City of North Bay Village

Administrative Offices

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

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

OFFICIAL AGENDA

SPECIAL CITY COMMISSION MEETING

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

JULY 25, 2012

7:00 P.M.

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

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

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

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

2. ITEMS CONTINUED FROM JULY 10, 2012

13. UNFINISHED BUSINESS

APPROVAL OF MINUTES – CITY COMMISSION MEETINGS

B. REGULAR MEETING – FEBRUARY 14, 2012
REGULAR MEETING – DECEMBER 13, 2011
SPECIAL MEETING – NOVEMBER 29, 2011
REGULAR MEETING – NOVEMBER 8, 2011
REGULAR MEETING – OCTOBER 11, 2011
BUDGET PUBLIC HEARING – SEPTEMBER 20, 2011

1.) **Commission Action**

14. **NEW BUSINESS**

A. **DISCUSSION AND APPOINTMENT OF NORTH BAY ISLAND COMMISSION VACANCY**

1.) **Commission Action**

B. **TREASURE ISLAND BULB OUTS/TREE RELOCATION/ MIAMI-DADE COUNTY SCHOOL BOARD *(COMMISSIONER STUART BLUMBERG)***

1.) **Commission Action**

C. **REDESIGN OF CITY'S WEBSITE *(COMMISSIONER STUART BLUMBERG)***

D. **REMOVAL OF BULLETIN BOARDS FROM ENTRANCES TO ISLANDS *(COMMISSIONER STUART BLUMBERG)***

E. **CONTRACTS *(COMMISSIONER RICHARD CHERVONY)***

F. **SEVENTY-NINTH (79TH) STREET CAUSEWAY BEAUTIFICATION PROJECT *(COMMISSIONER RICHARD CHERVONY)***

G. **DR. PAUL VOGEL COMMUNITY PARK *(COMMISSIONER RICHARD CHERVONY)***

15. **APPROVAL OF MINUTES – CITY COMMISSION MEETING**

A. **REGULAR MEETING – MARCH 13, 2012**
REGULAR MEETING – APRIL 10, 2012

1.) **Commission Action**

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

A. **AN APPLICATION BY SOTREZA, LLC CONCERNING PROPERTY LOCATED AT 7800 HISPANOLA AVENUE (FORMERLY USED AS A TEMPLE), LOTS 1&2 & E1/2 LOT 3, BLOCK 1, COMMERCIAL ADDITION TO TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA AS FOLLOWS:**

1. **SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE OPERATION OF A PRE-SCHOOL/DAY CARE CENTER. (FINAL PUBLIC HEARING)**

   1.) **Commission Action**

B. **AN APPLICATION BY ZF DEVELOPMENT, LLC, CONCERNING PROPERTY LOCATED AT 8000 WEST DRIVE, TRACT C OF HARBOR ISLAND NORTH BAY VILLAGE, FLORIDA IN CONNECTION WITH THE DEVELOPMENT OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT FOR THE FOLLOWING:**

1. **SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE CONSTRUCTION OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT ON A 4.47+ ACRE SITE. (FINAL PUBLIC HEARING)**

   1.) **Commission Action**

C. **AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152, ZONING, SECTION 152.111, ADULT ENTERTAINMENT, OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (*INTRODUCED BY CITY COMMISSIONER RICHARD CHERVONY, CITY MANAGER DENNIS KELLY, AND CITY ATTORNEYS SUSAN TREVARTHEN AND KATHRYN MEHAFFEY*) – SECOND READING – PUBLIC HEARING**

The proposed Ordinance will improve the clarity of the existing regulations while providing for the appropriate location of such establishments consistent with all controlling laws.

1.) Commission Action

D. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, CREATING CHAPTER 119 OF THE CODE OF ORDINANCES PERTAINING TO ADULT ENTERTAINMENT LICENSING AND BUSINESS REGULATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (*INTRODUCED BY CITY COMMISSIONER RICHARD CHERVONY, CITY MANAGER DENNIS KELLY, AND CITY ATTORNEYS SUSAN TREVARTHEN AND KATHRYN MEHAFFEY*) - SECOND READING – PUBLIC HEARING

This Business Regulation Ordinance provides for licensing for adult entertainment establishments and for application requirements and procedures, as well as structural and operational criteria for approval and maintenance of such licenses consistent with all controlling laws.

1.) Commission Action

E. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 35 "TAXATION AND FINANCE," OF THE CITY CODE OF ORDINANCES TO REVISE THE REQUIREMENTS AND PROCEDURES RELATED TO GENERAL AND ENTERPRISE FUND RESERVES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. (*INTRODUCED BY CITY COMMISSIONER RICHARD CHERVONY*) – SECOND READING – PUBLIC HEARING

The proposed Ordinance revises the emergency reserve funding program to address such emergencies as hurricanes and other natural disasters.

1.) Commission Action

4. ORDINANCES FOR FIRST READING AND RESOLUTIONS

A. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH "*THE MIAMI HERALD* PUBLISHING MEDIA COMPANY" FOR THE PURPOSE OF PROVIDING PUBLISHING SERVICES; SETTING AN EFFECTIVE DATE. *(INTRODUCED BY COMMISSIONER RICHARD CHERVONY)*

The proposed Resolution will renew an agreement with the *Miami Herald* for advertising legal notices and other City events.

1.) Commission Action

5. ADJOURNMENT

CITY OF NORTH BAY VILLAGE
MEETING NOTICE

THURSDAY, JULY 26, 2012	**6-8 P.M.**	**NORTH BAY VILLAGE CITIZENS POLICE ACADEMY**
SATURDAY, JULY 28, 2012	**2-3 P.M.**	**BOOK MOBILE (1841 GALLEON STREET) ACADEMY**
TUESDAY, JULY 31, 2012	**6:00 P.M.**	**BUDGET WORKSHOP**

Meetings are held in the City Commission Chambers at 1700 Kennedy Causeway, Suite #132, North Bay Village, Florida, unless otherwise specified. Any meeting may be opened and continued and, under such circumstances, additional legal notice would not be provided. Any person may contact the City Clerk at (305) 756-7171 for information. In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation to participate in this proceeding or to review any documents relative thereto should contact the City for assistance at (305) 756-7171 no later than four (4) days prior to the proceedings. If hearing impaired, telephone the Florida Relay Service at (800) 955-8771 (TDD) or (800) 955-8770 (Voice) for assistance.

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.

13 B (3)

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

13 B(6)

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

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.

13B(7)

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.

13 B(8)

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

13B(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.

13 B (11)

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.

13 B(14)

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.

13 B (18)

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.

13 B (19)

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.

13 B(20)

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.

13 B(21)

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.

13 B(22)

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.

13 B (23)

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

13 B (24)

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. <u>CONSENT AGENDA:</u> **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 O7); 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 O7); 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)***

13 B (25)

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)*

13 B (26)

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.**

13 B (27)

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.

13 B (29)

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.

13 B (30)

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.)

13 B(31)

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 (32)

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 KELLYAND 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.)

13 B(36)

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.

13 B (37)

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.

13 B (39)

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.

13 B (40)

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.

13 B(41)

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.

13 B (43)

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.

13 B (46)

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.

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 B (50)

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.

13 B (51)

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.

13 B(5a)

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.

13 B (58)

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.)

13 B (59)

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. <u>CONSENT AGENDA</u>

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.

13 B(61)

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.

13 B(62)

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 O7) 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.

13B (63)

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.

13 B (64)

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.

13 B (65)

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.

13 B (66)

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.

13 B (67)

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 the cost of the projects.

13 B (68)

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 restaurant 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 (10)

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(71)

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.

13 B (12)

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 (73)

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)

The public hearing commenced with Finance Director Gerard Pirri explaining the roll back rate of 5.0216, the proposed operating millage rate of 4.7772, and the debt service millage rate of 1.2355.

City Clerk Yvonne Hamilton read the following Resolutions into the record:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, OF MIAMI-DADE COUNTY, FLORIDA,ADOPTING THE FINAL LEVYING OF AD VALOREM TAXES FOR THE CITY OF NORTH BAY VILLAGE FOR FISCAL YEAR 2011-2012; PROVIDING FOR AN EFFECTIVE DATE. *(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)*

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, OF MIAMI-DADE COUNTY, FLORIDA, ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2011-2012; PROVIDING FOR AN EFFECTIVE DATE. *(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)*

Mayor Corina S. Esquijarosa opened the public hearing.

Interim City Manager Robert Daniels discussed the proposed budget and the City's commitment to maintain the same millage rate as last year. He explained that a driver position in the Street Maintenance Department and two full-time and one part-time position in the Police Department have been frozen. He advised that the status of the application for the COPS Universal Retention Grant to fund police positions will not be known until September 30. Other changes to the budget included the addition of a part-time clerical position to transcribe Minutes for the Advisory Board Meetings, funding for youth services, and a special line item for the Children's Trust Grant. The manager also stated the goal of the administration to obtain financial software by the first quarter of the next fiscal year.

Scott Greenwald, of 1700 Kennedy Causeway, commended the Interim City Manager and the Finance Director for their work on the budget.

3B(76)

Fane Lozman, of 7918 West Drive, referred to the increase in legal services and reminded the Commission that a competitive selection process was not undertaken for those services.

Kevin Vericker, of 7520 Hispanola Avenue, inquired as to whether a demographic overview was conducted of the number of North Bay Village households under the Save Our Homes Program that would be affected by the tax increase.

Interim City Manager Daniels explained to Mr. Vericker that the budget does not include a tax increase.

Mr. Vericker discussed the reserve amounts and the requirements. He asked how the amounts would be achieved.

Interim City Manager Daniels explained that separate reserves, which cannot be comingled, are required for the Enterprise Fund and the General Fund according to the City Charter.

Mr. Vericker asked for the balance of the reserves.

Finance Director Pirri discussed the reserve amount from 2010 and the current amount of $2.7 Million.

Ann Bakst, of 1865 Kennedy Causeway, asked how much money the City is receiving after payment is made to American Traffic Safety and the State. She suggested that the City renegotiate the contract with ATS for a reduced percentage similar to what other cities are doing. She expressed her belief that focus should be placed on speeding enforcement for vehicles traveling over the east bridge.

Finance Director Pirri responded that the amounts may fluctuate based on the amount of money owed to the State for the four cameras. He noted that there has been a decline between the amount of money that is owed to ATS for the four cameras and the amount owed to the State.

Vice Mayor Leon-Kreps thanked the staff for their work in preparing the budget. She asked the Interim City Manager about the effect on the police positions if the COPS grant was not awarded.

Interim City Manager responded that the officers will be terminated.

Vice Mayor Leon-Kreps asked if there was an increase in the budget.

3.B(77)

Interim City Manager clarified that there has been no increase to the operating millage rate. There was a slight increase due to the debt services that the City incurred through the bond referendum that was approved in January 2008 for the capital projects of $9.4 Million for the park, $7.9 Million for the Public Safety and City Hall Complex, and $2 Million for the redevelopment of the Kennedy Causeway.

Vice Mayor Lim asked if the City was waiting for grant funding that was not yet awarded.

Finance Director Gerard Pirri clarified that grants have been applied for, grant funds are being utilized for projects, and additional grants are being sought. However, if additional grant funding were not received, the projects would not move forward, unless approval was granted by the Commission.

Commissioner Lim inquired about the financial software.

Interim City Manager Daniels explained that $80,000 is included in the budget for an integrated software package that will assist the Finance Department, as well as other departments. Due to the cost involved, the purchase would require Request for Proposals, unless the piggyback provision is used.

Ann Bakst, of 1865 Kennedy Causeway, asked how the balance from the adopted figure and the actual amount for Code Enforcement revenues was determined.

Interim City Manager Daniels explained that there are pending liens that will generate large amount of fines due to the increase in code enforcement activities.

Reinaldo Trujillo, of 7601 East Treasure Drive, clarified that the Citizens Budget & Oversight Board was created as a forum for the community. He mentioned that while areas of the budget could be improved, the comments being made tonight should have been addressed during the budget process, at the workshops, and at the first public hearing.

3B(78)

Kevin Vericker, of 7520 Hispanola Avenue, remarked that the Citizens Budget & Oversight Board Meetings are held during working hours which has created a problem with attendance.

Scott Greenwald, of 1700 Kennedy Causeway, noted that the Citizens Budget & Oversight Board and the City Manager trimmed actual expenses from the budget to avoid tax increases.

Mayor Esquijarosa referred to the increase in the reserve amount from $1,711,855 in Fiscal Year 2010-2011 to $2.7 Million. She pointed out that information provided during the August 30, 2011 budget hearing indicated total revenues in the 2011 adopted budget as $21,898,310 with total expenditures of $23,323,887, plus legal expenses which is currently $426,000. She cited an issue with the numbers being presented to the Commission since the proposed 4.7772 millage rate also indicates that revenues in the amount of $12,528,694 would be received and expenditures would remain the same, when the actual numbers suggest that a shortage of $1.4 Million. She advised that the Commission needs to understand the numbers and the increase in the reserves before moving forward.

Finance Director Pirri explained that $500,000 in advalorem revenues from sale of Tax Certificates was received from Miami-Dade County and the amount was not taken into consideration at the beginning of the Fiscal Year. The $1.7 Million figure was the 2010 audited number and was projected forward to Fiscal Year 2010-2011 to arrive at the $2.45 Million figure.

Mayor Esquijarosa expressed concern that she had requested the reserve numbers over three months ago and there was still a discrepancy. She asked how the City can move forward to a new budget when the numbers from the past are not correct.

The Mayor requested clarification that the budget does not include outsourcing sanitation services.

Interim City Manager Daniels stated that the Commission has not made a decision on the matter of outsourcing sanitation services. Therefore, the budget contains information for the same staff and same vehicles for the year.

3B(79)

Mayor Esquijarosa mentioned that she reviewed the recording of the first budget hearing and noted comments from the public, particularly a question as to why the commission's budget for attending meetings is so high. She pointed out that the budget had been reduced from $25,000 to $20,000. She concurred that the commission attendance at meetings are necessary. However, she suggested that travel to places like Tallahassee and Washington should be on a rotated basis. The Mayor asked about the $130,000 appropriated under the City Manager's budget since the Interim City Manager did not receive a salary increase.

Interim City Manager Daniels explained that former City Manager Pushkin's title was subsequently changed from interim manager to city manager.

The Mayor clarified that the City Manager's budget had increased because the HR Manager position was moved to that department from the City Clerk's Department. She further questioned the process for car allowances and gas cards and suggested that they should be paid through the submittal of mileage forms. She questioned the decrease from $390,000 that was first appropriated for legal services versus the reduction to $300,000.

Interim City Manager Daniels explained that the amount has been changed because there was ongoing litigation that has since been resolved.

Mayor Esquijarosa referred to the police budget and questioned the amounts for longevity, bonuses, shift differential, salary increase, and salary decrease for police officers.

City Manager Daniels explained the shift differentials of 2% for police officers who work evenings and 4% for those who work the midnight shift in accordance with the collective bargaining agreement that is due for renegotiation in April.

The Mayor alleged that although it appeared that bonuses had been taken away to reduce the budget, they were disguised as shift differential and longevity amounts which were doubled, and thus put back into the budget. She thought it may be best to hire a full-time professional as a Plans Reviewer and Inspector for the Building Department instead of paying $90,000 for outsourcing the services.

3B(80)

The Mayor asked if the position of Maintenance Driver will remain vacant in the event the City decides to fill the position later. Interim City Manager Daniels responded that the position has been zeroed out of the budget and the department has been able to do without it thus far. However, the position can be reinstituted in the future if the Commission decides to do so. Public Works Director Sam Zamacona added that the position became vacant upon the retirement of Gary Harrison and the work is being done by temporary labor and other employees with a Commercial Driver License.

The Mayor referred to $120,000 for design study of capital projects expenditure. She asked what projects will be accomplished this year. Interim City Manager Daniels mentioned that the old City Hall Building will be demolished.

Discussion ensued regarding use of the $475,000 grant funds received by the city. It was noted that the amount was originally intended for the municipal complex and the causeway. Since the plans changed negotiation has been underway to determine if the funds can be used for the public works complex.

Mayor Esquijarosa asked about the goal outlined in the street maintenance budget to install and maintain a bikeway path connecting the three islands. Mr. Zamacona explained that one of the items in Phase 1 or Phase 2 of the 79th Street Causeway project is to receive grant funding to increase traffic for vehicles, mass transit, pedestrians, and bicyclists by implementing a pathway from the flat bridges that would link Treasure Island and North Bay Island.

The Mayor asked if $6,000 could be included in the budget for movie nights.

Finance Director Pirri noted that $5,000 has already been appropriated for youth services.

Mayor Esquijarosa briefly recessed the meeting due to sounding of the fire alarm.

The Mayor suggested that actions taken by other municipalities to reduce their obligation to ATS be looked at since there is no monetary benefit from the red light camera program. She asked if there are other benefits in regard to reduction in accidents.

Interim City Manager Daniels reported that a statistical analysis is being conducted on the matter and the results should be received within the next two months.

The Mayor suggested that additional funds may need to be budgeted instead of just the $80,000 for financial software which is usually more costly based on her experience with those programs. Additionally, funds should be budgeted to upgrade the recording system to allow the public to view the meetings.

Interim City Manager Daniels noted that the law enforcement trust funds can be used as another funding source. He mentioned that staff will work with the company to determine the problem with the recording system.

Reinaldo Trujillo mentioned that after capital projects for the park and for beautification of the causeway were approved at the 2008 bond referendum and grant funds were not received for development of the park as promised by the Trust for Public Lands, so the city ended up paying $4 Million for the property. Plans were underway to develop the 79th Street Causeway, and since bonds could not be approved due to the economic condition, a loan was obtained from the bank to finish the project.

Finance Director Pirri clarified that the total revenues, transfers, and balance was $16,733,501 and the amount is now $16,679,960.

Mayor Esquijarosa introduced a discussion on a request to implement the International Baccalaureate Program at Treasure Island Elementary School. A survey was conducted by the school for implementation of the program and of the 300 surveys that were returned, 94% of the parents voted for the program. Miami Beach has opted to provide $55,000 of the $130,000 that was not funded by the school district. The Mayor asked about the possibility of finding $30,000 in the budget to fund the program along with the difference in the budget as referenced above.

Interim City Manager Daniels reminded the mayor that Miami Beach had not yet committed to the amount of funding that they would provide to the program, and he suggested that the matter be addressed at the October 11 meeting after more information is received.

Reinaldo Trujillo questioned whether or not Miami Beach would commit to funding the IB program considering that they were reducing their own budget. He suggested that the City's budget be reviewed in a few months when the new City Manager is hired that a determination be made then as to whether the funds are available, and whether or not an agreement could be reached with Miami Beach.

Mayor Esquijarosa referred to the deadline of October 1 and clarified that the City will not move forward with the IB program if Miami Beach does not commit to the funds, even though the first year of the process would have been lost.

Vice Mayor Leon-Kreps commended the Mayor for bringing the idea forward and agreed that the IB program is good for the city. However, she urged the administration to find grant funding for the project so that the residents do not have to assume the cost.

Commissioner Lim expressed favor for the program. He felt that the new City Manager should continue to find money to subsidize the program if there was a budget shortfall.

Commissioner Rodriguez thanked the Mayor for the initiative in proposing the program.

Mayor Esquijarosa reiterated that if Miami Beach does not provide the money, the City will not move forward with the program. However, if the City's portion of the money was available by October 1, the program that would cost $90,000 could move forward by using the difference of the $60,000 from the September 6 budget figure and the current figure plus the $30,000 that the manager could find in the budget.

Interim City Manager Daniels responded that the reduction in the budget resulted from the removal of the part-time police position and the Street Maintenance Department Driver position. He asked that information be provided to the Commission at a future meeting, if Miami Beach decides to fund the program. Thereafter, budget cuts can be made or other revenue sources may be available through grants to make up the difference.

Ann Bakst suggested that the City review the list of property owners for people who do not live in the City and are claiming homestead exemption as another revenue source. Interim City Manager Daniels informed Ms. Bakst that such a function is handled by Miami-Dade Property Appraiser's Office and such activities are reported through code enforcement.

Vice Mayor Leon-Kreps expressed her opposition to delaying approval of the budget.

The Mayor responded that the IB program was presented to the City late by the School Board and she did not see any reason why approval of the budget could not be postponed until September 27 if adjustments could not be made now.

Commissioner Lim reminded the mayor that the purpose of tonight's meeting was to adopt the resolutions to approve the budget. He suggested that the Commission move forward with approving the proposed millage rate considering the deadline of September 30. He expressed concern that problems could be encountered with obtaining a quorum if the hearing was rescheduled. He asked for the City Attorney's opinion on moving forward.

City Attorney Boniske advised that the decision to move forward is a policy call of the Commission and that the resolutions on the millage rate and on the budget require separate votes respectively. Whether the Commission was willing or not to take final action tonight and continue or recess; the budget hearing would require certain advertisements and certain motions by the Commission. The City Clerk would also need to run certain advertisements and meet certain deadlines.

Commissioner Lim read an email into the record from the Florida Department of Revenue outlining the consequences for failure to adopt a budget by September 30.

Mayor Esquijarosa discussed the idea of continuing with the current budget for a month and advertising a new budget public hearing on September 27 for adoption of the 2012 budget on September 30. She clarified that there was no intent to not pass the budget.

Mr. Greenwald suggested that the budget be adopted which would provide an opportunity for adjustments to be made in the future if money was to be found within the budget or through grant funds for the program which is very worthwhile for the city.

The Mayor stated that if the $67,000 is allocated in the budget, the grants will still be applied for. However, the monies would not be spent if Miami Beach does not commit to their portion of the funds, which will result in the loss of the first year.

Interim City Manager Daniels requested direction from the Commission on whether or not to cut $67,000 from the budget.

The Mayor reminded the Commission that an answer has to be provided by October 1.

Commissioner Rodriguez concurred with comments by the Mayor to allocate funds in the budget, to still pursue grants for the IB program, and defer the budget hearing to September 27.

Interim City Manager Daniels advised the Commission that the City could not rely on grants that are uncertain, because it could result in expenditure from the General Fund.

Reinaldo Trujillo urged the Commission to adopt the budget, apply for available grants and move forward with the program if Miami Beach commits to funding their portion, since staff has already committed to finding the difference.

Commissioner Lim suggested that the budget be adopted.

Finance Director Gerard Pirri recapped the roll back rate of 5.0216, the proposed operating millage rate of 4.7772, and the debt service millage rate of 1.2355.

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to approve the proposed millage rates.

Mayor Esquijarosa objected to Commissioner Vogel's attendance at the meeting. She requested that that the City Attorney and the City Clerk read Section 3.07 of the City Charter pertaining to forfeiture of office due to absences and Section 3.09 concerning the provision to cancel the August Commission Meeting. She argued that Commissioner Vogel had missed four regular meetings on June 30, July 26, August 9, and September 13. City Attorney Boniske opined that the commissioner was present at the current meeting and could therefore vote on the matter. City Clerk Yvonne Hamilton clarified that Commissioner Vogel did not miss four regular meetings because he was present on September 13 and a meeting was not held in August. The Mayor noted that four absences constituted forfeiture of office and a motion was not made to excuse Commissioner Vogel's absences. Also, a motion a not made to cancel the August meeting.

3B(85)

Mayor Esquijarosa questioned Commissioner Vogel as to his intentions for attending future meetings.

Vice Mayor Leon-Kreps reminded the mayor that Commissioner Vogel was seriously ill and of his many years of service to the City.

3. **RESOLUTIONS**

A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, OF MIAMI-DADE COUNTY, FLORIDA,ADOPTING THE FINAL LEVYING OF AD VALOREM TAXES FOR THE CITY OF NORTH BAY VILLAGE FOR FISCAL YEAR 2011-2012; PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to approve the operating millage rate of 4.7772 and the debt service millage rate of 1.2355 for Fiscal Year 2011-2012. The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-No, Mayor Corina S. Esquijarosa-No, and Vice Mayor Connie Leon-Kreps-Yes. The motion carried 3-2.

B. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, OF MIAMI-DADE COUNTY, FLORIDA, ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2011-2012; PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

A motion was offered by Vice Mayor Connie Leon-Kreps and seconded by Commissioner Eddie Lim to approve the final budget for Fiscal Year 2011-2012 The votes were as follows: Commissioner Eddie Lim-Yes, Commissioner Paul Vogel-Yes, Commissioner Frank Rodriguez-No, Mayor Corina S. Esquijarosa-No, and Vice Mayor Connie Leon-Kreps-Yes. The motion carried 3-2.

3B(86)

4. ADJOURNMENT

The meeting adjourned at 10:03 p.m.

Prepared and submitted by:

Yvonne P. Hamilton, CMC
City Clerk

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

_____

Connie Leon-Kreps, Mayor

(Note: This is not a verbatim record of the meeting. This is a summarization of the proceedings. A copy of the audio recording is available at the City Clerks Office until the time for disposition in accordance with the Records Disposition and other Public Records Law.)

3B(87)

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)

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

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:

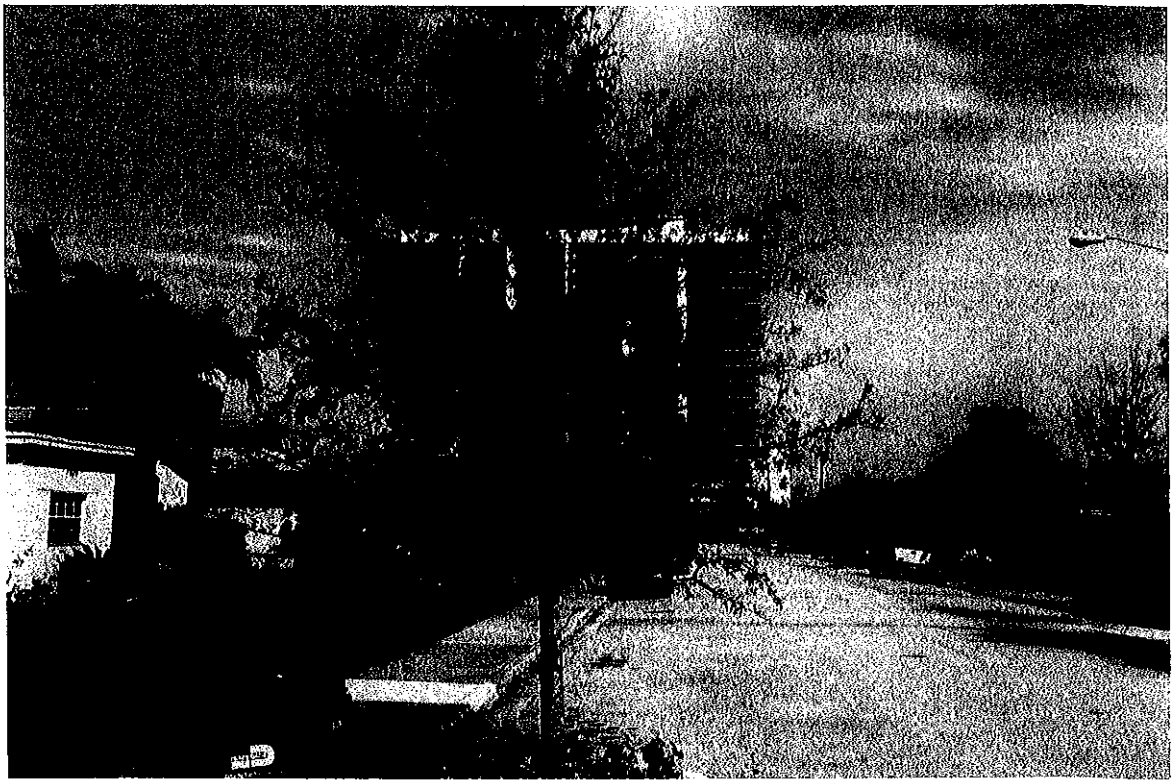
None

CONTACT:

Dennis Kelly, City Manager

DK:yph

14B(3)



143(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)

Facilities Operations, Maintenance • 12525 NW 28 Avenue. • Suite 301 • Miami, FL 33167
305-995-4010 • 305-995-4060 (FAX) • www.dadeschools.net

City of North Bay Village

Administrative Offices
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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:

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BACKGROUND:

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IHB(1)

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

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:

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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:

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14B(2)

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$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:

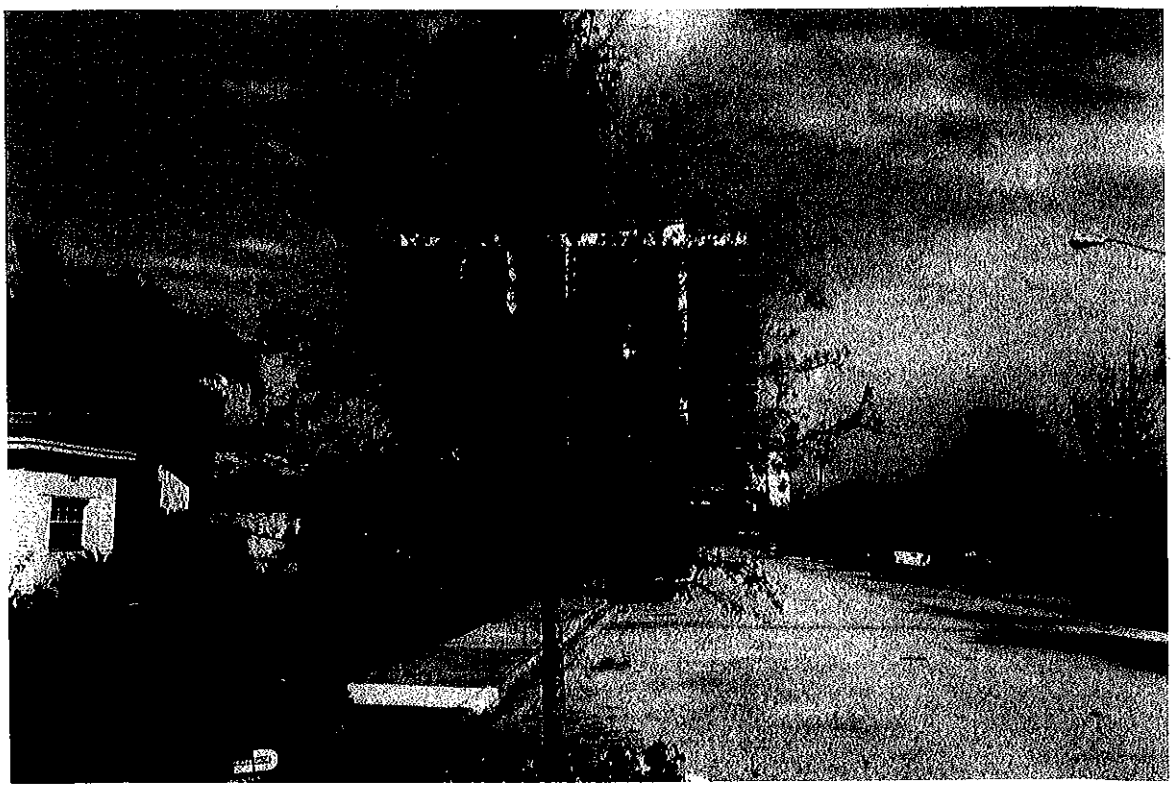
None

CONTACT:

Dennis Kelly, City Manager

DK:yph

14B(3)



143(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
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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)

Facilities Operations, Maintenance • 12525 NW 28 Avenue. • Suite 301 • Miami, FL 33167
305-995-4010 • 305-995-4060 (FAX) • www.dadeschools.net

Miami-Dade County's

Tree Removal Permit Application Package

Table of Contents

General Information 1

Special Permits and Requirements 2

- Tree Removal in Association with Building Permits
- Tree Removal in Association with Road Construction
- Tree Removal Within Natural Forest Communities
- Tree Replacement Requirements

Exemptions & Prohibited Plant Species..... 3

Tree Removal Permit Fees 5

Tree Removal Permit Application Form 6

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.

14B(6)

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 quingenervia)
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.

14B(7)

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.

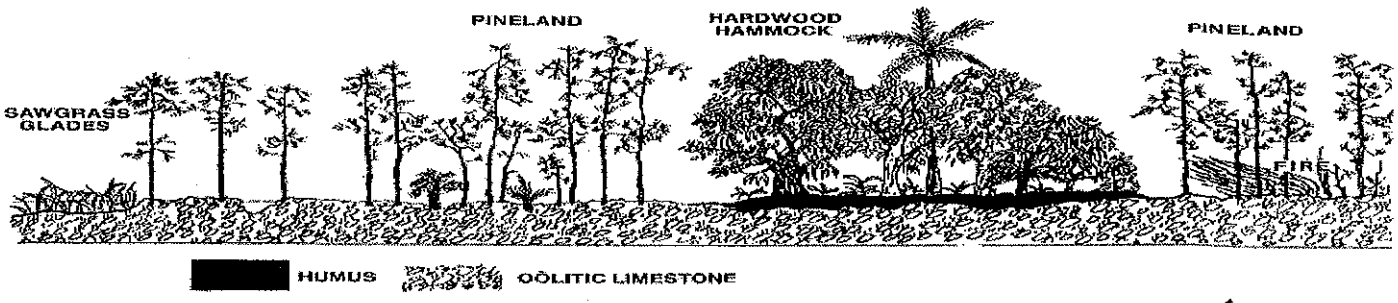
3. Prior to the issuance of a permit to remove all or portion of a NFC for site development, a restrictive covenant may be executed to provide for the preservation and management of the remaining forest community. Blank shell forms of the covenant document form are available from DERM upon request.

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

14B(8)

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.

14B(9)

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

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 permt 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

1413(10)

§ 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.*

14B(11)

(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 nlimosa)
(xviii) Araucaria heterophylla (Norfolk Island Pine)
(xix) Thespesia populnea (seaside mahoe)
(xx) Metopium toxiferum (poison wood)

143(12)

(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];

(4B(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.

14B(16)

(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.

14B(17)

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.

14B(18)

(13)

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.

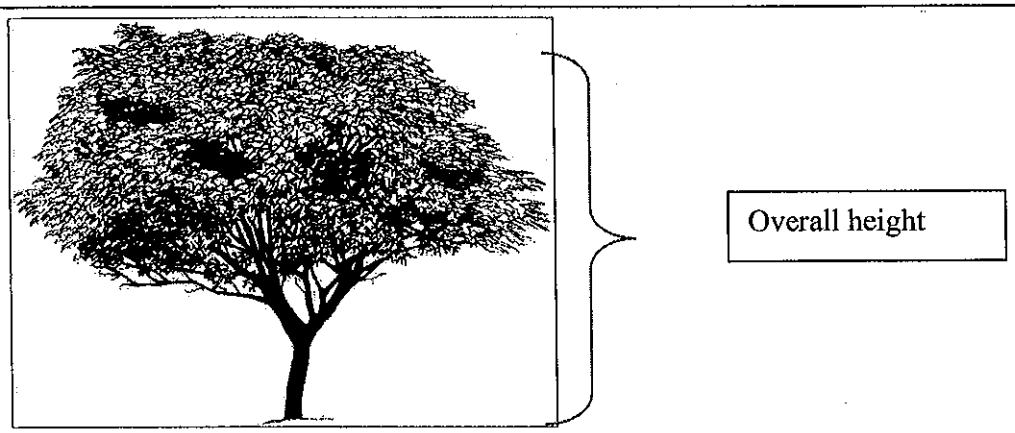
c. *Subsequent offenses.* Triple the fine required for the first offense, or the fine that would have been required for the first offense in the case of prior knowledge. Double the amount of canopy replacement required by Code if a permit had been issued.

(Ord. No. 2005-14, § 1, 11-8-05)

14B(19)

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

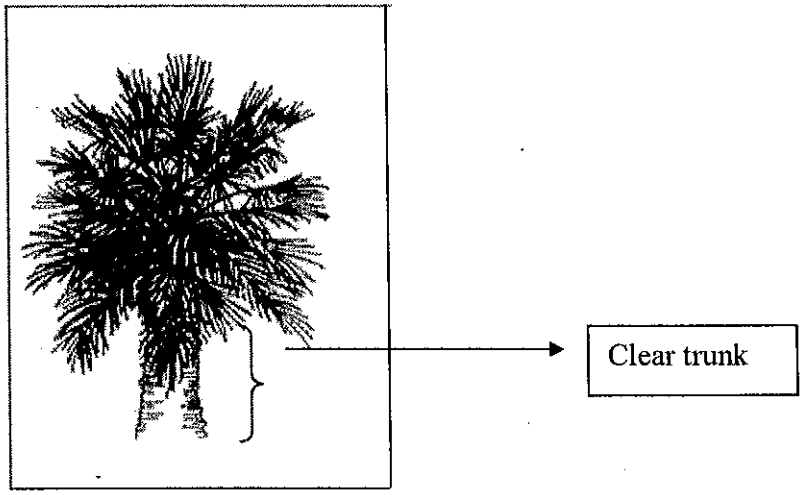


Example:

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.



14B (20)

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

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

14B(21)

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

14B(22)

OFFICIAL MINUTES

CITY OF NORTH BAY VILLAGE
REGULAR MEETING
TUESDAY, MARCH 13, 2012

7:30 P.M

The Regular Meeting of the City of North Bay Village Commission was held on Tuesday, March 13, 2012, at the City Commission Chambers (1700 Kennedy Causeway, #132, North Bay Village, FL 33141).

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

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

Commissioner Paul Vogel was absent.

City Manager Dennis Kelly
City Attorney Nina Boniske
Assistant City Attorney Kathy Mehaffey
Finance Director Gerard Pirri
Public Works Director Sam Zamacona
HR Manager Jenice Rosado
City Clerk Yvonne P. Hamilton

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

A motion was offered by Commissioner Stuart Blumberg and seconded by Vice Mayor Eddie Lim to excuse the absence of Commissioner Paul Vogel. All voted in favor and the motion carried 4-0.

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

15A(1)

2. A. PROCLAMATIONS AND AWARDS

1. COMMUNICATIONS DISPATCH PERSONNEL – NATIONAL TELECOMMUNICATOR'S WEEK

Chief Daniels read a proclamation into the record declaring April 11-15, 2011 as National Telecomunicators' Week and recognized North Bay Village telecommunicators for their vital contributions to the safety and well being of citizens. North Bay Village Police Dispatch Elizabeth Alpern accepted the proclamation.

B. SPECIAL PRESENTATIONS

1. STUDENTS WORKING AGAINST TOBACCO – JOSEPH NABAKA/GRADUATE STUDENT/FLORIDA INTERNATIONAL UNIVERSITY

A group of students led by Dr. Javier Berezdium, Counselor at Miami Killlian Senior High School, made a presentation to the commission on the use and negative effect of candy flavored tobacco. Dr. Berezdium asked the Commission to adopt a resolution restricting the sale of these products in the City.

Reinaldo Trujillo, of 7601 East Treasure Drive, suggested that the resolution be directed to the County and State representatives as well.

C. ADDITIONS AND DELETIONS

Without objection Item 9B was removed from the Consent Agenda and Item 11AA(1) regarding creation of an information technology position was added.

A motion was offered by Commissioner Stuart Blumberg and seconded by Commissioner Richard Chervony to accept the agenda as revised. All voted in favor and the motion carried 4-0.

3. BOARD REPORTS

A. ANIMAL CONTROL ADVISORY BOARD

A report was not provided.

15A(2)

B. ARTS, CULTURAL & SPECIAL EVENTS BOARD

A report was not provided.

C. CITIZENS BUDGET AND OVERSIGHT BOARD

The Chair of the Board Al Gentry reported on the February 23, 2012 meeting where the financial report for January 2012; legal bills; the RFQ for legal services; the cash position of the City; update on improvements to Dr. Paul Vogel Park; resurfacing of Treasure Island streets; and purchase of financial software were discussed.

Member of the Board Max Crown pointed out that a member of the community had suggested the establishment of the Citizens Budget & Oversight Board for the purpose of allowing transparency after it was reported that there was a $1 Million shortage of funds. He asserted that there is a $400,000 shortage to the $3,000,000 required for the reserves, and he urged the Commission to ensure that expenditures are within the guidelines of the budget to avoid overspending.

Commissioner Blumberg requested that final Minutes of the Advisory Board Meetings be included in the City Commission Meeting agenda package. Vice Mayor Lim suggested that the City revert back to allowing the Boards to appoint their own secretary to prepare the Minutes. It was mentioned that the system was not working and the City had hired a part-time employee for the specific purpose of preparing those Minutes. Following further discussion on finalizing the Minutes and the time frame in which to prepare them, City Manager Kelly informed the Commission that those Minutes would be included in the agenda packages whether they were approved or not.

Member of the Board Alvin Blake informed Commissioner Blumberg that Minutes have been prepared for the Citizens Budget & Oversight Board Meeting and are waiting to be approved. He asked the Commission to make sure that only budgeted funds are spent by the department heads.

Resident Elaine Beutel, of 7533 Hispanola Avenue, suggested the use of Dragon Naturally Speaking software to assist with preparation of Minutes.

15A (3)

D. COMMUNITY ENHANCEMENT BOARD

Member of the Community Enhancement Board Doris Acosta reported that the Minutes of the Board Meeting were prepared and are also waiting for approval when the Board meets. She concurred with the hiring of an outside firm to review the City's budget. She also suggested that the City hire an outside contractor with landscaping expertise to review the work of the current landscape vendor to avoid issues with the landscaping.

Commissioner Blumberg requested that information and handouts provided at the Advisory Board Meetings are included in the City Commission Meeting agenda packets as well.

E. PLANNING & ZONING BOARD

The Chair Reinaldo Trujillo informed the Commission that he will present his report when the item that the Board addressed is heard before the Commission later in the meeting.

F. YOUTH SERVICES BOARD

A report was not provided as a quorum was not available to hold a meeting.

The Mayor opened the floor to the Good & Welfare session of the meeting at 8:30 p.m.

4. PUBLIC SAFETY DISCUSSION

Chief Robert Daniels announced that webcasting of the City Commission Meetings was scheduled for March 14, 2012. The Chief urged members of the community to work in partnership with the Police Department and to report any suspicious activities in order to improve the quality of life. He provided an update on the Citizens Police Academy scheduled for April 25, 2012 with 12-15 residents. Vice Mayor Lim asked about the duration of the academy. Chief Daniels stated that the 9-week program to be held on Thursday evenings will include orientation the first week with graduation during the last week. Vice Mayor Lim appealed to the residents to join the academy.

The Vice Mayor asked if written warnings were being issued for vehicular speeding on Harbor Island. Chief Daniels informed the Vice Mayor that the Police Officers have been monitoring the situation.

15A(4)

The Vice Mayor then addressed the issue of screeching halting sounds at night from vehicles that can be heard from 7921 East Drive. The Chief responded that the officers who work the night shift will monitor that situation also.

Mayor Leon-Kreps requested that speeding on North Bay Island and Treasure Island be monitored as well.

5. COMMISSIONERS' REPORTS

Commissioner Chervony reported on the following:

Passage of House Bills 4025 and 361 and Florida Senate Bills 760 and 770 pertaining to Business Tax Receipt Fees which will exempt Real Estate companies from paying the fees, which will cost the City $1,020 in revenues.

Defeat of House Bill 319 which would have reduced the authority of Condominium Associations to collect legally owed Maintenance Fees, Legal Fees and Costs, Interest and Penalties on unit owners who have defaulted on payment of their Monthly Maintenance Fees

Success of the Condominium Association Meeting held on March 7, 2012.
Next meeting scheduled for June 6, 2012 where hurricane preparedness and insurance will be discussed

His meeting with Dr. Karp of Miami-Dade County School Board regarding the International Baccalaureate Program

Status of demolition of the old City Hall building, baywalk plaza at the eastern side of island, completion of Dr. Paul Vogel Park

Commission Retreat held on March 17, 2012 where plans for the next budget and long-term goals for the city were discussed.

Vice Mayor Eddie Lim reported on the following:

His meeting with Claire Tomlin, City Manager, residents Candis Mason and Benjia Morgenstern regarding a Farmers' Market at the Crab House property

Commissioner Blumberg reported on his attendance at the Community Enhancement Board Meeting. He expressed concern about liability to the City in operating a Farmers' Market on private property and to whether or not there would be revenue sharing, since it's customary for Farmers' Markets to provide a return to cities on contractual sharing. Vice Mayor Lim responded that there would be 10-15% revenue sharing to the City and that the liability issue had been addressed. Commissioner Blumberg stated that there should be an open bid process if there would be revenue sharing. City Attorney Boniske advised that the item would not require bid process only if it were sole source procurement.

6. CITY ATTORNEY'S REPORT

City Attorney Boniske reported that the City received an amended application on the Isle of Dreams project on February 14, 2012 which included changes to the project. The application was reviewed and on March 5, 2012 it was determined to be incomplete. As of today, no further application had been submitted.

7. CITY MANAGER'S REPORT

City Manager Dennis Kelly announced a City Commission Retreat for March 17, 2012 from 9:00 a.m. to 3:00 p.m. in the City Hall Commission Chambers at 1700 Kennedy Causeway, #132 and the opening ceremony of Dr. Paul Vogel Community Park that is expected to be completed by March 23, 2012. He noted that Congresswoman Waserman Schultz will be the guest of honor. The manager further informed the Commission that the bid for the old City Hall building is scheduled to be issued next week; that City Planner Alex David had submitted his letter of resignation; and that Jim LaRue was asked to fill in as Interim City Planner.

