, then the applicant shall be required to plant replacement trees at an off-site location subject to the Administrative Official's approval, or, as an alternative, shall provide an equitable contribution to the City Tree Trust Fund to compensate for those replacement trees which cannot be accommodated on-site.

e. *Step 5: Minimum species diversity standards.* When more than ten (10) trees are required to be planted in accordance with the provisions of these regulations, a diversity of species shall be required. The number of species to be planted shall be based on the overall number of trees required. The applicant shall be required to meet the following minimum diversity standards:

Required Number of Trees	Minimum Number of Species
11—20	2
21—50	4
over 50	6

Permittees shall not be required to plant in excess of six (6) species. The number of trees of each species planted shall be proportional to the number of species required. A minimum of fifty (50) percent of all replacement trees planted shall be native to the county, and no more than thirty (30) percent of the replacement trees shall be palms. However, when native trees are removed, all replacement trees shall be native species. As an alternative to the minimum species diversity required herein, an applicant may propose an alternative species diversity in an alternative landscape enhancement plan described in these tree regulations.

f. *Step 6: Minimum standards for replacement trees.*

1. All replacement trees shall have a minimum quality of a Florida No. 1 grade or better.
2. The Administrative Official shall maintain a list of species for each category of replacement tree. This list may be amended from time to time, as necessary. Replacement tree heights shall be determined by overall height measured from where the tree meets the ground to the top-most branch.

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(i) All category 1 replacement shade trees shall be a minimum of fourteen (14) feet in height at the time of planting and at maturity should have a canopy coverage of five hundred (500) square feet under normal growing conditions.

(ii) All category 2 replacement shade trees shall be a minimum of twelve (12) feet in height at the time of planting and at maturity should have a canopy coverage of three hundred (300) square feet under normal growing conditions.

(iii) All category 1 replacement palm trees shall have a minimum height of ten (10) feet at the time of planting and at maturity should have a canopy coverage of three hundred (300) square feet under normal growing conditions.

(iv) All category 2 replacement palm trees shall have a minimum height of three (3) feet at the time of planting and at maturity should have a canopy coverage of one hundred (100) square feet under normal growing conditions.

(v) All replacement small trees shall have a minimum height of six (6) feet at the time of planting and at maturity should have a canopy coverage of two hundred (200) square feet under normal growing conditions.

(7) *Requirements for a landscape replacement plan.* A landscape replacement plan shall be submitted to the Administrative Official by the permit applicant when a minimum of ten thousand (10,000) square feet of replacement canopy are required. All landscape replacement plans shall meet the following minimum standards:

a. *Number, species, and size of trees.* The number of trees, number of species of trees, and size of trees proposed for planting shall be consistent with provisions of these regulations.

b. *Site plan.* The applicant shall submit a site plan that includes the proposed replacement locations of all replacement plantings and tree relocations, all property lines, and all proposed and existing structures, driveways and utility casements.

c. *Canopy.* The canopy spread of any tree that is proposed for preservation shall be shown on the plan. Where a portion of the canopy of a tree or trees will be removed without removal of the trees, a notation shall be made on the plan.

(8) *Tree protection requirements during construction.*

a. *Protection requirements.* During site development, protection requirements for trees designated for preservation under an approved tree removal permit shall include, but not be limited to, the following:

1. Protective barriers shall be placed around each tree, cluster of trees, or the edge of the preservation area no less than six (6) feet (in radius) from the trunk of any protected tree cluster, or preservation area unless a lesser distance is specified by the Administrative Official. Protective barriers shall be a minimum of four (4) feet above ground level and shall be constructed of wood, plastic or metal, and shall remain in place until development is completed and the Administrative Official has authorized their removal. Protective barriers shall be in place prior to the start of any construction.

2. Understory plants within protective barriers shall be protected.

3. No excess oil, fill, equipment, building materials or building debris shall be placed within the areas surrounded by protective barriers, nor shall there be disposal of any waste material such as paints, oils, solvents, asphalt, concrete, mortar or any other material harmful to trees or understory plants within the areas surrounded by protective barriers.

4. Trees shall be braced in such a fashion as to not scar, penetrate, perforate or otherwise inflict damage to the tree.

5. Natural grade shall be maintained within protective barriers. In the event that the natural grade of the site is changed as a result of site development such that the safety of the tree may be endangered, tree wells or retaining walls are required.

6. Underground utility lines shall be placed outside the areas surrounded by protective barriers. If said placement is not possible, disturbance shall be minimized by using techniques such as tunneling or overhead utility lines.

7.

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Fences and walls shall be constructed to avoid disturbance to any protected tree. Post holes and trenches located close to trees shall be dug by hand and adjusted as necessary, using techniques such as discontinuous footings, to avoid damage to major roots.

b. *Replacement.* If these tree protection regulations are not adhered to by the permittee and the trees are effectively destroyed, then all such trees shall be replaced according to the standards of these regulations, in addition to being subject to the penalty provisions of the Code.