Public Works Director Sam Zamacona reported that emergency repairs were conducted on a broken water lateral in front of 1555 Kennedy Causeway. Additional work is in process to repair a second lateral in front of 1865 Kennedy Causeway. Mr. Zamacona further reported that work on Dr. Paul Vogel Park was almost completed with the installation of brick pavers and laying of sod remaining.

15A(6)

City Manager Kelly continued his report and spoke of his efforts in addressing the lien issue concerning the property at 7401 Center Bay Drive as a result of penalties levied pursuant to Sections 94.03 and Section 153.01 of the City Code. Commissioner Chervony noted that the judge's order had been issued since 2000.The City Manager stated that the Police Chief and the Code Enforcement Officer visited the property, but there was no response.

Commissioner Blumberg asked if Jim LaRue, the Interim City Planner will be paid an hourly rate before a contract is obtained. The City Manager said yes.

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

Elaine Beutel, of 7533 Hispanola Avenue, suggested that the City hire school crossing guards instead of having police officers perform the service. She brought to the attention of the Commission that the entrance sign at Hispanola Avenue blocks the view from traffic heading north. She also suggested that more importance should be placed on repairing cracks in the streets and removing trash and debris rather than on painting of houses.

Gudrun Volker, of 7517 Cutlass Avenue, spoke about the city's intent to enforce Section 151.01 of the City Code by requiring property owners to paint their homes. She stated that enforcement should be directed more to cleaning around the homes rather than issuing violations for painting, considering economic hardships.

Doris Acosta, of 1790 South Treasure Drive, announced the Optimist Garden Tour scheduled for March 31, 2012 for which bus services will be provided to and from the event. She concurred that more attention should be paid to cleaning up the outside of the homes.

Reinaldo Trujillo, of 7601 East Treasure Drive, spoke of the creation of the Citizens Budget & Oversight Board for residents to represent the community. He commented that it was not uncommon for meetings to be held during the day, which is being done by other municipalities.

15A(7)

Max Crown, of 1620 South Treasure Drive, stated that it would help if residents participated and picked up trash and litter from the streets as he does when he walks through the island. He referred to an agenda item to relocate 96 trees from the bulb outs on Treasure Island and stated that the trees were planted to warm up the neighborhood and provide shade trees that were missing from the street. He questioned the reason for wanting to spend $19,000 of unbudgeted monies for the project when the trees have provided a chance for beautification of the area.

The Mayor closed the Good & Welfare session of the meeting.

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

A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, EXTENDING THE TERM OF THE CONTRACT WITH GROUNDKEEPERS, INC. FOR PROVIDING LANDSCAPE MAINTENANCE OF PUBLIC LANDS/RIGHT-OF-WAYS OF THE CITY OF NORTH BAY VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY CITY MANAGER DENNIS KELLY)***

B. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, EXPRESSING SUPPORT FOR THE CITY'S PARTICIPATION IN THE COPS HIRING PROGRAM AND COMMITTING TO REQUIRED FUTURE FUNDING; AND PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY CITY MANAGER DENNIS KELLY)***

C. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE APPROPRIATION OF $100,000 OF AVAILABLE NON-APPROPRIATED POLICE FEDERAL FORFEITURE FUNDS (FUND 07); AUTHORIZING THE DISBURSEMENT AND EXPENDITURE OF SUCH FUNDS TO COVER THE COST OF LAW ENFORCEMENT PERSONNEL OVERTIME; PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY CITY MANAGER DENNIS KELLY)***

15A(8)

D. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING THE SCOPE OF WORK FOR PROFESSIONAL GRANT WRITING SERVICES AND ENGINEERING AND PERMITTING SERVICES AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH C3TS FOR SUCH SERVICES IN CONNECTION WITH DEVELOPMENT OF NORTH BAY VILLAGE BOARDWALK; SETTING AN EFFECTIVE DATE.** ***(INTRODUCED BY CITY MANAGER DENNIS KELLY)***

A motion was offered by Commissioner Stuart Blumberg and seconded by Vice Mayor Eddie Lim to approve Items 9C and 9D on the Consent Agenda. The votes were as follows: Mayor Connie Leon-Kreps-Yes, Vice Mayor Eddie Lim-Yes, and Commissioner Stuart Blumberg-Yes. The motion carried 4-0.

10. PLANNING & ZONING CONSENT AGENDA

There was no planning and zoning consent agenda items.

11. ORDINANCES FOR FIRST READING AND RESOLUTIONS

A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA APPROVING THE CITY OF NORTH BAY VILLAGE POSITION CLASSIFICATION AND JOB DESCRIPTION MANUAL; ADOPTING PROPOSED CHANGES RECOMMENDED IN THE MANUAL; AND PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY CITY MANAGER DENNIS KELLY)***

This item was withdrawn from the agenda.

B. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, APPROVING CHANGE ORDER NUMBER 10 TO THE AGREEMENT BETWEEN M.VILA AND ASSOCIATES, INC. AND THE CITY OF NORTH BAY VILLAGE FOR THE REDEVELOPMENT OF J. F. KENNEDY CAUSEWAY NOT TO EXCEED $12,188; AUTHORIZING THE APPROPRIATE OFFICIALS TO EXECUTE THE DOCUMENTS; AUTHORIZING THE CITY MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE.** ***(INTRODUCED BY INTERIM CITY MANAGER ROBERT DANIELS)***

15A(9)

The City Clerk read the resolution by title.

Commissioner Blumberg asked if the project exceeded $2 Million.

Public Works Director Sam Zamacona responded that the installation of additional trees and ground covers were funded with proceeds from the American Recovery and Reinvestment Act and the Half Cent Sales Tax.

Mayor Leon-Kreps asked if the project was reviewed by the Citizens Budget & Oversight Board.

Commissioner Chervony referred to the $2 Million bond proceeds of which $1.825 Million was spent. The Commissioner asked where the money will come from considering over expenditure of $825,000 on the North Bay Island Wall, $80,425 on the Dr. Paul Vogel Park; $30,000-$60,000 for installing the bathrooms; plus the cost of repairing the seawall.

Mr. Zamacona explained that there was $415,000 in grant funding for improvements to Dr. Paul Vogel Park, which was used for playground and exercise equipment in lieu of landscaping. There was also grant funding for the design and permitting of the seawall repairs.

Commissioner Blumberg noted that the plantings behind the wall adjacent to the former Jumbo Buffet Restaurant do not exceed the height of the wall as stated in the Change Order.

A motion was offered by Commissioner Stuart Blumberg and seconded by Commissioner Richard Chervony to reject the resolution. The votes were as follows: Mayor Connie Leon-Kreps-Yes, Vice Mayor Eddie Lim-No, Commissioner Richard Chervony-Yes, and Commissioner Stuart Blumberg-Yes. The motion carried 3-1 with Vice Mayor Lim dissenting.

C. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, REPEALING RESOLUTION NUMBER 2011-52 PERTAINING TO NEW POLICY LEGISLATION; SETTING AN EFFECTIVE DATE. *(INTRODUCED BY COMMISSIONER RICHARD CHERVONY)*

The City Clerk read the resolution by title.

Commissioner Chervony reported that although the resolution was necessary when it was approved, it now hampers rather than helps the Commission.

Reinaldo Trujillo, of 7601 East Treasure Drive, commented that the purpose of the resolution was to bring an item before the Commission for discussion before preparing a resolution. However, the proper procedure is to address items by resolution.

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

12. PUBLIC HEARINGS INCLUDING ORDINANCES FOR SECOND READING

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) – SECOND READING*

The City Clerk read the ordinance by caption.

Mayor Leon-Kreps opened the Public Hearing. No one came forward to be heard, and the Public Hearing was closed.

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, Commissioner Stuart Blumberg-Yes, Mayor Connie Leon-Kreps-Yes, and Vice Mayor Eddie Lim-Yes. The motion carried 4-0.

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) – SECOND READING***

The City Clerk read the ordinance by caption.

Assistant City Attorney Mehaffey reported that the revisions to the ordinance were proposed by FEMA and by Miami-Dade County. She requested that the item be tabled to address recommended revisions to the base model that are not out yet.

Mr. Trujillo asked if the ordinance will be returned to the Planning & Zoning Board for review after the changes are made. City Attorney Mehaffey informed him that it depends on the level and significance of the changes. If they are not significant and do not affect the overall ordinance, they will not be submitted to the Board.

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

C. **AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING," TO UPDATE THE COST RECOVERY PROGRAM AND REQUIREMENTS, UPDATE THE FEE SCHEDULE RELATIVE TO DEVELOPMENT PRACTICES; AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY DELETING APPENDIX F ENTITLED "FEE SCHEDULE" IN ITS ENTIRETY; BY AMENDING SECTION 2.7.2 "BASIC APPLICATION REQUIREMENTS" TO UPDATE REFERENCES RELATED TO FEES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVEDATE.** ***(INTRODUCED BY CITY MANAGER DENNISKELLY) – FIRST READING***

The City Clerk read the ordinance by caption.

Assistant City Attorney Mehaffey explained that the changes to the ordinance address procedures for the fees outlined in Section 152.110 of the City Code. In summary the fees are consolidated into one section of the code; the procedures are streamlined; the minimum fee for the cost recovery escrow account balance has been changed from 1/3 to ½ to allow the availability of funds to cover outstanding cost; fees were consolidated into one table; and the fee for a dock waiver was revised. One of the primary changes to the ordinance is that an application will be deemed withdrawn if the escrow account is not replenished. The changes were approved and accepted by the Planning & Zoning Board by a vote of 4-0 at its February 28, 2012 meeting.

A motion was offered by Commissioner Stuart Blumberg and seconded by Commissioner Richard Chervony to approve the Ordinance on first reading. The votes were as follows: Mayor Connie Leon-Kreps-Yes, Vice Mayor Eddie Lim-Yes, Commissioner Richard Chervony-Yes, and Commissioner Stuart Blumberg-Yes. The motion carried 4-0.

13. UNFINISHED BUSINESS

There was no unfinished business.

15A(13)

14. NEW BUSINESS

A. CITIZENS BUDGET & OVERSIGHT BOARD RECOMMENDATION – REMOVAL OF MEMBER

Mayor Leon- Kreps responded to public information which stated that only one member of the Citizens Budget & Oversight Board has financial expertise. She clarified that the Board consists of seven members including five residents and two business owners. Following advertisement of the vacancies, two business owners applied and they were appointed to the Board. She pointed out that there is a member with a CPA distinction; a business major with a Bachelor's Degree from FIU and others with management level positions.

B. COMMUNITY ENHANCEMENT BOARD – BEAUTIFICATION AWARD – *(COMMISSIONER RICHARD CHERVONY)*

Commissioner Chervony explained that the Board discussed the idea of reintroducing the Annual Beautification Awards program to recognize single-family homes, low-rise multi-family homes, high-rise multi-family homes, and commercial properties. Plans are to submit nominees for the awards at the May Commission Meeting. Discussions were also held to mail letters for donations to support the event.

Vice Mayor Lim supported the idea of the Beautification Awards Program.

C. LANDSCAPE MAINTENANCE SCHEDULE *(COMMISSIONER RICHARD CHERVONY)*

Commissioner Chervony discussed the idea of hiring a landscape architect to ensure that landscaping maintenance is being done in accordance with the requirements of the contract with Groundkeepers, Inc.

D. RELOCATION OF LIVE OAKS FROM TREASURE ISLAND BULB OUTS TO TREASURE ISLAND ELEMENTARY SCHOOL *(COMMISSIONER STUART BLUMBERG)*

Commissioner Blumberg discussed the purpose of this item to relocate 96 live Oaks from the Treasure Island Bulb Outs to Treasure Island Elementary School and to replace them with some type of plant with flowers with input from the Community Enhancement Board. He mentioned his meeting with a representative in the facilities department of Miami-Dade County School Board since permission is required to relocate the trees to the school. It was recommended that the City pay the cost for the planting and upkeep of the trees, which would be relocated in other places like Dr. Paul Vogel Park at some point. Another proposal was for the school to remove the trees at their own expense, keep them for three months and then return them to the City. Commissioner Blumberg suggested that the latter offer be rejected. He mentioned his conversations with two school board members in trying to obtain a Memorandum of Understanding to help support the effort. Commissioner Blumberg spoke of the City as a colorless community with all green and no "wow factor". He assured the residents that an investigation will be conducted before the trees are removed and before anything is planted, because the project will not be done if it is cost prohibitive. However, if it makes sense and it is financially and fiscally correct, the project would move forward.

Max Crown, of 1620 South Treasure Drive, suggested that flowers be planted around the trees instead of removing the trees.

Commissioner Blumberg responded that the trees do not enhance Treasure Island and if flowers are planted, the trees will still be noticeable. He reiterated that the trees will not be removed until the matter is presented to the public and after investigation.

Reinaldo Trujillo, of 7601 East Treasure Drive, informed the Commission that the Treasure Island Bulb Outs project was funded by monies from the Half-cent Sale Tax. He stated that the trees are getting better and they were selected to meet the requirements of the County. Commissioner Blumberg mentioned that he met with DERM who handles the procedures for dealing with trees. Mr. Trujillo recalled that the project was done as a traffic calming measure to slow down traffic after the street bumps were removed.

15. APPROVAL OF MINUTES

No Minutes were approved.

15A(17) 15

16. ADJOURNMENT

The meeting adjourned at 11:30 p.m. followed a motion to adjourn by 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.)

15A(16)

OFFICIAL MINUTES

CITY OF NORTH BAY VILLAGE
REGULAR CITY COMMISSION MEETING
TUESDAY, APRIL 10, 2012

7:30 P.M

The Regular Meeting of the City of North Bay Village Commission was held on Tuesday, April 10, 2012 at the City Commission Chambers (1700 Kennedy Causeway, #132, North Bay Village, FL 33141).

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

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

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

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

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

A motion was offered by Commissioner Stuart Blumberg and seconded by Commissioner Richard Chervony to excuse Commissioner Paul Vogel's absence due to illness. All voted in favor and the motion carried 4-0.

2. A. **PROCLAMATIONS AND AWARDS**

1. **WATER CONSERVATION MONTH**

15A (17)

A proclamation declaring the month of April as Water Conservation Month in the City of North Bay Village was read into the record.

A Certificate of Appreciation was presented to the Optimists Club in recognition of their community services, particularly for the success of the Second Annual Garden Club event held on March 31, 2012.

B. SPECIAL PRESENTATIONS

1. CITY LOBBYIST FAUSTO GOMEZ – END OF SESSION LEGISLATIVE REPORT

Mr. Gomez provided the end of session legislative report.

Ms. Aletha Player, of Florida Power & Light Company, reported that the company began work in March to replace the underground feeders coming into the community and other equipment will be replaced in April. Additional switches are being designed and once they are completed, construction work will begin. The power outage that occurred on April 6 was as a result of FPL cables that were pulled down by telephone cables and the outage on April 7 was due to bad weather. Ms. Player will come back to address the Commission once the plan develops.

Mayor Leon-Kreps expressed her concern for her neighbors during these outages, especially those who use oxygen.

Resident Elaine Beutel asked why bad weather is causing outages, especially with the bad weather season approaching. She asked Ms. Player why the company has been ignoring the issues and not working on them. Ms. Player stated that a work plan had been identified; some of the work had been done and some called for design; and plans are in place for the work to be done this year.

Commissioner Blumberg asked if the company was working on a plan that would be available for discussion at the next Commission Meeting. Ms. Player stated that the work is being designed and she will find out the schedule so that she can share the information with the Commission.

C. ADDITIONS AND DELETIONS

No items were added to or deleted from the agenda.

15A (18)

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

The Chair of the Board Al Gentry reported on the March 21, 2012 Board Meeting where the City's finance report was reviewed; the CITT transportation funds were discussed and would be reviewed to determine if the right amount were charged and if there had been an increase or decrease in the funds. The Board also discussed their concerns about the delay in receipt of the City's audit report, and a motion was made to retain the current auditor and give them the assignment of preparing quarterly reports, which would need to be funded. Also discussed was the need to implement the right financial software for the Finance Department and the hiring of a retired Finance Director to assist in obtaining the system; the reserve fund; demolition of the old City Hall building; and bank reconciliation which has been prepared up to February 2012.

Member of the Board Max Crown discussed that there is a shortfall of $400,000 to the $3 Million that is requested based on the requirement of the City Code to retain a 20% reserve fund in the budget. He mentioned that there should be three to five months of reserves, but for a coastal city, there should be five months of reserves. He explained that monies left over from last year's budget were carried over and he found out that there was no "Emergency Reserve Fund", but appropriations and carryovers are used instead. He asked the Commission to establish an "Emergency Reserve Fund".

City Manager Kelly explained that there are appropriations and carry over in the Reserve Fund and there is a surplus of funds beyond the 20% that is required by Section 35.22 of the City Code. He stated that having three to five months of reserves is an opinion. However, if that becomes the policy of the City Commission, the City now has less than three months of reserves. He noted that the reserves and carryovers are the reserves for the General Fund. He spoke about the City Code requirement for separate Utility Reserves for water, sewer, and sanitation.

15A(19)

Commissioner Blumberg mentioned the Special Financial Audit meeting scheduled for April 19, 2012 which would provide the opportunity for the citizens to weigh in on the budget. He stated that it was incumbent on residents and staff to be present at the meeting as the audit will determine whether or not there are reserve funds, the amount, and what they are earmarked for, as well as the opportunity to find out if there is a balanced budget.

Mr. Crown stated his concern about the meaning of appropriations and carryovers in the budget.

Vice Mayor Lim spoke about the possibility of creating a new an "Emergency Reserve Fund".

Commissioner Chervony expressed concern that he did not know the City's financial status. He also stated that he had questions about the funds for Capital Projects.

D. COMMUNITY ENHANCEMENT BOARD

Chair Penelope Friedland presented the Board Report for the meeting of March 1, 2012 where all of the six members were present. She reported on items discussed at the meeting such as the 79th Street Causeway improvements with a presentation by George Puig, Landscape Architect, on the Punch List items on the project; the City's landscape maintenance schedule which is due to expire and will be extended to provide time to bid the project; and a presentation by resident Esther Pereira on nature vegetation.

Vice Mayor Lim suggested that a new Board be formed to look into the possibility of having a Farmers' Market in the City.

Commissioner Blumberg expressed disappointment on the appearance of the bulb-outs on Treasure Island and the lots on 7914, 7916, and 7918 West Drive.

Ms. Friedland continued her report and discussed the Board's nomination for beautification awards in the categories of high-rise, low-rise, and single-family residential categories, with the winners to be announced at the May City Commission Meeting. She explained that none of the commercial properties are beautified. Also discussed at the meeting were side-walk trip hazards and the problem with the cat population in the City.

15A(20)

Public Works Director Sam Zamacona described the placement of sample plants in the pots on the Kennedy Causeway at the request of the Community Enhancement Board for their review.

E. PLANNING & ZONING BOARD

A report was not provided.

F. YOUTH SERVICES BOARD

A report was not provided.

G. ADVISORY CHARTER REVIEW BOARD

A report was not provided.

4. PUBLIC SAFETY DISCUSSION

Chief Daniels announced Movie Nights at Dr. Paul Vogel Park for May 25, June 23, and July 20, 2012. He spoke about plans to commence the Citizens Police Academy the first week in May for duration of nine weeks. He extended an invitation to the Law Enforcement Memorial Services on April 11, 2012 at 10:00 a.m. at City Hall. The Chief discussed the finances associated with the Red Light Camera Enforcement Program as outlined in the supplemental report included in the agenda package. He pointed out the reason for the program to protect property and life rather than to generate revenue. Discussion took place regarding the difference in the current and the adjusted figures. The Chief will follow up on the matter and advise if any adjustments were made to the numbers.

Mayor Leon-Kreps asked about the sex offenders who are residing in close proximity to the City. Chief Daniels responded that the department is working with the City of Miami to ensure that they are actively being tracked.

Mayor Leon-Kreps questioned the increase in burglaries concerning vehicles. Chief Daniels mentioned that these burglaries are the result of doors to many vehicles being left unlocked and valuables being left in plain view. He spoke about plans for a campaign by the department to remind individuals to lock the doors to their vehicles and homes.

15A (21)

Mayor Leon-Kreps asked if the cameras on North Bay Island are in working condition and if they are being utilized to capture suspects. The Mayor then commended the police staff for their work during a fire at the Grandview Palace and expressed her hopes that Officer Kennedy and Lieutenant Suarez, who suffered smoke inhalation, were alright.

Mr. Crown asked about the proceeds from the red light camera program. Chief Daniels explained that $5,000 of those funds was earmarked for youth services. Mr. Crown stated that the funds were to be put towards the reserves. Chief Daniels explained that a previous Commission had approved the expenditure of monies from the red light camera program to cover the cost of salaries for Police Officers.

5. COMMISSIONERS' REPORTS

Commissioner Chervony expressed his concern about pending issues such as the RFQ for Legal Services, RFP for demolition of the old City Hall building, review of the City Charter, and lack of commitment by the City Manager to carry out these projects. He further described the delay with the budget request for a financial software package and information on partial or complete outsourcing of the Finance Department; removal of the plants in the mosaic pots on the 79th Street Causeway; the request of the Planning & Zoning Board on March 20, 2012 for a joint meeting with the City Commission; Phase 1 of the 79th Street Causeway enhancement and his request for a full and complete report on the project; missing Minutes of the Commission Meetings; and no up-lighting in the bus shelters adjacent to Oggi's Restaurant and Happy's Lounge. The Commissioner also expressed his concerns about the status of the improvements at Dr. Paul Vogel Park and the creation of a philanthropic campaign.

Vice Mayor Lim spoke of his plan for the creation of a Business Development Advisory Board to assist in changing the commercial landscape of the City. He mentioned his meeting with Commissioner Gongora of Miami Beach for residents to share the recreational activities on Miami Beach on a broader, long-term basis in addition to entering into an Interlocal agreement. He described his idea for a Community Garden and spoke about the possibility of a Farmers' Market at the Crab House property.

The Vice Mayor further suggested that cultural events should be held at Dr. Paul Vogel Park. He stated that WSVN had agreed to donate $250 for purchase of beautification awards and he spoke of his plan to meet with representatives of the station for them to become more involved in the City.

15A(22)

Commissioner Blumberg reported on the possibility for a Publix Supermarket in the City. Based upon his conversations with the corporate office in Lakeland, Florida, there is interest in the idea, but they are waiting to see what the traffic would be like at the new store on 68th Street and Collins Avenue and from the store in Surfside. Once that occurs, they will walk through the City. The Commissioner will provide follow up on the matter and report back to the Commission. He further referred to a rental ordinance that was adopted by Miami Beach three years ago. However, the law has since changed and the North Bay Village has missed the deadline for making similar changes to its ordinance. He will meet with the attorney for the building at 7928 East Drive to determine if they are following the rules and regulations for operating as a transient hotel. Regarding the relocation of the trees in the bulb outs on Treasure Island, Commissioner Blumberg reported that until he received a definite answer from the Facilities Operations Department at the School Board as to what they plan to offer, he proposed to move some of the trees to the Dr. Paul Vogel Park. He stated that he is working on how to secure more safety in Treasure Island and on a plan that would create new entrances and close entrances that currently exist. He will discuss the plan with the City Manager and the Chief and hold a workshop if there is any merit to the plan. The Commissioner discussed the lack of up-lighting on the monument signs and the lack of an entrance sign in the area heading east to west. He suggested that a retreat or a vision session be held to address the breakdown in communication between the City Commission and staff.

Mayor Leon-Kreps congratulated Officer Kennedy and Lieutenant Suarez for their efforts in putting out the fire that occurred at Grandview Palace. She requested that the City Manager prepare a list of the residents with physical needs so that they can be provided with assistance when issues such as the boil water notice FPL outages occur. She thanked the Optimists Club for their assistance in portraying the City in a positive light. She also thanked the Code Enforcement Officer. The Mayor spoke about her attendance at the NACA Conference in Chicago, which was paid by grant funds from the association due to the assistance of HR Manager Jenice Rosado and Executive Assistant Dionisia Fecht in completing the application, whom she thanked. She reported that Commissioner Libbin of Miami Beach will work with the City on a recreational program for the children of North Bay Village. Additionally, she met with Mayor Matti Bower, some of her staff, and Julio Magrisso of the Parks and Recreation Department on the same issue.

15A (23)

The Mayor asked the City Manager to look into the feasibility of a program to assist the residents with the cat population and report back to the Commission at the next meeting. She mentioned that staff is checking with the auditors regarding the cost to prepare quarterly reports. The Mayor requested an update on the parking issue on Harbor Island, which is affecting the residents, especially on the south side. She agreed that Dr. Paul Vogel Park should be used for more cultural events such as concerts, music in the park, and shows, which should be handled by the Arts, Cultural & Special Events Board.

6. CITY ATTORNEY'S REPORT

City Attorney Boniske requested that an Executive Session be held in the matters of: Dade County Police Benevolent Association, Inc. vs. City of North Bay Village Police Department, FMCS 10-04747-3, James McVay/Dade County PBA vs. City of North Bay Village; FMCS Case No. 12-00643-3, and Isle of Dreams, LLC. vs. City of North Bay Village, Florida: 12-CV-United States District Court, Southern District.

7. CITY MANAGER'S REPORT

City Manager Kelly informed the Commission that their comments would be taken to heed and he would do better. He reported on his meetings with Matti Bower regarding their willingness to enter into an Interlocal Agreement to provide the residents of North Bay Village with access to the recreational facilities at Normandy Park and North Shore. The idea of allowing residents to pay the residential rate, if room was available, with the city paying the difference in the cost was also discussed. The agreement would allow for use of the teen club, teen activity center and other activities that are free to students of Miami Beach Senior High School and Nautilus Middle School. If the program were successful, a link would be placed on the City's website. The City Manager announced that that the bids for demolition of the old City Hall and RFQ's for legal services were advertised and the Charter Review Board held its first meeting on March 27, 2012. He further reported that he is in the process of scheduling a meeting with FPL to discuss the underground utility program. He added that Jim LaRue had been hired as the Interim Planning Director.

The City Manager informed the Commission that he will commence discussion with Miami Shores and the City of Surfside regarding access to their recreational activities. He spoke about the prospect of setting up a Regional Program Director who will focus on recreational activities.

15A (24)

The City Manager further discussed the upcoming pre-bid conference for demolition of the old City Hall Building; a meeting that was held by the Advisory Charter Review Board; submittal of RFQ's for Legal Services from various firms; and his meeting with Aletha Player from FPL and a detailed briefing on undergrounding utilities from John Lea. He informed the Commission that the Special Needs Survey requested by the Mayor will be part of the revised Emergency Plan.

Mayor Leon-Kreps requested that a workshop be scheduled to discuss the underground utility program.

Commissioner Blumberg suggested that other communities be looked at to see if they subsidize fees for recreational services for children and that the cost should be known if the majority of residents were to use the program before entering into any Interlocal Agreements. City Manager Kelly reminded him that a commitment had not been made.

Commissioner Blumberg asked if the City has a Hurricane Emergency Plan. Chief Daniels said yes.

Mayor Leon-Kreps mentioned that the City does not have any recreational activities for the children. She suggested that research be conducted to see if there any grants funds to assist in subsidizing the cost to the residents.

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

Elaine Beutel, of 7533 Hispanola Avenue, questioned why the boil water notice was not advertised on the City's website. She expressed concern that the water pipes were past their prime. She felt that the Public Works Director and the City Manager did not show enough concern for residents when the boil water notice was put into effect and that the answers given by the Public Works Director were irresponsible and incorrect.

Benjia Morgenstern, of Miami View Drive, announced that the Optimists Garden Tour raised $9,000 and a majority of the money will go to youth services and will fund scholarships for graduating seniors. She thanked the Commission and the community for their support with the event.

Ann Bakst, of 1865 Kennedy Causeway, complained that a boil water notice was not distributed to her building and that the language was ambiguous.

15A(25)

Mario Garcia, of new resident at 7540 Cutlass Avenue, spoke of the need for improved communication.

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

A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, URGING TOBACCO RETAILERS NOT TO DISPLAY CANDY FLAVORED TOBACCO PRODUCTS WITH CANDY ITEMS; URGING MIAMI-DADE COUNTY COMMISSION TO ADOPT A SIMILAR RESOLUTION; PROVIDING FOR TRANSMITTAL; AND SETTING AN EFFECTIVE DATE.** ***(INTRODUCED BY MAYOR CONNIE LEON-KREPS AND COMMISSIONER RICHARD CHERVONY)***

The City Clerk read the resolution by title.

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

Commissioner Richard Chervony offered an amendment to the motion to require that the Resolution be submitted to the Florida League of Cities. Commissioner Stuart Blumberg seconded the amendment to the motion. The votes were as follows: Commissioner Richard Chervony-Yes, Commissioner Stuart Blumberg-Yes, Mayor Connie Leon-Kreps-Yes, and Vice Mayor Eddie Lim-Yes. The motion carried 4-0.

10. **PLANNING & ZONING CONSENT AGENDA**

There were no Planning & Zoning Consent Agenda items.

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

A. **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, EXTENDING THE TERM OF THE CONTRACT WITH GROUNDKEEPERS, INC. FOR PROVIDING LANDSCAPE MAINTENANCE OF PUBLIC LANDS/RIGHT-OF-WAYS OF THE CITY OF NORTH BAY VILLAGE; AND PROVIDING FOR AN EFFECTIVE DATE.** ***(INTRODUCED BY CITY MANAGER DENNIS KELLY)*** **–DEFERRED FROM MARCH 13, 2012**

15A(26)

The City Clerk read the Resolution by title.

Public Works Director Sam Zamacona reported that the detailed schedule with the scope of work is included in the agenda package. He noted that Henry De La Torrienta from Groundkeepers, Inc. was in attendance. Mayor Leon-Kreps stated that fertilization was not included in the schedule, and she felt that the schedule should have been extended to coincide with the time of the budget. Commissioner Chervony stated that he had met with Mr. Gonzalez, of Groundkeepers, Inc. and it was his understanding that there was a three-month extension from April 18 through July 17, 2012 since the contract was due to expire on April 17, 2012. There was an option for a three-month extension and one for a six-month extension, which would include general maintenance, cutting, blowing, and grass, fertilization and pruning of up to 7-foot high trees. He stated that he had spoken to the City Manager about obtaining a price to prune the trees over 10 feet tall, since the company was not responsible for pruning them according to the existing contract.

Mayor Leon-Kreps expressed her concern that fertilization for grass was not included and that mulching was to be done only once a year.

Commissioner Chervony clarified that fertilization and mulching are to be done on a quarterly basis. He noted that Groundkeepers, Inc. repaired the damage to the sod at Dr. Paul Vogel Park free of charge.

Mr. Zamacona stated that pruning of all Royal Palms on North Bay Island was included in the schedule. Commissioner Chervony stated that the trees have grown very tall and the trucks cannot reach that height.

Mr. De La Torrienta further clarified that the truck cannot reach the top of the fronds, and once the workers are in the bucket of the truck they would have to physically climb the trees which poses a great liability. He stated his willingness to reach an agreement with the City for this part of the work.

15A(27)

Commissioner Blumberg asked about the status of the new Bid for Landscape Maintenance Services. Mr. Zamacona responded that the Bid has been drafted and the scope of work was updated after review of similar contracts for Surfside and Miami Lakes. The document should be finished this week and will be submitted to the City Attorney for review. Commissioner Blumberg questioned the need to use the contract from Miami Lakes when their needs are different from those of North Bay Village. He asked that the Commission review the document and the Mayor concurred. City Attorney Boniske stated that the contract and the front-end bid documents have been approved by legal, but the technical specifications pertaining about the City need to the written by staff. Commissioner Blumberg expressed concern to the Commission not having sufficient time to vote on the matter if the Bid were issued in two or three weeks. He suggested that Groundkeepers, Inc. continue their services on a month-to-month basis. Commissioner Chervony concurred and he stated that the scope of work should include the maintenance of Dr. Paul Vogel Park. He asked what the responsibilities of the company are. Mr. Zamacona stated that the company is responsible for every ground cover in the public right-of-way. He stated that the contract also includes a 30-day termination clause. Vice Mayor Lim suggested a three-month extension of the contract on a month-to-month basis.

Mayor Leon-Kreps asked if there was a contract for emergency services.

Commissioner Blumberg suggested that the contract be extended for three months since the City is not prepared to issue the Bid. Commissioner Chervony pointed out an issue with the month-to-month service considering that fertilization has to occur in a different month. He added that the Community Enhancement Board has to review the Bid package. Vice Mayor Lim asked if a Special Meeting could be held to address the matter.

A motion was offered by Commissioner Richard Chervony and seconded by Vice Mayor Eddie Lim to extend the agreement with Groundkeepers, Inc. from April 18 through July 17, 2012 and on month-to-month basis thereafter while the City is going through the Bid process for landscaping services. The votes were as follows: Commissioner Stuart Blumberg-No, Mayor Connie Leon-Kreps-Yes, Vice Mayor Eddie Lim-Yes, and Commissioner Richard Chervony-Yes. The motion carried 3-1.

15A (28)

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

The City Clerk read the Resolution by title.

City Manager Kelly reported that the amount for the lien that was applied to the properties have been appropriated as part of the budget. He recommended that the outstanding amount of $163,000 remain, that the matter be tabled until the next Commission Meeting, and that the Citizens Budget & Oversight Board review the issue prior to the May Commission Meeting.

A motion was offered by Commissioner Stuart Blumberg and seconded by Vice Mayor Eddie Lim to defer Item 11B to the next Commission Meeting. The motion carried 3-1 with Commissioner Chervony voting no.

C. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, ESTABLISHING A BUSINESS DEVELOPMENT ADVISORY COMMITTEE; PROVIDING COMMITTEE MEMBERSHIP; PROVIDING FOR AN EFFECTIVE DATE. *(INTRODUCED BY VICE MAYOR EDDIE LIM)*

Vice Mayor Lim read the Resolution into the record in its entirety and he requested that notice of the vacancies on the Committee be advertised on the City's website. The Mayor concurred. Vice Mayor Lim suggested that an individual with business expertise who lives outside of the City should be included. He discussed obtaining assistance from the Miami Beach Chamber of Commerce and the Beacon Council.

Commissioner Blumberg suggested that members of the other Advisory Boards or of future Boards should not be able to sit on the Business Development Advisory Committee. He stated that the Board can be filled as there are many people in the commercial area and other people with long standing since this is a self sufficient community that has not tapped resources. He commended the Vice Mayor for tapping the resources. Commissioner Chervony pointed out that some of the Advisory Boards are not being filled and that there are not enough people to fill them.

15A(29)

Commissioner Blumberg stated that it was up to the Commission to move the initiative forward. He questioned the provision for the two years commercial requirement. City Manager Kelly questioned the provision for him to appoint two members instead of the City Commission. Commissioner Chervony recalled the failure to get developers and businesses to fill spaces in the City, and he was concerned as to whether seven people would be interested. He also cited the problem with attendance at meetings by some of the current Board members. Commissioner Blumberg spoke of the importance of having seven members and suggested that the group meet with Lyle Stern, of the Koniver Stern Group. Mayor Leon-Kreps suggested that business owners be invited to a workshop.
The Mayor opened the floor to public comments.

Discussion took place regarding the term of the Committee. City Attorney Boniske advised that Committees are not governed by the same regulations as Boards which are by ordinance. Commissioner Blumberg suggested that the Resolution be approved and the structure of the Committee be reviewed after. Mayor Leon-Kreps stated that there should be continuity. Vice Mayor Lim spoke about not making the appointees serve after the election.

Ann Bakst, of 1865 Kennedy Causeway, advised the Commission that there are members who currently serve on two Advisory Boards.

A motion was offered by Commissioner Stuart Blumberg and seconded by Mayor Connie Leon-Kreps to approve the Resolution with the amendment to remove the language for the City Manager to make two appointments to the Committee. The motion carried 4-0.

15A(30)

Commissioner Blumberg stated that it was up to the Commission to move the initiative forward. He questioned the provision for the two years commercial requirement. City Manager Kelly questioned the provision for him to appoint two members instead of the City Commission. Commissioner Chervony recalled the failure to get developers and businesses to fill spaces in the City, and he was concerned as to whether seven people would be interested. He also cited the problem with attendance at meetings by some of the current Board members. Commissioner Blumberg spoke of the importance of having seven members and suggested that the group meet with Lyle Stern, of the Koniver Stern Group. Mayor Leon-Kreps suggested that business owners be invited to a workshop.
The Mayor opened the floor to public comments.

Discussion took place regarding the term of the Committee. City Attorney Boniske advised that Committees are not governed by the same regulations as Boards which are by ordinance. Commissioner Blumberg suggested that the Resolution be approved and the structure of the Committee be reviewed after. Mayor Leon-Kreps stated that there should be continuity. Vice Mayor Lim spoke about not making the appointees serve after the election.

Ann Bakst, of 1865 Kennedy Causeway, advised the Commission that there are members who currently serve on two Advisory Boards.

A motion was offered by Commissioner Stuart Blumberg and seconded by Mayor Connie Leon-Kreps to approve the Resolution with the amendment to remove the language for the City Manager to make two appointments to the Committee. The motion carried 4-0.

15A(30)

12. PUBLIC HEARINGS INCLUDING ORDINANCES FOR SECOND READING

A. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING," TO UPDATE THE COST RECOVERY PROGRAM AND REQUIREMENTS, UPDATE THE FEE SCHEDULE RELATIVE TO DEVELOPMENT PRACTICES; AMENDING THE CITY OF NORTH BAY VILLAGE CONSOLIDATED LAND DEVELOPMENT REGULATIONS BY DELETING APPENDIX F ENTITLED "FEE SCHEDULE" IN ITS ENTIRETY; BY AMENDING SECTION 2.7.2 "BASIC APPLICATION REQUIREMENTS" TO UPDATE REFERENCES RELATED TO FEES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. *(INTRODUCED BY CITY MANAGER DENNIS KELLY)* – SECOND AND FINAL READING – PUBLIC HEARING

The City Clerk read the ordinance by title.

Assistant City Attorney Kathy Mehaffey presented and explained the changes to the ordinance to consolidate the fees to make it more user friendly, to revise application fees, to change sign variance fees from $300 to $600 and dock waivers from $150 to $200.

A motion was offered by Commissioner Stuart Blumberg and seconded by Vice Mayor Eddie Lim to change the fee for a Dock Waiver to $300. All voted in favor and the motion carried 4-0.

Mayor Leon-Kreps opened the Public Hearing.

Ann Bakst, of 1865 Kennedy Causeway, expressed concern about the high amount of the Building Permit fee for painting residential buildings which is calculated at five percent of the cost of the job.

The Mayor closed the Public Hearing.

15A(31)

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

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)* – SECOND AND FINAL READING – PUBLIC HEARING – DEFERRED FROM MARCH 13, 2012

A motion was offered by Commissioner Richard Chervony and seconded by Commissioner Stuart Blumberg to defer this item. All voted in favor and the motion carried 4-0.

13. UNFINISHED BUSINESS

There was no unfinished business.

15A (32)

14. NEW BUSINESS

A. DR. PAUL VOGEL PARK

A motion was offered by Mayor Connie Leon-Kreps and seconded by Vice Mayor Eddie Lim to defer this item. All voted in favor and the motion carried 4-0.

15. APPROVAL OF MINUTES

No Minutes were approved.

16. ADJOURNMENT

The meeting adjourned at 11:38 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.)

15A(33)

Summary of:
Planning & Zoning Board Meeting

Staff Report
Site Plan Review

Prepared for: *The City of North Bay Village City Commission*

Applicant: *Sotreza, LLC*

Request: *Site Plan Review*
KLA Day Nursery at 7800 Hispanola Ave

LaRue Planning
& Management Services, Inc.
1375 Jackson Street, Suite 206
Fort Myers, Florida
239-334-3366
Serving Florida Local Governments Since 1988

3A(1)

General Information

Owner/Applicant:	**Sotreza, LLC**
Applicant Address:	c/o Manuel Synalovski Associates 1800 Eller Drive, Suite 500 Fort Lauderdale, Fl 33316
Site Address:	7800 Hispanola Avenue North Bay Village, FL 33141
Contact Person:	Manuel Synalovski
Applicant/Contact Phone Number:	*954-961-6806(o) 954-804-3515(m)*
E-mail Address	***msynalovski@synalovski.com***

General Description

Establishment of pre-school (a.k.a. day nursery) at 7800 Hispanola Avenue, which property is owned by the Harambam Congregation, Inc. and formerly used as a religious institution.

Sotreza, LLC intends to operate the KLA School, an early childhood education (day nursery) use, Monday through Friday from 7 am to 6pm. The floor area of the facility will not be increased beyond the current 9,893 square feet. The maximum number of children enrolled will be 172 with a maximum staff of 18.

Staff Analysis

There is little modification from the staff reports of June 15th and June 20th. The applicant adequately explained by the previous traffic analysis that there would not be negative traffic impacts from the egress from the property at N Treasure Drive and flowing to the intersection at Adventure Ave.

All standard parking spaces are at a width of 9' and the driveway aisles are at 23'. Parking was deemed to be adequate and landscaping shown was more than required for an existing building. The Planning and Zoning Board recommended that net screening be provided at the top of the dumpster.

Recommendations

Staff recommends **approval** of the site plan pending the following:

1. Approval by the City Commission for six of the 32 parking spaces to be designated as compact spaces.

2. Net screening of some type is required at the top of the dumpster to prevent birds from scavenging the contents of the container.

These recommendations were approved by the Planning and Zoning Board.

Submitted by:
James L. LaRue
James L. LaRue, AICP
Planning Consultant

July 2, 2012

Hearing: City Commission July 10, 2012

Staff Report
Site Plan Review

Prepared for: *The City of North Bay Village Planning & Zoning Board*

Applicant: *Sotreza, LLC*

Request: *Site Plan Review*
KLA Day Nursery at 7800 Hispanola Ave

LaRue Planning
& Management Services, Inc.
1375 Jackson Street, Suite 206
Fort Myers, Florida
239-334-3366
Serving Florida Local Governments Since 1988

3A(4)

General Information

Owner/Applicant:	**Sotreza, LLC**
Applicant Address:	c/o Manuel Synalovski Associates 1800 Eller Drive, Suite 500 Fort Lauderdale, Fl 33316
Site Address:	7800 Hispanola Avenue North Bay Village, FL 33141
Contact Person:	Manuel Synalovski
Applicant/Contact Phone Number:	*954-961-6806(o) 954-804-3515(m)*
E-mail Address	***msynalovski@synalovski.com***

	Existing	**Proposed**
Future Land Use Map Classification	Institutional	Institutional
Zoning District	RM-40	RM-40
Use of Property	Synagogue	Day Nursery
Acreage	32,809 sq ft.	32,809 sq ft

Legal Description of Subject Property

LOTS 1 & 2 & E1/2 LOT 3, BLOCK 1, COMMERCIAL ADD TO TREASURE ISLAND, PLAT BOOK 52, PAGE 84, OF PUBLIC RECORDS OF MIAMI DADE COUNTY

General Description

Establishment of pre-school (a.k.a. day nursery) at 7800 Hispanola Avenue, which property is owned by the Harambam Congregation, Inc. and formerly used as a religious institution.

SOTERZA, LLC intends to operate the KLA School, an early childhood education (day nursery) use, Monday through Friday from 7 am to 6pm. The floor area of the facility will not be increased beyond the current 9,893 square feet. The maximum number of children enrolled will be 172 with a maximum staff of 18.

Consistency with Comprehensive Plan

The use is consistent with the City's Comprehensive Plan.

At the May 8, 2012 City Commission public hearing on the Special Use Exception to allow a day nursery on the site, the City Commission determined that the "early learning/day nursery use" qualifies as a "quasi-public" use. This finding ensures that said use is consistent with the description of the Institutional Future Land Use category under Policy 2.1.1a of the Future Land Use Element.

Adjacent Land Use Map Classifications and Zoning District

North:	Future Land Use Map Classification:	Commercial
	Zoning District:	CG
	Existing Land Use:	Office
East:	Future Land Use Map Classification:	Residential Multi-Family (High Density)
	Zoning District:	RM-40
	Existing Land Use:	Multi-Family Residential
South:	Future Land Use Map Classification:	Residential Single-Family
	Zoning District:	RS-2
	Existing Land Use:	Single-Family Residential
West:	Future Land Use Map Classification:	Residential Multi-Family (Medium Density)
	Zoning District:	RM-40
	Existing Land Use:	Multi-Family Residential

Adequacy of Public Facilities

Water and Sewer utilities will continue to be provided by Miami-Dade County M-DC (DERM). As the square foot of the physical facility will remain the same as previous, no significant impacts on sewer and water services are expected.

As part of the application for the Special Use Exception, Kimley-Horn presented a traffic impact and parking analysis for the operation that concluded that there would be no reduction in the Level of Service (LOS) from the affected nearby streets

Comparison of Proposal With Land Development Code (LDC) Design Standards

Regulation	Required	Provided
Minimum Lot Size [(Sec. 152.028(C)(1)]	10,000 sf; 100 foot frontage	32,809 sf, 208 feet of frontage
MINIMUM YARD SETBACKS [(Sec. 152.028(C)(2)] Note: There are no structural changes to the building that affect existing setbacks.		
Minimum Front	25 feet	Portions of the existing building setbacks are nonconforming but no structural changes are proposed.
Minimum Side Corner	25 feet	Same as above
Minimum Side (Interior) Principal structure	20 feet	44.9 feet
Minimum Side (Interior) Accessory structure	20 feet	Playground equipment is set back 20 feet from the north property line. (See following note.)

Note: Pirates Alley, was originally intended to be an alley affording only secondary access to uses abutting it. However, in this instance, the Planning and Zoning Board, during review of the Special Use Exception, recommended that it be the primary source of ingress to the day nursery/early learning center. As such, we believe that the north side of the property should be considered an interior side for purposes of determining the minimum required setback.

It appears that the canvas covered shade element in the playground area should not be considered a structure. It is really a temporary shelter from the sun and weather, the canvas cover of which could be removed in the event of a tropical storm or hurricane, which is not normally the case for items considered to be structures. Therefore we do not believe a side setback is required.

Regulation	Required	Provided
Minimum Rear [(Sec. 152.028(C)(2)]	15 feet	60.66 feet
Maximum building height [(Sec. 152.028(C)(4]	45 feet/four stories	1 story/32 feet to top of tower
Minimum Pervious Area [(Sec. 152.028(C)(2)]	25% (8,202 sf)	28.59% (9,380 sf)
Site Plan and Model Sec. 152.105(C)	Architectural model built to scale.	No physical model provided. It was determined during initial discussions that because the building was not being structurally altered that a computer model would suffice.
OFF-STREET PARKING [(Sec. 152.041)]		
Size of spaces [LDC Sec. 5.2.2(a)(1)]	Standards, 9' by 18'	8.5' by 18'. The Applicant has filed for a variance for the reduced width.
	Compact, 8' by 16'	8.5' by 18'
Compact spaces [LDC Sec. 5.2.2(a)(2)]	Maximum 20% of spaces with prior approval by City Commission.	6 spaces (18.75%)
Number of spaces Sec. 152.044(D)	No specific parking standard is set for a day nursery or similar use. Therefore the requirement is set by the City Commission after recommendation by the Planning and Zoning Board. The Planning and Zoning Board accepted the Applicant's analysis at the Special Exception Use hearing showing the need for 32 off-street spaces.	32
Location of spaces LDC Sec. 5.2.1(12)	20 feet between a public street right-of-way, exclusive of alleys, and the entrance to the nearest parking space.	The first space upon entry from Pirates Alley is at least 25 feet from the property line. While this may not strictly be required under this section, a 20-foot minimum is preferred.
Minimum maneuvering space Sec. 155.17	23 feet for 90 degree parking, one-way and two-way drives	22 feet. The Applicant has filed for a variance for the reduced width.

Regulation	Required	Provided
Fences, walls, and hedges. [Sec. 152.055(B)(5)]	No wood, chain link, wire or cable fencing or fences similar in appearance to any of the foregoing, or any vinyl clad fencing will be permitted within front setbacks. (This includes all areas past the front edge of the house running towards the street.)	The fence along the frontage of Hispanola Avenue is shown as "aluminum decorative fencing" on the site plan.
Off-street loading LDC 5.2.4	No loading space required of uses of less than 10,000 square feet of gross floor area.	None provided
Landscaping Miami-Dade County Landscaping Code Chapter 18A	Per Sec 18A-1(B)(3), existing development as defined in Section 18A-3(O) shall only be required to comply with the street tree requirements of Section 18A-6(C)(2) and parking lot buffers of Section 18A-6(I).	While the Applicant has met the limited requirements for existing development, the project meets all requirements that apply to development that is newer as well.

Other Requirements and Considerations

Sec. 152.105(C)(9)

Site plans for a building or buildings which contain more than two dwelling units, or more than 299 square feet of commercial or office space shall be reviewed by the Planning and Zoning Board and the City Commission. In reviewing site plans for development, the Planning and Zoning Board and the City Commission must consider and abide by the provisions of chapter 155 of the North Bay Village Code of Ordinances currently in effect. The review by the Planning and Zoning Board and City Commission shall attempt to establish that the proposed development or redevelopment conforms to all applicable provisions of the building and zoning regulations of the city and the Florida Building Code; and that the proposed development or redevelopment has a design and arrangement which:

(a) Protects against and minimizes any undesirable effects upon contiguous and nearby property.

Staff Comment: The development has located the play ground area in the area furthest away from existing residential uses to minimize noise generated during periods when the play ground area is in use.

(b) Provides sufficient off-street parking and loading facilities so that it will not be necessary to use the streets in the vicinity for this purpose.

Staff Comment: The Applicant has provided a parking analysis which adequately supports the need for 32 off-street parking facilities and has modified the ingress and egress pattern, as suggested during the Special Exception Use public hearing to limit, if not eliminate, stacking of vehicles along primary public streets during periods of student drop-off and pick-up activity.

(c) Provides sufficient setbacks, open space, and landscaping in order to protect and enhance the appearance and character of the neighborhood.

Staff Comment: The pervious area of the site exceeds the City's requirements for the RM-40 District; provides adequate open space for the students attending the facility and has dramatically increased the landscaping on the site over that which was associated with the prior use, thus improving the appearance of the property to those living and visiting the neighborhood.

(d) Can be accommodated by existing community roads, services, and utilities, or the necessary additions are provided by the developer.

Staff Comment: As the square foot of the physical facility will remain the same as previous, no significant impacts on sewer and water services are expected.

The Applicant has provided a traffic analysis indicating that there is no change in the level of service during the AM and PM peak periods and little or no effect upon delays along the approaches to the facility and at the nearby affected intersections.

Recommendations

Staff recommends **approval** of the site plan pending the following:

1. Approval by the City Commission for six of the 32 parking spaces to be designated as compact spaces.

2. Approval of the needed variances to reduce the width (maneuvering area) of the parking aisles from 23 feet to 22 feet and reduce the width of the parking spaces from 9 feet to 8.5 feet.

Submitted by:
James L. LaRue
James L. LaRue, AICP
Planning Consultant

June 15, 2012

Hearing: Planning & Zoning Board, June 27, 2012

Attachments: Future Land Use Map
Zoning Map
Aerial photograph

Appendix: Applicant Submitted
Traffic Impact Evaluation
Landscape Plan
Elevations

ADDENDUM: June 20, 2012

Staff Report
Site Plan Review

Prepared for: *The City of North Bay Village Planning & Zoning Board*

Applicant: *Sotreza, LLC*

Request: *Site Plan Review*
KLA Day Nursery at 7800 Hispanola Ave

LaRue Planning
& Management Services, Inc.
1375 Jackson Street, Suite 206
Fort Myers, Florida
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Serving Florida Local Governments Since 1988

3A(12)

General Information

Owner/Applicant:	**Sotreza, LLC**
Applicant Address:	c/o Manuel Synalovski Associates 1800 Eller Drive, Suite 500 Fort Lauderdale, Fl 33316
Site Address:	7800 Hispanola Avenue North Bay Village, FL 33141
Contact Person:	Manuel Synalovski
Applicant/Contact Phone Number:	*954-961-6806(o) 954-804-3515(m)*
E-mail Address	***msynalovski@synalovski.com***

Staff Analysis

The staff report for Sotreza LLC, Site Plan Review pointed out two areas that did not meet the City Code requirements. Parking spaces for the site plan showed a width of 8.5 feet instead of 9 feet as required by the code. Also, the driveway aisles for 90 degree parking showed as 22 feet instead of 23 feet as required.

Revised site plans have now been submitted by the applicant showing the proper widths for the parking spaces and driveways. There is no longer a need to request any variances. The site plan meets the City requirements and our recommendation no longer includes variance stipulation.

Comparison of Proposal With Land Development Code (LDC) Design Standards

Regulation	Required	Provided
OFF-STREET PARKING [(Sec. 152.041)]		
Size of spaces [LDC Sec. 5.2.2(a)(1)]	Standards, 9' by 18'	9' by 18'
	Compact, 8' by 16'	8' by 16'
Compact spaces [LDC Sec. 5.2.2(a)(2)]	Maximum 20% of spaces with prior approval by City Commission.	6 spaces (18.75%)
Number of spaces Sec. 152.044(D)	No specific parking standard is set for a day nursery or similar use. Therefore the requirement is set by the City Commission after recommendation by the Planning and Zoning Board. The Planning and Zoning Board accepted the Applicant's analysis at the Special Exception Use hearing showing the need for 32 off-street spaces.	32
Location of spaces LDC Sec. 5.2.1(12)	20 feet between a public street right-of-way, exclusive of alleys, and the entrance to the nearest parking space.	The first space upon entry from Pirates Alley is at least 25 feet from the property line. While this may not strictly be required under this section, at least a 20-foot minimum is preferred.
Minimum maneuvering space Sec. 155.17	23 feet for 90 degree parking, one-way and two-way drives	23 feet.

Recommendations

Staff recommends **approval** of the site plan pending the following:

Approval by the City Commission for six of the 32 parking spaces to be designated as compact spaces.

Submitted by:
James L. LaRue
James L. LaRue, AICP
Planning Consultant

June 20, 2012

Hearing: Planning & Zoning Board, June 27, 2012

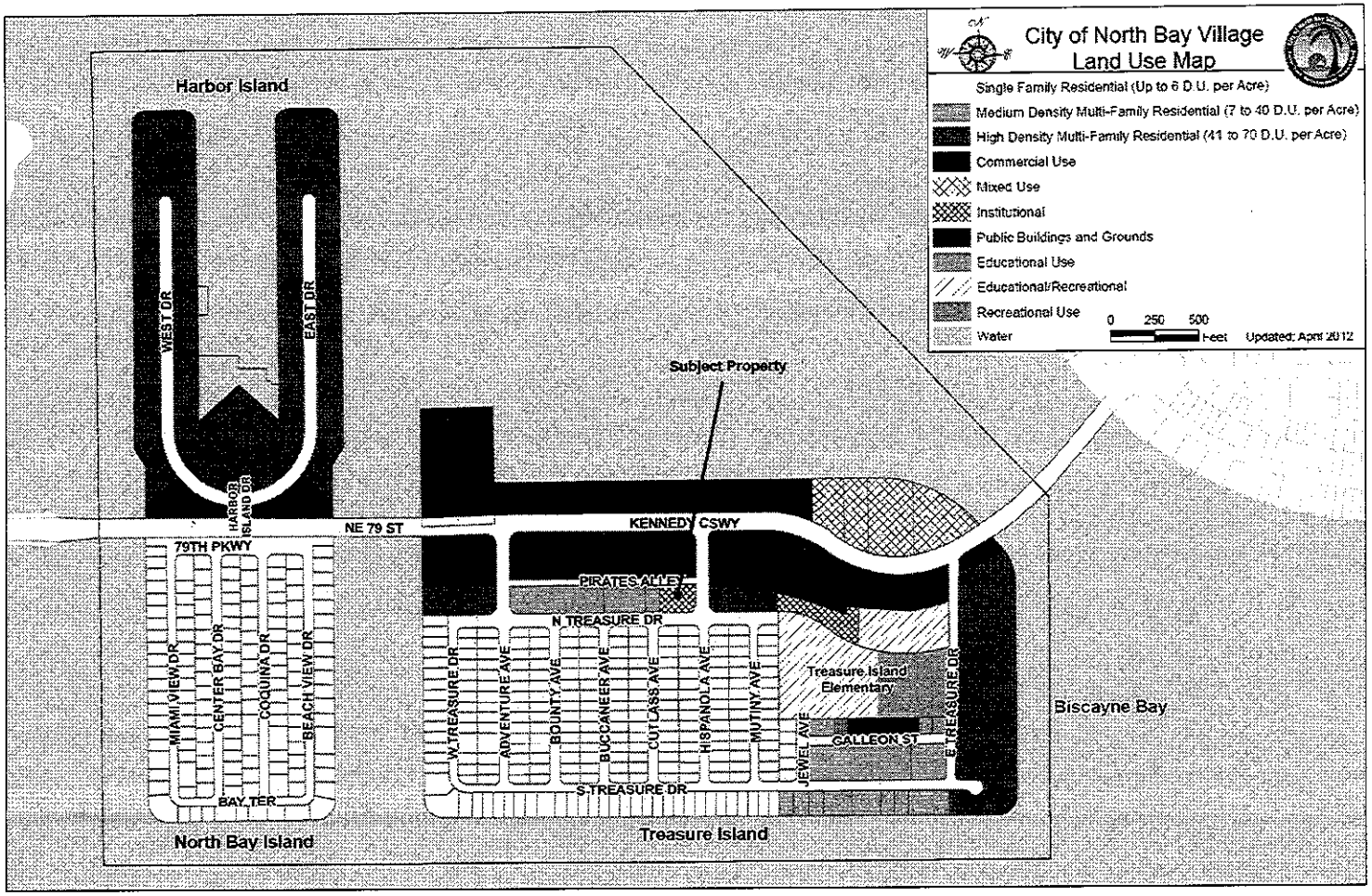
Appendix: Applicant Submitted
Revised Parking Plan

APPENDIX: APPLICANT SUBMITTED

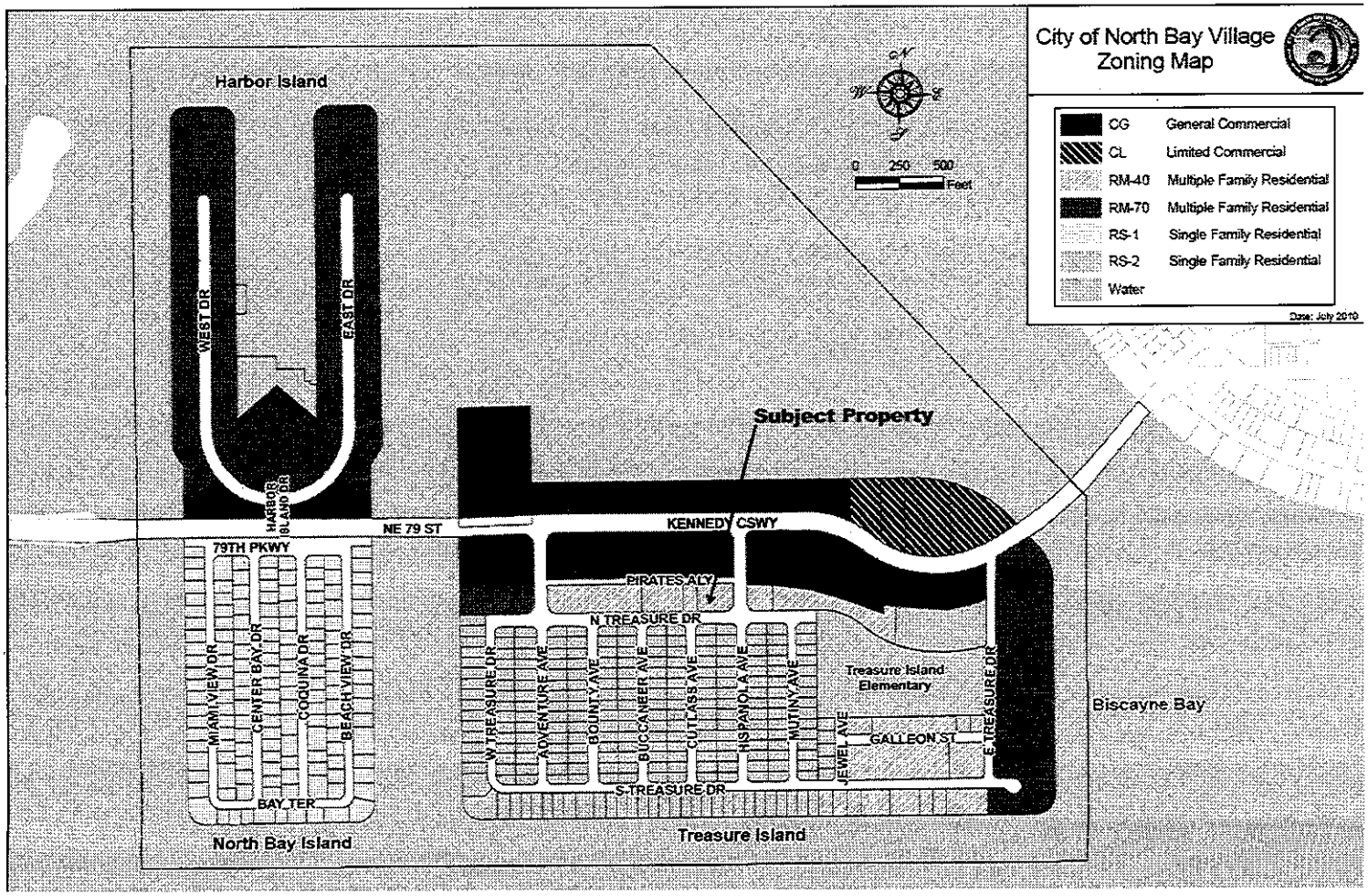
Revised Parking Plan

34(17)

FUTURE LAND USE
SUBJECT SITE AND ENVIRONS



ZONING
SUBJECT SITE AND ENVIRONS



34 (18)

ARIAL PHOTOGRAPH
SUBJECT SITE AND ENVIRONS

34 (19)

APPENDIX: APPLICANT SUBMITTED

TRAFFIC IMPACT EVALUATION
LANDSCAPE PLAN
ELEVATIONS

Kimley-Horn
and Associates, Inc.

April 17, 2012

Suite 200
1920 Wekiva Way
West Palm Beach, Florida
33411

Mr. Manny Synalovski
Manuel Synalovski Associates
1800 Eller Drive, Suite 500
Ft. Lauderdale, Florida 33316

Re: KLA School – North Bay Village
Off-Site Traffic Impact Evaluation
North Bay Village, Florida

Dear Manny:

Kimley-Horn and Associates, Inc. (KHA) has prepared the following evaluation as a supplement to the analysis prepared on April 10, 2012 that addressed on-site queuing and parking impacts of the proposed KLA School facility in North Bay Village. This evaluation has been prepared to address anticipated impacts of traffic generated by the proposed school facility at the intersections in the vicinity of the proposed school.

This document summarizes the data collected, the evaluations undertaken and the results of the analysis.

Study Area

For this evaluation, traffic impacts at the following locations were evaluated:

1. Hispanola Avenue & North Treasure Drive
2. Pirate's Alley & Adventure Avenue
3. JFK Causeway & Adventure Avenue

These intersections are anticipated to be the primary locations impacted by traffic entering and exiting the school facility. Figure 1 illustrates the location of the intersections that were evaluated.

Data Collection

Turning movement counts were conducted at all three intersections during the AM (7 AM – 9 AM) and PM (4 PM – 6 PM) peak periods on Friday, April 13, 2012, except for the PM peak period at JFK Causeway & Adventure Avenue because KHA had a turning movement count that had been collected on October 25, 2011 at that location. The volumes were adjusted to peak season conditions by applying the peak season conversion factor published by the Florida Department of Transportation (FDOT) for this area. Volume summaries are attached to this letter.

TEL 561 845 0665
FAX 561 863 8175

3A(21)

Impact Evaluation

Traffic anticipated to be generated by the school facility was assigned to the intersections as summarized in the attached tables. For this analysis, the school trip generation calculations that were documented in the April 10, 2012 analysis were utilized. Operational analyses were then performed for existing conditions without school traffic and future conditions with school traffic using software based upon the analysis methodology contained in the *2010 Highway Capacity Manual*. As summarized in Tables 1 through 3, the intersections will continue to operate at the same level of service in the future as they do today including the addition of school traffic based upon volume projections from the proposed school.

Table 1
Intersection Analysis
Hispanola Avenue & North Treasure Drive

Time Period	Approach	Existing Volumes		Proposed Volumes	
		Delay (sec)	LOS	Delay (sec)	LOS
AM PEAK HOUR	Northbound	11	B	11.2	B
	Southbound	11	B	11	B
	Eastbound	7.4	A	7.4	A
	Westbound	7.3	A	7.3	A
PM PEAK HOUR	Northbound	10	B	10.2	A
	Southbound	9.6	A	9.6	A
	Eastbound	7.3	A	7.3	A
	Westbound	7.2	A	7.2	A

Table 2
Intersection Analysis
Pirate's Alley & Adventure Avenue

Time Period	Approach	Existing Volumes		Proposed Volumes	
		Delay (sec)	LOS	Delay (sec)	LOS
AM PEAK HOUR	Northbound	7.4	A	7.4	A
	Southbound	7.7	A	7.7	A
	Eastbound	9.5	A	9.8	A
	Westbound	9.5	A	9.8	A
PM PEAK HOUR	Northbound	7.4	A	7.4	A
	Southbound	7.5	A	7.5	A
	Eastbound	11.3	B	11.7	B
	Westbound	9.6	A	9.7	A

3A(22)

Table 3
Intersection Analysis
JFK Causeway & Adventure Avenue

Time Period	Approach	Existing Volumes		Proposed Volumes	
		Delay (sec)	LOS	Delay (sec)	LOS
AM PEAK HOUR	Northbound	26.9	C	27.4	C
	Southbound	-	-	-	-
	Eastbound	21.4	C	21.8	C
	Westbound	13.9	B	14.1	B
	Intersection	**18**	**B**	**18.5**	**B**
PM PEAK HOUR	Northbound	26.6	C	27.5	C
	Southbound	-	-	-	-
	Eastbound	21.5	C	22.2	C
	Westbound	13.9	B	14.2	B
	Intersection	**18.1**	**B**	**18.9**	**B**

Intersection operational output worksheets are attached to this letter.

Summary

As demonstrated in this supplemental analysis, the intersections immediately impacted by traffic generated by the site are anticipated to operate acceptably during the AM and PM peak periods with the inclusion of school traffic volumes. Should you have questions or comments regarding the information contained herein, please call me via phone at 561-840-0248 or via e-mail at chris.heggen@kimley-horn.com.

Sincerely,

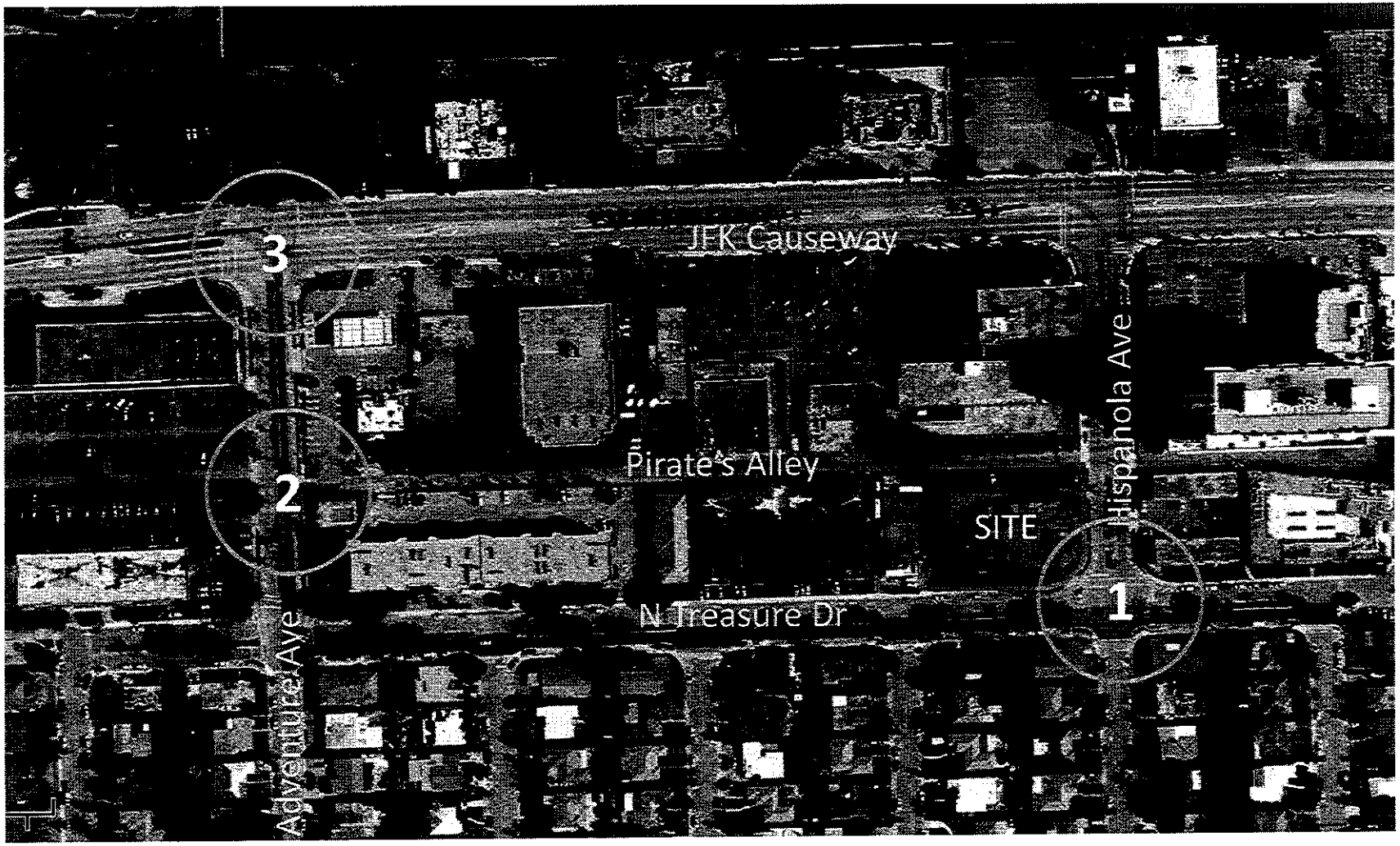
KIMLEY-HORN AND ASSOCIATES, INC.

Christopher W. Heggen, P.E.
Transportation Engineer

Attachments

K:\WPB_TPTO\85294\cwh\2012\KLA School - North Bay Village\041712ms-KLA-NBV.docx

3A(23)



34(24)

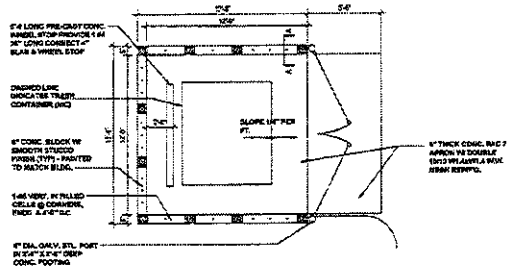
N
W
E
S
Not to Scale

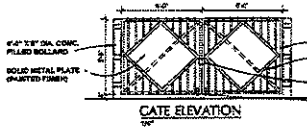
FIGURE 1

KLA School – North Bay Village
Intersection Analysis Locations

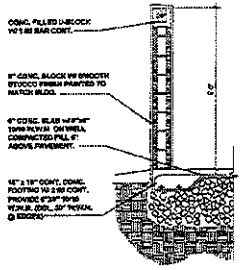
NOTES:

1. DUMPSTER ENCLOSURE SHALL BE LANDSCAPED ON THREE SIDES - SEE LANDSCAPE PLANS
2. DUMPSTER ENCLOSURE SHALL REQUIRE A SEPARATE BUILDING PERMIT





CATE ELEVATION



SECTION A - A

3 DUMPSTER DETAIL

SITE INFORMATION:

ZONING CLASSIFICATION RM-40
PROPOSED USE ..... EDUCATIONAL - DAY CARE

LAND USE DESIGNATION ..... COMMERCIAL
EXISTING BUILDING HEIGHT ..... 30'-0" A.F.G.

UTILITIES:

WATER & SEWER ..... MIDC (NEW)
ELECTRIC ..... FLORIDA POWER & LIGHT CO.

LEGAL DESCRIPTION:

LOTS 1 AND 2 AND THE EAST 1/2 OF LOT 3, IN BLOCK 1, OF COMMERCIAL ADDITION TO TREASURE ISLAND, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 22, AT PAGE 54, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

SETBACKS:

NORTH:	46.60'	(EXISTING)
SOUTH:	46.0'	(EXISTING)
EAST:	20.0'	(EXISTING)
WEST:	46.0'	(EXISTING)

SITE CALCULATIONS:

TOTAL SITE AREA	27,400 S.F. (0.75 ACRES)	
BUILDING & DRIVEWAY AREA	9,842 S.F.	36.0%
VEHICULAR USE AREA	10,171 S.F.	37.2%
PEDESTRIAN WALKS	3,281 S.F.	12.0%
EXTERIOR COVERED AREA	722 S.F.	2.6%
SUBTOTAL	23,916 S.F.	87.4%
PERVIOUS AREAS	3,484 S.F.	12.6% *
TOTAL	27,400 S.F.	100%

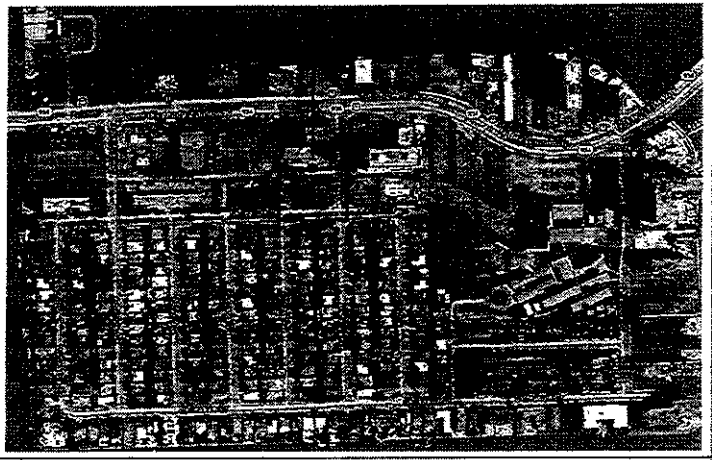
* 2,217 S.F. (LANDSCAPE AREA) + 500 S.F. (PERVIOUS PLAYGROUND)

PARKING CALCULATION:

INFANTS:	3 STAFF
1 YEAR	3 STAFF
2 YEAR	2 STAFF
3 YEAR	2 STAFF
4 YEAR	2 STAFF
5 YEAR	2 STAFF 13 STAFF
ADMINISTRATION	2 STAFF
SUB TOTAL	15 STAFF
DROP OFF / PICK UP	14 PARENTS
TOTAL REQUIRED	29 PARKING SPACES (INCLUDES 2 H.C. SPACES REQUIRED)
TOTAL PROVIDED	32 PARKING SPACES (INCLUDES 2 H.C. SPACES)

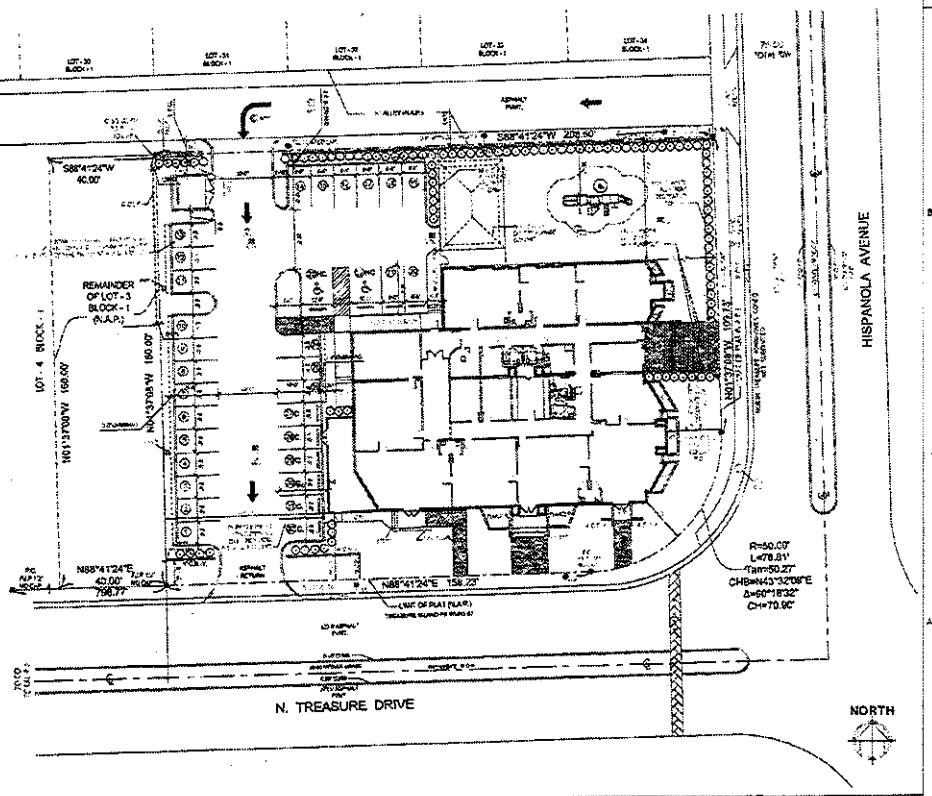
34(25)

4 SITE DATA



2 AERIAL MAP

NORTH



1 SITE PLAN

MANUEL SYNALOVSKI ASSOCIATES, LLC

MANUEL SYNALOVSKI, AIA
ARCHITECT
SEAL

LICENSE NO. AR0009143

KLA SCHOOLS
NORTH BAY VILLAGE

7900 HISPANOLA AVENUE
NORTH BAY VILLAGE, FL 33141

CLIENT: SOFTEDA, LLC.

DESIGN: FERRATT
DELIVERABLE: SDT
ISSUE DATE: 04/25/2012

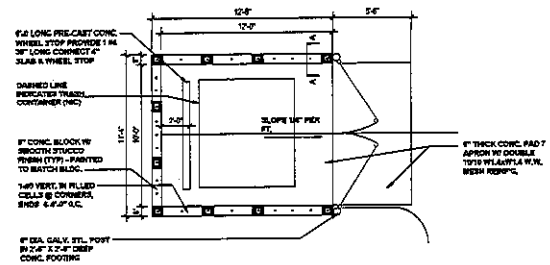
PROJECT NUMBER: 1126-130201
DRAWN BY: SH / JS
CHECKED BY: MS

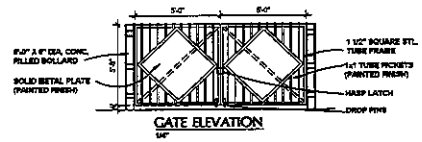
SITE PLAN

AS-101

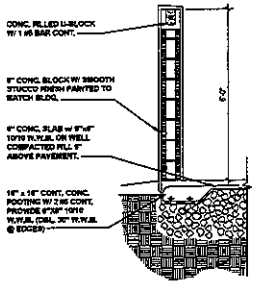
NOTES:

1. DUMPSTER ENCLOSURE SHALL BE LANDSCAPED ON THREE SIDES. SEE LANDSCAPE PLANS
2. DUMPSTER ENCLOSURE SHALL REQUIRE A SEPARATE BUILDING PERMIT



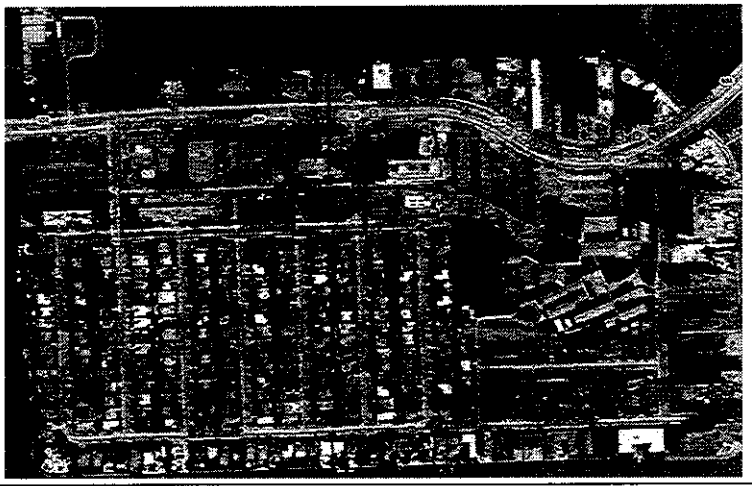


GATE ELEVATION
1/4"



SECTION A - A
1/2"

3 DUMPSTER DETAIL
SCALE: 1/4" = 1'-0"



2 AERIAL MAP
SCALE: N.T.S.

NORTH

SITE INFORMATION:

ZONING CLASSIFICATION: RM-40
PROPOSED USE: EDUCATIONAL - DAY CARE
LAND USE DESIGNATION: COMMERCIAL
EXISTING BUILDING HEIGHT: 30'-0" A.F.G.

UTILITIES:

WATER & SEWER: MDC (DERM)
ELECTRIC: FLORIDA POWER & LIGHT CO.

LEGAL DESCRIPTION:

LOTS 1 AND 2 AND THE EAST 1/2 OF LOT 3, IN BLOCK 1, OF COMMERCIAL ADDITION TO TREASURE ISLAND, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 32, AT PAGE 84, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

SETBACKS:

NORTH:	44.00' (EXISTING)
SOUTH:	25.05' (EXISTING)
EAST:	20.15' (EXISTING)
WEST:	10.00' (EXISTING)

SITE CALCULATIONS:

TOTAL SITE AREA:	32,569 S.F. (0.75 ACRE)	
BUILDING FOOTPRINT AREA	9,880 S.F.	30.33%
VEHICULAR USE AREA	10,513 S.F.	32.23%
PEDESTRIAN TRALLS	2,224 S.F.	6.72%
EXTERIOR COVERED AREA	782 S.F.	2.41%
SUBTOTAL	23,429 S.F.	71.41%
PERVIOUS AREAS	9,368 S.F.	28.59% *
TOTAL	32,561 S.F.	100%

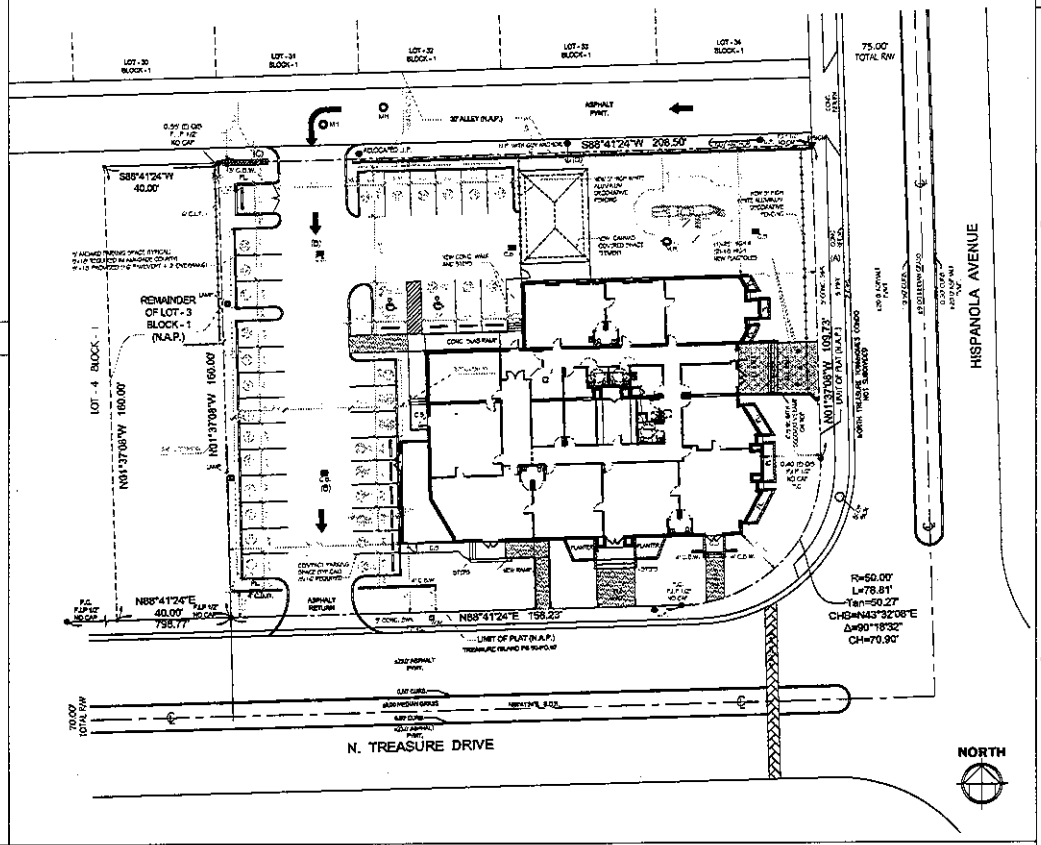
* 8,717 S.F. (LANDSCAPE AREA) + 651 S.F. (PERVIOUS PLAYGROUND)

PARKING CALCULATION:

INFANTS:	3 STAFF
1 YEAR:	3 STAFF
2 YEAR:	3 STAFF
3 YEAR:	2 STAFF
4 YEAR:	2 STAFF
5 YEAR:	2 STAFF
	15 STAFF
ADMINISTRATION:	3 STAFF
SUB TOTAL:	18 STAFF
DROP OFF/ PICK UP:	14 PARENTS
TOTAL REQUIRED:	30 PARKING SPACES (INCLUDES 2 H.C. SPACES REQUIRED)
TOTAL PROVIDED:	32 PARKING SPACES (INCLUDES 2 H.C. SPACES)

3A (2a)

4 SITE DATA



1 SITE PLAN
SCALE: 1" = 20'-0"

MANUEL SYNALOVSKI ASSOCIATES, LLC
1800 Eller Drive, Suite 500
Fort Lauderdale, FL 33316
Telephone: 954.941.1515
Fax: 954.941.1517
www.synalovski.com

MANUEL SYNALOVSKI, AIA
AR 0011405
SEAL

LICENSE NO. AA26001863

KLA SCHOOLS
NORTH BAY VILLAGE
7900 HISPANOLA AVENUE
NORTH BAY VILLAGE, FL 33141
CLIENT: SOTKREA, LLC.