(9) *Tree relocation standards.* The relocation of any tree subject to the provisions of these regulations shall be consistent with the minimum standards of the American National Standards Institute (ANSI) and the tree relocation standards promulgated by the county department of environmental resources and management.

(10) *Permit issuance.*

a. *Issuance.* The Administrative Official shall deny an application or approve an application and issue a permit (subject to conditions, limitations or restrictions), for the activity proposed under the permit application, provided:

1. The required application fee and permit fee are submitted to the City.
2. A performance bond, if required, has been posted. As a condition of issuing a tree removal permit, the Administrative Official may require the posting of a performance bond, which shall be equivalent to one hundred (100) percent of the estimated cost of the permitted activity and may be in the form of a letter of credit, surety, cash, or certificate of deposit. All performance bonds shall remain in force for a minimum of either one year after the actual completion date of the permitted activity to ensure that any replanted trees which perish are replaced, or until viability of all replanted trees has been achieved, whichever occurs last. However, at the discretion of the Administrative Official, performance bonds may be partially released in phases based upon partial completion of planting or other permit requirements.
3. All required plans or covenants are submitted and are in compliance with the standards herein.

b. *Incomplete permit applications.* All tree removal permit applications which remain incomplete for a period of one hundred twenty (120) days shall be denied. A new tree removal permit application shall be required for all work previously proposed under a permit application which has been denied.

(11) *Continuance of official documents.* The natural forest community maps approved by the County Board of County Commissioners on December 12, 1984, by Resolution No. 1764-84; all tree removal permits issued pursuant to Chapter 26B of the Code of Miami-Dade County; administrative approvals; and all consent agreements executed in order to resolve alleged violations of Chapter 26B of the Code of Miami-Dade County, Florida, are hereby confirmed and shall remain in full force and effect, and all conditions, restrictions and limitations contained therein shall continue to apply, and compliance therewith shall be enforceable pursuant to the provisions of this these tree regulations.

(12) *Tree trust fund.*

a. *Creation of the tree trust fund.* There is hereby created a City Tree Trust Fund, the purpose of which is to acquire, protect and maintain natural forest communities in the City and to plant trees on public property. All fines and penalties for violations of these regulations shall be paid into the tree trust fund.

b. *Disbursement and maintenance of the tree trust fund.* Monies obtained for the tree trust fund shall be disbursed for the acquisition, maintenance, management and protection of the natural vegetative environment in the City, or for planting trees on public property. Disbursement from the tree trust fund shall require approval by resolution of City Commission, provided, however, that any funds received pursuant to the conditions of any tree removal permit shall be used as required by the permit conditions without the necessity of approval, appropriation, or action of any kind by the City Commission. The City Manager is hereby authorized to receive and disburse monies in accordance with this provision.

(13) 14B(18)

Permit fees. The City shall charge and collect application, permit and tree trust fund contributions at the rates established by separate resolution approved by the City Commission. Applications from government agencies for tree removals in areas dedicated to public use may, at the discretion of the Administrative Official, be exempted from application fees and permit fees.

(14) *Penalties for violation of tree regulations.* The following penalties shall be assessed where these tree regulations would not have permitted trees to be removed and they have been effectively destroyed or removed in violation of these regulations. The contractor committing the violation will also be cited via a uniform civil violation notice if observed by staff or if the property owner/violator has records that identify the contractor and can provide sufficient evidence to identify the person or company who committed the violation.

a. *First offense with no prior knowledge.* Per tree and double the amount of canopy replacement required by code:

Less than 18-inch diameter at four-foot height $500.00

18 inches to 36 inches 2,000.00

Greater than 36 inches 3,000.00

b. *Second offense or prior knowledge.* Double the fines required for the first offense, or the fine that would have been required for the first offense in the case of prior knowledge. Double the amount of canopy replacement required by code if a permit had been issued.

c. *Subsequent offenses.* Triple the fine required for the first offense, or the fine that would have been required for the first offense in the case of prior knowledge. Double the amount of canopy replacement required by Code if a permit had been issued.

(Ord. No. 2005-14, § 1, 11-8-05)

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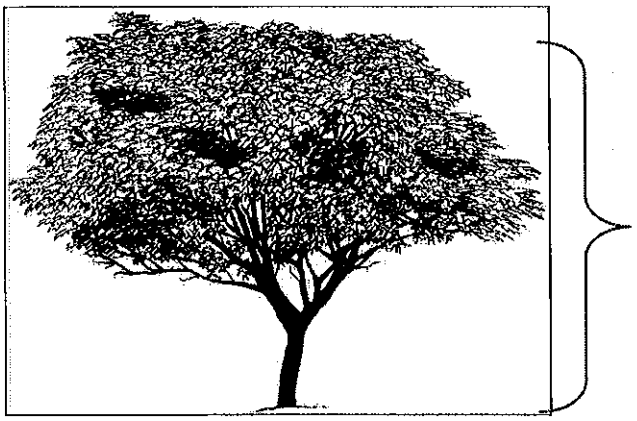
USE THIS TABLE TO CALCULATE YOUR PLANTING REQUIREMENTS OF YOUR TREE REMOVAL PERMIT