REV.	DATE	DESCRIPTION
A	05/25/12	PER COMMENTS

DESIGN DELIVERABLE: SITE PLAN SUBMITTAL
ISSUE DATE: 05/25/2012

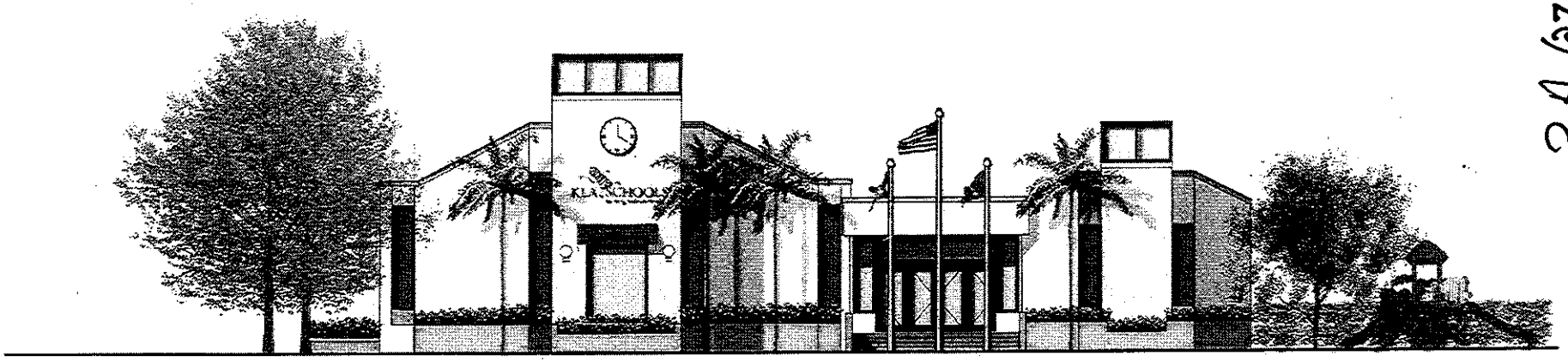
PROJECT NUMBER: 1119-120201
DRAWN BY: SM / JS
CHECKED BY: MS

Copyright © 2012 MANUEL SYNALOVSKI ASSOCIATES, LLC
All Rights Reserved

SITE PLAN

AS-101

3A (27)



EAST ELEVATION

SOUTH ELEVATION

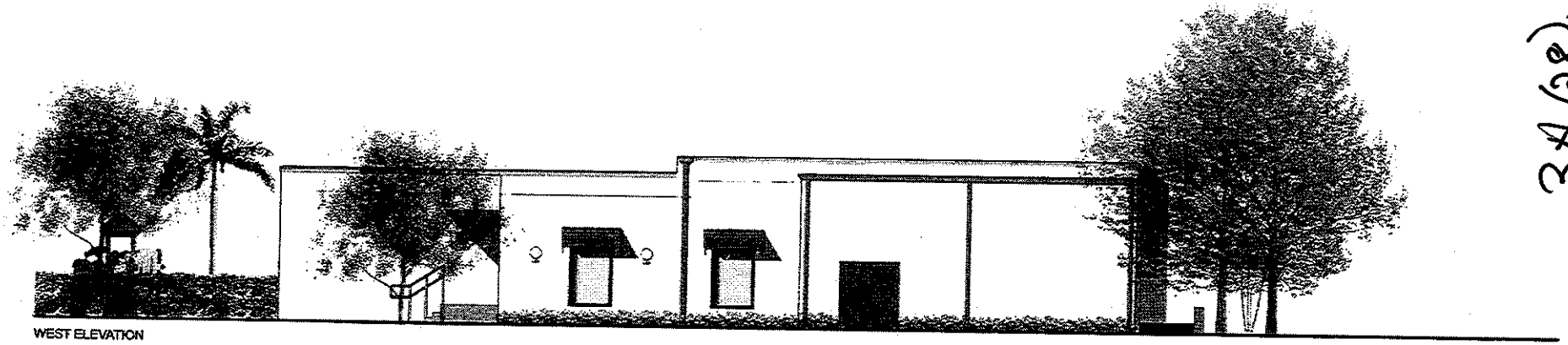
SCALE: 3/32"=1'-0"

KLA SCHOOLS

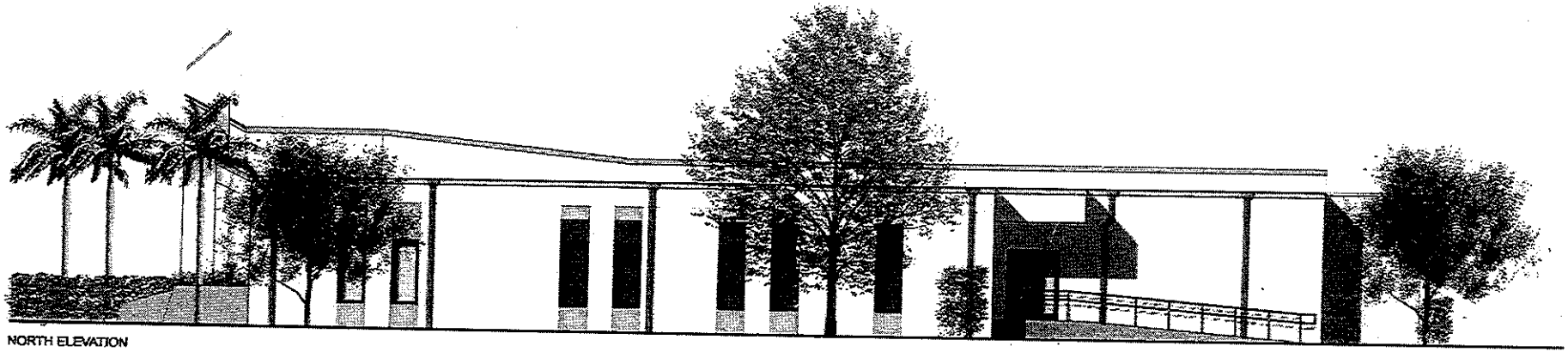
KLA SCHOOL
NORTH BAY VILLAGE, FLORIDA

MANUEL SYNALOVSKI ASSOCIATES, LLC

3A (28)



WEST ELEVATION

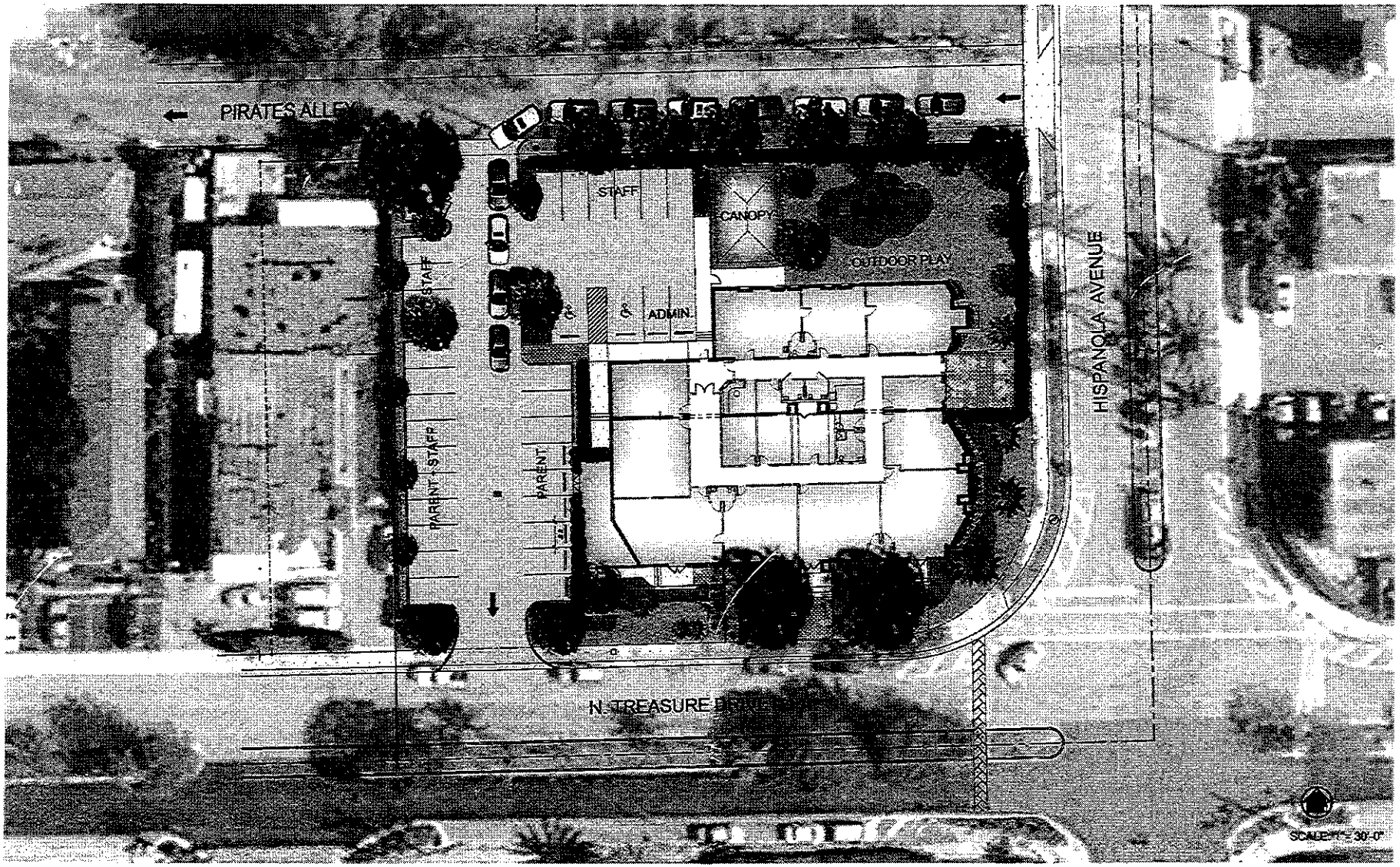


NORTH ELEVATION

KLA SCHOOLS

KLA SCHOOL
NORTH BAY VILLAGE, FLORIDA

MANUEL SYNALOWSKI ASSOCIATES, LLC



34(29)

KLA SCHOOLS

KLA SCHOOLS
NORTH BAY VILLAGE, FLORIDA

MANUEL SYNALOVSKI ASSOCIATES, LLC

City of North Bay Village
1700 Kennedy Causeway, Suite 132 North Bay Village, FL 33141
(305) 756-7171 Fax (305) 756-7171 Website–www.nbvillage.com

APPLICATION FOR PUBLIC HEARINGS:

Hearings and Notices: - All petitions for amendments, changes or supplements to these regulations for variances, special use exceptions, Site Plan Approval, Extension of Approved Site Plans, for Building Height Bonus Approval, or for an amendment, change or supplement to the Comprehensive Plan; district zoning map, or petitions appealing an administrative decision shall be considered at Public Hearings before the Planning & Zoning Board and, thereafter, the City Commission. Notice of Public Hearings before the Planning & Zoning Board and the City Commission shall be given by publishing and posting on the property (which is the subject of the request), the time, the place and the nature of the hearing at least 10 days before the hearing. The City Clerk shall certify that the petition is complete before the hearing is legally advertised.

Applicant's Name: SOTREZA, LLC Phone: 954.961.6806

Mailing Address: c/o Manuel Synalovski Associates. Attn: Manuel Synalovski, AIA, LEED AP
1800 Eller Drive, Suite 500, Ft. Lauderdale, FL 33316

Legal Description of Property: LOTS 1 and 2 and east 1/2 of LOT 3, Block 1 of Commercial Addition to TREASURE ISLAND PB 52, Pg 84 DADE COUNTY

Existing Zoning: RM-40 Lot Size: 32,804 SF Folio: 23-3209-010-0010

Type of Request: SITE PLAN APPROVAL OF PROPOSED KLA SCHOOL

Reason for Request: (Attach additional Pages if necessary)

PROPOSED KLA SCHOOL IS AN EARLY CHILDHOOD EDUCATION CENTER (PRE-K) FOR CHILDREN OF AGES FROM INFANTS TO 5 YEARS OLD

All applications shall be submitted to the City Clerk on or before the deadline implemented by the City.

Filing Fees - All persons, firms, or corporations petitioning the Planning & Zoning Board and the City Commission necessitating the publication of notices in the newspaper, and all relative thereto, the payment of such money in advance to the City Clerk shall be deemed a condition precedent to the consideration of such petition, conditional use permit or amendment.

Revised 5/2012

3A (30)

APPLICATION FOR HEARING
BEFORE THE PLANNING & ZONING BOARD AND
CITY COMMISSION

I, (We), the undersigned, am (are) the (owner, tenant, agent, attorney) (designate one) of the subject property herein described. I (We) acknowledge and agree that during the consideration of the application before the Planning & Zoning Board and staff of the City of North Bay Village, no rights shall vest on behalf of the applicant, which would be enforceable against the City until after a Public Meeting is held by the City Commission and the City Commission has voted favorable on the proposed petition.

I, (We) further acknowledge that I (We) have read and understand the conditions for appearance before the Planning & Zoning Board and the City Commission Pursuant to the City Code Section 152.096. Any person submitting false information or misrepresenting in their presentation shall have all privileges granted to them by the Planning & Zoning Board and the City Commission revoked.

(NOTE: ALL NEW AND SUBSTANTIAL IMPROVEMENTS MUST COMPLY WITH THE FLORIDA BUILDING CODE, DEPARTMENT OF ENVIRONMENTAL RESOURCE MANAGEMENT (DERM), AND FEMA (FLOOD) REGULATIONS).

Authorized Signature

MANUEL SYNALOVSKI, AIA, LEED AP
Print Name

(In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.)

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Sworn to and subscribed to before me this 25 **day of** May **20**12
by Manuel Synalovski
who is personally known to me or who has produced n/a
as identification.

Isabel C. Marin
Notary Public

(Notary Seal)

ISABEL C. MARIN
MY COMMISSION EXPIRES April 19, 2014
#DD 983384
Bonded thru Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

Office Use Only:

Date Submitted: 5/25/12

Fee Paid: $10,000. Deposit

Tentative Meeting Date: 7/

Cash ☐ or Check ☐ # —

Date Paid: 3/19/12

Revised 5/2012

3A(31)

City of North Bay Village

Administrative Offices

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

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

Re: 7800 Hispanola Avenue
Lots 1 & 2 & E1/2 Lot 3, Block 1
Commercial Addition to
Treasure Island, Plat Book 52, Page 84 of
Public Records of Miami-Dade County

Request for Special Use Exception for operation of a
Pre-school/Day Nursery

I, Yvonne P. Hamilton, City Clerk, hereby certify that the attached Notice of Public Hearing was mailed to property owners and residents within 300 feet of the property of the subject request pursuant to Section 152.096(A)(2) of the City of North Bay Village Code of Ordinances on July 13, 2012.

Dated this 13th day of July 2012.

Yvonne P. Hamilton
City Clerk

(City of North Bay Commission Meeting – July 25, 2012

3A(32)

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

Re: 7800 Hispanola Avenue
Lots 1 & 2 & E1/2 Lot 3, Block 1
Commercial Addition to
Treasure Island, Plat Book 52, Page 84 of
Public Records of Miami-Dade County

Request for Special Use Exception for operation of a
Pre-school/Day Nursery

I, Yvonne P. Hamilton, hereby certify that the attached Notice of Public Hearing to be held on July 25, 2012 was posted at the above-referenced property on July 13, 2012.

Dated this 13th day of July 2012.

Yvonne P. Hamilton
City Clerk

(City of North Bay Village City Commission Meeting – 7-25-2012)

3A(33)

Mayor
Connie Leon-Kreps

Vice-Mayor
Eddie Lim

Commissioner
Stuart Blumberg

Commissioner
Dr. Richard Chervony

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
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, WILL HOLD A SPECIAL MEETING ON **WEDNESDAY, JULY 25, 2012** AT 7:00 P.M., OR AS SOON AS POSSIBLE THEREAFTER, IN THE CITY COMMISSION CHAMBERS AT 1700 KENNEDY CAUSEWAY, #132, NORTH BAY VILLAGE, FLORIDA. DURING THIS MEETING THE CITY COMMISSION WILL CONSIDER THE FOLLOWING:

1. AN APPLICATION BY SOTREZA, LLC CONCERNING PROPERTY LOCATED AT 7800 HISPANOLA AVENUE (FORMERLY USED AS A TEMPLE), LOTS 1&2 & E1/2 LOT 3, BLOCK 1, COMMERCIAL ADDITION TO TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA AS FOLLOWS:

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT, OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE CITY COMMISSION C/O THE CITY CLERK, 1700 KENNEDY CAUSEWAY, #132, KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FL 33141.

THE DOCUMENTS PERTAINING TO THIS PUBLIC HEARING MAY BE INSPECTED AT THE OFFICE OF THE CITY CLERK DURING REGULAR BUSINESS HOURS. INQUIRIES MAY BE DIRECTED TO THAT DEPARTMENT AT (305) 756-7171.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES IF ANY PERSON DECIDES TO APPEAL ANY DECISION BY THE CITY COMMISSION WITH RESPECT TO THIS OR ANY MATTER CONSIDERED AT ITS MEETING OR ITS HEARING, SUCH PERSON MUST ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

3A(34)

Mayor **Connie Leon-Kreps** | Vice-Mayor **Eddie Lim** | Commissioner **Stuart Blumberg** | Commissioner **Dr. Richard Chervony**

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDING, PLEASE CONTACT (305) 604-2489 (VOICE), (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

YVONNE P. HAMILTON, CMC
CITY CLERK
July 12, 2012

3A(35)

www.avery.com
Replíez à la hachure afin de
Étiquettes faciles à peler

The Lexi Development Co., Inc.
7301 S.W. 57th Court, #565
Miami, FL 33143

Baymar Hotels & Properties
Attention: Roy Martayan
1111 Kane Concourse, #211
Bay Harbor Island, FL 33154

LEV Investments I. LLC.
ATTN: Rhonda Walker
407 Lincoln Road, #2K
Miami Beach, FL 33139

North Treasure Townhouses
Allied Mortgage
13680 N.W. 5th Street, #100
Sunrise, FL 33325

Causeway Tower, LLC
1666 Kennedy Causeway, #610
N. Bay Village, FL 33141

Treasure Island Cove Condo
Association, C/O SPM Group
2200 N.W. 102nd Avenue, #5
Doral, FL 33172

Treasure Key Apartments
C/O S. Kasimon
21405 N.E. 19th Court
Miami, FL 33179

L& M Apartments
C/O Aldo Martin
1657 N. Treasure Drive, #4
N. Bay Village, FL 33141

Harambam Congregation, Inc.
7800 Hispanola Avenue
N. Bay Village, FL 33141

Bank of America NA
7105 Corporate Drive
Planto, TX 75024

North Treasure Townhouse, Inc.
7801 Hispanola Avenue
North Bay Village, FL 33141

North Treasure Townhomes
4651 Sheridan Street, #270
Hollywood, FL 33021

Owner/Occupant
7544 Mutiny Avenue
N. Bay Village, FL 33141

Owner/Occupant
7548 Mutiny Avenue
N. Bay Village, FL 33141

Owner/Occupant
7552 Mutiny Avenue
N. Bay Village, FL 33141

Owner/Occupant
7556 Mutiny Avenue
N. Bay Village, FL 33141

Owner/Occupant
7545 Hispanola Avenue
N. Bay Village, FL 33141

Owner/Occupant
7549 Hispanola Avenue
N. Bay Village, FL 33141

Owner/Occupant
7553 Hispanola Avenue
N. Bay Village, FL 33141

Owner/Occupant
1700 N. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7544 Hispanola Avenue
N. Bay Village, FL 33141

Owner/Occupant
7548 Hispanola Avenue
N. Bay Village, FL 33141

Owner/Occupant
7552 Hispanola Avenue
N. Bay Village, FL 33141

Owner/Occupant
1670 N. Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
7545 Cutlass Avenue
N. Bay Village, FL 33141

Owner/Occupant
7549 Cutlass Avenue
N. Bay Village, FL 33141

Owner/Occupant
7553 Cutlass Avenue
N. Bay Village, FL 33141

Owner/Occupant
1640 South Treasure Drive
North Bay Village, FL 33141

Owner/Occupant
7544 Cutlass Avenue
N. Bay Village, FL 33141

3A(36)

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Owner/Occupant
7548 Cutlass Avenue
N. Bay Village, FL 33141

Owner/Occupant
1620 N. Treasure Drive
N. Bay Village, FL 33141

3A (37)

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Owner/Occupant
1700 Kennedy Causeway, #1606
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #2001
North Bay Village, Fl 33141

Owner/Occupant
1700 Kennedy Causeway, #1106
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #801
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1707
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1702
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1705
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #2010
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1208
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1009
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1801
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1209
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1906
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1001
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #907
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1209
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1906
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1001
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #907
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1811
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #708
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1412
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1101
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #807
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #602
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1504
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1802
North Bay Village, FL 33141

3A (38)

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Owner/Occupant
1700 Kennedy Causeway, #602
North Bay Village, Fl 33141

Owner/Occupant
1700 Kennedy Causeway, #1103
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #711
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1504
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1002
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1405
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1802
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #810
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #906
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1202
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #607
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #2004
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1601
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #606
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #603
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #703
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1911
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1805
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1902
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #903
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1010
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1210
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1212
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1604
North Bay Village, FL 33141

3A(39)

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Owner/Occupant
1700 Kennedy Causeway, #1910
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1903
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1003
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #2006
North Bay Village, Fl 33141

Owner/Occupant
1700 Kennedy Causeway, #902
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1904
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #811
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #911
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #708
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1610
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #712
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1005
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1004
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1511
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1108
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1507
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1708
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1901
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #2008
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #904
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #601
North Bay Village, FL 33141

3A(40)

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Owner/Occupant
1700 Kennedy Causeway, #908
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #709
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #707
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1201
North Bay Village, Fl 33141

Owner/Occupant
1700 Kennedy Causeway, #1608
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1811
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #608
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #802
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1206
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1409
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1603
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #806
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1204
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1605
North Bay Village, FL 33141

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1700 Kennedy Causeway, #706
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1711
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1505
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1007
North Bay Village, FL 33141

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1700 Kennedy Causeway, #704
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1700 Kennedy Causeway, #905
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1700 Kennedy Causeway, #1211
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1700 Kennedy Causeway, #805
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1700 Kennedy Causeway, #1609
North Bay Village, FL 33141

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1700 Kennedy Causeway, #1703
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1001
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1109
North Bay Village, FL 33141

3A (41)

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Owner/Occupant
1700 Kennedy Causeway, #1805
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1010
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1604
North Bay Village, FL 33141

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1700 Kennedy Causeway, #1401
North Bay Village, Fl 33141

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1700 Kennedy Causeway, #912
North Bay Village, FL 33141

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1700 Kennedy Causeway, #1410
North Bay Village, FL 33141

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1700 Kennedy Causeway, #909
North Bay Village, FL 33141

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1700 Kennedy Causeway, #1402
North Bay Village, FL 33141

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1700 Kennedy Causeway, #1104
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1700 Kennedy Causeway, #901
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1700 Kennedy Causeway, #702
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1612
North Bay Village, FL 33141

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1700 Kennedy Causeway, #1912
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Owner/Occupant
1700 Kennedy Causeway, #1403
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1509
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #2003
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #812
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1804
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1203
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #804
North Bay Village, FL 33141

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Owner/Occupant
1700 Kennedy Causeway, #1605
North Bay Village, FL 33141

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1700 Kennedy Causeway, #1505
North Bay Village, Fl 33141

Owner/Occupant
1700 Kennedy Causeway, #905
North Bay Village, FL 33141

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1700 Kennedy Causeway, #805
North Bay Village, FL 33141

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1700 Kennedy Causeway, #707
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1206
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #806
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #706
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1007
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1411
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1700 Kennedy Causeway, #1111
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1700 Kennedy Causeway, #1909
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North Bay Village, FL 33141

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1700 Kennedy Causeway, #1807
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1907
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #2007
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #808
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1008
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1408
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1501
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #2002
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1506
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1112
North Bay Village, FL 33141

3A (43)

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Owner/Occupant
1700 Kennedy Causeway, #1110
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1803
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1809
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1011
North Bay Village, Fl 33141

Owner/Occupant
1700 Kennedy Causeway, #809
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1205
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1406
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #605
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1701
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1712
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1512
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #803
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1102
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1502
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1503
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1006
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1602
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1012
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1803
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #710
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #701
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1102
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #2011
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #2005
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1006
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #2012
North Bay Village, FL 33141

Owner/Occupant
1700 Kennedy Causeway, #1905
North Bay Village, FL 33141

3A (44)

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CITY OF MIAMI BEACH, FLORIDA
NOTICE OF SPECIAL ELECTION
AUGUST 14, 2012

NOTICE IS HEREBY GIVEN that a Special Election has been called by the Mayor and City Commission of the City of Miami Beach, Florida, pursuant to City Resolutions 2012-27902 and 2012-27903, adopted on May 9, 2012, to be held in the City of Miami Beach, from 7:00 a.m. until 7:00 p.m. on Tuesday, August 14, 2012, at which time there shall be submitted to the duly registered and qualified voters of the City of Miami Beach the following official ballot questions:

QUESTION 1:
Allowing Up to One Percent Increase in Room Rent Portion of Resort Tax

Shall Section 5.03 of the Charter be amended to allow the Commission to increase, up to one percent, the resort tax on room rent, to expand, enlarge, renovate, and/or improve the Convention Center, including payment of debt service related thereto, and providing that the excess of such additional tax be used, after providing for payment of annual debt service and related obligations, to establish a Capital Renewal and Replacement Fund for the Center?

Permitir el Aumento hasta del Uno por Ciento en la Parte del Impuesto a los Complejos Turísticos Sobre el Alquiler de Habitaciones

¿Deberá enmendarse la Sección 5.03 de la Carta Constitucional a fin de permitir que la Comisión aumente, hasta el uno por ciento, el impuesto a los complejos turísticos sobre el alquiler de habitaciones, para extender, agrandar, renovar o realizar mejoras en el Centro de Convenciones, incluido el pago del servicio de deuda relacionado con ello, y proveer que el excedente de dicho impuesto adicional se emplee, tras el pago del servicio de deuda anual y las obligaciones relacionadas, para establecer un Fondo de Renovación y Reemplazo de Capital para el Centro?

Pèmèt Ogmantasyon Jiska Yon Pousan nan Pòsyon Taks Sejou sou Lwaye Chanm yo

Èske se pou yo amande Seksyon 5.03 Konstitisyon an pou pèmèt Komisyon an ogmante, jiska yon pousan, taks sejou sou lwaye chanm yo, pou devlope, agrandi, renove, ak/oswa amelyore Sant Konvansyon an, ki gen ladan peman pou sèvis dèt ki an rapò yo, epi etabli ke nenpòt lajan ki rete nan taks adisyonèl sila fèt pou itilize, apre yo fin prevwa lajan pou kouvri peman sèvis dèt anyèl la ak lòt obligasyon ki an rapò yo, pou etabli yon Fon Renouvèlman ak Ranplasman Kapital pou Sant la?

YES/SÍ/WI	502
NO/NO/NON	503

QUESTION 2:
Majority of Members of City Commission May Call Special Meetings

Shall Section 2.04 of the Miami Beach Charter be amended to provide that, in addition to being called by the Mayor or City Manager, special meetings of the City Commission may be called by a majority of the members of the Commission upon written notice to the City Clerk and in accordance with the procedures set forth in a resolution of the City Commission?

La Mayoría de los Miembros de la Comisión de la Ciudad Puedan Convocar Reuniones Extraordinarias

¿Deberá enmendarse la Sección 2.04 de la Carta Constitucional de Miami Beach a fin de proveer que, además del Alcalde o el Administrador de la Ciudad, la mayoría de los miembros de la Comisión puedan convocar reuniones extraordinarias de la Comisión de la Ciudad mediante un aviso por escrito al Secretario de la Ciudad y conforme al procedimiento establecido en una resolución de la Comisión de la Ciudad?

Majorite Manm Komisyon Vil la Kapab Konvoke Reyinyon Espesyal

Èske se pou yo amande Seksyon 2.04 Konstitisyon Miami Beach la pou etabli ke, anplis de Majistra oswa Manadjè Vil la ki ka konvoke reyinyon espesyal Komisyon Vil la yo, reyinyon sila yo ka konvoke tou pa yon majorite manm Komisyon an avèk yon avi alekri adrese a Grefye Vil la epi an akò ak pwosedi ki etabli nan yon rezolisyon Komisyon Vil la?

YES/SÍ/WI	504
NO/NO/NON	505

The Special Election will be conducted in accordance with the applicable provisions of the Florida Statutes and the Charter and Code of the City of Miami Beach, Florida. Copies of Resolutions 2012-27902 and 2012-27903 are available at the City Clerk's Office and online at http://web.miamibeachfl.gov/cityclerk/elections/scroll.aspx?id=31214

All qualified electors of the City of Miami Beach may vote YES or NO on these proposals.
Ad No. 710

MIAMIBEACH

Rafael E. Granado, City Clerk
City of Miami Beach, Florida

CITY OF NORTH BAY VILLAGE
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, WILL HOLD A SPECIAL MEETING ON **WEDNESDAY, JULY 25, 2012** AT 7:00 P.M., OR AS SOON AS POSSIBLE THEREAFTER, IN THE CITY COMMISSION CHAMBERS AT 1700 KENNEDY CAUSEWAY, #132, NORTH BAY VILLAGE, FLORIDA. DURING THIS MEETING THE CITY COMMISSION WILL CONSIDER THE FOLLOWING:

1. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING" BY REVISING SECTION 152.111 PERTAINING TO ADULT ENTERTAINMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*
2. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, CREATING CHAPTER 119 OF THE CODE OF ORDINANCES PERTAINING TO ADULT ENTERTAINMENT LICENSING AND BUSINESS REGULATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*
3. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 35 "TAXATION AND FINANCE," OF THE CITY CODE OF ORDINANCES TO REVISE THE REQUIREMENTS AND PROCEDURES RELATED TO GENERAL AND ENTERPRISE FUND RESERVES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*
4. AN APPLICATION BY SOTREZA, LLC CONCERNING PROPERTY LOCATED AT 7800 HISPANOLA AVENUE (FORMERLY USED AS A TEMPLE), LOTS 1&2 & E1/2 LOT 3, BLOCK 1, COMMERCIAL ADDITION TO TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA AS FOLLOWS:
   A. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C) (9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE OPERATION OF A PRE-SCHOOL/DAY CARE CENTER. *(FINAL PUBLIC HEARING)*
5. AN APPLICATION BY ZF DEVELOPMENT, LLC, CONCERNING PROPERTY LOCATED AT 8000 WEST DRIVE, TRACT C OF HARBOR ISLAND NORTH BAY VILLAGE, FLORIDA IN CONNECTION WITH THE DEVELOPMENT OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT FOR THE FOLLOWING:
   A. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE CONSTRUCTION OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT ON A 4.47± ACRE SITE. *(FINAL PUBLIC HEARING)*

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT, OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE CITY COMMISSION C/O THE CITY CLERK, 1700 KENNEDY CAUSEWAY, #132, KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FL 33141.

THE DOCUMENTS PERTAINING TO THIS PUBLIC HEARING MAY BE INSPECTED AT THE OFFICE OF THE CITY CLERK DURING REGULAR BUSINESS HOURS. INQUIRIES MAY BE DIRECTED TO THAT DEPARTMENT AT (305) 756-7171.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES IF ANY PERSON DECIDES TO APPEAL ANY DECISION BY THE CITY COMMISSION WITH RESPECT TO THIS OR ANY MATTER CONSIDERED AT ITS MEETING OR ITS HEARING, SUCH PERSON MUST ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDING, PLEASE CONTACT (305) 604-2489 (VOICE), (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

YVONNE P. HAMILTON, CMC
CITY CLERK
July 12, 2012

3A(45)

Staff Report
Site Plan Review

Prepared for: *The City of North Bay Village Planning & Zoning Board*

Applicant: *ZF Development, LLC*

Request: *Site Plan Review Blu at North Bay Village*

LaRue Planning & Management Services, Inc.
1375 Jackson Street, Suite 206
Fort Myers, Florida
239-334-3366
Serving Florida Local Governments Since 1988

3B(1)

General Information

Owner/Applicant:	**ZF Development, LLC**
Applicant Address:	200 East Broward Blvd, Suite 1200 Fort Lauderdale, FL 33301
Site Address:	8000 West Drive
Contact Person:	Neisen O. Kasdin
Applicant/Contact Phone Number:	305-374-5600
E-mail Address	neisen.kasdin@akerman.com

	Existing	**Proposed**
Future Land Use Map Classification	High Density Multi-Family Residential	High Density Multi-Family Residential
Zoning District	RM-70	RM-70
Use of Property	Vacant	Multi-family Residential
Acreage (per survey and site plan)	4.41 ac.	4.41 ac.

Legal Description of Subject Property

ALL OF TRACT 'C', ACCORDING TO THE PLAT OF HARBOR ISLAND, AS RECORDED IN PLAT BOOK 44, PAGE 72,OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

SAID LANDS LYING AND BEING IN THE CITY OF NORTH BAY VILLAGE, MIAMI-DADE COUNTY, FLORIDA CONTAINING 192,064 SQUARE FEET (4.409 ACRES), MORE OR LESS.

General Description

The proposed project is an eight-story residential building with all resident and guest parking provided within the central core of the building. The site is zoned RM-70; is located at the north end of West Drive; and is surrounded on three sides by Biscayne Bay. The height of the building is 85 feet to the top of roof and 112 feet to the top of tower. It will contain 285 rental apartments with a mix of one-, two- and three-bedroom apartments and associated amenities including two pools, an internet café, conference room, gallery, resident lounge, exercise room and mail room and leasing area.

Consistency with Comprehensive Plan

The proposed project is consistent with the City's Comprehensive Plan.

The property is located in the High Density Multi-Family Residential Future Land Use Category. This category allows residential development from 41 to 70 dwelling units per acre. The Impact Assessment Study provided by the Applicant provides supporting documentation that the proposed development will be consistent with the guidelines set forth in Policy 12.3.2 of the Capital Improvements Element. Specifically that:

1. The development will not contribute to a condition of public hazard as described in the Sanitary Sewer, Solid Waste, Drainage, Potable Water Element and the Coastal Management Element.

2. The development will not exacerbate any public facility capacity deficits.

3. The development will not generate public facility demands that cannot be accommodated by capacities expected to be available in the City's 5-Year Schedule of Improvements.

4. The proposed residential development will possibly generate school concurrency impacts but that assessment will be completed by the School Board staff following development approval.

Adjacent Land Use Map Classifications and Zoning District

North:	Future Land Use Map Classification:	Water
	Zoning District:	Water
	Existing Land Use:	Water
East:	Future Land Use Map Classification:	Water
	Zoning District:	Water
	Existing Land Use:	Water
South:	Future Land Use Map Classification:	High Density Multi-Family Residential
	Zoning District:	RM-70
	Existing Land Use:	Vacant and Multi-family
West:	Future Land Use Map Classification:	Water
	Zoning District:	Water
	Existing Land Use:	Water

Adequacy of Public Facilities

The Impact Assessment Study provided by the Applicant indicates that there will be minimal impact upon the Miami-Dade Water and Sewer facilities and solid waste generation, and that drainage will meet the North Bay Village level of service standards.

Comparison of Proposal With Land Development Code (LDC) Design Standards

Regulation	Required	Provided
MINIMUM LOT SIZE [(Sec. 152.029(C)(1)]	27,000 square feet	4.41 acres
MINIMUM FRONTAGE [(Sec. 152.029(C)(1)]	75 feet	At least 80 feet
MINIMUM YARD SETBACKS [Sec. 152.08(c)(2)]		
Minimum Front	25 feet	Applicant is requesting variance to allow portions of the front of the building to extend such that the front yard will be just under the required 25 feet to as little as 11'—10"
Minimum Side Corner	NA	NA
Minimum Side (Interior)	15 feet	27'— 5"
Minimum Second Side (Interior)	20% of lot width (20')	72 feet
Total Side Setback Area	Area free of structures at ground level, minimum 60'	Total equals about 99' — 5"
Minimum Rear [(Sec. 152.029(C)(2)]	25 feet	NA
MIAMI-DADE COUNTY SHORELINE REGULATIONS		
Appendix D Shoreline setback	Minimum 25 feet plus 50% of height above 35 feet (maximum 75 feet) Requirements range according to height of building, from 27'— 6" to 52 feet	Actual setbacks vary from 35'—2" to 57'—8", always meeting or exceeding requirements

Regulation	Required	Provided
MAXIMUM DENSITY [(Sec. 152.029(C)(3)]	70 dwelling units per acre	64.63 dwelling units per acre
MAXIMUM BUILDING HEIGHT [(Sec. 152.029(C)(4)]	150 feet/fifteen stories	85' to top of roof and 112' to top of tower
MINIMUM FLOOR AREA [(Sec. 152.029(C)(6)]		
Efficiency	600 sf	NA
One-bedroom	900 sf	132 between 652 & 820 sf
Two-bedroom	1,200 sf	121 between 1,157 & 1,261 sf
Three-bedroom	1,350 sf	32 between 1,402 & 1,442 sf Only the largest two bedroom units (6) and the 32 three-bedroom units meet the minimum floor area requirements Applicant is requesting variance to minimum floor area requirements to allow units of the above listed sizes
SITE PLAN AND MODEL [Sec. 152.105(C)]	Architectural model built to scale.	Architectural model is located in City Hall
OTHER RM-70 REQUIREMENTS [Sec. 152.029(C)9, 1—7]	1. Public access boardwalk	Provided
	2. Paving surfaces done in brick pavers (except covered parking garages)	Provided
	3. Water feature in front	Provided
	4. Landscaping	See Miami-Dade requirements, on following page
	5. Streetscape benches along boardwalk	Provided
	6. Architectural features on parking garages	NA, Parking garage is internal to building.
	7. Lighting in areas where trees are planted in front of the development	Provided

Regulation	Required	Provided
OFF-STREET PARKING [Sec. 152.041 and LDC Sec. 5.2.2]		
Size of spaces [Sec.152.041]	Standard, 9' by 18'	9' by 18'
	Compact, 8' by 16'	NA
LDC Sec. 5.2.2(a)(1)]	Handicap 12' by 18' w/5' aisle	12' by 18' w/5' aisle
Compact spaces [LDC Sec. 5.2.2(a)(2)]	Maximum 20% of spaces with prior approval by City Commission	NA
Number of spaces [Sec. 152.044(a)(2)]	Two (2) parking spaces for one and two-bedroom units, and three (3) parking spaces for three-bedroom unit, plus an additional ten (10) percent for guest parking Required spaces = 132 one-bedroom = 264 121 two-bedroom = 242 32 three-bedroom = 96 Subtotal = 602 +10% for guests indicates **662** required Handicap @2% of required spaces = 13 If 592 spaces are required, 12 handicapped spaces are needed; at 519 required spaces, 10 handicapped spaces needed	592; applicant requesting an exception to reduced the number of required spaces to 519 but the site plan shows 592 spaces 12
MINIMUM MANEUVERING SPACE [Sec. 155.17]	90 degree parking: 23 feet	24-feet

Regulation	Required	Provided
SETBACK ENCROACHMENTS [Sec. 152.056]	Every part of every required front, side, and rear yard setback shall be open and unobstructed from the ground to the sky Roof overhangs are only allowed to extend into a required side or rear yard, and then only by up to 36 inches	Applicant is requesting a variance to allow a roof overhang to extend in the front yard up to the property line and then to extend up to 15'— 9" over the right-of-way of the cul-de-sac at the north end of West Drive
OFF-STREET LOADING [LDC 5.2.4]	Multi-family residential use: 0 for under 25,000 GFA (sf) 1 for 25,000–50,000 GFA (sf) 2 for 50,000–100,000 GFA (sf) 3 for over 100,000 GFA (sf) Floor area of residences alone is 283,000 sf. Therefore **three (3)** loading spaces required	Only one loading space shown
LANDSCAPING		
Required open space Miami-Dade County Landscaping Code, [Sec. 18A-6(C)(5), Table A]	40% of 4.41 ac. = 76,826 sf	78,582 sf= 40.35% of 4.41 ac.
Limitation on maximum of required trees to be palm trees [Sec. 18A-6(C)(5)]	Maximum of 30% of required trees may be palm trees	Applicant is requesting a variance to allow up to 52% of the required trees to be palm trees

Regulation	Required	Provided
SHORELINE DEVELOPMENT AND VIEW CORRIDORS		
LDC, Appendix D, Attachment A, Shoreline Development Review Manual [Sec. A.5]	Tree canopy shall provide a minimum of 50% shade over all pedestrian and use areas within five years	Applicant is requesting a variance to allow approximately 20% of the pedestrian use area to be shaded within five years of planting
LDC, Appendix D, Shoreline Review Checklist, Visual Corridor	20% of lot width; lot width is 360 feet, therefore view corridor must be at least 72 feet	View Corridor from cul-de-sac to bay is 72 feet wide at water's edge
Chapter 155 [Sec. 155.08]	Buildings should provide view/light/breeze corridors to the bay	Provided
DOCKS [Sec. 152.059]	Docks and piers may extend no more than 25 feet from the bulkhead line	Docks extend outward about 30 feet from the seawall Any site plan approval does not constitute approval of the docks. Docks will require separate permitting and, if extending beyond 25 feet, a waiver must be approved by the City Commission

Other Requirements and Considerations

Sec. 152.105(C)(9) establishes four criteria (a) through (d) by which site plans are judged. These criteria are repeated on the next page with the Applicant's response provided in Times Roman typeface and Staff Comments follow in this typeface.

Site plans for a building or buildings which contain more than two dwelling units, or more than 299 square feet of commercial or office space shall be reviewed by the Planning and Zoning Board and the City Commission. In reviewing site plans for development, the Planning and Zoning Board and the City Commission must consider and abide by the provisions of chapter 155 of the North Bay Village Code of Ordinances currently in effect. The review by the Planning and Zoning Board and City Commission shall attempt to establish that the proposed development or redevelopment conforms to all applicable provisions of the building and zoning regulations of the city and the Florida Building Code; and that the proposed development or redevelopment has a design and arrangement which:

(a) Protects against and minimizes any undesirable effects upon contiguous and nearby property.

Applicant Response: "The Proposed Project will have a positive effect upon contiguous and nearby properties by providing quality housing in an attractive, mid-rise development pattern."

Staff Comment: There are only two contiguous and nearby properties, those to the immediate south of the subject property. Based on the location of the proposed project, we see no significant undesirable effects upon the adjoining properties as a result of the proposed development. Of course, traffic along West Drive will increase, but this will be of the same magnitude as would be have been associated with the prior site plan approval for 285 units in 2004.

(b) Provides sufficient off-street parking and loading facilities so that it will not be necessary to use the streets in the vicinity for this purpose.

Applicant Response: The Proposed Project will provide parking at a rate of one (1) space per bedroom. For example, a one-bedroom apartment will be provided one parking space, a two-bedroom apartment will be provided two parking spaces and a three-bedroom apartment will be provided three parking spaces. Although this is less than the amount of required parking based on the City Code requirements, there is sufficient data and real world examples to justify that the one space per bedroom parking rate is satisfactory. Please see the enclosed parking analysis and description in the enclosed letter for further explanation.

Staff Comment: The City's parking standards are intended to ensure that the lack of adequate parking resulting from previous development patterns does not continue in the future.

The Applicant has submitted a parking study prepared by Walker Parking Consultants that provides the Applicant's rationale for its request for an exception to reduce the number of required parking spaces from 622 to 519. The parking exception must be based on documentation that *"the character of the use or the building is such as to make unnecessary the full provision of parking or loading facilities."*

While the information, comparisons, and findings contained in the parking study may provide a basis for changing the City's off-street parking requirements, they contain no specific information that convinces us that the character of the building or use is such that fewer parking spaces will be needed than required under the code. Locating parking within a garage as opposed to the fact that some older multi-family residential projects were

approved with back-out off-street parking does not convince us that fewer spaces are needed in the Blu project. Similarly, ITE standards and studies, ULI and other national associations' recommendations, comparison with other local communities' standards, and comparison with another sample development in North Bay Village do not provide evidence that the character of the building or use does not require the full complement of parking required by the Code.

The only aspect of the Blu project that could be considered unique relative to the need for parking might be the "parking allotment" technique proposed. We are unconvinced that charging for parking beyond the allotted one space per bedroom is likely to reduce, more than a minimal degree, the number of cars required by residents of the project. Rather, it will merely increase the cost to the renters of these "luxury apartments." The fact that the site plan shows provision of 592 spaces [just a 12% reduction from the 662 required under Sec. 152.044(a)(2)] clearly indicates to us that even the Applicant expects only a slight reduction in the number of spaces needed as a result of a "parking allotment" approach and that the 519 spaces will not be adequate to accommodate parking demand. Rather, it appears the Applicant merely intends to charge the residents for use of the additional spaces beyond the requested 519.

The request for the parking exception to reduce the off-street parking requirement for the project to 519 spaces does not meet the purpose of Sec. 152.044(E)(2), and therefore does not justify approval of an exception to 519 parking spaces; but might, however, warrant consideration to reduce the required number to 592.

Another deficiency in the application is that the site plan shows only one loading space as opposed to the three required. Without the three spaces one would have to assume that it would be necessary to use the streets in the vicinity for this purpose.

(c) Provides sufficient setbacks, open space, and landscaping in order to protect and enhance the appearance and character of the neighborhood.

Applicant Response: The Proposed Project meets all of the Code requirements for open space. While the Property's unique characteristics require a relaxation from the strict application of the City Code's requirements regarding setbacks and landscaping, the requested variances are nonetheless sufficient to enhance the appearance and character of the neighborhood. Please refer to the enclosed letter for further analysis.

Staff Comment: We agree that should the variances for the front setback and landscaping be granted, they would not violate the requirement to protect

and enhance the appearance and character of the neighborhood. However, with respect to the requested variance to the front setback and extension of the overhang into the right-of-way of the cul-de-sac on West Drive, it is our opinion that these requests do not meet the standards for granting a variance. In the case of the overhang it is questionable whether a variance can be granted beyond the property line. Refer to the discussion specifically related to this variance.

(d) Can be accommodated by existing community roads, services, and utilities, or the necessary additions are provided by the developer.

Applicant Response: The enclosed impact analysis shows that the existing roads and utilities can accommodate the modest increase in required services for the Proposed Project.

Staff Comment: We agree that the site plan and associated uses can be accommodated by existing roads, services and utilities.

Recommendations

Staff recommends **approval** of the site plan provided each and every requested variance is approved, or approved with modifications, and that the site plan accurately reflect the variances as approved. If modifications to the site plan are necessary to reflect the approved variances, the site plan will be subject to administrative review to ensure that it meets the variances as approved and any subsequent stipulations that may be attached to the approval. Finally, the site plan must receive approval from the Miami Dade Shoreline Review Committee. The Committee is tentatively scheduled to view the site plan in August.

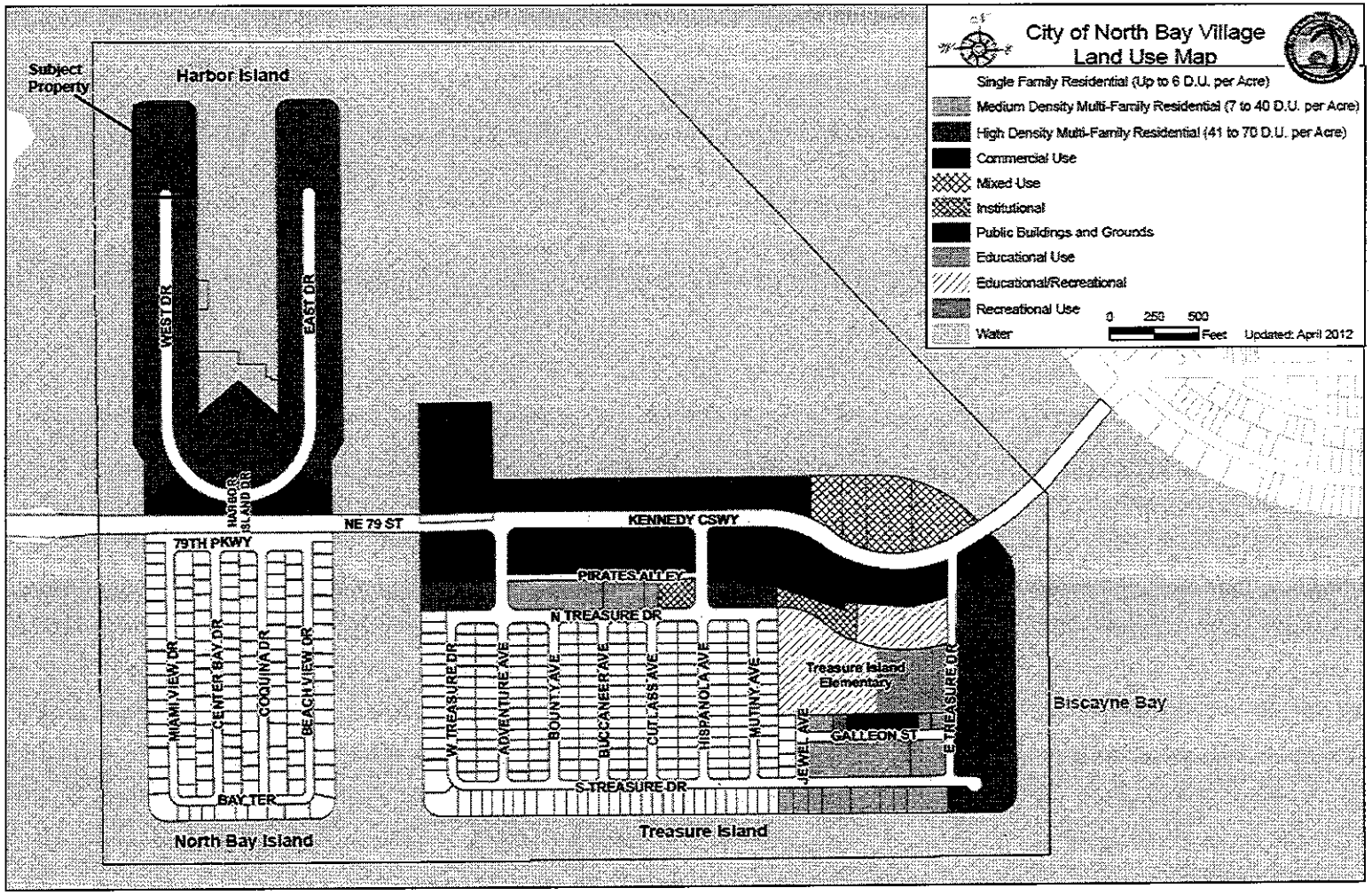
Submitted by:
James L. LaRue
James L. LaRue, AICP
Planning Consultant

June 20, 2012

Hearing: Planning & Zoning Board, June 27, 2012

Attachments: Future Land Use Map
Zoning Map
Aerial photograph

FUTURE LAND USE
SUBJECT SITE AND ENVIRONS



3B(2)

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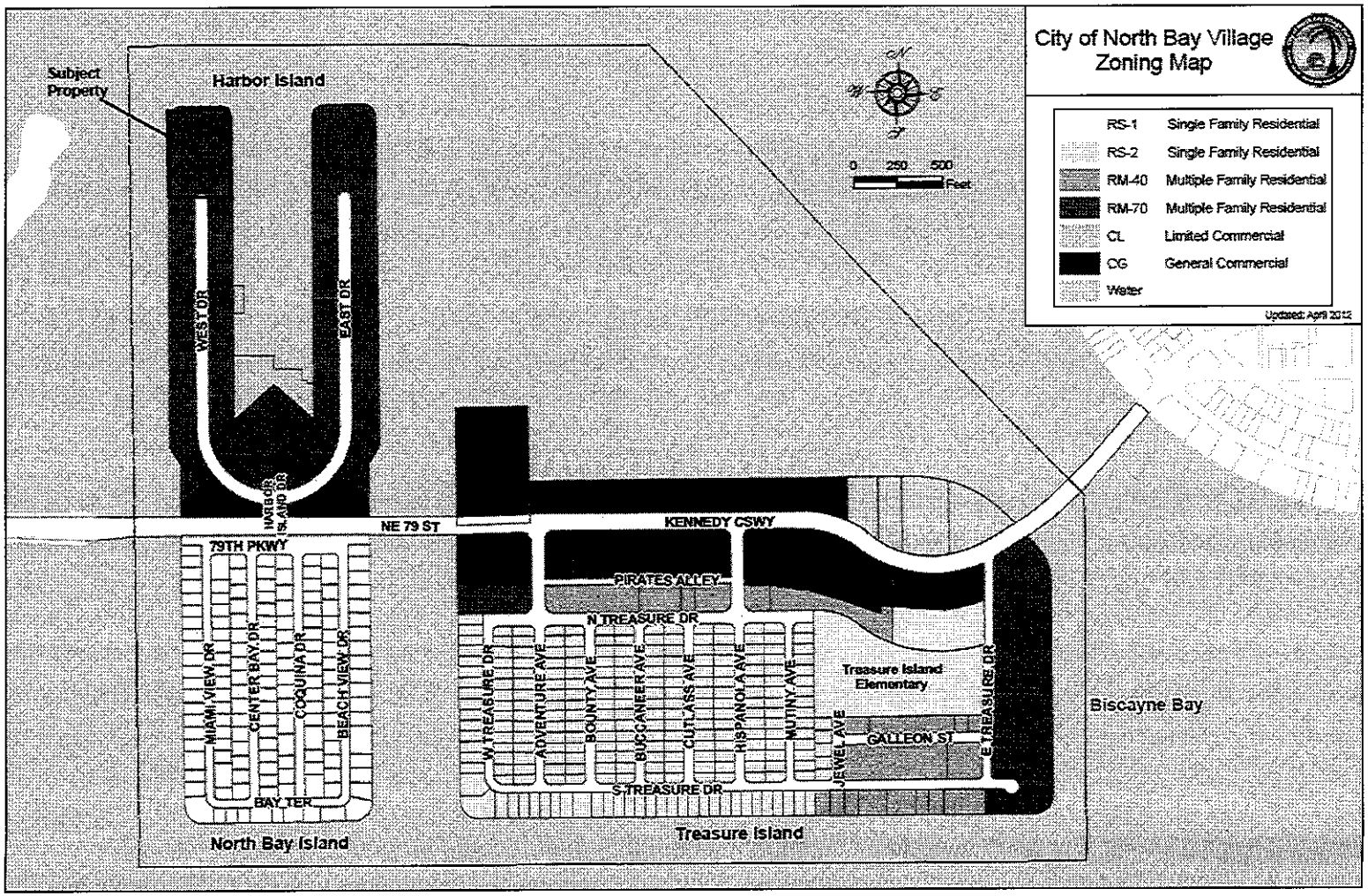
ZONING
SUBJECT SITE AND ENVIRONS



3B(13)

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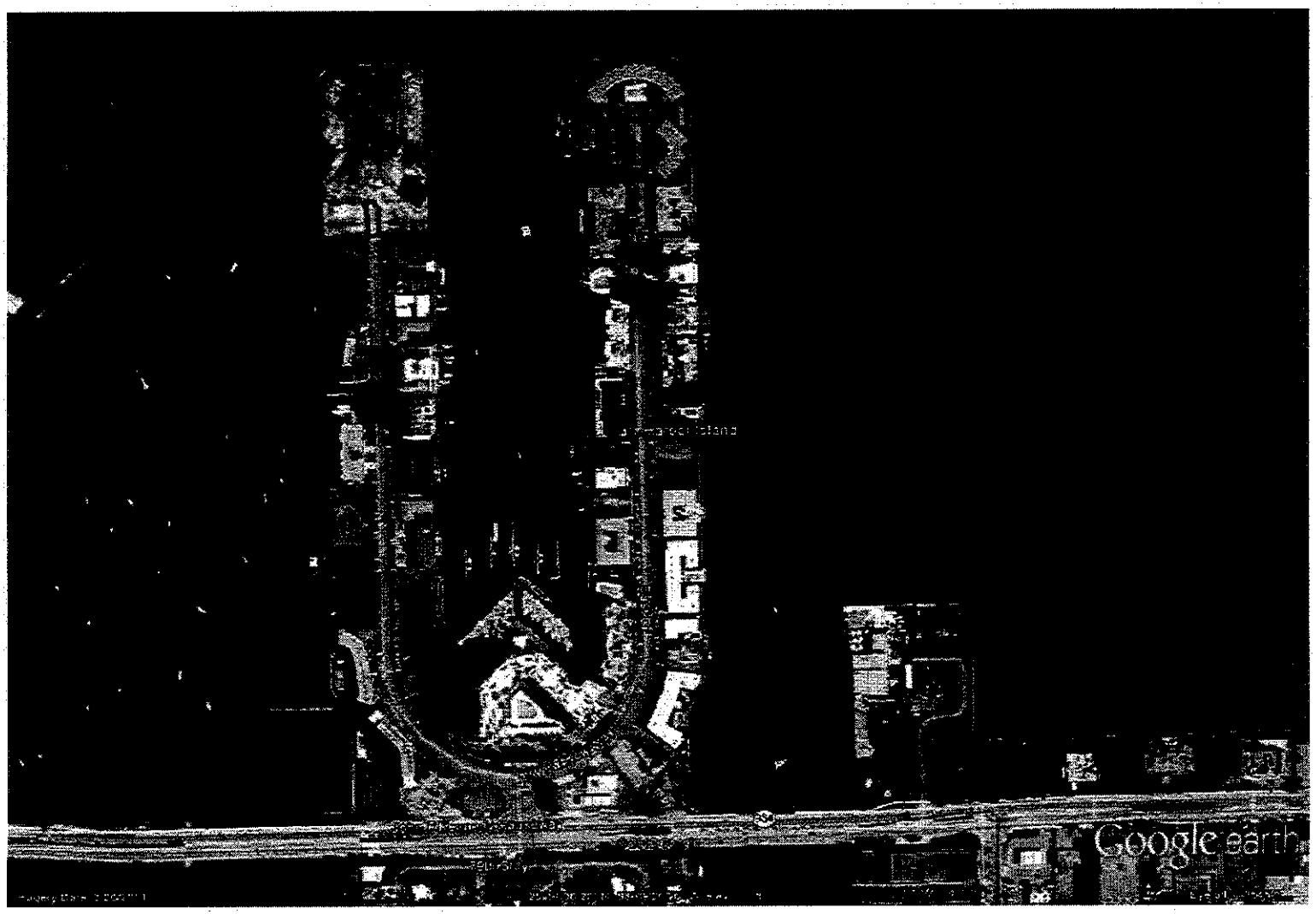
ARIAL PHOTOGRAPH
SUBJECT SITE AND ENVIRONS



3B(4)

Planning and Zoning Board Recommendations June 27, 2012:

Applicant: ZF Development, LLC
Site Address: 8000 West Drive, Blu at North Bay Village

Request: Site Plan Review and Parking Exception

The Planning and Zoning Board recommended **approval** of the site plan request 3-1 subject to the variance actions.

The Planning and Zoning Board recommended **denial** of the parking exception request 4-0.

Request: #3 Variance to allow palm trees to comprise more than thirty percent of the required trees used for landscaping

The Planning and Zoning Board recommended **approval** of this variance request 3-1.

Request: #4 Variance to allow 20% of shade tree canopy coverage.

The Planning and Zoning Board recommended **approval** of this variance request 3-1.

Request: #5 Variance to Minimum Street Front Setback.

The Planning and Zoning Board recommended **approval** of this variance request 3-1.

Request: #6 Variance to Minimum Floor Area Requirements.

The Planning and Zoning Board recommended **approval** of this variance request 3-1.

Request: #7 Variance to roof overhang limitations.

The Planning and Zoning Board recommended **approval** by a vote of 3-1 to allow the overhang to extend to the property line and **denial** of the request to allow the overhang to extend into the public right-of-way.

Akerman

Neisen O. Kasdin

Akerman Senterfitt
One Southeast Third Avenue
Suite 2500
Miami, FL 33131-1714
Tel: 305.374.5600
Fax: 305.374.5095

June 15, 2012

VIA HAND DELIVERY

Honorable Mayor Connie Leon-Kreps & Members of the City Commission
City of North Bay Village
1700 Kennedy Causeway
Suite 132
North Bay Village, FL 33141

RE: Blu – Revised Letter of Intent

Dear Mayor Kreps and Members of the City Commission:

Our firm represents ZF Development, LLC (the "Applicant"), the developer of the parcel located at 8000 West Drive (the "Property").[1] The Property is a 4.47± acre site located on the northwest portion of Harbor Island. The Applicant proposes to construct a 285-unit luxury rental apartment development on the Property (the "Proposed Project").

On July 27, 2004, the City Commission approved a site plan application for the Property (the "Prior Project"). The approval is still a valid development order by way of extensions granted through the City Code and state law. The Prior Project proposed two 21-story residential buildings (approximately 213 feet tall), with 285 residential dwelling units and approximately 842,113 gross square feet. The requested site plan for the Proposed Project will supersede and replace the Prior Project.

The Proposed Project is consistent with the City of North Bay Village Code of Ordinances (the "City Code"), Consolidated Land Development Regulations (the "Land Development Regulations") and Comprehensive Plan. The Property lies within an RM-70 zoning district and has a future land use designation of Residential Multi-Family High Density. The RM-70 zoning district allows structures up to a height of 150 feet, or fifteen (15) stories. While several buildings along West Drive and throughout North Bay Village reach heights between ten (10) and fifteen (15)

[1] Under Section 152.095 of the City of North Bay Village Code of Ordinances, an application may be filed by a party with written permission of the present owner. A copy of the authorization by the current property owner, Casa Marina Development LLC, is attached to the public hearing application filed herein.

3B(16)

stories, the Proposed Project contemplates an 8-story residential building (approximately 112 feet tall) and a 4-story parking garage. The reduced height and careful layout of the Proposed Project will improve the character of Harbor Island while preserving northern views of Biscayne Bay to many of the existing buildings on West Drive. Further, by implementing stepped forms along all frontages and incorporating distinctive roof lines, the Proposed Project will greatly enhance the City's visual impact along Biscayne Bay.

Site Plan Review Criteria

Section 152.105(C)(9) of the City Code establishes four (4) criteria by which site plans shall be judged against. The four criteria are listed below in bold type, with our response below.

(a) Protects against and minimizes any undesirable effects upon contiguous and nearby property.

The Proposed Project will have a positive effect upon contiguous and nearby properties by providing quality housing in an attractive, mid-rise development pattern.

(b) Provides sufficient off-street parking and loading facilities so that it will not be necessary to use the streets in the vicinity for this purpose.

The Proposed Project will provide parking at a rate of one (1) space per bedroom. For example, a one-bedroom apartment will be provided one parking space, a two-bedroom apartment will be provided two parking spaces and a three-bedroom apartment will be provided three parking spaces. Although this is less than the amount of required parking based on the City Code requirements, there is sufficient data and real world examples to justify that the one space per bedroom parking rate is satisfactory. Please see the enclosed parking analysis and description in the enclosed letter for further explanation.

(c) Provides a sufficient setbacks, open space, and landscaping in order to protect and enhance the appearance and character of the neighborhood.

The Proposed Project meets all of the Code requirements for open space. While the Property's unique characteristics require a relaxation from the strict application of the City Code's requirements regarding setbacks and landscaping, the requested variances are nonetheless sufficient to enhance the appearance and character of the neighborhood. Please refer to the enclosed letter for further analysis.

(d) Can be accommodated by existing community roads, services, and utilities, or the necessary additions are provided by the developer.

The enclosed impact analysis shows that the existing roads and utilities can accommodate the modest increase in required services for the Proposed Project.

3B(17)

The Proposed Project will bolster the City's property tax rolls, provide construction jobs, remove an eyesore and provide quality housing for the City of North Bay Village. Further, it is a substantial improvement from the Prior Project. For these and all of the foregoing reasons we respectfully request the City's favorable review of the Proposed Project.

Sincerely,

Neisen O. Kasdin

3B(18)

Akerman

JUN 15 PM 2:57

Neisen O. Kasdin

Akerman Senterfitt
One Southeast Third Avenue
Suite 2500
Miami, FL 33131-1714
Tel: 305.374.5600
Fax: 305.374.5095

June 15, 2012

VIA HAND DELIVERY

Honorable Mayor Connie Leon-Kreps & Members of the City Commission
City of North Bay Village
1700 Kennedy Causeway
Suite 132
North Bay Village, FL 33141

RE: Blu – Revised Request for Variances and Parking Exception

Dear Mayor Kreps and Members of the City Commission:

Our firm represents ZF Development, LLC (the "Applicant"), the developer of the parcel located at 8000 West Drive (the "Property").[1] The Property is a 4.47± acre site located on the northwest portion of Harbor Island. The Applicant proposes to construct a 285-unit luxury rental apartment development on the Property (the "Proposed Project").

The Proposed Project is consistent with the City of North Bay Village Code of Ordinances (the "City Code"), Consolidated Land Development Regulations (the "Land Development Regulations") and Comprehensive Plan. The Property lies within an RM-70 zoning district and has a future land use designation of Residential Multi-Family High Density. The RM-70 zoning district allows structures up to a height of 150 feet, or fifteen (15) stories. While several buildings along West Drive and throughout North Bay Village reach heights between ten (10) and fifteen (15) stories, the Proposed Project contemplates an 8-story residential building (approximately 112 feet tall) and a 4-story parking garage. The reduced height and careful layout of the Proposed Project will improve the character of Harbor Island while preserving northern views of Biscayne Bay to many of the existing buildings on West Drive. Further, by implementing stepped forms along all frontages and incorporating distinctive roof lines, the Proposed Project will greatly enhance the City's visual impact along Biscayne Bay.

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[1] Under Section 152.095 of the City of North Bay Village Code of Ordinances, an application may be filed by a party with written permission of the present owner. A copy of the authorization by the current property owner, Casa Marina Development LLC, is attached to the public hearing application filed herein.

To implement the concept envisaged by the Proposed Project, the Applicant respectfully requests the City Commission to approve an exception (the "Exception") to the parking requirements of the City Code and five (5) variances (the "Variances"), which, due to the unique characteristics of the Property, are necessary to proceed with development.

Exception to parking requirements

Section 152.044(E)(2) of the City Code allows a proposed use to reduce the parking requirements "*whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.*" We submit that the Proposed Project will be adequately served by a parking ratio that equals one space per bedroom plus 10% for visitor parking.

The Proposed Project will have 131 one-bedroom units, 122 two-bedroom units and 32 3-bedroom units. The City Code requires 2 spaces for a 1-bedroom or 2-bedroom unit and 3 spaces for a 3-bedroom unit plus 10% for visitor parking. This results in a Code required total parking of 662 spaces, which equals 2.32 spaces per unit for the Proposed Project. Using the one space per bedroom rate, the Proposed Project would require 519 parking spaces (1.8 spaces per unit), which is 143 spaces (21.6%) less than the Code-required parking.

As explained in detail by the enclosed Parking Study by Walker Parking Consultants, the character and use of the building renders the full provision of parking facilities under the City Code unnecessary. By planning for efficient management and control—including a state-of-the-art access control system and flexible options for parking allotment—the Proposed Project will provide more than ample parking for residents and visitors.

Further, the Parking Study explains that leading research shows the full provision of the parking requirements under the City Code (at 2.32 spaces per unit) is unnecessary for the proposed luxury rental project. The Fourth Edition of "Parking Generation", published by the Institute of Transportation Engineers ("ITE")—which is the leading national organization and publication regarding parking standards—explains the 85th percentile of parking demand for the mid-rise apartments is 1.61 spaces per dwelling unit. "Shared Parking", Second Edition, a publication by the Urban Land Institute, provides that the parking demand ratio for apartment rental developments is 1.65 spaces per dwelling unit. Additionally, the National Parking Association's Parking Consultants Council recommends an average of 1.5 spaces per one-bedroom unit, with an additional 0.25 spaces per additional bedroom.

There are numerous jurisdictions in Miami-Dade County that have off-street parking requirements that are generally in-line with the national standards set forth by the leading research on parking demand. For example, Sunny Isles Beach and North Miami require a flat 1.5 spaces per multifamily unit plus 5% for visitor parking. Bal Harbor and Miami require a flat 1.5 spaces per multifamily unit plus 10% for visitor parking. North Miami Beach requires 1.5 spaces for a 1 or 2-bedroom unit and 2.0 spaces for a 3-bedroom unit.

In addition to the analysis provided in the Parking Study, the Exception is further warranted because the Applicant has developed several similar urban infill apartment projects and has successfully used a one space per bedroom model in those projects. In Tampa, the Applicant developed the Madison at SoHo, a 368-unit, 563-bedroom apartment complex with 552 spaces. That equates to just less than one space per bedroom and about 1.5 spaces per unit. In St. Petersburg, the Applicant developed the Madison at St. Pete, a 277-unit, 444- bedroom apartment complex with 444 parking spaces, which equates to one space per bedroom and approximately 1.6 spaces per unit. Both of these projects are successful infill residential projects and do not have parking problems.

Based on the foregoing, we respectfully request an exception to the Code required parking requirement of 662 parking spaces to allow the provision of 519 parking spaces, which is equivalent to a rate of one space per bedroom plus 10% for visitor parking.

Variances

The Proposed Project requires five (5) separate Variances"), which, due to the unique characteristics of the Property, are necessary to proceed with development:

(1) A variance waiving the 25 foot minimum required front setback along West Drive, to place a portion of the building's pedestal 11 feet and 10 inches from the property line.

(2) A variance to waive the minimum unit sizes in the RM-70 zoning district that require at least 900 square feet for one-bedroom units and 1,200 square feet for two-bedroom units. The Applicant proposes one-bedroom units ranging from 652 square feet to 820 square feet, and two-bedroom units from 1,157 square feet to 1,261 square feet.

(3) A variance from Section 152.056 of the City Code, which prohibits a roof overhang from extending beyond 36 inches into the yard, to allow a porte-cochere on the third floor level across the front right of way line reaching 15 feet 9 inches at its longest point.

(4) A variance from Section 18A-6(C)(8) of the Miami-Dade County Code, adopted by reference in the City Code, to allow palm trees to comprise more than 30 percent of the required trees.

(5) A variance from Appendix D of the City's Land Development Regulations, Shoreline Regulations, to waive the provision requiring pedestrian use areas within the shoreline area to be 50% covered by shade trees within five (5) years of planting.

Section 152.097(B) of the City Code outlines three (3) criteria for the evaluation of variance requests. The criteria are listed below in bold, with our responses below each criteria.

(1) That there are (or are not) special circumstances and conditions which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same zoning district; that the special circumstances and conditions were not (or were) self-created by any person having an interest in the property; and that the strict application of the provisions of this chapter would (or would not) deprive the applicant of the reasonable use of the land, structure, or building for which the variance is sought and would (or would not) involve an unnecessary hardship for the applicant.

(1) Front Setbacks

Section 152.029(C)(2) of the City Code requires a 25 foot setback from all street frontages that do not abut Kennedy Causeway. Because the Property borders the cul-de-sac located at the end of West Drive, its primary frontage has an odd, concave shape that imposes a significant hardship on the Applicant. Accordingly, a portion of the building is set back approximately 11 feet and 10 inches from the front property line abutting the cul-de-sac along West Drive.

The Property's unique contours were created by a circular cul-de-sac at the end of West Drive, and were not caused by the Applicant. The physical configuration of the lot is also peculiar to the Property and is generally not applicable to other lands in the same zoning district.

(2) Minimum Unit Size

Under Section 152.029(C)(6), the minimum dwelling unit floor areas in the RM-70 zoning district are 900 square feet for one-bedroom units and 1,200 square feet for two-bedroom units. As shown in the enclosed data table, the Project proposes one-bedroom units ranging from 652 square feet to 820 square feet and two-bedroom units from 1,157 square feet to 1,261 square feet. The Applicant requests a variance to utilize these reduced unit sizes, which deviate from the City Code up to 43 square feet for the smallest two-bedroom units and up to 250 square feet for the smallest one-bedroom units.

By imposing a standard requiring a minimum floor area of 900 square feet for one-bedroom units and 1,200 square feet for two-bedroom units, a strict application of Section 152.029(C)(6) of the City Code imposes a significant, unreasonable and unnecessary hardship on the Applicant.

Special circumstances exist warranting a waiver of minimum unit sizes. The Property is unique because it has three (3) frontages adjacent to Biscayne Bay, which equals approximately eighty (80) percent of the Property's total frontage. This unique orientation presents special opportunities and challenges for development, but ultimately reduces the land area available for habitable space. Since the footprint for habitable space is greatly reduced, the strict application of minimum unit sizes in Section 152.029(C)(6) would destroy the feasibility of development on the Property.

To promote the intent and spirit behind the City's Land Development Regulations, design guidelines, and the County Shoreline Development Regulations, and to enhance the character of the neighborhood, the Proposed Project incorporates numerous design elements to foster an

inviting and attractive shoreline development and create an interesting vista at the end of West Drive. Although the presently-entitled site plan on the Property contemplates a 21-story building (which includes height bonuses and a parking structure on the first four stories), the Applicant proposes a reduction in overall height, which will further complement the character of North Bay Village and Harbor Island. Accordingly, the Proposed Project only envisages an eight-story structure, which will afford northern views of Biscayne Bay to many of the existing buildings on West Drive. Reducing building height to accommodate the aesthetic demands of the uniquely-situated Property decreases the building envelope and thus reduces the amount of floor area that could have been distributed throughout individual units.

In addition to the height limitations practically imposed by the character of the neighborhood, the Applicant is further burdened by the additional public space and setback requirements resulting from the Property's unique location. For example, the Proposed Project must satisfy the setback requirements imposed by the Miami-Dade County Shoreline Review guidelines and must provide a publicly-accessible promenade along all shoreline frontages. In certain instances, the Shoreline Review guidelines nearly double the minimum required setback along the shoreline. Thus, the Property's unique orientation along the shoreline on nearly all sides reduces the footprint available for habitable space and development of larger unit sizes.

In lieu of providing increased interior unit space, the Project incorporates generous public and private amenities that will enhance the character of North Bay Village and Harbor Island, and increase the quality of life for residents and visitors alike. A public promenade, measuring nearly 1,400 feet in length, will encircle the property along the shoreline. The Proposed Project also contains over 8,000 square feet of interior amenity space within a 2-story club building. This luxury space will provide residents with access to an internet café and e-lounge, a resident lounge and entertainment area, and a membership-quality fitness center. Further, the Proposed Project incorporates two (2) active courtyards with waterfront pool decks, and a passive courtyard to allow relaxation by the shoreline. Additional outdoor amenities include picnic and barbecue areas, designed to promote social interaction and enhance the neighborhood's sense of community.

Additionally, the Property is unique because it is the only undeveloped parcel in the City's RM-70 zoning district subject to the increased minimum unit sizes in Section 152.029(C)(6). Specifically, under Section 3.6 of the Land Development Regulations, parcels in an RM-70 zoning district with an area less than 27,000 square feet are authorized to utilize the minimum unit sizes provided in Section 152.028(C)(6) of the City Code.[2] The minimum square footage requirements under Section 152.028(C)(6) are 750 square feet for one-bedroom units and 1,000 square feet for two-bedroom units.

Of the ten (10) vacant parcels in the RM-70 zoning district, the Property is the only lot with a land area above 27,000 square feet. Thus, it is the sole undeveloped RM-70 parcel in the City that is not authorized, as of right, to have smaller unit sizes as reasonably interpreted by the City Code. In other words, the Property is unique because it is the only vacant RM-70 parcel that is subject to the excessive minimum floor area standards contained in Section 152.029(C)(6).

[2] As expressed by Jim LaRue, City Planner, the reference in Section 3.6 of the Land Development Regulations is mistyped. The section references Section 152.028(C)(5), but is intended to read Section 152.028(C)(6).

3 B (23)

The conditions driving the need to design units with reduced floor areas, including the configuration, size, and orientation of the Property, were not created by the Applicant.

(3) Overhang

Section 152.056(A) prohibits all roof overhangs exceeding 36 inches into the required yard. The Applicant proposes a drop-off area with a porte-cochere at the front entrance of the Property, containing a support column against the property line and a third-floor overhang extending 15 feet 9 inches past the edge of the West Drive right of way.

The Property's unique shape and location creates a special hardship for the Applicant. Because the Proposed Project is set against the cul-de-sac at the end of West Drive, its primary frontage has an odd, concave shape. The required yard, which is also the subject of variance (1), is 25 feet along the border of the cul-de-sac. To provide sufficient space in loading and unloading zones for residents and visitors, the drop-off area extends from the property line at the cul-de-sac to the entrance of the building. A porte-cochere, with the roof overhang, is an essential design element along this entrance because it will provide residents with protection against the rain and other elements when entering and exiting the Property.

The variance request is driven by the unique shape of Property's street frontage. The contour of the Property, caused by the circular right-of-way line at the end of West Drive, was not created by the Applicant.

(4) Palms

Section 18A-6(C)(8) of the Miami-Dade County Code, adopted by reference in the City Code, allows a maximum of 30 percent of the required trees to be provided as palm trees. Due to tree canopy clearance for fire access purposes, provision of public access and viewing of the shoreline, sea spray tolerance and overall design considerations the Proposed Project plans to use 52% of the overall number of required trees as palm trees. It should be noted however, that while we are requesting relief for the percentage of palm trees, the plan provides for lush landscaping, with a total of 195 trees overall, where 124 trees are required. Additionally, the plan also exceeds the minimum understory requirements and maximum sod requirements, providing 7,958 shrubs and groundcovers and only 20% sod, where 1,280 shrubs are required.

The Property is located at the far northern end of West Drive and as such the Property has three (3) frontages along the waters of Biscayne Bay. The water frontage equals approximately 80 percent of the Property's total frontage, with only the southern property line not having water frontage. Further, the Property is relatively narrow, measuring approximately 360' across and 530' long. The narrowness of the site combined with the large percentage of water frontage presents a planting environment that is subject to higher than normal sea spray and salt intrusion. As such, palms that are sea spray resistant will be substituted for normal shade trees in the waterfront areas in order to provide a landscape plan that will be sustainable on the Property. The physical configuration of the Property is peculiar to the Property and is generally not applicable to other lands in the same zoning district.

3B(24)

(5) Shade Trees

Appendix D of the City's Land Development Regulations, Shoreline Regulations, requires the pedestrian use areas within the shoreline area to be 50% covered by shade trees within five (5) years of planting. As the provided emergency access route is a shared use with the pedestrian access route, shade trees adjacent to the pedestrian promenade are precluded due to the canopy clearance required for emergency and fire truck access. However, in lieu of this, the design provides for ample areas for pedestrian and public access including canopied seating nodes and viewing terminuses, along with a shoreline promenade lined with Coconut Palms (14' grey wood) which are more in keeping with the context of the overall design and the site's location having 80% shoreline frontage. Approximately 20% of the pedestrian use areas in the shoreline areas will be shaded within five (5) years of planting as proposed, however, the areas of repose and viewing will provide ample shaded relief for the promenade users.

The fire department requires access to the proposed buildings on the back (water) side of the buildings. Fire trucks require a certain vertical and horizontal clearance that cannot be met if normal shade trees are planted in the shoreline area. Therefore, palm trees are proposed to be substituted for shade trees along the shoreline areas, resulting in a lower percentage of shaded pedestrian use areas than what is required by the Shoreline standards.

The configuration of the Property (narrow with 80% water frontage) and vertical clearance requirements for the Fire Department are conditions that were not created by the Applicant.

(2) That granting the variance requested will not (or will) confer on the applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same zoning district; and the variance granted is the minimum variance that will make possible the reasonable use of the land, structure, or building.

(1) Front Setbacks

The Applicant proposes a small setback variance along a peculiar-shaped property line. Granting the variance will not provide a special privilege to the Applicant that is denied to other structures in the same zoning district because no other property in the RM-70 zoning district along West Drive has a similarly-shaped street frontage. The variance is the minimum variance that will make possible the reasonable use of the building and land under the City's Code, which also requires buildings to maintain a distinctive form and design.

(2) Minimum Unit Size

The Proposed Project contemplates one-bedroom units ranging from 652 square feet to 820 square feet and two-bedroom units from 1,157 square feet. Because the Property is uniquely situated along the shoreline and is the only vacant RM-70 parcel in the City subject to the increased floor area requirements, the variance will not confer any special privilege to the Applicant that is denied to other properties. Given the development limitations imposed by the limited

3B(25)

footprint and height resulting from the Property's unique conditions, the proposed reduction in floor area requirements for the projected unit mix is the minimum variance needed.

(3) Overhang

Granting the variance will not confer a special privilege. Because the Property has a uniquely-shaped street frontage, the variance represents the minimum variance needed to provide the necessary entrance feature.

(4) – (5) Palms and Shade Trees

The Applicant proposes as many shade trees as is physically possible given the constraints of the site and the requirements for fire truck access, therefore the variance requested is the minimum variance needed. Because of the unique characteristics of the Property with regard to water frontage; the variance will not confer any special privilege to the Applicant that is denied to other lands.

(3) That granting the variance will (or will not) be in harmony with the general intent and purpose of this chapter, and that such variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(1) Front Setbacks

The requested variance is the minimum variance needed given the limitations of the Property. The Proposed Project will otherwise meet and exceed the setbacks required by the City Code and County Shoreline Development Regulations. Therefore, granting the requested variance will be in harmony with the general intent of the City Code and will not be injurious to the neighborhood or public welfare.

(2) Minimum Unit Size

The requested variance will be in harmony with the general intent and purpose of the City Code and Land Development Regulations. According to the City Code, the intent of the zoning code is, among other things, to "provide for . . . the appropriate and best use of land, for preservation, protection, development and conservation of the natural resources of land" and to promote "the civic amenities of beauty and visual interest."[3] The Proposed Project will provide the required open space, public amenities, and design features necessary and appropriate for the Property's unique location and character at the sacrifice of additional building height and unit floor area. The variance supports the general intent and purpose of the zoning code because the Land Development Regulations have codified a policy to allow reduced unit sizes in much of the RM-70 zoning district. Additionally, the Project contemplates generous public and private amenities for residents and visitors. Therefore, granting the requested variance will be in harmony with the general intent of the City Code and will not be injurious to the neighborhood or public welfare.

[3] City Code, Section 152.002.

3B(26)

(3) Overhang

The variance will contribute to the intent of the zoning code by promoting the appropriate and best use of land while incorporating visually interesting spaces. The overhang, on the third story of the building and measuring 15 feet 9 inches at its longest point, will not injure the neighborhood or the public welfare. As the radius of West Drive at this point measures approximately forty (40) feet, the overhang only covers a small portion of the cul-de-sac beyond the property line.

(4) – (5) Palms and Shade Trees

The requested variances are the minimum variances needed to provide a functional landscaping plan given the limitations of the Property. The Proposed Project will still have a well-designed and lush landscaping plan that otherwise meets and exceeds the standards of the landscaping code. Therefore, the granting the requested variances will be in harmony with the general intent of the City Code and will not be injurious to the neighborhood or public welfare.

Also, Section 2.7.6 of the City's Land Development Regulations outlines seven (7) criteria for the evaluation of variance requests. The criteria are listed below in bold, with our responses below each criteria.

(1) The condition giving rise to the requested variance has not been created by any person having an interest in the property.

See responses to Section 152.097(B)(1) above.

(2) Special circumstances and conditions exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same land use district.

See responses to Section 152.097(B)(1) above.

(3) The strict application of the code would deprive the applicant of the reasonable use of the land, structure or building, and would involve an unnecessary hardship for the applicant.

See responses to Section 152.097(B)(1) above.

(4) The effect of the proposed variance is in harmony with the general intent of this code.

See responses to Section 152.097(B)(3) above.

(5) Approval of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

See responses to Section 152.097(B)(3) above.

(6) The proposed variance is the minimum modification of the regulation at issue that will afford relief.

See responses to Section 152.097(B)(2) above.

(7) The variance request is not based exclusively upon a desire to reduce the cost of development.

(1) Front Setbacks

The variance is not born out of a desire to reduce the cost of development, but rather is necessary due to the Property's unique concave shape and orientation at the end of West Drive.

(2) Minimum Unit Size

The variance request is not based exclusively upon a desire to reduce the cost of development. Given the Property's unique location along the shoreline, the development must incorporate ample public spaces and design features that effectively reduce the habitable space available for increased unit sizes.

(3) Overhang

The variance request is not based exclusively upon a desire to reduce development costs. Instead, because the Property's oddly-shaped street frontage creates a considerable hardship for development along the southern property line, it is the minimum variance necessary to provide an essential entrance feature that protects residents and visitors upon arrival.

(4) Palms

The variance request is not based exclusively upon a desire to reduce the cost of development, but rather is a result of the Property's unique, narrow shape and orientation with Biscayne Bay representing nearly eighty (80) percent of its total frontage.

(5) Shade Trees

The variance is not requested solely to reduce the cost of development. It is necessary due to the unique shape and location of the Property and the requirement for fire truck access on the backside of the proposed buildings.

The Proposed Project will bolster the City's property tax rolls, provide construction jobs, remove an eyesore and provide quality housing for the City of North Bay Village. For the reasons mentioned above, we respectfully request the City's favorable review of the Exception and Variances.

Sincerely,

Neisen O. Kasdin

Akerman

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May 22, 2012

VIA HAND DELIVERY

Honorable Mayor Connie Leon-Kreps & Members of the City Commission
City of North Bay Village
1700 Kennedy Causeway
Suite 132
North Bay Village, FL 33141

RE: Blu – Letter of Intent

Dear Mayor Kreps and Members of the City Commission:

Our firm represents ZF Development, LLC (the "Applicant"), the developer of the parcel located at 8000 West Drive (the "Property").[1] The Property is a 4.47± acre site located on the northwest portion of Harbor Island. The Applicant proposes to construct a 285-unit luxury rental apartment development on the Property (the "Proposed Project").

On July 27, 2004, the City Commission approved a site plan application for the Property (the "Prior Project"). The approval is still a valid development order by way of extensions granted through the City Code and state law. The Prior Project proposed two 21-story residential buildings (approximately 213 feet tall), with 285 residential dwelling units and approximately 842,113 gross square feet. The requested site plan for the Proposed Project will supersede and replace the Prior Project.

The Proposed Project is consistent with the City's zoning ordinances and Comprehensive Plan. The Property lies in an RM-70 zoning district and has a future land use designation of Residential Multi-Family High Density. The RM-70 zoning allows buildings up to a height of 150 feet (15 stories) and numerous buildings along West Drive and throughout North Bay Village are built to heights above ten (10) stories and upwards to the maximum height. The Proposed Project will consist of an 8-story residential building (approximately 112 feet tall) and a 4-story parking garage. The proposed height of the buildings is beneath the maximum allowed height and lower than many of the existing buildings on West Drive. The lower height of the proposed buildings, combined with the layout of the buildings on the site, will afford northern views of Biscayne Bay to many of the existing buildings on West Drive.

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[1] Under Section 152.095 of the City of North Bay Village Code of Ordinances, an application may be filed by a party with written permission of the present owner. A copy of the authorization by the current property owner, Casa Marina LLC, is attached to the public hearing application filed herein.

Site Plan Review Criteria

Section 152.105(C)(9) of the City Code establishes four (4) criteria by which site plans shall be judged against. The four criteria are listed below in bold type, with our response below.

(a) Protects against and minimizes any undesirable effects upon contiguous and nearby property.

The Proposed Project will have a positive effect upon contiguous and nearby properties by providing quality housing in an attractive, mid-rise development pattern.

(b) Provides sufficient off-street parking and loading facilities so that it will not be necessary to use the streets in the vicinity for this purpose.

The Proposed Project will provide parking at a rate of one (1) space per bedroom. For example, a one-bedroom apartment will be provided one parking space, a two-bedroom apartment will be provided two parking spaces and a three-bedroom apartment will be provided three parking spaces. Although this is less than the amount of required parking based on the City Code requirements, there is sufficient data and real world examples to justify that the one space per bedroom parking rate is satisfactory. Please see below for further details.

(c) Provides a sufficient setbacks, open space, and landscaping in order to protect and enhance the appearance and character of the neighborhood.

The Proposed Project meets all of the Code requirements for setbacks, open space and landscaping.

(d) Can be accommodated by existing community roads, services, and utilities, or the necessary additions are provided by the developer.

The enclosed impact analysis shows that the existing roads and utilities can accommodate the modest increase in required services for the Proposed Project.

Exception to parking requirements

Section 152.044(E)(2) of the City Code allows a proposed use to reduce the parking requirements "*whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities.*" We submit that the Proposed Project will be adequately served by a parking ratio that equals one space per bedroom plus 10% for visitor parking.

The Proposed Project would have 131 one-bedroom units, 122 two-bedroom units and 32 3-bedroom units. The City Code requires 2 spaces for a 1-bedroom or 2-bedroom unit and 3

spaces for a 3-bedroom unit plus 10% for visitor parking. This results in a Code required total parking of 602 spaces, which equals 2.1 spaces per unit for the Proposed Project.

Using the one space per bedroom rate, the Proposed Project would require 519 parking spaces (1.8 spaces per unit), which is 83 spaces (13%) less than the Code required parking.

The third edition of "Parking Generation", published by the Institute of Transportation Engineers (ITE) – which is the leading national organization and publication regarding parking standards – lists the average peak period parking demand as 1.37 vehicles per unit for "high-rise apartments" (defined as a multi-family residential building greater than five stories in height). The highest average peak period parking demand for high-rise apartments is 1.52 vehicles per unit. Both of these rates are well below both the Code required parking for the Proposed Project (2.1 spaces per unit) and the proposed parking (1.8 spaces per unit), indicating that based on national standards, the Proposed Project will have adequate parking using the one space per bedroom parking rate. Further, the Parking Generation publication establishes an average parking demand equation for high-rise apartments ($P = 1.04(x)+130$, where P = number of parking spaces and x = number of dwelling units) that suggests for the Proposed Project, the number of required parking spaces is 427, which is 92 spaces less than the proposed number of spaces.

There are numerous jurisdictions in Miami-Dade County that have off-street parking requirements that are generally in-line with the national standards set forth by the ITE Parking Generation publication. Sunny Isles Beach and North Miami require a flat 1.5 spaces per multifamily unit plus 5% for visitor parking. Bal Harbor and Miami require a flat 1.5 spaces per multifamily unit plus 10% for visitor parking. North Miami Beach requires 1.5 spaces for a 1 or 2-bedroom unit and 2.0 spaces for a 3-bedroom unit.

Finally, the Applicant has developed several similar urban infill apartment projects and has successfully used a one space per bedroom model in those projects. In Tampa, the Applicant developed the Madison at SoHo, a 368-unit, 563-bedroom apartment complex with 552 spaces. That equates to just less than one space per bedroom and about 1.5 spaces per unit. In St. Petersburg, the Applicant developed the Madison at St. Pete, a 277-unit, 444- bedroom apartment complex with 444 parking spaces, which equates to one space per bedroom and approximately 1.6 spaces per unit. Both of these projects are successful infill residential projects and do not have parking problems.

Based on the foregoing, we respectfully request an exception to the Code required parking requirement of 592 parking spaces to allow the provision of 519 parking spaces, which is equivalent to a rate of one space per bedroom plus 10% for visitor parking.

Variances

The Proposed Project requires two variances from landscaping standards. Section 18A-6(C)(8) of the Miami-Dade County Code, adopted by reference in the City Code, allows a maximum of 30 percent of the required trees to be provided as palm trees. Due to tree canopy clearance for fire access purposes, provision of public access and viewing of the shoreline, sea spray tolerance

and overall design considerations the Proposed Project plans to use 52% of the overall number of required trees as palm trees. It should be noted however, that while we are requesting relief for the percentage of palm trees, the plan provides for lush landscaping, with a total of 195 trees overall, where 124 trees are required. Additionally, the plan also exceeds the minimum understory requirements and maximum sod requirements, providing 7,958 shrubs and groundcovers and only 20% sod, where 1,280 shrubs are required.

Also, Appendix D of the City's Land Development Regulations, Shoreline Regulations, requires the pedestrian use areas within the shoreline area to be 50% covered by shade trees within five (5) years of planting. As the provided emergency access route is a shared use with the pedestrian access route, shade trees adjacent to the pedestrian promenade are precluded due to the canopy clearance required for emergency and fire truck access. However, in lieu of this, the design provides for ample areas for pedestrian and public access including canopied seating nodes and viewing terminuses, along with a shoreline promenade lined with Coconut Palms (14' grey wood) which are more in keeping with the context of the overall design and the site's location having 80% shoreline frontage. Approximately 20% of the pedestrian use areas in the shoreline areas will be shaded within five (5) years of planting as proposed, however, the areas of repose and viewing will provide ample shaded relief for the promenade users.

Section 152.097(B) of the City Code outlines three (3) criteria for the evaluation of variance requests. The criteria are listed below in bold, with our responses below each criteria.

> **(1) That there are (or are not) special circumstances and conditions which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same zoning district; that the special circumstances and conditions were not (or were) self-created by any person having an interest in the property; and that the strict application of the provisions of this chapter would (or would not) deprive the applicant of the reasonable use of the land, structure, or building for which the variance is sought and would (or would not) involve an unnecessary hardship for the applicant.**

The Property is located at the far northern end of West Drive and as such the Property has three (3) frontages along the waters of Biscayne Bay. The water frontage equals approximately 80 percent of the Property's total frontage, with only the southern property line not having water frontage. Further, the Property is relatively narrow, measuring approximately 360' across and 530' long. The narrowness of the site combined with the large percentage of water frontage presents a planting environment that is subject to higher than normal sea spray and salt intrusion. As such, palms that are sea spray resistant will be substituted for normal shade trees in the waterfront areas in order to provide a landscape plan that will be sustainable on the Property.

Further, the fire department requires access to the proposed buildings on the back (water) side of the buildings. Fire trucks require a certain vertical and horizontal clearance that cannot be met if normal shade trees are planted in the shoreline area. Therefore, palm trees are proposed to be substituted for shade trees along the shoreline areas, resulting in a lower percentage of shaded pedestrian use areas than what is required by the Shoreline standards.

The configuration of the Property (narrow with 80% water frontage) and vertical clearance requirements for the Fire Department are conditions that were not created by the Applicant. The physical configuration of the Property is also peculiar to the Property and is generally not applicable to other lands in the same zoning district.

(2) That granting the variance requested will not (or will) confer on the applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same zoning district; and the variance granted is the minimum variance that will make possible the reasonable use of the land, structure, or building.

The Applicant is proposing as many shade trees as is physically possible given the constraints of the site and the requirements for fire truck access, therefore the variance requested is the minimum variance needed. Because of the unique characteristics of the Property with regard to water frontage, the variance will not confer any special privilege to the Applicant that is denied to other lands.