If you plant a:	With this minimum size:	You will get this credit (in SQ.FT.):
Hardwood Tree	12' Overall Height	500
Hardwood Tree	8' Overall Height	300
Palm	10' Clear Trunk*	300
Palm	3' Clear Trunk*	100
Small Tree	6' Overall Height	200

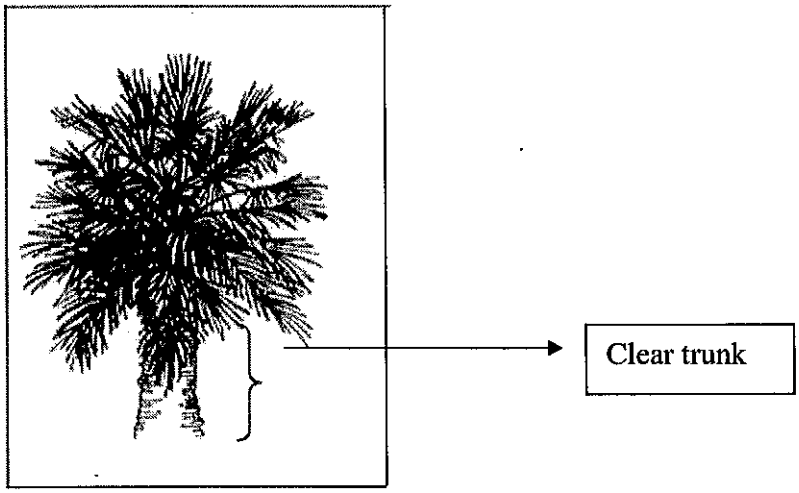


Example:

If you are requested to plant (See Replanting Requirenments in your permit) 1,500 SQ.FT., you can plant:

a) Three hardwood trees, 12' height each (you will get 1,500 SQ.FT). Or,
b) Two hardwood trees, 12' height each, and two palms, 10' clear trunk each (you will get 1,600 SQ.FT.). Or,
c) Any combination of tree sizes up to the required credit.

PALMS CANNOT BE MORE THAN 30% OF THE TOTAL CANOPY AND FRUIT TREES WILL NOT COUNT TOWARDS MITIGATION.



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It is not a coincidence that the well shaded areas of Miami-Dade County also have the highest property values. Trees are the reason why. They are essential for community because of the following:

BENEFITS

- Ø A well shaded home can cut your air-conditioning costs by up to 40%.
- Ø A well-landscaped yard that includes trees can increase your property value by 15%.
- Ø A well-forested community can reduce storm water runoff by up to 15%.
- Ø Miami-Dade's trees remove 5,425 tons of carbon dioxide from the air each year, improving air quality and combating global warming.
- Ø Trees provide food, nesting sites and protection for a wide variety of animals and resident migratory birds.

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Tree Removal / Relocation Inspection & Permit Fees

FEES

- Environmental assessment for determination of tree preservation requirements (single family): $125
- Environmental assessment for determination of tree preservation requirements (multi-family, commercial, agriculture): $600

	Before Inspection	After Inspection
Single Family Resid.	$63 appl. + $35* insp. = $98	$35* insp. + $12/tree up to max of $320
Multi-family	$80 appl. + $35* insp. = $115	$35* insp. + $12/tree up to max of $395/(acre)(canopy)
Business	$105 appl. + $35* insp. = $140	$35* insp. $12/tree up to max of $395/(acre)(canopy)
Commercial	$105 appl. + $35* insp. = $140	$35* insp. + $12/tree up to max of $660/(acre)(canopy)
Agricultural	$55 appl. + $35* insp. = $90	$35* insp. + $6/tree up to max of $265/(acre)(canopy)
Swale / Right-of-Way	$28 appl. + $35* insp.= $63	$35* insp. + $6/tree up to max of $265/(acre)(canopy)

*inspection fees are bases on removal of less than 20 trees. The fee may be raised as follows:
20-100 trees: $65
100-200 trees: $130
≥200 trees: $265

OTHER CHARGES

Barrier inspection	$30
Covenant-grove exemption	$125
Covenant-tree preservation requirement:	$125
Exotic variance request	$230
Extension of permit	$paid on initial permit
Re-inspections	20% of total individual fees
Roadway and drainage sitting inspection	$65
Specimen size tree removal inspection (multi-family/commercial)	$600
Specimen size tree removal inspection (single family)	$125
Tree Trust Fund	$150/tree
Utility easement sitting inspection	$65

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