(3) That granting the variance will (or will not) be in harmony with the general intent and purpose of this chapter, and that such variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The requested variances are the minimum variances needed to provide a functional landscaping plan given the limitations of the Property. The Proposed Project will still have a well-planned and lush landscaping plan that otherwise meets and exceeds the standards of the landscaping code. Therefore, the granting the requested variances will be in harmony with the general intent of the City Code and will not be injurious to the neighborhood or public welfare.

Also, Section 2.7.6 of the City's Land Development Regulations outlines seven (7) criteria for the evaluation of variance requests. The criteria are listed below in bold, with our responses below each criteria.

(1) The condition giving rise to the requested variance has not been created by any person having an interest in the property.

The unique shape and location of the Property was not created by any person having an interest in the Property.

(2) Special circumstances and conditions exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same land use district.

See response to Section 152.097(B)(1) above.

(3) The strict application of the code would deprive the applicant of the reasonable use of the land, structure or building, and would involve an unnecessary hardship for the applicant.

3B(34)

See response to Section 152.097(B)(1) above.

(4) The effect of the proposed variance is in harmony with the general intent of this code.

See response to Section 152.097(B)(3) above.

(5) Approval of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

See response to Section 152.097(B)(3) above.

(6) The proposed variance is the minimum modification of the regulation at issue that will afford relief.

See response to Section 152.097(B)(2) above.

(7) The variance request is not based exclusively upon a desire to reduce the cost of development.

The variances are not born out of a desire to reduce the cost of development. The variances are necessary due to the unique shape and location of the Property and the requirement for fire truck access on the backside of the proposed buildings.

The Proposed Project will bolster the City's property tax rolls, provide construction jobs, remove an eyesore and provide quality housing for the City of North Bay Village. Further, it is a substantial improvement from the Prior Project. For these and all of the foregoing reasons we respectfully request the City's favorable review of the Project.

Sincerely,

Neisen O. Kasdin

IMPACT ASSESSMENT STUDY

for:

BLU at North Bay Village

Located in:

North Bay Village, Florida

Prepared by:

Engineers ◊ Planners ◊ Surveyors

Sun-Tech Engineering, Inc.
Engineers-Planners-Surveyors
1600 West Oakland Park Blvd., Suite 101
Fort Lauderdale, Florida 33311
(954) 777-3123

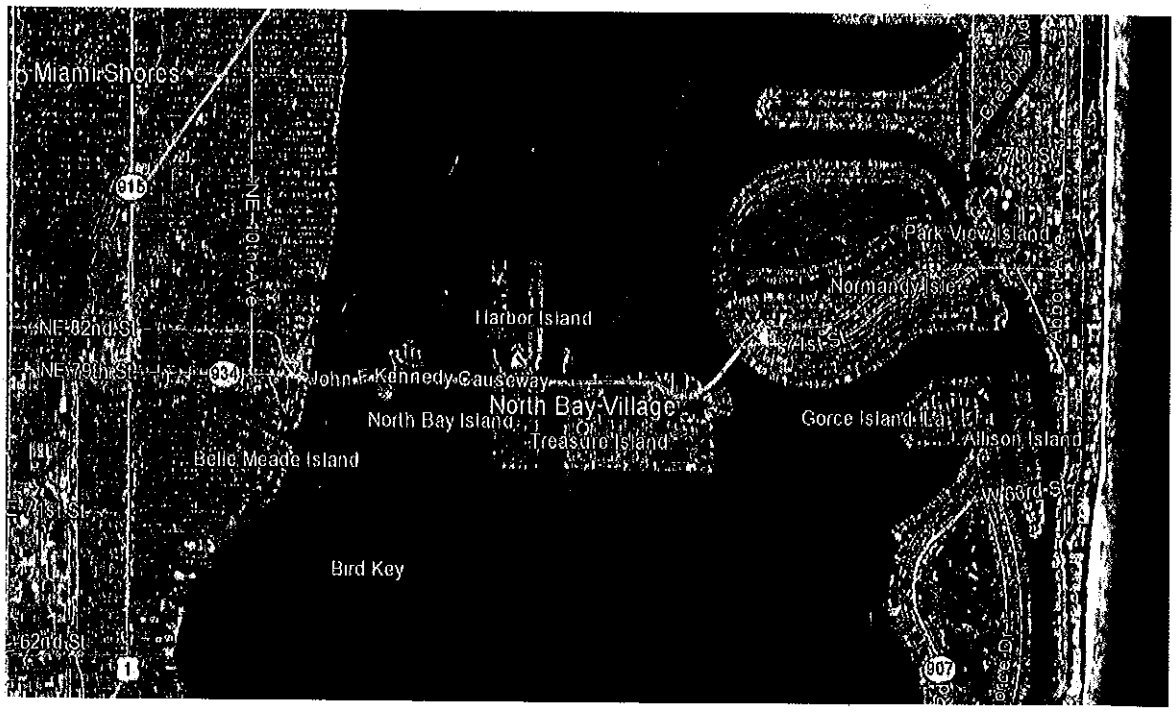
Project No. 12-3437
May 2012

3B(36)

BLU AT NORTH BAY VILLAGE

PROJECT INTRODUCTION AND OVERVIEW

Blu at North Bay Village is a proposed multi-family residential development, consisting of 285 rental apartment units, amenities and associate parking garage located at the north end of West Drive on the NW corner of Harbor Island, in North Bay Village, Florida.



The site is approximately 4.41 acres (Tract C – Harbor Island, P.B. 44, Pg. 72, M.D.C.R.) (See Location Map – Exhibit # 1) and includes approximately thirteen hundred and ninety two linear feet (1392 L.F.) of frontage along Biscayne Bay. The site is currently vacant; however, it was previously developed and contained three (3) condominium buildings with a total of 188 residential units. Based on prior aerials of the site, it is estimated that the buildings was razed during the period 2006 – 2007 in preparation for re-development (See Boundary Survey – Exhibit # 2). The property is currently zoned RM-70 (High density Multiple-Family Residential District) – See Exhibit # 3.

In accordance with Chapter 4 of the North Bay Village Consolidated Land Development Regulations, an impact assessment report is required to demonstrate that the proposed development does not degrade the adopted levels of service in North Bay Village (NBV). This report will analyze the impact of our proposed development on the existing NBV's infrastructure while taking into consideration credits for the pre-existing condominiums recently razed and providing assurance that the level of service remain consistent with NBV's requirements.

PROJECT POPULATION:

The existing property, currently vacant, contained three (3) condominium building with a total of 188 residential units. Our development proposes 285 residential rental apartment units and based on a recommended rate of 2.25 people per rental apartment unit by NBV, the net population increase due to this project is 218 people. See table below.

Table 1 - Population

Description	Units	No. of people / unit	Population
Blu at NBV	285	2.25	641
Total	285		641
Existing Condo. (demolished)	188	2.25	423
Net Increase	**97**		**218**

Based on the latest 2010 US Census, the population of North Bay Village was approximately 7,137 people. The additional increase of 218 people generated from our development represents an increase of approximately 3.05% of the total population of NBV.

POTABLE WATER:

The City of North Bay Village obtains its potable water from a large user service agreement with the Miami-Dade Water and Sewer Department (MDWASD). Potable water is conveyed to North Bay Village via an existing 30 inch diameter water main, owned and serviced by the City of North Miami Beach Public Utilities.

Blu at North Bay Village will be served via an existing 8" DIP water main running north-south along the east right-of-way of West Drive and connected to an existing 12" water main running along Kennedy Causeway. (See GIS image below, provided by the City of North Bay Village serving this project).

Existing 8" DIP Watermain on West Drive.

Potable water consumption is calculated based on an estimation of 120 gpd / Capita per the City's Consolidate Land Development Regulations. The proposed project would require an estimated water consumption of 76,920 GPD (285 units x 2.25 x 120 gpd/capita); however, a credit of 50,760 GPD (188 units x 2.25 x 120 gpd/capita) should be provided for the demolished 188 residential units resulting in net increase of 26,160 GPD or an increase of 3.05% of North Bay Village's total potable water consumption. (See Table 2 below for Water Consumption calculation). In summary, the increase in potable water demand due to our proposed development should have negligible impact on the City's existing water supply and distribution network.

Table 2 – Water Consumption

Description	Unit type	Residential units	Ave. capita per unit	Population	GPD/ Capita	Demand (GPD)
Existing Population				7,137	120	856,440
(2010 US Census)						
Water Demand from Blu	Apartments	285	2.25	641	120	76,920
Credit for Demolished units	Apartments	188	2.25	423	120	50,760
Net Increase		**97**				**26,160**

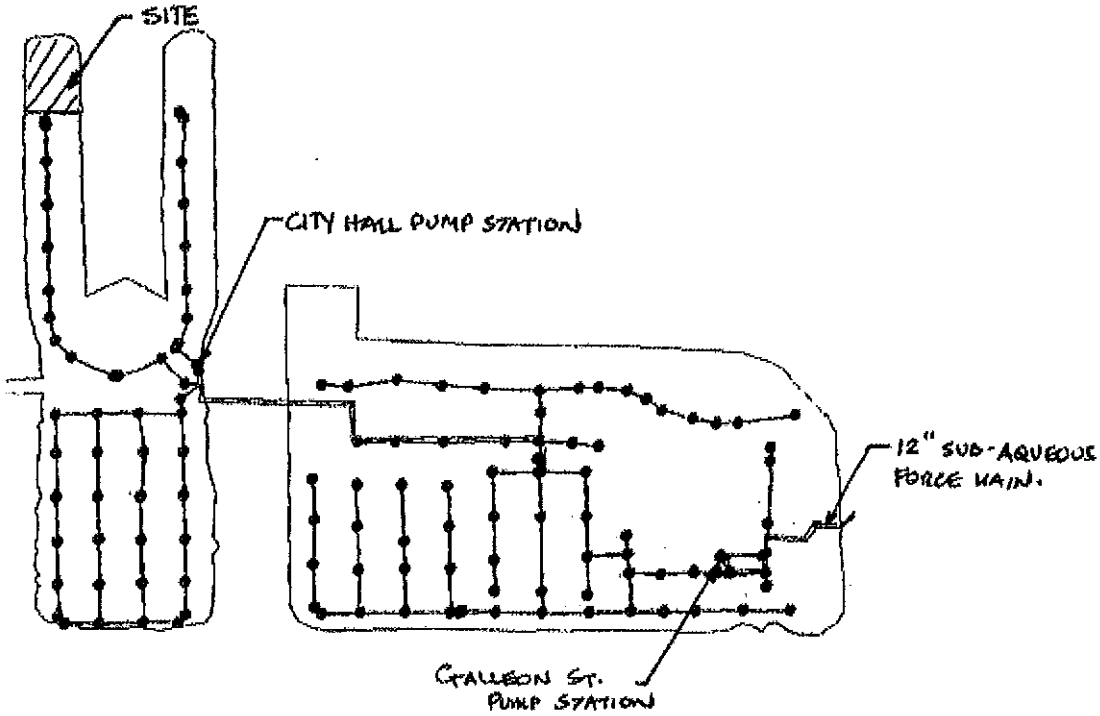
WASTEWATER:

The proposed development will be served via an existing 8-inch gravity sewer system located on the south side of the project. (See GIS image provide by the City of North Bay Village)

Existing 8" Gravity Sewer on West Drive.

This gravity main runs south along West Drive and conveys all flows to an existing Lift station called "City Hall Pump Station" located at 7903 East Drive. (See Figure 1- North Bay Village Wastewater System.) The City Hall Pump station is the main collector for Harbor Island and pumps the receiving flows through an 8-inch force main to a gravity system and eventually to the Main Pump Station called the "Galleon Street Pump Station" located at 1851 Galleon Street. Flow from this station is eventually pumped east, via a 12-inch diameter sub-aqueous force main beneath Biscayne Bay and connects to the City of Miami Beach wastewater system. (See Figure 1 – North Bay Village Wastewater System.)

Figure 1 – North Bay Village Wastewater System



Based on a meeting with the City's Public Works Director, several upgrades to the City's wastewater pumping station has been made over the last several years and there is currently no moratoriums or capacity restrictions on their system. Using an average rate of 2.25 people per unit and 110 gpd per person for sewage flows, the total increase in flow from Blu at North Bay Village will be 23,980 GPD (See Table 3 – Wastewater Flow) or a flow increase of 3.05 %. In summary, the proposed development should have little or no impact on the existing sanitary sewer system or receiving pump stations.

Table 3 – Wastewater Flow

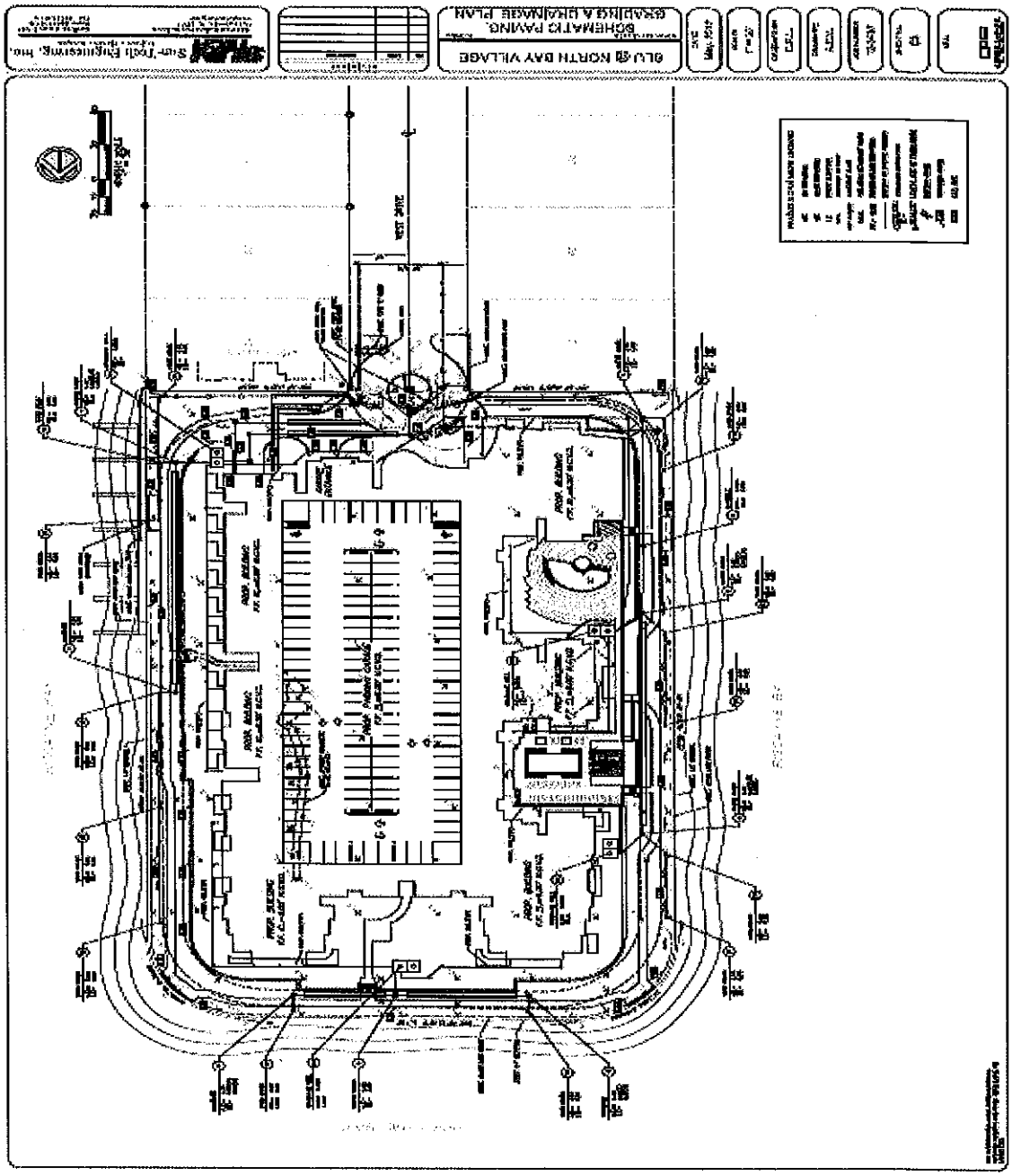
Description	Unit type	Residential units	Ave. capita per unit	Population	GPD/ Capita	Demand (GPD)
Existing Population				7,137	110	785,070
(2010 US Census)						
Waste water from Blu	Apartments	285	2.25	641	110	70,510
Credit for Demolished units	Apartments	188	2.25	423	110	46,530
Net Increase		**97**				**23,980**

DRAINAGE:

The proposed drainage system for Blu at North Bay Village will be private system and will consist of a series of drainage wells in combination with exfiltration trench. Water quality and quantity will be provided within the exfiltration trench and drainage well systems and sized accordingly to the requirements of South Florida Water Management District (SFWMD), Miami-Dade County Permitting, Environment and Regulatory Affairs (PERA) and Florida Department of Environmental Protection (FDEP). Finish floor elevations has been set at elevation 9.00' NGVD which is higher than the FEMA Flood Zone elevation of AE = El. 8.00' (See Exhibit # 4 – FEMA Flood Zone Map). The perimeter berm elevation is set in accordance with elevations generated by the 25 year / 3 day storm event and site grading parameters is in accordance with the previously permitted SFWMD / PERA permit issued for this site. (See Figure 3 – Schematic Paving, Grading and Drainage Plan).

In summary, the proposed drainage system, once permitted and installed, will exceed the level of service mandated by the requirements of North Bay Village and other regulatory agencies.

Figure 3 – Schematic Paving, Grading and Drainage Plan



SOLID WASTE:

Solid waste generated from the proposed development has been calculated at 7 lbs per capita per day based on the City's Consolidate Land Development Regulations. (See Table 4 – Solid Waste Demand).

Table 4 – Solid Waste

Description	Unit type	Residential units	Ave. capita per unit	Population	Lbs / capita	Demand (lbs)
Solid waste from Blu	Apartments	285	2.25	641	7	4,487
Credit for Demolished units	Apartments	188	2.25	423	7	2,961
Net Increase		**97**				**1,526**

Based on the 2010 US census (7,137 people) and the above solid waste generation rate, an additional increase of 1,526 lbs or 3.05% generated for this development is minimal and should not have a detrimental impact on the existing capacity of the system.

SUMMARY:

In conclusion, based upon our review of the potable water distribution system, wastewater collection system, drainage and solid waste systems, it is our belief that the additional demand required of the proposed development is not expected to adversely impact the existing infrastructure of North Bay Village and therefore recommend approval of the development based on the available excess capacity.

Exhibit 1 - Site

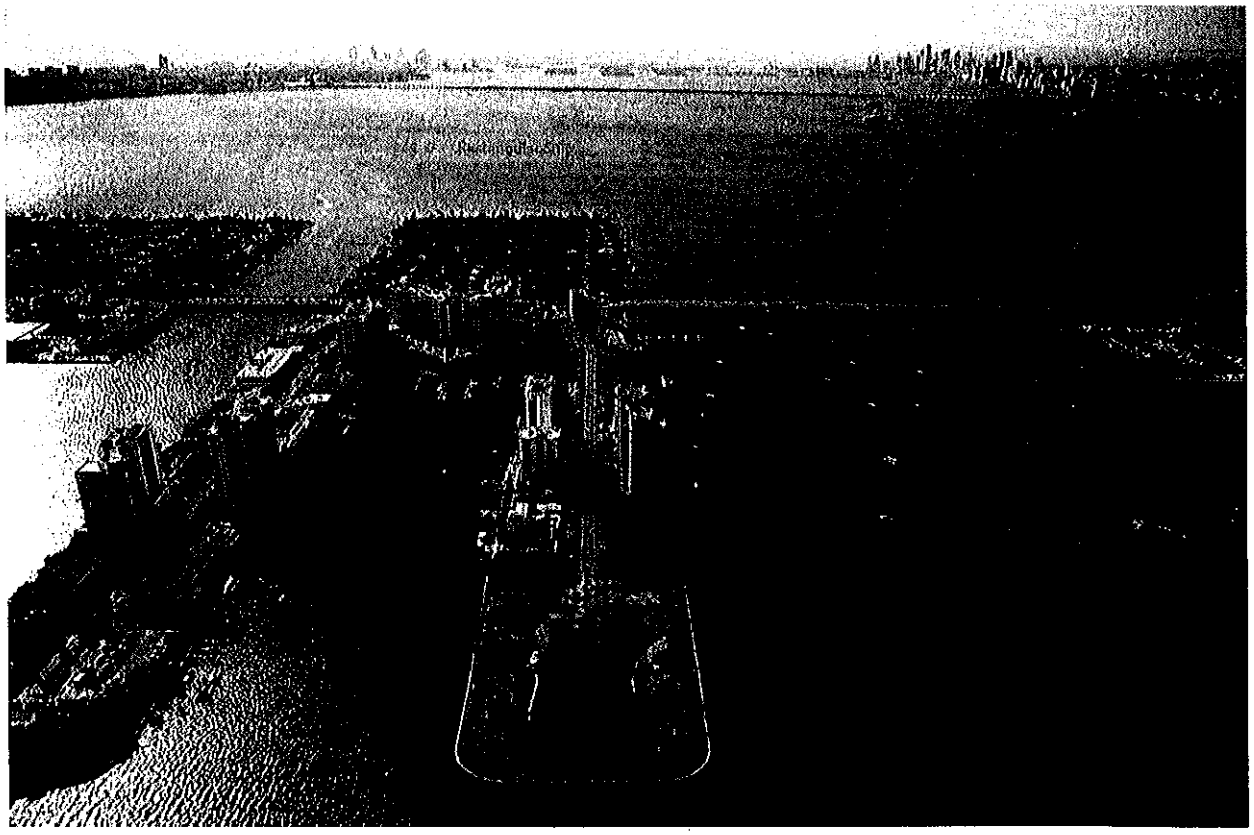


Exhibit 2 - Boundary Survey

GRAPHIC SCALE

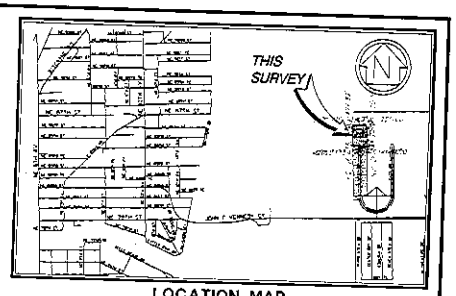
(IN FEET)
1 inch = 50 ft.

LEGEND:

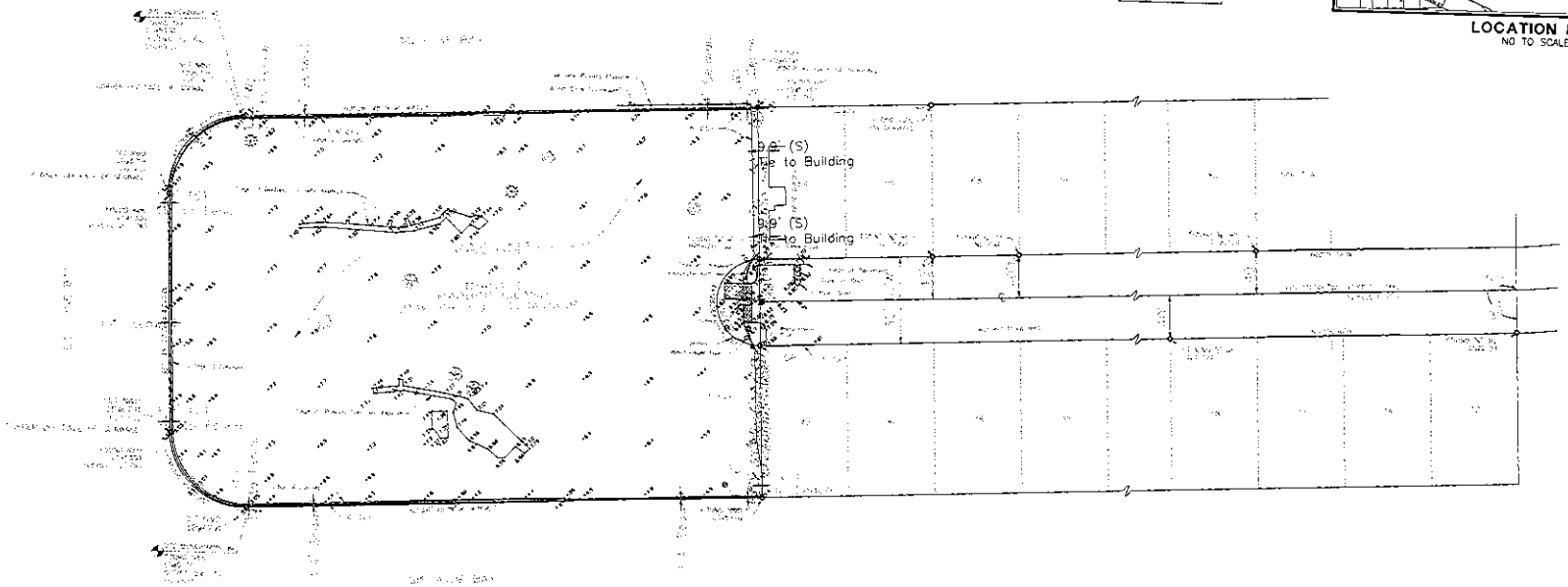
C.L.F.	CHAIN LINK FENCE
℄	CENTERLINE
ELEV.	ELEVATION
I.P.	IRON PIPE
I.R.C.	IRON ROD WITH CAP
L.B.	LICENSED BUSINESS
L.S.	LICENSED SURVEYOR
M.D.C.R.	MIAMI-DADE COUNTY RECORDS
N&D	NAIL AND DISK
O.R.B.	OFFICIAL RECORDS BOOK
P.B.	PLAT BOOK
P.G.	PAGE
R/W	RIGHT-OF-WAY
S.I.R.	SET 5/8" IRON ROD AND CAP LICENSED BUSINESS NO. 6791
(M)	MEASURED OR CALCULATED FROM FIELD TRAVERSE
(P)	PLAT OR RECORD DRAWING

SYMBOL LEGEND

○	WOOD POWER POLE
■	CATCH BASIN
⊙	SANITARY MANHOLE
⊸	GUY ANCHOR
⊸	MISCELLANEOUS SIGN
●	BOLLARD
WM	WATER METER
CO	CLEAN OUT
TR	TELEPHONE RISER
WV	WATER VALUE
◇	FIRE HYDRANT



LOCATION MAP
NO TO SCALE



LEGAL DESCRIPTION:

ALL OF TRACT "C", ACCORDING TO THE PLAT OF HARBOR ISLAND, AS RECORDED IN PLAT BOOK 44, PAGE 72, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

SAID LANDS LYING AND BEING IN THE CITY OF NORTH BAY VILLAGE, MIAMI-DADE COUNTY, FLORIDA, CONTAINING 192,064 SQUARE FEET (4.409 ACRES), MORE OR LESS.

SURVEYOR'S NOTES:

1. NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED, BY THE SURVEYOR, FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP OR OTHER INSTRUMENTS OF RECORD.
3. UNLESS OTHERWISE NOTED, THIS FIRM HAS NOT ATTEMPTED TO LOCATE UNDERGROUND UTILITIES, TO DELINEATE ANY POSSIBLE WETLANDS, FOOTINGS AND/OR FOUNDATIONS.
4. THE LEGAL DESCRIPTION SHOWN HEREON WAS PROVIDED BY THE CLIENT.
5. THE BEARINGS SHOWN HEREON ARE BASED ON CENTERLINE OF THE RIGHT-OF-WAY LINE OF WEST DRIVE, HAVING A ASSUMED BEARING OF NORTH 00°26'40" WEST.
6. ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929.
   BENCHMARK OF ORIGIN:
   DADE COUNTY BENCHMARK A-26
   LOCATOR: 3241 SW
   ELEVATION = 6.19
   STATUS: P (D=Destroyed, P=Pending)
   79 ST (SW) - 43' NORTH OF C/L
   PELICAN HARBOR DR - 210' EAST OF C/L
   PK NAIL AND ALUMINUM WASHER IN CONC CATCH BASIN.
7. FLOOD ZONE INFORMATION
   COMMUNITY NAME: NORTH BAY VILLAGE
   COMMUNITY NUMBER: 120004
   COUNTY NAME: MIAMI-DADE COUNTY
   STATE: FLORIDA
   MAP & PANEL NUMBER: 12086C0306
   SUFFIX: L
   F.I.R.M. INDEX DATE: 09-11-2009
   FLOOD ZONE: AE
   BASE FLOOD ELEVATION: 8

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY, THAT THIS "BOUNDARY SURVEY" OF THE PROPERTY DESCRIBED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY SURVEYED AND DRAWN UNDER MY SUPERVISION. THIS SKETCH COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA STATE BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J17-050, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES.

DATE OF LAST FIELD WORK: April 17, 2012

CALVIN, GIORDANO & ASSOCIATES, INC.

SIGNED_____ DATED_____
GREGORY J. CLEMENTS
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION NO. 4479

NO	DATE	REVISION	BY	NO	DATE	REVISION	BY

DESIGNED GJC DATE 04-17-12
DRAWN GJC DATE 04-17-12
CHECKED GJC DATE 04-17-12

Calvin, Giordano & Associates, Inc.
EXCEPTIONAL SOLUTIONS
1800 Eller Drive, Suite 600, Fort Lauderdale, Florida 33316
Phone: 954.921.7781 Fax: 954.921.8807
Certificate of Authorization 6791

TRACT C - HARBOR ISLAND
CITY OF NORTH BAY VILLAGE, MIAMI-DADE COUNTY, FLORIDA
SECTION 9 TOWNSHIP 51 SOUTH, RANGE 40 EAST

BOUNDARY SURVEY

SCALE 1" = 50'
PROJECT NO. 12-4780
CAD FILE 12-L-11
SHEET 1 OF 1

F:\PROJECTS\12-xxx\12-4780\2012-05-08 BLN\12-4780 NOR Bay Village Boundary\12-4780-BS-TRACT C.dwg

3B(47)

Exhibit 3 - Zoning Map

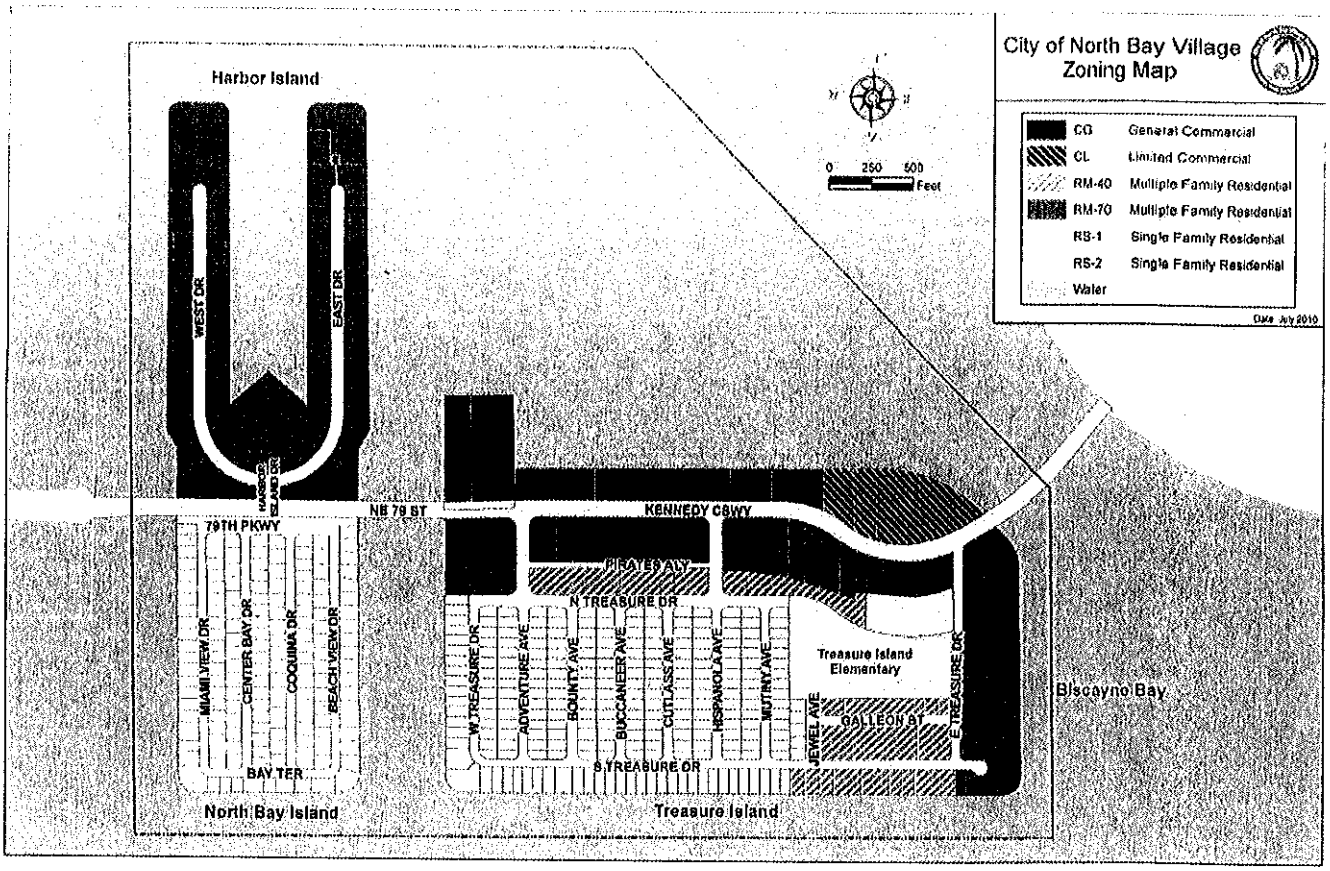
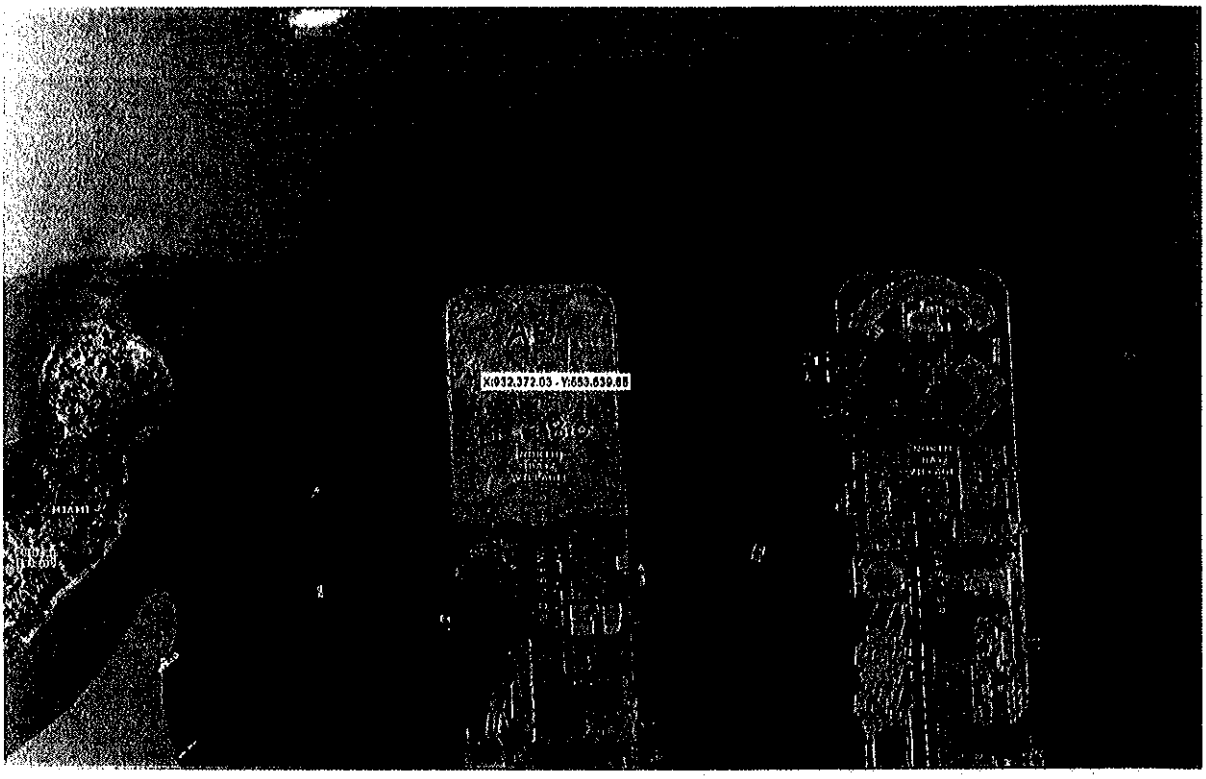


Exhibit 4 - FEMA Flood Zone Map

Flood Zones

Flood Zone for:X:932,372.03 - Y:553,639.66



ZONE	Intersection
AE	8
Total Flood Zones	8

Designations:

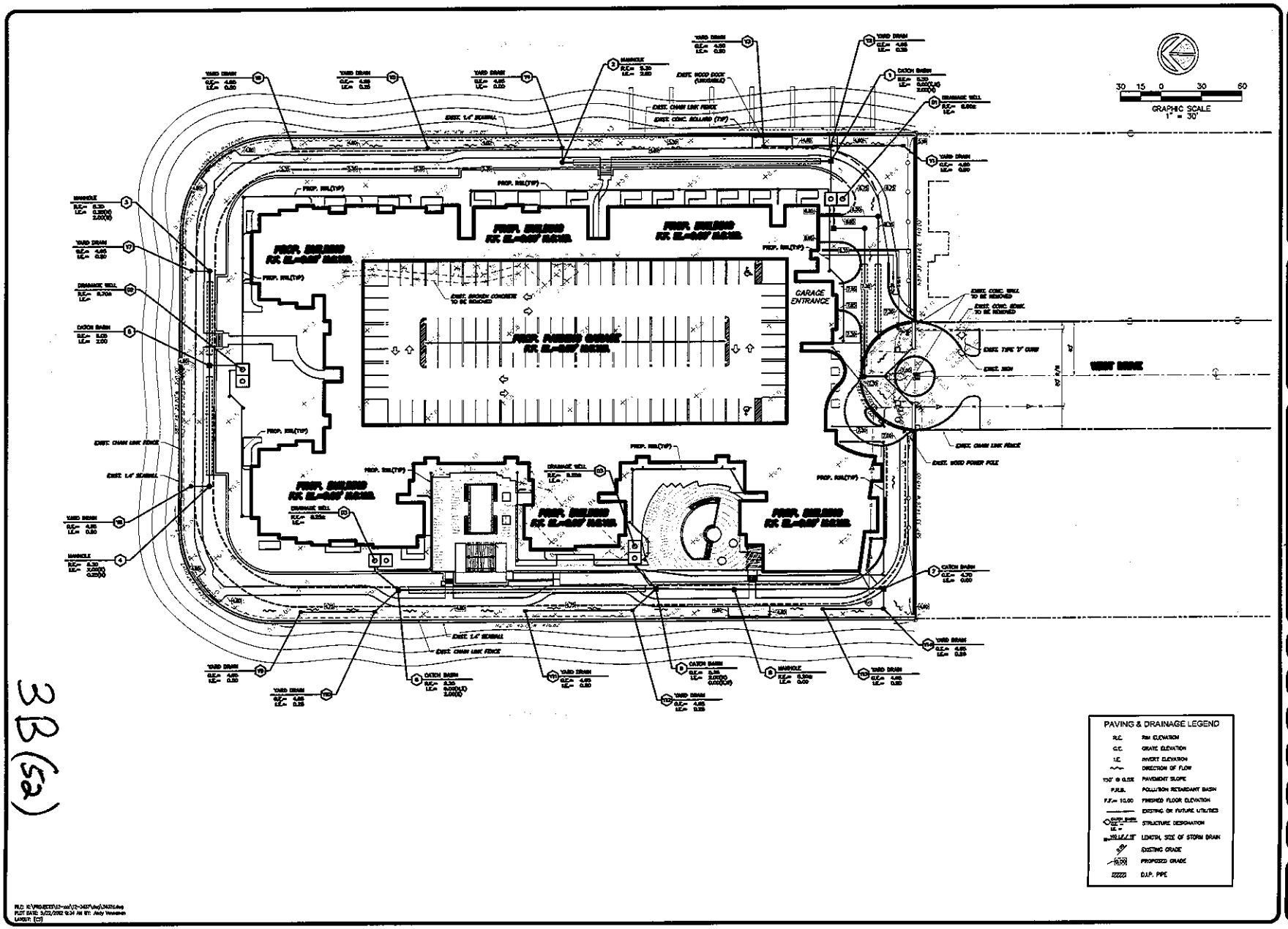
Flood Zones	What does it mean?
0.2 PCT ANNUAL CHANCE FLOOD HAZARD	An area inundated by 2% annual chance flooding. No Base Flood Elevations or depths are shown within this zone. Insurance purchase is not required in these zones.
A	Zone A is the flood insurance rate zone that corresponds to the 100-year floodplains that are determined in the Flood Insurance Study by approximate methods. Because detailed hydraulic analyses are not performed for such areas, no Base Flood Elevations (BFEs) or depths are shown within this zone. Mandatory flood insurance purchase requirements apply.
AE	Zone AE is the flood insurance rate zone that corresponds to the 100-year floodplains that are determined in the Flood Insurance Study by detailed methods. In most instances, Base Flood Elevations (BFEs) derived from the detailed hydraulic analyses are shown at selected intervals within this zone. Mandatory flood insurancepurchase requirements apply.
AH	Zone AH is the flood insurance rate zone that corresponds to the areas of 100-year shallow flooding with a constant water-surface elevation (usually areas of ponding) where average depths are between 1 and 3 feet. The Base Flood Elevations (BFEs) derived from the detailed hydraulic analyses are shown at selected intervals within this zone. Mandatory flood insurance purchase requirements apply.

Disclaimer:
* Note: The flood zone information provided is intended for use in the unincorporated areas of Miami-Dade County. Municipalities will have their own floodplain management regulations and flood zone map information, which may differ from the County's information. Miami-Dade County provides this website as a public service to its residents.
** The County is continually editing and updating GIS data to improve positional accuracy and information. No warranties, expressed or implied, are provided for the positional or thematic accuracy of the data herein, its use, or its interpretation. Although it is periodically updated, this information may not reflect the data currently on file at Miami-Dade County and the County assumes no liability either for any errors, omissions, or inaccuracies in the information provided regardless of the cause of such or for any decision made, action taken, or action not taken by the user in reliance upon any information provided herein. Please direct all inquires, comments, and suggestions to gis@miamidade.gov

3B(50)

printed: 4/17/2012

Exhibit 5 - Schematic Paving, Grading and Drainage Plans



3B (52)

Sun-Tech Engineering, Inc.
Engineers - Planners - Surveyors
1000 West Oakland Park Boulevard
Ft. Lauderdale, FL 33311
www.suntechengineering.com
Certificate of Auth. # 7097
Phone (954)777-3123
Fax (954)777-3114

REVISIONS

NO.	DATE	DESCRIPTION

BLU @ NORTH BAY VILLAGE

NORTH BAY VILLAGE FLORIDA

SCHEMATIC PAVING, GRADING & DRAINAGE PLAN

DATE: May. 2012

SCALE: 1" = 30'

DESIGNED BY: C.R.L.

DRAWN BY: A.E.V.

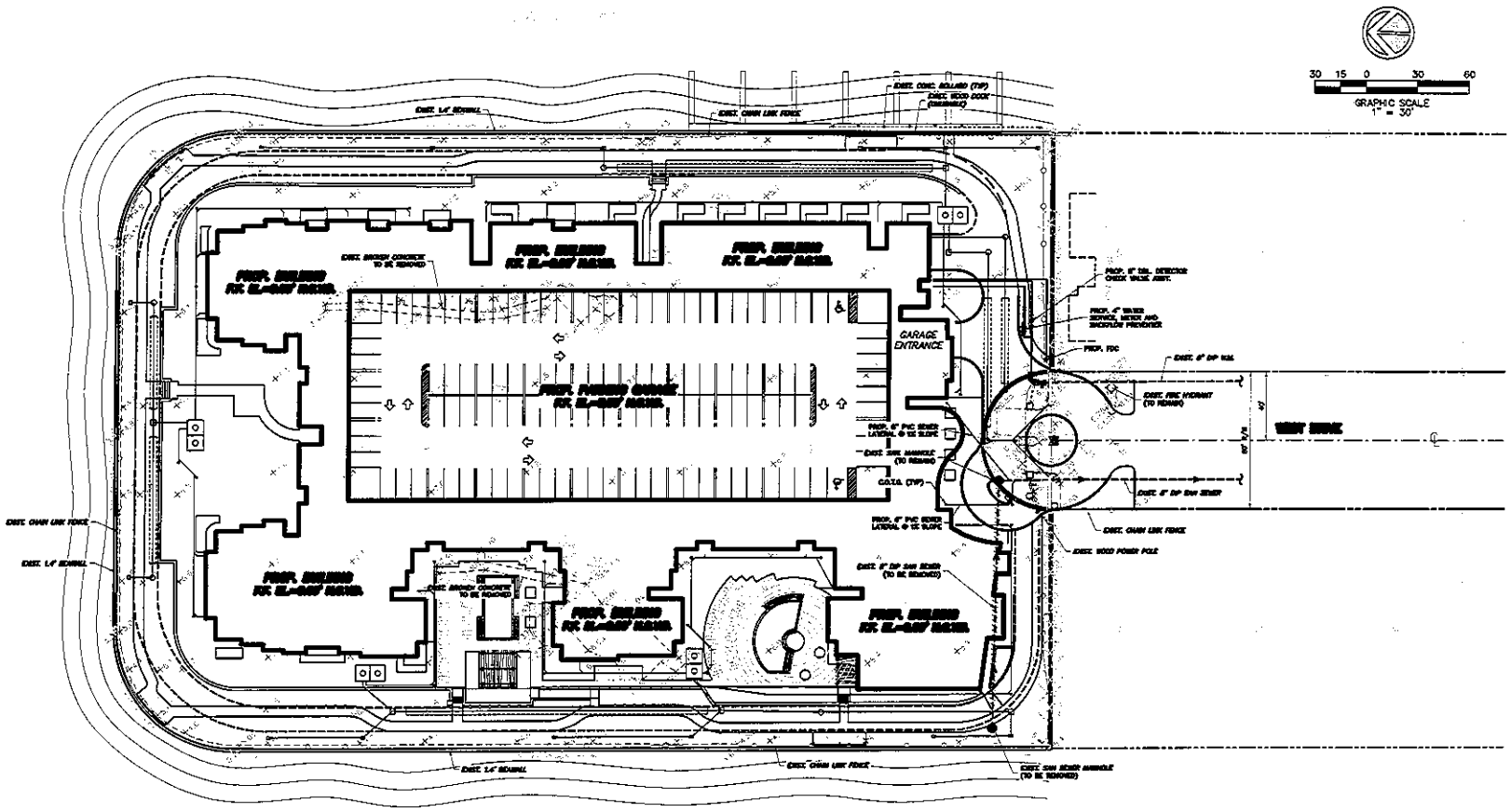
JOB NUMBER 12-3437

SHEET No. C3

SEAL

May 22 2012

Exhibit 6 - Schematic Water and Sewer Plans



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Engineers · Planners · Surveyors
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Ft Lauderdale, FL 33311
www.suntechengcom
Dedicated to Aiden & Trish
Phone (954)777-3123
Fax (954)777-3314

REVISIONS

NO	DATE	DESCRIPTION

BLU @ NORTH BAY VILLAGE
NORTH BAY VILLAGE FLORIDA
SCHEMATIC
WATER & SEWER PLAN

DATE: May. 2012
SCALE: 1" = 30'
DESIGNED BY: C.R.L.
DRAWN BY: A.E.V.
JOB NUMBER 12-3437
SHEET No. C5
SEAL
May 22 2012
CLIFFORD R. LOUTRAN P.E.
FLA. REG. NO. 44888

3B(54)

Traf Tech
ENGINEERING, INC.

May 8, 2012

Mr. Kyle Clayton
Vice President
ZF Development LLC
200 East Broward Boulevard #1200
Fort Lauderdale, Florida 33301

Re: Blu – North Bay Village

Dear Kyle:

We have conducted a review of the traffic elements contained within the Impact Assessment Study prepared in June 2004 for the, then proposed, Casa Marina Residential Development (Harbor Island Tract "C") in North Bay Village, Miami-Dade County, Florida. The subject site is located at the north end of West Drive which is at the northwest end of Harbor Island. This development was proposed to consist of 255 condominium units located within two (2) 17-story towers, 30 townhome units located along the perimeter of the project, and a 4-level parking garage containing 611 parking spaces.

It is our understanding that a new project, Blu, is proposed for this site. Blu will consist of 285 luxury rental apartment dwelling units located within an 8-story building. Parking for the site will be provided in a 4-story (plus roof) parking garage containing approximately 600 parking spaces. The following is a traffic-related comparison of the previously and currently proposed projects as it relates to their trip generation characteristics and the background traffic volumes on the nearby roadways.

Trip Generation

The trip generation analysis prepared for the previously proposed development was conducted utilizing the rates / equations for Land Use Code 232 – High-Rise Condominium presented in the Institute of Transportation Engineers (ITE) *Trip Generation* report (7th Edition). The daily, AM peak hour, and PM peak hour trip generation equations for this use are as follows:

- Daily: $T = 3.77 (X) + 223.66$
- AM Peak: $T = 0.29 (X) + 28.86$ (19% in / 81% out)
- PM Peak: $T = 0.34 (X) + 15.47$ (62% in / 38% out)

With respect to the current edition (8th Edition) of the ITE *Trip Generation* report, the currently proposed development would be most appropriately classified as Land Use Code 222 – High-Rise Apartment. The daily, AM peak hour, and PM peak hour trip generation equations associated with this land use are as follows:

- Daily: $Ln (T) = 0.83 Ln (X) + 2.50$
- AM Peak: $Ln (T) = 0.99 Ln (X) - 1.14$ (25% in / 75% out)
- PM Peak: $T = 0.32 (X) + 12.30$ (61% in / 39% out)

8400 North University Drive, Suite 309, Tamarac, Florida 33321
Tel: (954) 582-0988 Fax: (954) 582-0989

3B(55)

The trip generation comparison between the previously and currently proposed development scenarios is presented in Table 1 below:

Table 1
Blu Residential Development - North Bay Village
Trip Generation Comparison with Previously Proposed Development

Land Use	Intensity	Daily Trips	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Previously Proposed Development - "Casa Marina" ITE Land Use 232 - High Rise Condominium [1]	285	1,298	21	91	112	69	43	112
Currently Proposed Development - "Blu" ITE Land Use 222 - High-Rise Apartment [2]	285	1,328	21	65	86	63	41	104
Difference		30	0	-26	-26	-6	-2	-8

[1] *ITE Trip Generation report (7th Edition) as documented in Impact Assessment Study, Kimley-Horn and Associates, June 2004.*
[2] *ITE Trip Generation report (8th Edition).*

As presented in the table above, the proposed Blu residential development is projected to generate slightly more daily trips, but fewer AM peak hour and PM peak hour trips when compared with the previously approved development, Casa Marina.

Background Roadway Traffic

The traffic analysis documented in the June 2004 Impact Assessment Study was based upon Year 2003 background count data reported by the Florida Department of Transportation (FDOT). Two (2) traffic count stations were selected for this analysis, Count Station 870142 – SR 934 / NW / NE 79th Street 200 feet east of North Bayshore Court and Count Station 870533 – SR 934 / North Bay Causeway 200 feet east of Treasure Drive. The historic traffic count data between 2003 and 2010 for both of these count station locations is presented in Table 2 below.

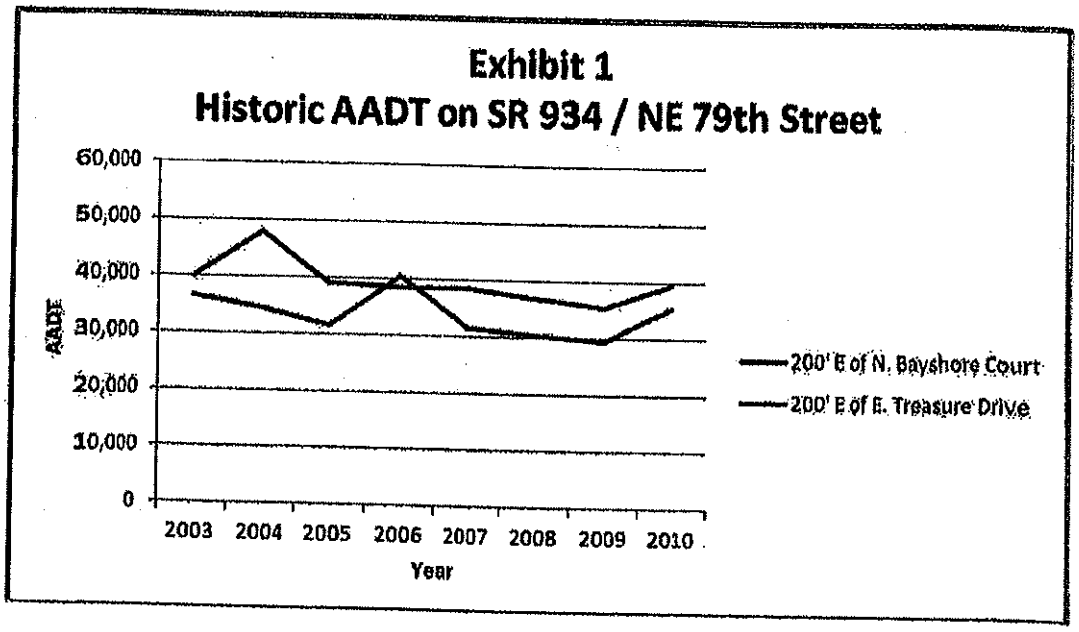
Table 2
Blu Residential Development - North Bay Village
SR 934 / NE 79th Street / JFK Causeway - Historic Traffic Count Data

Year	Historical Annual Average Daily Traffic (AADT) Volumes	
	Count Station 870142 SR 934 / NW / NE 79 Street 200' E of N. Bayshore Court	**Count Station 870533** SR 934 / N Bay Causeway 200' E of E. Treasure Drive
2003	40,000	36,500
2004	48,000	34,500
2005	39,000	31,500
2006	38,500	40,500
2007	38,500	31,500
2008	37,000	30,500
2009	35,500	29,500
2010	39,500	35,500

Source: Florida Department of Transportation, Transportation Statistics Office, 2010 Historical AADT Report.

3B(56)

This traffic information is also presented graphically in the following exhibit.



As documented in Table 2 and in Exhibit 1, the traffic volumes in the immediate vicinity of the proposed Blu residential development project have declined slightly between 2003 and 2010 (the latest year for which historic traffic data is available).

Conclusions

The projected AM and PM peak hour trips associated with the proposed Blu development are less than that of the previously proposed development, Casa Marina. (On a daily basis, the trips are projected to be slightly greater – only 30 trips or, a 2.3% increase.) In addition, the background traffic volumes in the immediate area along NE 79th Street have declined since 2003 (the year for which the previous traffic study was based). As a result, we believe that the conclusions reached in the referenced impact assessment study prepared in June 2004 for the Casa Marina project are still valid with respect to traffic for the proposed Blu residential project to be located on the same site in North Bay Village.

If you have any questions or require additional information, please do not hesitate to contact me.

TRAF TECH ENGINEERING, INC.

Joaquin E. Vargas, P.E.
Senior Transportation Engineer

3B(57)

City of North Bay Village
1700 Kennedy Causeway, Suite 132 North Bay Village, FL 33141
(305) 756-7171 Fax (305) 756-7171 Website--www.nbvillage.com

NOV 22 PM 3:07

APPLICATION FOR PUBLIC HEARINGS:

Hearings and Notices: - All petitions for amendments, changes or supplements to these regulations for variances, special use exceptions, Site Plan Approval, Extension of Approved Site Plans, for Building Height Bonus Approval, or for an amendment, change or supplement to the Comprehensive Plan; district zoning map, or petitions appealing an administrative decision shall be considered at Public Hearings before the Planning & Zoning Board and, thereafter, the City Commission. Notice of Public Hearings before the Planning & Zoning Board and the City Commission shall be given by publishing and posting on the property (which is the subject of the request), the time, the place and the nature of the hearing at least 10 days before the hearing. The City Clerk shall certify that the petition is complete before the hearing is legally advertised.

Applicant's Name: ZF Development, LLC Phone: 954-779-7950

Mailing Address: 200 East Broward Blvd., Suite 1200, Fort Lauderdale, FL 33301

Legal Description of Property: Tract C of HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 44, Page 72 of the Public Records of Miami Dade County, Florida.

Existing Zoning: RM-70 Lot Size: 4.4 acres Folio: 23-3209-001-0040

Type of Request: Site Plan approval and two (2) variances

Reason for Request: (Attach additional Pages if necessary)

The proposed project, a 285-unit apartment development, is classified as a "major development" under the LDRs and the site plan and variances require review by the Planning & Zoning Board and City Commission.

All applications shall be submitted to the City Clerk on or before the deadline implemented by the City.

Filing Fees - All persons, firms, or corporations petitioning the Planning & Zoning Board and the City Commission necessitating the publication of notices in the newspaper, and all relative thereto, the payment of such money in advance to the City Clerk shall be deemed a condition precedent to the consideration of such petition, conditional use permit or amendment.

Revised 5/2012

3B (58)

APPLICATION FOR HEARING
BEFORE THE PLANNING & ZONING BOARD AND
CITY COMMISSION
PAGE 2 OF 2

I, (We), the undersigned, am (are) the (owner, tenant, agent, attorney) (designate one) of the subject property herein described. I (We) acknowledge and agree that during the consideration of the application before the Planning & Zoning Board and staff of the City of North Bay Village, no rights shall vest on behalf of the applicant, which would be enforceable against the City until after a Public Meeting is held by the City Commission and the City Commission has voted favorable on the proposed petition.

I, (We) further acknowledge that I (We) have read and understand the conditions for appearance before the Planning & Zoning Board and the City Commission Pursuant to the City Code Section 152.096. Any person submitting false information or misrepresenting in their presentation shall have all privileges granted to them by the Planning & Zoning Board and the City Commission revoked.

(NOTE: ALL NEW AND SUBSTANTIAL IMPROVEMENTS MUST COMPLY WITH THE FLORIDA BUILDING CODE, DEPARTMENT OF ENVIRONMENTAL RESOURCE MANAGEMENT (DERM), AND FEMA (FLOOD) REGULATIONS).

Authorized Signature

Kyle Clayton, VP 5/21/12
Print Name

(In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.)

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Sworn to and subscribed to before me this 21 **day of** May 2012
by Kyle Clayton
who is personally known to me or who has produced _____
as identification.

Notary Public

(Notary Seal)

WANDA SALOMON
MY COMMISSION EXPIRES
January 29, 2016
#EE 164539
Bonded thru Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

Office Use Only:

Date Submitted: 5/22/12

Tentative Meeting Date: 6/19/12

Fee Paid: $ 15,700.00 (Cost Recovery)

Cash ☐ or Check ☑ #2136/2194/2195/2196

Date Paid: _____

Revised 5/2012

3B(59)

LENNAR

May 18, 2012

To Whom It May Concern:

Casa Marina Development, LLC authorizes ZF Development, LLC to apply and make any necessary changes to the application(s) for site plan approval and related applications to North Bay Village for the property located at 8000 West Drive (folio # 23-3209-001-0040).

Thank you in advance for your attention.

Sincerely,

Greg McPherson, Vice President
Casa Marina Development, LLC

3B (60)

{24266539;1}

730 N.W. 107th Avenue, Suite 300, Miami, FL 33172 • Phone: 305-559-1951 • Fax: 305-485-2741
LENNAR.COM

WALKER
PARKING CONSULTANTS

4904 Eisenhower Boulevard, Suite 150
Tampa, FL 33634

Voice: 813.888.5800
Fax: 813.888.5822

www.walkerparking.com

JUN 15 PM 2:57

June 15, 2012

Brett J. Gelsomino
Development Manager
ZOM Florida
200 E Broward Blvd, Suite 1200
Fort Lauderdale, FL 33301

Re: BLU Luxury Apartments at North Bay Village Recommended Parking
Walker Project #: 15-1923.00

Dear Mr. Gelsomino,

Walker Parking Consultants ("Walker") is pleased to submit the following letter report regarding the planned parking for the proposed *BLU Luxury Apartment complex at North Bay Village* development. The purpose of this letter is to assist ZOM Florida in their request for an exception to the required parking from the current calculated requirement of 662 spaces (2.32 spaces per unit) to 519 spaces (1.82 spaces per unit). The character of the development and overall parking plan provide justification for consideration of the modified standards. Industry research and Walker's own research on residential parking demand further support this reduction as outlined in this report.

DESCRIPTION OF PROJECT

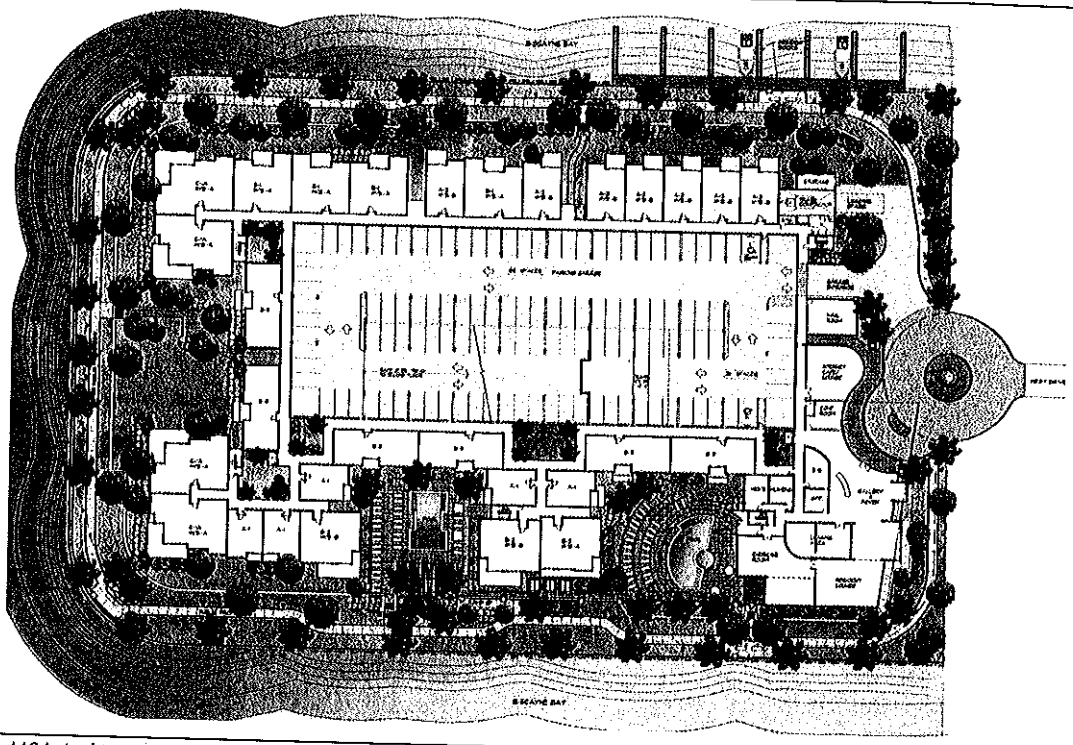
The proposed BLU Luxury Apartment project is a luxury residential apartment complex, consisting of a mix of 285 one, two, and three bedroom units. The development site is currently a vacant parcel at the end of West Drive, surrounded by Biscayne Bay on three sides. The following provides the proposed mix of units:

- (131) 1 Bedroom units
- (122) 2 Bedroom units
- (32) 3 Bedroom units

A private parking garage with controlled access at the core of the development will provide parking exclusively for residents and guests. A map of the proposed development is provided on the following page.

3B(61)

Figure 1: Conceptual Site Plan



Source: MSA Architects Drawing, 2/9/12

REQUIRED PARKING

The North Bay Village Code of Ordinances, as adopted November 8, 2011, details the minimum parking space requirements based on the land use. Zoning, Chapter 152, Section 152.044, indicates the requirement for residential, multifamily to be 2.0 spaces for one and two bedroom units and 3.0 spaces per three or more bedroom units plus an additional 10% for guest parking. Based on this requirement, the total required parking by ordinance is 662 spaces, as shown in Table 1. This equates to an overall requirement of 2.32 parking spaces per unit.

Table 1: Required Parking per Code

Land Use	Units		Requirement		Total		
1 & 2 Bedroom Multi-Family	253	x	2.0 /unit + guest	=	506		
3 Bedroom Multi-Family	32	x	3.0 /unit + guest	=	96		
Guest Parking			10% resident demand	=	60		
Total Required Parking	285				662	=	2.32 spaces per unit

Source: North Bay Village Zoning Ordinance on Municode

3B (62)

Section 152.044.E allows the parking requirements to be waived or reduced when the character or use of the building is such that the full provision of parking is not required.

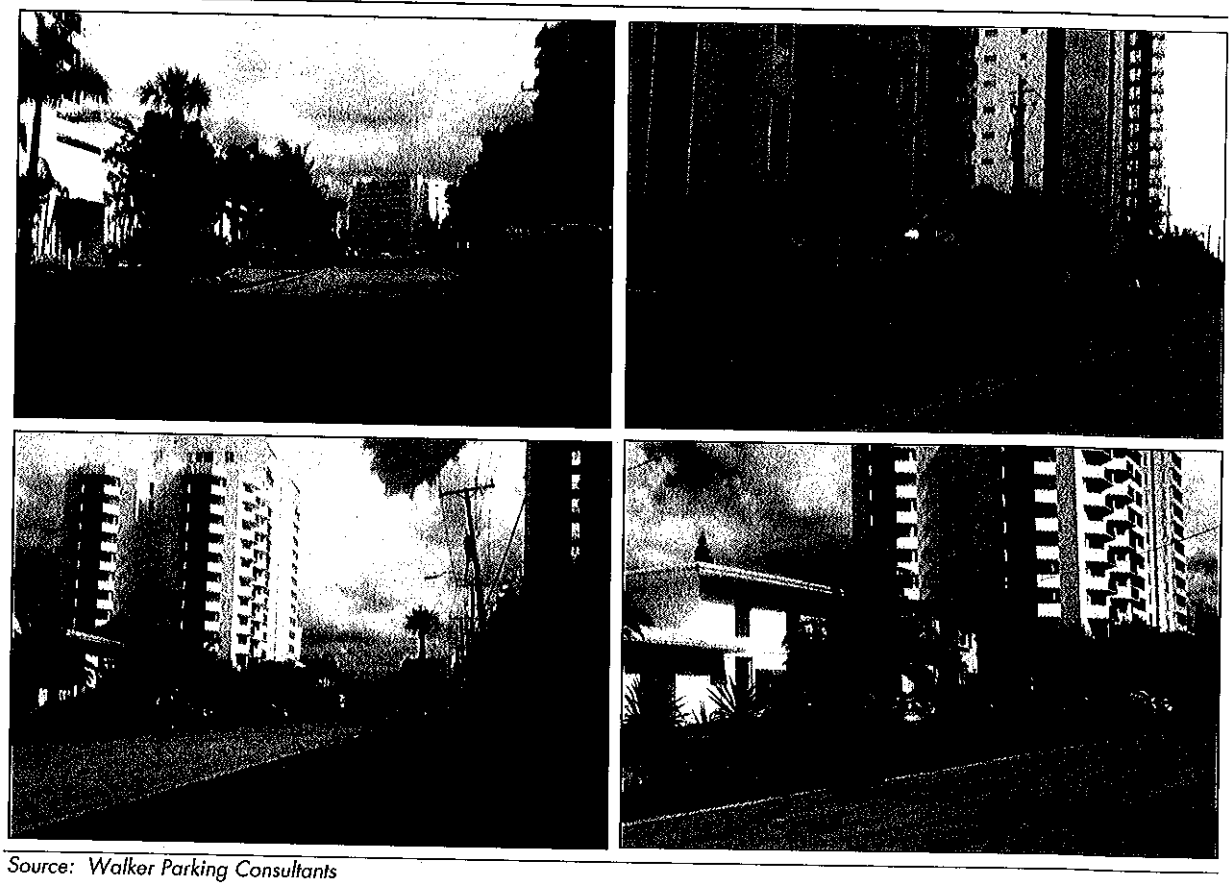
PROJECT CHARACTERISTICS

The BLU Luxury Apartment project is planned as a private luxury apartment community with gated and self-contained parking for residents and their guests. Parking plays a vital role in the success of the development and as such the parking deck will be designed to ensure success without burdening the surrounding area. The following outlines the project characteristics that demonstrate the planned parking is appropriately sized for the project.

1. PRIVATE OFF-STREET PARKING FOR RESIDENTS *AND* VISITORS

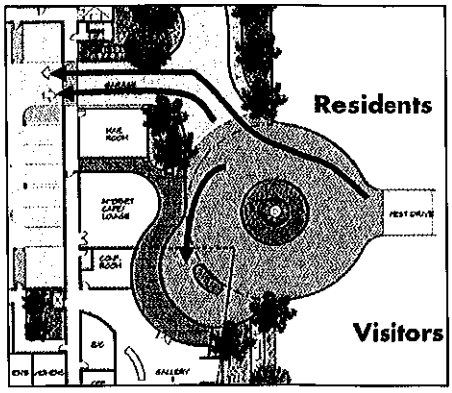
The general public shall have no access to the parking garage. This differs from some of the existing properties on North Bay Village, which do not offer private parking for residents *and* guests. A survey of the area along West Drive indicated much of the parking is directly along the roadway, as illustrated in the photos below. This will not be the case with the BLU development.

Figure 2: Site Visit Photos



Source: Walker Parking Consultants

2. *VISITOR ACCESS*



The design incorporates a circular drive at the entrance from West Drive to allow improved traffic circulation (currently a dead-end) with a separate driveway turn-off for visitors to check in with property management prior entering the parking garage. Property management shall screen the visitor and provide temporary access to the parking garage and vehicle identification tag noting the vehicle belongs to a visitor.

This pro-active management approach is in keeping with the luxury apartment character and allows the tracking and control of access of all visitors requiring parking.

3. *ACCESS CONTROL FOR RESIDENTS*

In keeping with the luxury apartment amenities, a state-of-the-art parking Access Control System (ACS) is planned for the residents. This will provide added security and a sense of ownership and exclusivity for the residents. The type of ACS being considered will include a credential to activate the gate for access to the facility and include anti-passback control that requires each user to enter and exit the facility in the correct order. This ensures one user is not using the access credential to park multiple vehicles. These types of systems track usage, status, and can be turned on or off as required. This allows for greater control of the parking, tracking of parking by the size of the unit and allows a database to be populated associating each vehicle to the parking credential and unit number. Reports can be generated indicating the active parking credentials, use, and parking counts for improved management and control of the parking. The assignment of parking access credentials will fall under the property management firm.

4. *PARKING POLICES*

Each resident will be provided specific policies outlining the parking privileges, including limiting the parking to motor vehicles, not allowing storage in the parking areas, and limiting parking to one vehicle per access credential. In addition, the written parking policies will explain the visitor parking process and will ensure each resident understands and is educated on their parking rights.

5. *PARKING ALLOTMENT*

Parking allocation is planned to be based on 1 unreserved space per 1 and 2 bedroom units and 2 unreserved spaces per 3 bedroom unit at no additional cost to the resident. Additional spaces beyond the initial allocation may be provided for as available for an additional monthly fee. This "unbundling" of the parking from the rent is a unique and effective tool recommended by parking planners to effectively reduce parking demand.

SUMMARY

The parking characteristics outlined are in keeping with a well thought out parking plan that lends itself to the amenities of a luxury apartment complex summarized as follows:

- A well-planned design for the entry/exit from the street
- Residents and Visitors have separate paths at entry point
- Access Control System with state-of-the-art features
- Policies with flexibility to change if conditions change
- Base Allotment with options

Parking demand research further supports the idea that a lower ratio will not present a burden to the surrounding area. The key factor for this is that the spaces are planned for efficient management and control. The following section provides the latest research on parking demand for consideration as well as surrounding area data.

PARKING RESEARCH

Significant research on residential parking demand characteristics has been done by the Institute of Transportation Engineers ("ITE"), the Urban Land Institute ("ULI"), and Walker. The data indicates lower parking ratios for residential developments when compared to the North Bay Village requirements.

ITE RESIDENTIAL PARKING RESEARCH

The ITE publication *"Parking Generation"* provides a summary of parking demand ratios based on physical observations of parking demand. The most recent publication is the Fourth edition, released in 2010. A summary of the ITE residential parking data is provided in Table 2. The land use that best matches the BLU Luxury Apartment project is "221, Low/Mid-Rise Apartment", which observed an average of 1.20 occupied spaces per dwelling unit in an Urban environment. The range for this sample is 0.66 – 2.50 spaces per unit. The 85th percentile for this sample is listed as 1.61 spaces per dwelling unit, which is the ratio typically used in planning parking. The 95th percent confident interval is a measure of confidence in the statistical data to the average. It indicates the range within which there is a 95-percent likelihood the average will fall. In this case, the range is 1.07 and 1.33 spaces per dwelling unit.

Table 2: ITE Residential Parking Demand Research

ITE Code	Use		Period	# Studies	33rd Percentile	Average	85th Percentile	Range	Unit
221	Low/Mid-Rise Apt	Suburban	Weekday	21	1.10	1.23	1.54	0.68 - 1.94	Dwelling Unit
		Urban	Weekday	40	0.93	1.20	1.61	0.66 - 2.50	Dwelling Unit
		Urban	Saturday	8	0.93	1.03	1.14	0.80 - 1.43	Dwelling Unit
222	High-Rise Apt	CND[1]	Weekday	7	1.38	1.37	1.52	1.15 - 1.52	Dwelling Unit
224	Rental Townhouse		Weekday	4	1.67	1.62	1.76	1.28 - 1.82	Dwelling Unit
230	Condominium/ Townhouse	Suburban	Weekday	12	1.28	1.38	1.52	1.04 - 1.96	Dwelling Unit

[1] CND: Central City, Not Downtown

Source: ITE "Parking Generation" (Fourth Edition, 2010)

ULI RESIDENTIAL PARKING RECOMMENDATIONS

The Urban Land Institute's, *"Shared Parking"*, Second Edition, publication provides recommended parking demand ratios for residential parking that is rented (apartments) and owned (condominiums). These ratios are used to calculate the projected parking demand in a shared use environment. Although the BLU Luxury Apartment project is not a shared use development, it is valid to compare the unadjusted (non-shared) ratios recommended by ULI. The following table provides a summary of the recommended parking ratios used in ULI's *Shared Parking*. Demand ratios are broken into visitor and residents for both a weekday and weekend. Considering the BLU Luxury Apartment project, the recommended ratio is 1.65 per unit, as the units are all rental.

Table 3: ULI's Residential Parking Demand Ratio Recommendations

	Weekday		**Weekend**				Total	
Land Use	Visitor	Resident	Visitor	Resident	Unit	Source	Weekday	Weekend
Residential Shared, Rental	0.15	1.5	0.15	1.5	/unit	2,3	1.65	1.65
Residential Shared, Owned	0.15	1.7	0.15	1.7	/unit	2,3	1.85	1.85

Source: ULI's "Shared Parking" (Second Edition)

NPA RESIDENTIAL PARKING RECOMMENDATIONS

The National Parking Association's Parking Consultants Council ("NPA PCC") published *Recommended Zoning Ordinance Provisions* in December 2006. This publication provides recommended parking ratios for use in zoning ordinances based on the experience of the council. The publication recommends multi-family rental residential developments provide 1.5 spaces for one-bedroom units and an additional 0.25 spaces for each additional bedroom. The complete set of data for residential units is provided in the following table.

Table 4: NPA PCC Residential Parking Demand Ratio Recommendations

Use	Parking Ratio
Single Family Dwellings	<2,000 sq ft: 1/dwelling unit; 2,000 to 3,000 sq ft: 2/dwelling unit; over 3,000 sq ft: 3/dwelling unit
Multi-Family Dwellings	
Rental	1.0/dwelling unit for efficiency units; 1.5/dwelling unit for the first bedroom in units with one or more bedroom, plus 0.25 space for each additional bedroom*
Owned	1.0/dwelling unit for efficiency units; 1.75/dwelling unit for the first bedroom in units with one or more bedroom, plus 0.25 space for each additional bedroom*
Rental in University District	1.0/dwelling unit for efficiency and 1 bedroom units; plus 0.5 space for each additional bedroom
	* A Den must be counted as a bedroom if it has a closet. Note that the base ratios include 0.15 space per unit for visitors.
Accessory Dwelling	Add 1/accessory dwelling unit

Source: National Parking Associations, Parking Consultants Council, "Recommended Zoning Ordinance Provisions" December 2006

WALKER RESIDENTIAL PARKING RESEARCH

Walker conducted its own residential research study to analyze the residential parking demands in three different area types: 1) suburban, 2) urban-CBD, and 3) urban-commercial district, not downtown ("CND"). Data was collected in the fall of 2006 and spring of 2007 from the suburban areas of Indianapolis and Greenwood, Indiana; Encino, California; and Schaumburg, Illinois; the urban-CBD areas of Los Angeles, Chicago, Indianapolis, Boston; and the urban-CND areas of Los Angeles, Denver, Lowell, MA, and Aurora, CO. The 95th percentile of the data indicates 2.00 spaces per unit for an urban non-CBD area as shown in the following table.

Table 5: Walker Research on Residential Parking Demand

Area Type	95th Percentile
Suburban	1.58 spaces/ occupied unit
Urban-CBD	1.29 spaces/ occupied unit
Urban-non CBD	2.00 spaces/ occupied unit

Source: Walker Parking Consultants

LOCAL AREA REQUIREMENTS

The North Bay Village parking requirements indicate the current parking requirements are far higher than the surrounding areas as illustrated in the following table and graph. We do not recommend the expenditure of resources for adding parking for the BLU Luxury Apartment project, as parking is restricted and available exclusively to its residents and guests.

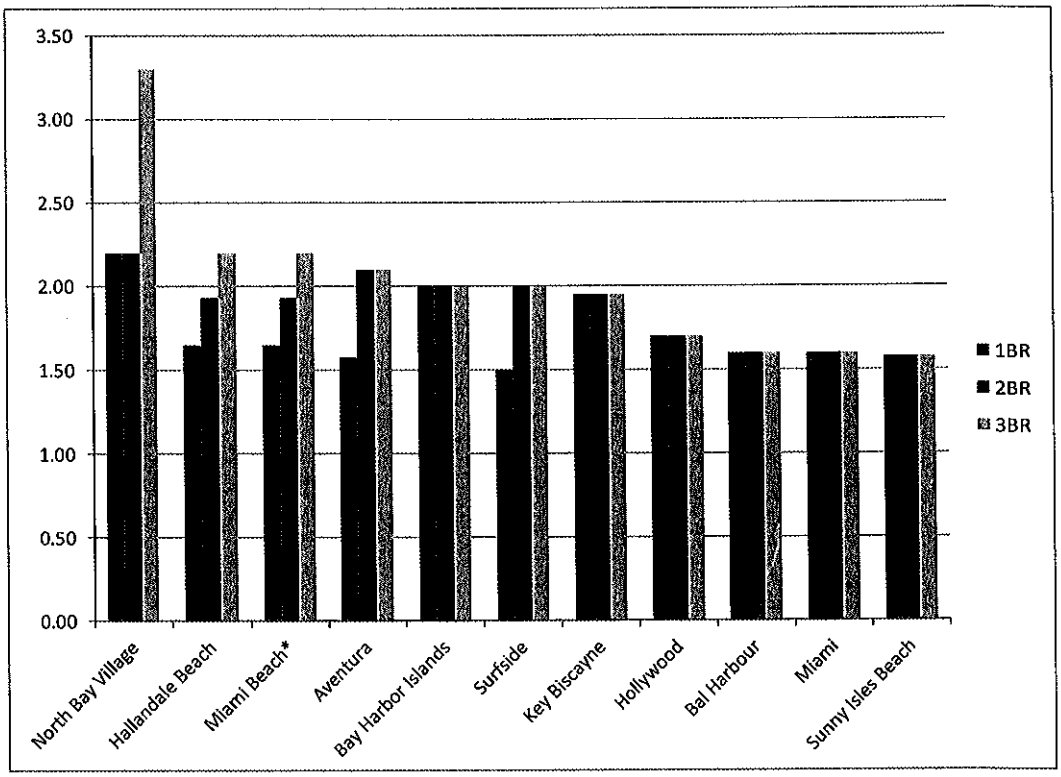
Table 6: Surrounding Area Parking Requirements

	Required Parking (spaces/unit)			
Municipality	1BR	2BR	3BR	Notes
North Bay Village	2.20	2.20	3.30	includes 10% for guests
Hallandale Beach	1.65	1.93	2.20	includes 10% for guests
Miami Beach*	1.65	1.93	2.20	includes 10% for guests
Aventura	1.58	2.10	2.10	includes 5% for guests
Bay Harbor Islands	2.00	2.00	2.00	
Surfside	1.50	2.00	2.00	
Key Biscayne	1.95	1.95	1.95	includes 1 per 5 for guests
Hollywood	1.70	1.70	1.70	includes 1 per 5 for guests
Bal Harbour	1.60	1.60	1.60	includes 1 per 10 for guests
Miami	1.60	1.60	1.60	includes 1 per 10 for guests
Sunny Isles Beach	1.58	1.58	1.58	includes 5% for guests

* Parking rates based on sq. ft. of units, using approximate conversion

Source: Municode

Figure 3: Comparison of Parking Requirements



Source: Municode

LOCAL CONDITIONS

The 360 Condominium property located in the Village of North Bay was built in 2007 using the old parking standards. The project includes a mix of 414 units with a requirement to provide 901 parking spaces or 2.18 spaces per unit.[1] Based on the number of bedrooms within the units (914), 0.98 spaces per bedroom were required. The manager of the condominium association has reported actual parking usage at roughly 70 percent. This equates to actual demand for the parking at about ±636 spaces which leaves ±256 vacant spaces. Using the current standards, the project would have been required to provide ±1,045 spaces, resulting in an excess of over ±400 spaces.

[1] Corwil Architects, Inc. Project Data Sheet

SUMMARY/CONCLUSION

The BLU Luxury Apartment project has a well thought out self-sufficient parking plan. Providing adequate and private parking for the residents and their guests is an amenity and is in fact a requirement for the success of the project.

Based on the specific and unique properties of the project and supported by multiple data sources, it is Walker's opinion that the BLU Luxury Apartment development will generate parking demand at a lower level than required by the North Bay Village zoning code. Therefore a reduction of the required parking can be justified for this project as outlined in the following table.

Table 7: Requested Exception

North Bay Village Code

Land Use	Units		Requirement		Total		
1 Bedroom Unit	131	x	2.0 /unit + guest	=	262		
2 Bedroom Unit	122	x	2.0 /unit + guest	=	244		
3 Bedroom Unit	32	x	3.0 /unit + guest	=	96		
Guest Parking			10% resident demand	=	60		
Total Required Parking	285				662	=	2.32 spaces per unit

Requested Variance

Land Use	Units		Requirement		Total		
1 Bedroom Unit	131	x	1.00 /unit + guest	=	131		
2 Bedroom Unit	122	x	2.00 /unit + guest	=	244		
3 Bedroom Unit	32	x	3.00 /unit + guest	=	96		
Guest Parking			10% resident demand	=	48		
Total Required Parking	285				519	=	1.82 spaces per unit

Source: Walker Parking Consultants

This request is in line with Walker's calculated recommended parking assuming a slightly different requirement for each unit types. Using our methodology, we recommend 523 spaces, as shown in the following table. This small increase of four spaces is statistically insignificant and further supports the requested exception be approved.

Table 8: Walker's Calculation of Recommended Parking

Land Use	Units		Requirement		Total		
1 Bedroom Unit	131	x	1.50 /unit + guest	=	197		
2 Bedroom Unit	122	x	1.75 /unit + guest	=	214		
3 Bedroom Unit	32	x	2.00 /unit + guest	=	64		
Guest Parking			10% resident demand	=	48		
Total Required Parking	285				523	=	1.84 spaces per unit

Source: Walker Parking Consultants

The requested exception recognizes the parking characteristics unique to this project; the experiences of the local area; and falls within the recommended parking ratios.

We appreciate this opportunity to provide this analysis and are available to address your questions concerning this report.

Sincerely,

WALKER PARKING CONSULTANTS

Victor Iraheta, P.E.
Vice President

Jon R. Martens, AICP
Parking Consultant

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

Re: Blu
8000 West Drive
Tract C of Harbor Island,
North Bay Village, FL 33141

Request for Site Plan Approval for construction of a 285-unit rental apartment development at 8000 West Drive

I, Yvonne P. Hamilton, hereby certify that the attached Notice of Public Hearing to be held on July 25, 2012 was posted at the above-referenced property on 7/13/12.

Dated this 13th day of July 2012.

Yvonne P. Hamilton
City Clerk

(City of North Bay Village City Commission Meeting – 7-25-2012)

3B(72)

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

Re: Blu
8000 West Drive
Tract C of Harbor Island,
North Bay Village, FL 33141

Request for Site Plan Approval for construction of a 285-unit rental apartment development at 8000 West Drive

I, Yvonne P. Hamilton, City Clerk, hereby certify that the attached Notice of Public Hearing was mailed to property owners and residents within 300 feet of the property of the subject request pursuant to Section 152.096(A)(2) of the City of North Bay Village Code of Ordinances on 7/13/12.

Dated this 13th day of July 2012.

Yvonne P. Hamilton
City Clerk

(City of North Bay Village Planning & Zoning Board Meeting – 6725/2012)

3B(73)

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
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, WILL HOLD A SPECIAL MEETING ON **WEDNESDAY, JULY 25, 2012** AT 7:00 P.M., OR AS SOON AS POSSIBLE THEREAFTER, IN THE CITY COMMISSION CHAMBERS AT 1700 KENNEDY CAUSEWAY, #132, NORTH BAY VILLAGE, FLORIDA. DURING THIS MEETING THE CITY COMMISSION WILL CONSIDER THE FOLLOWING:

1. AN APPLICATION BY ZF DEVELOPMENT, LLC, CONCERNING PROPERTY LOCATED AT 8000 WEST DRIVE, TRACT C OF HARBOR ISLAND NORTH BAY VILLAGE, FLORIDA IN CONNECTION WITH THE DEVELOPMENT OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT FOR THE FOLLOWING:

   A. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE CONSTRUCTION OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT ON A 4.47+ ACRE SITE. *(FINAL PUBLIC HEARING)*

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT, OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE CITY COMMISSION C/O THE CITY CLERK, 1700 KENNEDY CAUSEWAY, #132, KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FL 33141.

THE DOCUMENTS PERTAINING TO THIS PUBLIC HEARING MAY BE INSPECTED AT THE OFFICE OF THE CITY CLERK DURING REGULAR BUSINESS HOURS. INQUIRIES MAY BE DIRECTED TO THAT DEPARTMENT AT (305) 756-7171.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES IF ANY PERSON DECIDES TO APPEAL ANY DECISION BY THE CITY COMMISSION WITH RESPECT TO THIS OR ANY MATTER CONSIDERED AT ITS MEETING OR ITS HEARING, SUCH PERSON MUST ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

3B(74)

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDING, PLEASE CONTACT (305) 604-2489 (VOICE), (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

YVONNE P. HAMILTON, CMC
CITY CLERK
(July 13, 2012)

3B(75)

Owner/Occupant
7934 West Drive, #1404
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1505
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1504
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1405
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #804
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1204
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #504
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #505
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1502
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1103
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1002
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1605
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #903
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #904
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #605
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #902
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #603
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1202
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1602
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #705
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1604
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #901
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #905
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1201
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1203
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #802
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1004
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1102
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1003
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1402
North Bay Village, FL 33141

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Owner/Occupant
7934 West Drive, #1104
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1005
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1401
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #702
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1601
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #604
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1001
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #601
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1503
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1205
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1501
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1603
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #701
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #1101
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #602
North Bay Village, FL 33141

Owner/Occupant
7934 West Drive, #803
North Bay Village, FL 33141

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Owner/Occupant
7935 West Drive, #1
North Bay Village, FL 33141

Owner/Occupant
7935 West Drive, #5
North Bay Village, FL 33141

Owner/Occupant
7935 West Drive, #7
North Bay Village, FL 33141

Owner/Occupant
7935 West Drive, #3
North Bay Village, FL 33141

Owner/Occupant
7935 West Drive, #6
North Bay Village, FL 33141

Owner/Occupant
7935 West Drive, #4
North Bay Village, FL 33141

Owner/Occupant
7935 West Drive, #8
North Bay Village, FL 33141

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Owner/Occupant
7939 West Drive, #302
North Bay Village, FL 33141

Owner/Occupant
7939 West Drive, #202
North Bay Village, FL 33141

Owner/Occupant
7939 West Drive, #304
North Bay Village, FL 33141

Owner/Occupant
7939 West Drive, #102
North Bay Village, FL 33141

Owner/Occupant
7939 West Drive, #201
North Bay Village, FL 33141

Owner/Occupant
7939 West Drive, #203
North Bay Village, FL 33141

Owner/Occupant
7939 West Drive, #204
North Bay Village, FL 33141

Owner/Occupant
7939 West Drive, #301
North Bay Village, FL 33141

Owner/Occupant
7939 West Drive, #103
North Bay Village, FL 33141

Owner/Occupant
7939 West Drive, #101
North Bay Village, FL 33141

Owner/Occupant
7939 West Drive, #201
North Bay Village, FL 33141

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C/o Shumaker Loop & Kendrick, LLP
101 E. Kennedy Blvd
#2800 Tampa FL 33602

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Canada

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CITY OF MIAMI BEACH, FLORIDA
NOTICE OF SPECIAL ELECTION
AUGUST 14, 2012

NOTICE IS HEREBY GIVEN that a Special Election has been called by the Mayor and City Commission of the City of Miami Beach, Florida, pursuant to City Resolutions 2012-27902 and 2012-27903, adopted on May 9, 2012, to be held in the City of Miami Beach, from 7:00 a.m. until 7:00 p.m. on Tuesday, August 14, 2012, at which time there shall be submitted to the duly registered and qualified voters of the City of Miami Beach the following official ballot questions:

QUESTION 1:
Allowing Up to One Percent Increase in Room Rent Portion of Resort Tax

Shall Section 5.03 of the Charter be amended to allow the Commission to increase, up to one percent, the resort tax on room rent, to expand, enlarge, renovate, and/or improve the Convention Center, including payment of debt service related thereto, and providing that the excess of such additional tax be used, after providing for payment of annual debt service and related obligations, to establish a Capital Renewal and Replacement Fund for the Center?

Permitir el Aumento hasta del Uno por Ciento en la Parte del Impuesto a los Complejos Turísticos Sobre el Alquiler de Habitaciones

¿Deberá enmendarse la Sección 5.03 de la Carta Constitucional a fin de permitir que la Comisión aumente, hasta el uno por ciento, el impuesto a los complejos turísticos sobre el alquiler de habitaciones, para extender, agrandar, renovar o realizar mejoras en el Centro de Convenciones, incluido el pago del servicio de deuda relacionado con ello, y proveer que el excedente de dicho impuesto adicional se emplee, tras el pago del servicio de deuda anual y las obligaciones relacionadas, para establecer un Fondo de Renovación y Reemplazo de Capital para el Centro?

Pèmèt Ogmantasyon Jiska Yon Pousan nan Pòsyon Taks Sejou sou Lwaye Chanm yo

Èske se pou yo amande Seksyon 5.03 Konstitisyon an pou pèmèt Komisyon an ogmante, jiska yon pousan, taks sejou sou lwaye chanm yo, pou devlope, agrandi, renove, ak/oswa amelyore Sant Konvansyon an, ki gen ladan peman pou sèvis dèt ki an rapò yo, epi etabli ke nenpòt lajan ki rete nan taks adisyonèl sila fèt pou itilize, apre yo fin prevwa lajan pou kouvri peman sèvis dèt anyèl la ak lòt obligasyon ki an rapò yo, pou etabli yon Fon Renouvèlman ak Ranplasman Kapital pou Sant la?

YES/SÍ/WI	502
NO/NO/NON	503

QUESTION 2:
Majority of Members of City Commission May Call Special Meetings

Shall Section 2.04 of the Miami Beach Charter be amended to provide that, in addition to being called by the Mayor or City Manager, special meetings of the City Commission may be called by a majority of the members of the Commission upon written notice to the City Clerk and in accordance with the procedures set forth in a resolution of the City Commission?

La Mayoría de los Miembros de la Comisión de la Ciudad Puedan Convocar Reuniones Extraordinarias

¿Deberá enmendarse la Sección 2.04 de la Carta Constitucional de Miami Beach a fin de proveer que, además del Alcalde o el Administrador de la Ciudad, la mayoría de los miembros de la Comisión puedan convocar reuniones extraordinarias de la Comisión de la Ciudad mediante un aviso por escrito al Secretario de la Ciudad y conforme al procedimiento establecido en una resolución de la Comisión de la Ciudad?

Majorite Manm Komisyon Vil la Kapab Konvoke Reyinyon Espesyal

Èske se pou yo amande Seksyon 2.04 Konstitisyon Miami Beach la pou etabli ke, anplis de Majistra oswa Manadjè Vil la ki ka konvoke reyinyon espesyal Komisyon Vil la yo, reyinyon sila yo ka konvoke tou pa yon majorite manm Komisyon an avèk yon avi alekri adrese a Grefye Vil la epi an akò ak pwosedi ki etabli nan yon rezolisyon Komisyon Vil la?

YES/SÍ/WI	504
NO/NO/NON	505

The Special Election will be conducted in accordance with the applicable provisions of the Florida Statutes and the Charter and Code of the City of Miami Beach, Florida. Copies of Resolutions 2012-27902 and 2012-27903 are available at the City Clerk's Office and online at http://web.miamibeachfl.gov/cityclerk/elections/scroll.aspx?id=31214

All qualified electors of the City of Miami Beach may vote YES or NO on these proposals.
Ad No. 710

MIAMIBEACH

Rafael E. Granado, City Clerk
City of Miami Beach, Florida

CITY OF NORTH BAY VILLAGE
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, WILL HOLD A SPECIAL MEETING ON **WEDNESDAY, JULY 25, 2012** AT 7:00 P.M., OR AS SOON AS POSSIBLE THEREAFTER, IN THE CITY COMMISSION CHAMBERS AT 1700 KENNEDY CAUSEWAY, #132, NORTH BAY VILLAGE, FLORIDA. DURING THIS MEETING THE CITY COMMISSION WILL CONSIDER THE FOLLOWING:

1. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING" BY REVISING SECTION 152.111 PERTAINING TO ADULT ENTERTAINMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*
2. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, CREATING CHAPTER 119 OF THE CODE OF ORDINANCES PERTAINING TO ADULT ENTERTAINMENT LICENSING AND BUSINESS REGULATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*
3. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 35 "TAXATION AND FINANCE," OF THE CITY CODE OF ORDINANCES TO REVISE THE REQUIREMENTS AND PROCEDURES RELATED TO GENERAL AND ENTERPRISE FUND RESERVES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*
4. AN APPLICATION BY SOTREZA, LLC CONCERNING PROPERTY LOCATED AT 7800 HISPANOLA AVENUE (FORMERLY USED AS A TEMPLE), LOTS 1&2 & E1/2 LOT 3, BLOCK 1, COMMERCIAL ADDITION TO TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA AS FOLLOWS:
   A. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C) (9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE OPERATION OF A PRE-SCHOOL/DAY CARE CENTER. *(FINAL PUBLIC HEARING)*
5. AN APPLICATION BY ZF DEVELOPMENT, LLC, CONCERNING PROPERTY LOCATED AT 8000 WEST DRIVE, TRACT C OF HARBOR ISLAND NORTH BAY VILLAGE, FLORIDA IN CONNECTION WITH THE DEVELOPMENT OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT FOR THE FOLLOWING:
   A. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE CONSTRUCTION OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT ON A 4.47+ ACRE SITE. *(FINAL PUBLIC HEARING)*

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT, OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE CITY COMMISSION C/O THE CITY CLERK, 1700 KENNEDY CAUSEWAY, #132, KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FL 33141.

THE DOCUMENTS PERTAINING TO THIS PUBLIC HEARING MAY BE INSPECTED AT THE OFFICE OF THE CITY CLERK DURING REGULAR BUSINESS HOURS. INQUIRIES MAY BE DIRECTED TO THAT DEPARTMENT AT (305) 756-7171.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES IF ANY PERSON DECIDES TO APPEAL ANY DECISION BY THE CITY COMMISSION WITH RESPECT TO THIS OR ANY MATTER CONSIDERED AT ITS MEETING OR ITS HEARING, SUCH PERSON MUST ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDING, PLEASE CONTACT (305) 604-2489 (VOICE), (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

YVONNE P. HAMILTON, CMC
CITY CLERK
July 12, 2012

3B(81)

JUN 21 PM 12:19

LUCIANA CARRARO
7934 WEST DRIVE
#1405
NORTH BAY VILLAGE
FL 33141
305 867 9009
786 546 1036
LUCIANABRIGHENTI@GMAIL.COM

TO
PLANNING AND
ZONING BOARD.

North Bay Village, 6/21/12

I JUST RECEIVED THE NOTICE OF PUBLIC HEARING CONCERNING PROPERTY LOCATED AT 8000 WEST DRIVE - TRACT C OF HARBOR ISLAND, N.B VILLAGE.

I ASK TO POSTPONE THE DISCUSSION ABOUT THIS PROJECT TO ALLOW ME AND OTHER RESIDENTS/OWNERS TO GET MORE INFORMATION ABOUT THIS PROJECT.
A WEEK NOTICE IS TOO SHORT FOR EXAMINING THIS BIG PROJECT THAT NEEDS A LOT OF VARIANCES/EXEMPTIONS.

AS A RESIDENT, I NEED MORE TIME TO STUDY THE PROJECT, AND ONLY AFTER THAT I CAN EXPRESS MY VIEWS AND APPEAR AT THE MEETING, MAYBE SAYING SOMETHING WISE.

BEST REGARDS

3B(82)

CITY OF NORTH BAY VILLAGE
MEMORANDUM

DATE: July 25, 2012

TO: Mayor and City Commission Members

FROM: Dennis Kelly, City Manager
Jim LaRue, Interim City Planner
Susan L. Trevarthen, City Attorney's Office
Kathryn M. Mehaffey, City Attorney's Office

SUBJECT: Zoning Regulations of Adult Entertainment Establishments (Section 152.111 of the Code of Ordinances)

The attached proposed Ordinance, Exhibit A (the "Ordinance"), is for second public hearing and your review and adoption on second reading. This ordinance was approved at first reading, after public hearing, on July 10, 2012. It addresses several aspects of the City's current zoning regulations related to adult entertainment establishments. The Ordinance is intended to improve clarity of the regulations, while continuing to provide for the appropriate location of such uses consistent with all controlling laws.

I. Background

Adult entertainment establishments have limited protection under the freedom of expression clause of the First Amendment of the United States Constitution, because courts have concluded that "adult entertainment" includes an element of expression or speech. The United States Supreme Court has determined that adult entertainment establishments may be regulated by "content-neutral" regulations. A content-neutral regulation does not regulate the actual speech, but instead regulates the secondary effects associated with the speech.

One of the most common and effective ways to regulate adult entertainment establishments is through zoning and distancing requirements that address the location of these establishments. Under the First Amendment case law, such regulations are considered lawful content-neutral limitations on the time, place, and manner of the activity which achieve the City's substantial government interest in reducing the negative secondary effects associated with adult entertainment establishments. *See City of Renton*

3C(1)

v. Playtime Theatres, Inc., 475 U.S. 41 (1986); *Daytona Grand, Inc. v. City of Daytona Beach, Florida*, 490 F.3d 860, 870 (11th Cir. 2007).

II. Proposed Regulations

The City's current zoning and location requirements for adult entertainment establishments were adopted in 2009. The existing regulations are in need of revision to provide clarity and updates consistent with current law.

The Ordinance moves the majority of the definitions to the proposed adult entertainment establishment business regulations also on your agenda this evening, where they are more extensively used.[1]

Under the Ordinance, adult entertainment establishments are permitted in the CG, General Commercial, zoning district. In addition, the application and approval procedures and criteria have been updated, including removal of the current requirement for a conditional use.

The Ordinance adds a distance requirement for adult entertainment establishments from uses licensed to serve alcohol. The Ordinance does not otherwise substantively change the previously existing distance requirements or method of calculating those distances as originally adopted in 2009, but it does streamline the text to provide clarity. The revisions specifically *prohibit* variances to these location (distance) standards.

The Ordinance provides that an adult entertainment establishment must be located:

> (i) At least five hundred (500) feet from any residentially zoned district as designated on the City's official zoning district map, and at least five hundred (500) feet from any property on which over twenty-five (25) percent of the floor area is devoted to residential use; and
>
> (ii) At least five hundred (500) feet from any parcel of land upon which a religious facility, public school, private school, public park, public playground, library, daycare center or nursery for children is located; and
>
> (iii) At least five hundred (500) feet from any hotel or motel; and
>
> (iv) At least one thousand (1,000) feet from any parcel of land upon which another adult entertainment establishment is located.

[1] The business regulations require a business license for all adult entertainment establishments, and establish application requirements and procedures as well as structural and operational criteria for approval and maintenance of such licenses.

3C(2)

The ordinance also provides that an adult entertainment establishment must be located at least three hundred fifty (350) feet from a building that contains a business that sells or dispenses alcohol.

The method for calculating the distance requirements provided in the proposed regulations is not substantively changed from the current code, but is revised to eliminate the confusion that has arisen as the City has attempted to apply and interpret the current wording. The Ordinance provides that distance shall be calculated by following a straight line from any portion of the building used for an adult entertainment establishment, or any building located on the property of the adult entertainment establishment to:

(i) the nearest point of the property designated as residential on the City's official zoning district map; or

(ii) the residential area of any property on which over twenty-five (25) percent of the floor area is devoted to residential use; or

(iii) any area used for a religious facility, public school, private school, public park, public playground, library, daycare center or nursery for children, hotel or motel.

In cases where a minimum distance is required between an adult entertainment establishment, and another adult entertainment establishment or an establishment licensed to serve or sell alcohol, the Ordinance provides that the distance is to be measured from the building line of the existing licensee to the building line of the proposed licensee, using the airline distance between the two (2) buildings.

Section 152.111.01(b) of the proposed Code lists the governmental studies which serve as evidence and testimony in support of the City's substantial government interest in adopting the Ordinance and the business regulations. Copies of the studies, which analyze the negative secondary effects of sexually-oriented businesses on the community, and a cover memorandum which summarizes each study, have been provided for your review (Exhibit B). The studies were provided with your July 10, 2012 agenda materials and should be reviewed and relied upon as a basis for this Ordinance.

III. Planning and Zoning Board Recommendation

The Planning and Zoning Board reviewed the proposed regulations and conducted a public hearing on May 29, 2012. It recommended approval of the attached Ordinance. The City Commission approved the attached Ordinance on first reading on July 10, 2012. The minutes of the Planning and Zoning Board are included as Exhibit D.

3C(3)

Attachments:
Exhibit A: Zoning Ordinance, for public hearing and first reading
Exhibit B: Memorandum summarizing secondary effects studies
Exhibit C: Studies – See July 10, 2012 agenda materials
Exhibit D: Planning and Zoning Board May 29, 2012 Minutes

3C (4)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152, ZONING, SECTION 152.111, ADULT ENTERTAINMENT, OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. (*INTRODUCED BY CITY COMMISSIONER RICHARD CHERVONY, CITY MANAGER DENNIS KELLY, AND CITY ATTORNEYS SUSAN TREVARTHEN AND KATHRYN MEHAFFEY*)

WHEREAS, the City Commission of the City of North Bay Village (the "City") recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the City's regulations are current and consistent with the needs of the City and the requirements of Florida and federal Law; and

WHEREAS, the City Commission relies upon the evidence and testimony presented before the City Commission and on the findings incorporated in the following studies to support the modifications made by this Ordinance:

(1) The "Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas);

(2) The "Crime-Related Secondary Effects – Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas);

(3) "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California);

(4) "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio);

3C Exhibit A (1)

(5) "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City Attorney's Office, Denver, Colorado (January 1998);

(6) "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997);

(7) "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996);

(8) "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996);

(9) "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994);

(10) The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado);

(11) "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); and

(12) "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005; and

WHEREAS, based on the evidence and testimony which has been presented to the City Commission, and based upon the findings provided in the studies above, the City Commission finds that there is convincing documented evidence that Adult Entertainment Establishments, because of their very nature, have deleterious effects on existing and future business establishments and residential areas, causing increased crime and the deterioration of property values; and

WHEREAS, the City Commission finds that Adult Entertainment Establishments, because of their very nature, have serious objectionable operational characteristics; and

3C Exhibit A (2)

WHEREAS, the City Commission finds that the regulation of the location of Adult Entertainment Establishments is necessary to prevent undesirable adverse secondary impacts on surrounding areas; and

WHEREAS, the City Commission desires to minimize and control these adverse secondary impacts and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of adjacent areas; and deter the spread of blight; and

WHEREAS, the City Commission, although concerned about these adverse secondary impacts, upholds constitutionally protected speech and expression and does not desire to infringe on or censor constitutionally protected speech and expression; and

WHEREAS, the City Commission desires to enact a content neutral ordinance that addresses only the adverse secondary impacts of Adult Entertainment Establishments; and

WHEREAS, the Planning and Zoning Board has reviewed this Ordinance at a duly advertised public hearing, and finds that this Ordinance is consistent with the City's Comprehensive Plan and recommended approval of the Ordinance; and

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

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

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

Section 2. **City Code Amended**. That Section 152.111 "Adult Entertainment", of Chapter 152 "Zoning", of the City of North Bay Village Code of Ordinances is hereby amended to read as follows[1]:

SECTION 152.111 - ADULT ENTERTAINMENT

§ 152.111.01 – Purpose, Findings and Authority.

(a) *Purpose.*

In the development and enforcement of this section, it is recognized that there are adult entertainment uses, which because of their very nature are recognized as having serious objectionable characteristics, particularly when several of them are concentrated in any given locations thereby having a deleterious effect upon the adjacent business and residential areas. It is desirable, therefore, to protect the well-being of the youth of the City from objectionable operational characteristics of these adult entertainment uses by ~~to~~ locatinge adult oriented activities away from residential areas and public facilities used frequently by minors such as schools, religious facilities, parks, libraries, playgrounds and day care centers. The City finds that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied, and encourages criminal sexual behavior.

In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor the effect of this Section to:

(a) inhibit freedom of speech or the press; or
(b) impose a limitation or restriction on the content of any communicative materials, including sexually oriented materials; or
(c) restrict or deny access by adults to sexually oriented materials protected by the First Amendment; or
(d) deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

This Section balances the legitimate governmental purposes of the City against the above-described constitutional rights, by imposing incidental, content-neutral place, time, and manner regulations of adult entertainment establishments without limiting alternative avenues of communication. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this Section.

[1] Additions to existing city code text are shown by underline; deletions from existing city code text are shown by ~~strikethrough~~. Additions subsequent to the Planning and Zoning Board meeting are shown in double underline and deletions are shown in ~~double strikethrough~~.

3C Exhibit A(4)

(b) *Findings.*

Based on the evidence and testimony presented before the City Commission and on the findings incorporated in (i) "Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas); (ii) "Crime-Related Secondary Effects – Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas); (iii) "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California); (iv) "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio); (v) "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City Attorney's Office, Denver, Colorado (January 1998); (vi) "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997); (vii) "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996); (viii) "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996); (ix) "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994); (x) The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado); (xi) "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); (xii) "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005; the City Commission finds as follows:

(1) Establishments exist or may exist within the city where books, magazines, motion pictures, videos, prints, photographs, periodicals, records, novelties, and devices that depict, illustrate, describe, or relate to specified sexual activities are possessed, displayed, exhibited, distributed, and sold.

(2) Establishments exist or may exist within the city where:

(a) The superficial tissues of one person are manipulated, rubbed, stroked, kneaded, or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;

(b) Dancers, entertainers, performers, or other individuals, who, for forms of commercial gain, perform or are presented while displaying or exposing specified anatomical areas; or

(c) Lap dancing occurs.

3C Exhibit A(5)

(3) The activities described in subsections (1) and (2) occur at establishments for the purpose of making a profit and, as such, are subject to regulation by the city in the interest of the health, safety, and general welfare of city residents.

(4) The competitive commercial exploitation of such nudity and seminudity is adverse to the public's interest, quality of life, tone of commerce, and total community environment.

(5) The commercial exploitation of nudity and seminudity consists of the use of nude and seminude entertainment in connection with or for the promotion of the sale of goods or services, and the receipt of money by the person engaging in nude or seminude entertainment in exchange for or as consideration for nude or seminude performance by such individuals.

(6) The commercial exploitation of nude and seminude acts, exhibitions, and nude entertainment occurs frequently at commercial establishments either selling or allowing consumption of alcoholic beverages on the premises.

(7) There is a direct relationship between the consumption of alcoholic beverages and the nude and seminude activities mentioned above, and an increase in criminal activities, disturbances of the peace and good order of the community. The occurrence of these activities is hazardous to the health and the safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole.

(8) The combination of the sale and consumption of alcoholic beverages with the performance of nude and seminude acts, exhibitions and entertainment is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the city.

(9) To promote and preserve the public peace and good order and to safeguard the health, safety, and welfare of the community and its citizens, it is necessary and advisable for the city to prohibit nude and seminude acts, exhibitions, and entertainment establishments at which alcoholic beverages are, or are available to be, sold or consumed.

(10) There is a direct relationship between the display or depiction of specified anatomical areas as defined in this chapter and an increase in criminal activities and disturbances of the peace and good order of the community, and the occurrence of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce, and total community environment in the city.

(11) When the activities described in subsections (1) and (2) take place in establishments within the city, other activities that are illegal or unhealthy tend to

3C Exhibit A(6)

accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property.

(12) When the activities described in subsections (1) and (2) are present in establishments within the city, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, foster an atmosphere that promotes crime, and ultimately lead residents and businesses to move to other locations.

(13) The establishments used for the activities described in subsections (1) and (2) are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaisons of a casual nature.

(14) To preserve and safeguard the health, safety, and general welfare of the people of the city, it is necessary and advisable for the city to obtain sufficient information regarding the owners of establishments where the activities described in subsections (1) and (2) occur in order to preclude the involvement of organized crime.

(c) *Authority.*

This Section is enacted pursuant to the City's home rule power to enact regulations to protect the public health, safety, and general welfare of the residents of the city; F.S. § Ch. 163 and Ch. 166; and the city's authority to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment of the Constitution of the United States.

§ 152.111.02 - Definitions.

For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. These definitions shall be in addition to the terms relevant to this Section provided in Chapter 119 of this Code.

~~*Adult Bookstore/Adult Video Store.* Shall mean an establishment which offers adult material for sale or rent for commercial gain, having as a substantial percentage or significant portion of its sale or stock in trade, books, magazines, films or video media for sale or rent, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," or an establishment with a segment or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales.~~

~~*Adult Booth.* Shall mean a small enclosed or partitioned area inside an adult entertainment establishment which is:~~

~~(1) Designed or used for the viewing of adult material by one (1) or more persons; and~~

~~(2) Is accessible to any person, regardless of whether a fee is charged for access.~~

~~The term "adult booth" includes but is not limited to a "peep show" booth, or other booth used to~~

3C Exhibit A(7)

~~view "adult material." The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, or a restroom.~~

Adult Entertainment Establishment. Shall mean:

(1) Any adult arcade, adult theater, adult bookstore/adult video store, adult modeling establishment, adult motel, encounter studio, or adult dancing establishment as these uses are defined in Chapter 119 of this Code; or any other establishment or business operated for commercial gain where any employee, operator or owner exposes his or her specified anatomical area for viewing by patrons, including but not limited to massage establishments, whether or not licensed pursuant to Chapter 480, Florida Statutes, tanning salons, modeling studios, or lingerie studios.

(2) Any establishment where an action is taken which is intended to amuse and which is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing, or less than completely and opaquely covering, specified anatomical areas, or similar activities.

(3) An adult entertainment establishment shall include the entire site ~~or premises~~ on which the adult entertainment establishment is located, including the exterior and interior of the establishment, or any portion thereof, upon which the activities or operations described in subsection (1) and (2) above are being conducted for commercial gain.

(4) Excluded from this definition are any educational institutions, as defined in Chapter 119, where the exposure of specified anatomical areas is associated with a curriculum or program.

(5~~3~~) An establishment that possesses an adult entertainment license is presumed to be an adult entertainment establishment.

Adult material. Shall mean any one (1) or more of the following, regardless of whether it is new or used:

(1) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, slides, or other visual representations; recordings, other audio matter; and novelties or devices which have as their primary or dominant theme subject matter depicting, exhibiting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or

(2) Instruments, novelties, devices or paraphernalia that are designed for use in connection with specified sexual activities.

~~*Adult modeling establishments.* Shall mean any establishment offering nude or partially nude modeling sessions or lingerie, swimwear, or photography modeling sessions between two (2) or~~

~~more persons or private modeling sessions between two (2) or more persons requiring the exclusion of minors pursuant to Chapter 847, Florida Statutes.~~

~~*Adult theater.* Shall mean an enclosed building used for presenting for observation by patrons motion pictures, films, or video media, distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual conduct or specified anatomical areas as defined in this section. An establishment which has adult booths is considered to be an adult theater.~~

~~*Encounter studio.* Shall mean all establishments offering nude or partially nude encounter sessions between two (2) or more persons, and requiring the exclusion of minors pursuant to Chapter 847, Florida Statutes.~~

Massage establishment. Shall mean:

(1) Any shop, parlor, establishment or place of business wherein all of any one (1) or more of the following named subjects and methods of treatments are administered or practiced: body massage either by hand or by any mechanical or electrical apparatus or device (excluding fever therapy), apply such movements as stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage, or tapotement.

(2) Provided, however, that, for the purpose of this section ~~division~~, the terms "massage establishment" shall not include any massage establishment wherein at least one (1) state licensed massage therapist is employed and on duty full time during the hours opened for business.

(3) Nothing in this section ~~division~~ shall be construed as applying to state licensed massage therapist, barbers, cosmetologists, manicurists, pedicurists, physical therapists' assistants, midwives, practical nurses, agents, servants of employees in licensed hospitals or nursing home or other licensed medical institutions, licensed physicians, osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners, or their agents, or employee acting in the course of such agency, service or employment under the supervision of the licensee.

~~*Encounter studio.* Shall mean all establishments offering nude or partially nude encounter sessions between two (2) or more persons, and requiring the exclusion of minors pursuant to Chapter 847, Florida Statutes.~~

~~*Nude dancing establishment.* Shall mean an establishment operated for commercial gain wherein performers or employees of the establishment display or expose to others specified anatomical areas as defined in this section, regardless of whether the performer or employee so exposed is actually engaging in dancing.~~

~~*Sexual conduct.* Shall mean any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act, erotic touching, caressing or fondling of the breasts, buttocks, or any portion thereof, anus or genitals or the simulation thereof.~~

~~*Specified anatomical areas.* Shall mean as used in this division either of the following:~~

~~(1) Less than completely opaquely covered human genitals, pubic region, anal cleft, cleft of the buttocks, and all or any part of the areola of the female breast; and~~

~~(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.~~

3C Exhibit A (9)

§ 152.111.03 - Permitted use schedule.

Adult entertainment establishments are ~~shall be~~ permitted in the General Commercial (CG) Zoning district, subject to distance requirements set forth below~~, as conditional uses upon approval by the City Commission, after public hearing~~.

§ 152.111.04 - Regulations applicable to adult entertainment establishments.

(a) *Required Approval ~~Conditions~~.* ~~Prior to approving a conditional use, after public hearing,~~ An application for an adult entertainment establishment requires the approval of the City Commission after a public hearing. ~~shall find that such use meets the following conditional~~ No application for an adult entertainment establishment shall be presented to the City Commission unless it satisfies the following requirements:

(1) ~~No~~ The adult entertainment establishment must be located ~~shall be permitted~~ on a parcel of land located in ~~any district other than~~ the CG zoning district~~, and if to be located within a CG zoning district it cannot be:~~

(2) The adult entertainment establishment must be located:

(i) ~~Within~~ At least five hundred (500) feet ~~of~~from any residentially zoned district as designated on the City's official zoning district map, ~~or within~~ and at least five hundred (500) feet ~~of~~ from any property on which over twenty-five (25) percent of the floor area is devoted to residential use; and
(ii) ~~Within~~At least five hundred (500) feet ~~of~~ from any area ~~parcel~~ of land upon which a religious facility, public school, private school, public park, public playground, library, daycare center or nursery for children is located; and~~or~~
(iii) ~~Within~~ At least five hundred (500) feet ~~of~~ from any hotel or motel~~, or~~; and
(iv) ~~Within~~ At least one thousand (1,000) feet ~~of~~ from any parcel of land upon which another adult entertainment establishment is located; and
(v) At least three hundred fifty (350) feet from a building that contains a business that sells or dispenses alcohol.

(3) No variance shall be granted to the spacing requirements of subsection (2) above.

(4~~2~~) The minimum distance separation shall be measured by following a straight line from any portion of the building used for such purpose, or any building located on the property, of the adult entertainment establishment to:

(i) the nearest point of the property designated as residential on the City's official zoning district map; or
(ii) the nearest point of the residential area of any property on which over twenty-five (25) percent of the floor area is devoted to residential use; or
(iii) the nearest point of any area used for a religious facility, public school, private school, ~~or~~ public park, ~~or~~ playground, library, daycare center or nursery for children,

3C Exhibit A (10)

hotel or motel.

(5) In cases where a minimum distance is required between an adult entertainment establishment and another adult entertainment establishment, or an establishment licensed to sell or serve alcohol, the distance under this section ~~division~~ shall be measured from the building line of the existing licensee to the building line of the proposed licensee and shall be ~~from~~ the airline distance between the two (2) buildings.

~~(3) No application for a Business Tax Receipt for an adult entertainment establishment shall be approved for zoning compliance unless such application is accompanied by a certified survey from a registered land surveyor in the State of Florida showing that such use meets the distance requirements as set forth in this section. The applicant for such use shall furnish a certified survey from a registered surveyor. Such sketch shall indicate the distance between the place of business, and any existing use as defined by this division, any religious facility, public school, private school, public park, public library, playgrounds, day care center or nursery for children, hotel or motel, or residential zoning district or any property on which over twenty-five (25) percent of the floor area is devoted to residential use. Each sketch shall indicate all such distances and routes. In case of a dispute, the measurement sealed by the City shall govern.~~
~~(4) Will not adversely affect the health or safety of persons residing or working in the vicinity of the proposed use.~~

(6~~5~~) The applicant must show a ~~present~~ possessory interest in the property (ownership, ~~or~~ leasehold, or contract to purchase/lease ~~interest~~) by sufficient documentation.

~~(6) Will not be detrimental to the public welfare, properties or improvements in the neighborhood.~~
~~(7) Complies with all other applicable Code provisions.~~
~~(8) Additional conditions. The City Commission may designate such additional conditions in connection with the conditional use, which in the City Commission's opinion will assure that such use will conform to the foregoing requirements. The City Commission shall consider any of the information included in the application and presentation for public hearing.~~

(b) *Expiration of ~~conditional use~~ approval.* ~~An a~~Approval~~ed~~ of an adult entertainment establishment ~~conditional use~~ shall lapse after twenty-four (24) ~~six (6)~~ months unless:

(1) a Business Tax Receipt or building permit has been issued ~~for such use~~, or

(2) the next phase of development has been initiated, or

(3) ~~unless~~ the City Commission has specified a longer approval period. ~~for good cause. Renewal of the Business Tax Receipt shall be subject to City Commission's approval in the same manner specified herein for an original approval of the conditional use.~~

3c Exhibit A(11)

~~(c) *Extension of conditional use approvals.* Four (4) affirmative votes of the City Commission may grant an extension for a previously approved conditional use if a proper and timely request is made by the applicant prior to the expiration of the approval period.~~
~~(d) *Conditional use reapplication.* No reapplication for a conditional use shall be accepted by the City within twelve (12) months of the date of final disapproval by the City Commission of a previous application for a conditional use involving the same or substantially the same property, unless evidence is submitted to and accepted by the City Commission which justifies such reconsideration.~~

(~~c~~e) *Application requirements.* An application for approval of an adult entertainment establishment ~~a conditional use~~ shall, in addition to the requirements of Section 2.7.2 of the Land Development Regulations, include:

(1) A property survey by a registered surveyor;

(2) A letter of intent;

(3) Certified distance survey ~~complying with subsection (a)(1), above;~~ from a registered land surveyor in the State of Florida showing that such use meets the distance requirements as set forth in this section. Such sketch shall indicate the distance between the proposed adult entertainment establishment and:

(i) any other adult entertainment establishment, and
(ii) any establishment licensed to sell or serve alcohol; and
(iii) any area used for a religious facility, public school, private school, public park, public library, playgrounds, day care center or nursery for children, hotel or motel, and
(iv) any residential zoning district, and
(v) the residential area of any property on which over twenty-five (25) percent of the floor area is devoted to residential use.

Each sketch shall indicate all such distances and routes. In case of a dispute, the measurement scaled by the City shall govern.

(4) Where the use includes a vehicular use area or landscaped buffer, a proposed landscape plan and information regarding permanent maintenance arrangements;

(5) A neighborhood location map showing all surrounding zoning, ~~and usage~~ land use designations and existing uses located within 500 feet of the proposed site;

~~(6) All information required for any other type of application which is being processed simultaneously or for any other type of application, including but not limited to proposed signage;~~
~~(7) Any other information necessary to demonstrate that the proposed conditional use will conform fully with the requirements of this Division;~~
~~(8) Detailed security plan;~~
~~(9) Hours of operation; and,~~

3C Exhibit A (12)

~~(10) Anticipated noise levels and methods to regulate same; and,~~

(6~~11~~) Documents establishing ownership of the property, ~~or~~ valid leasehold, or a contractual interest in a future ownership or leasehold.

(7) The proposed activities and specific type of adult entertainment establishment proposed.

(8) For adult entertainment establishments to be established in new construction, a sketch and description showing all new and existing structures on the property, interior layouts and proposed parking areas.

(9) For adult entertainment establishments to be established in redeveloped sites, a sketch and description or building plan that details all proposed interior and exterior changes to any existing building or structure.

~~The application process shall be consistent with existing regulations pertaining to public hearings.~~

(d) *Review of applications*. Applications shall be reviewed and be ~~considered~~ approved or denied by the City Commission within sixty (60) days of the applicant filing a complete application with the City, as follows:

(1) No application shall be accepted until it is deemed complete by the City Planner.

(2) The City Planner shall review all of the information submitted to determine conformity with this section.

(3) The submitted application will be reviewed for completeness within 20 business days, and any corrections, revisions or deficiencies provided to the applicant within that 20-day period.

(4) Upon each re-submittal of corrected plans, the City Planner shall have ten business days to review the application and provide any corrections, revisions or deficiencies to the applicant. This process shall continue until the applicant has submitted a complete application, or demands that the application be reviewed as is, without further revisions.

(5) If an applicant fails to provide additional information as requested by the City Planner within two (2) months of the request or respond to the City Planner with a time when the information will be submitted, the application shall be deemed to be withdrawn by the applicant. The applicant shall be entitled to one (1) sixty-day extension upon request, providing the request for extension is granted prior to the expiration of the two (2) month period.

(6) The City Commission shall approve or deny the ~~sign~~ permit within sixty days of the City's receipt of the complete application, or the applicant's demand for review as submitted, based on whether it complies with the requirements of this section. A written notice of the City Commission's decision shall be provided to the applicant, either in the form of an approved permit or written notice of denial. Such notice shall describe the applicant's appeal rights, and be provided to the applicant within ten (10) business days of the decision.

3C Exhibit A (13)

~~(f) *Revocation of conditional use.* Failure to comply with the conditional use requirements as established by the City Commission shall result in a revocation of the conditional use by the City Manager or his designee, after proper written notice sent by certified mail or overnight courier, and failure to cure within ten (10) calendar days of the date of the notice. The ten-day cure period may be extended by the City Manager or his designee for good cause.~~

(e) *Minimum space requirements.* An adult dancing establishment shall be subject to the Minimum Space Requirements (for parking) as provided for "Restaurants, Lounges and Nightclubs," in Section 152.044(b)(7) of this Code.

(f) *Regulation of obscenity subject to state law.* It is not the intent of the City Commission to legislate with respect to matters of obscenity. These matters are regulated and preempted by general law.

(g) *Regulation of massage establishments subject to state law.* It is not the intent of the City Commission to legislate, limit, or conflict with respect to matters pertaining to massage establishments that are regulated by state agency, the department of business and professional regulation, board of massage, and by general law, F.S. Chapter 480.

(h~~g~~) *Appeal.* The applicant may appeal the decision of the City ~~Manager or his designee to revoke, a conditional use to the City~~ Commission by filing a timely notice of appeal with any court of competent jurisdiction in Miami-Dade County in accordance with applicable law and court rules. ~~An administrative appeal must be filed within fifteen (15) days following receipt of the notice of the City Manager's decision. The City Commission shall hear appeals at a Public Hearing, and enter a decision on all appeals within ninety (90) days of the date of filing the appeal, and shall provide due notice of the appeal to the parties and the public. While the appeal is pending, the conditional use may not continue. The City Commission may reverse, affirm or modify any order, requirement, decision or determination appealed from and shall make any order, requirement, decision or determination that, in the City Commission's opinion, ought to be made in the circumstances.~~

Section 3. **Repeal.** That all ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict.

Section 4. **Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, and they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

3C Exhibit A(14)

Section 5. **Inclusion in the Code.** That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of North Bay Village; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

The motion to approve the foregoing Ordinance on first reading was made by Mayor Connie Leon-Kreps, seconded by Commissioner Richard Chervony.

THE VOTES WERE AS FOLLOWS:

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

APPROVED ON FIRST READING during a regular session of the City Commission of North Bay Village this 10th day of July 2012.

The motion to adopt the foregoing Ordinance on final reading was offered by _____, seconded by _____.

FINAL VOTE ON ADOPTION:

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

PASSED AND ENACTED BY THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, THIS _____ DAY OF _____, 2012.

3C Exhibit A(15)

_____
Connie Leon-Kreps, Mayor

ATTEST:

_____
Yvonne Hamilton, City Clerk

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

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

3C Exhibit A (16)

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

Memo

To: Planning and Zoning Board Members
City Manager

From: Susan L. Trevarthen, Esq., AICP
Kathryn M. Mehaffey, Esq.

Date: July 25, 2012

Subject: Summary of Adult Use Studies Regarding Zoning Regulations of Adult Entertainment Establishments of Land Development Regulations

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The following memorandum provides a summary of the municipal and state government summaries on the secondary effects of sexually-oriented businesses which have been provided to you as part of your July 10, 2012 Commission agenda materials. Please review the studies in preparation for your review and consideration of the proposed Adult Entertainment Land Use Regulation Ordinance and the proposed Adult Entertainment Business Regulation Ordinance. The studies summarized below are listed in the proposed Ordinances.

1. **The "Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas)**

This study, commissioned as part of a two part study by the Texas City Attorneys Association was conducted by planning consultants, recognized as experts within the field of sexually oriented business regulations and impacts, in order to evaluate the impacts of retail-only adult businesses on the property values of surrounding properties. This study surveyed 195 Texas appraisers who were Members of the Appraisal Institute (MAI) and Senior Residential Appraisers (SRA). The survey questionnaire included a number of uses besides different types of sexually oriented businesses that appraisers often found concerning in relationship to market values in order to decrease the likelihood of targeted responses. The study found that both live and retail-only sexually oriented businesses had a large negative impact on market values of both single family homes and community shopping centers. Further, for single family homes, 86% of survey respondents felt those negative impacts would not diminish until at least a ¼ mile separation existed and 71% felt those negative impacts would not diminish until a ½ mile

separation existed. For community shopping centers, 63% felt the negative effects did not diminish until at least ¼ mile away and 44% said the negative impacts did not diminish until ½ mile away. While the study focused on retail-only sexually oriented businesses, the survey results clearly showed the same significant impacts for sexually oriented businesses with live entertainment or video components.

2. **The "Crime-Related Secondary Effects – Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas)**

The second part of the study commissioned by the Texas City Attorneys Association is a statistical analysis which explains the criminological theory of secondary effects and applies that theory to sexually oriented businesses. The study provides analyses of other studies evaluating the crime rate impacts of sexually oriented businesses and concludes with a case study of crime data from a Texas jurisdiction. The study concludes that sexually oriented businesses pose significant public safety hazards related to prostitution, drugs, assault, robbery and vandalism. The study also analyzed a 2006 study supporting location of sexually oriented businesses. The 2008 analysis demonstrated with the 2006 study's own data the increased risks of crime and showed that the risk diminished exponentially with distance from the sexually oriented business. As such, the sexually oriented businesses were neighborhood point-sources creating significant risk for crime victimization.

3. **"Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California)**

This study statistically evaluated the facts and materials in *Alameda Books v. City of Los Angeles,* U.S. District Court, Central District of California, Case No. CV 95-7771, and also evaluated 2006 data to consider the differences between retail only sexually oriented bookstores and sexually oriented businesses with retail and arcade/on-site viewing components. The study developed several conclusions:

1) There are three factors which produce large, significant crime-related secondary effects include: 1) sexually oriented businesses draw patrons from large geographical areas; 2) because patrons are disproportionately male, open to vice overtures, reluctant to report victimizations to the police, etc., these patrons are "soft" targets; and 3) the large number of "soft" targets concentrated at the site of a sexually oriented business attracts predatory criminals, including purveyors who dabble in crime and criminals who pose as vice purveyors in order to lure or lull potential victims.

3C Exhibit B(2)

2) Thirty years of empirical studies employing a wide range of designs have found that sexually oriented businesses have large, significant crime-related secondary impacts.
3) While all sexually oriented business subclasses pose significant public safety hazards, these hazards vary based on the opportunities for different types of crime created by the subclass of business.
4) Considering the two subclasses of stand-alone bookstores and combined bookstore-arcades, the combined bookstore-arcade poses higher risks for crime.
5) The risk of victimization at the site of a combined bookstore-arcade is more than double the risk at the site of a stand alone bookstore. These risks both diminish with distance, but the two types of businesses are not equal until approximately 900 feet from the business.

4. "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio)

This study evaluated the secondary effects of sexually oriented businesses and included an analysis of ordinances, police calls and field studies of the sexually oriented businesses in Toledo, and provided findings and recommendations for zoning, licensing and other regulatory changes. The Survey was conducted working with a steering committee which included the City's planning department, police force, building services, and legal department. Issues and concerns were additionally identified and analyzed through meetings with city council members, neighborhood groups and representatives of the sexually oriented businesses. One important issue highlighted in this report was the importance of the definitions, where the City regulated adult uses through zoning but the definitions failed to adequately identify the targets which resulted in the inability to regulate a sex toy shop with limited books and videos, as an adult entertainment establishment. The study analyzed the secondary effects of the external impacts of sexually oriented businesses on adjacent neighborhoods as well as the impacts of activities at these businesses that might not be protected by the First Amendment but that caused additional impacts in the community – often stemming from activities that started inside the business which were either unprotected activities or which often spilled out into the community.

The study found that clustering or two or more sexually oriented businesses resulted in a statistically significant increase in crime rates. There were also significant differences in criminal activity based on the type of sexually oriented business. Sexually oriented businesses with live entertainment were likely to have disproportionately higher criminal activity. For instance, in the analysis of Toledo's existing businesses, sexually oriented cabarets accounted for only 20% of the sexually oriented businesses but generated 44% of the total police calls. Adding an on-site entertainment component to any sexually oriented business, including a bookstore, lengthened the amount of time that patrons remained on the premises and increased the opportunity and likelihood for interaction with other patrons thereby increasing the negative impacts of the use above

3C Exhibit B(3)

that of a simple retail establishment. In analyzing the data on a business by business type and ownership, the study concluded that the effects of Management on the secondary impacts of a business are also significant, thus supporting the need for an effective licensing ordinance. Of the Adult Cabarets, one establishment had 102 incidents while one had 25, two had only 8 and one had no incidents reported. Of 26 calls to "encounter and touching" establishments, one establishment accounted for 69% of the calls. Of 37 calls to sexually oriented bookstores, 17 calls went to two stores which were under common ownership.

One of the major concerns identified in the study was location. A perfectly legitimate business located across from a school or in another location whereby residential neighbors, often including children, have a forced exposure to the business, will have significantly higher negative impacts on the neighborhood. The business becomes a "pig in the parlor" rather than a "pig in the barn."

The study recommended specific revisions to Toledo's ordinance including revisions to definitions, location criteria including distance criteria from sensitive uses and other sexually oriented businesses, inventory thresholds and access control, as well as extensive licensing requirements based on the type of sexually oriented business.

5. **"A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City Attorney's Office, Denver, Colorado (January 1998)**

In 1996, an Adult Use Study Team was established to assess the secondary impacts caused by adult use businesses on nearby properties and neighborhoods, and to determine the availability of sites for adult businesses. This Team found that adult use businesses caused negative secondary impacts to nearby properties and neighborhoods, including criminal activity, litter, noise, traffic problems, and depreciation in residential property values. A survey of residents in areas where adult use businesses were located demonstrated that the litter generated by such businesses included printed material containing pornography, used condoms, sex paraphernalia, and used syringes. The criminal activity, which was significantly higher around adult use businesses compared with the city as a whole, included disturbing the peace, public indecency, prostitution, drug-related violations, loitering, robbery, larceny, theft from motor vehicle, and urinating in public.

6. **"Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997)**

This report was drafted by a committee tasked with updating prior research studies completed in 1983, 1986, and 1991 in order to determine and make

3C Exhibit B (4)

recommendations on any needed reforms to the city's existing sexually oriented business ordinance. The committee found that criminal activities, anonymous sex, spreading of sexually transmitted diseases, and other such acts were occurring within sexually oriented businesses. In order to try to regulate these secondary effects, the committee determined that it was necessary to license all of the entertainers and managers of sexually oriented businesses, provide for certain configurations and lighting requirements within the businesses to aid the police department in their investigations, provide distancing requirements from the city's family centers, parks, and neighborhoods, and provide for the elimination of "glory holes" to reduce the risk of anonymous sex.

7. **"Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996)**

This study examined adult use studies from other cities around the country as well as the secondary effects of the adult uses currently operating in Newport News. The studies from other cities indicated that adult uses increase crime and decrease property values in the areas surrounding the uses. In Newport News, the police calls for service indicated that the adult uses experienced crime problems that impacted nearby neighborhoods or businesses. A survey of realtors in the city indicated that adult uses lessen nearby residential property values and may lessen nearby commercial property values depending on the type of adult use and the amount of concentration. The study determined that regulation of adult uses was warranted, and after evaluating the dispersal and concentration theories, recommended spatial separation of adult uses, and separation of these uses from residential areas.

8. **"Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996)**

This study compiled new data, examined municipal land use studies and historical data from the late eighteenth century through 1996, and drew conclusions based on statements and conclusions of previous land use studies. This study concluded that sexually oriented businesses provide a potential focus for illicit and undesirable activities by providing a place of contact for numerous potential customers for prostitution, pandering, and other activities. In addition, when alcohol is provided on site or nearby, or when there is a large concentration of sexually oriented businesses, the quantity of undesirable activities increases. This provides for a snowball effect of undesirable activities that feed upon and support each other. The research also revealed that sexually oriented businesses have more of an impact on smaller towns than they do on larger towns. This study also concluded that when these businesses are located near residential areas or educational and religious institutions, a number of children were exposed to inappropriate models of behavior, and were victims of opportunistic personal crimes.[1]

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[1] It should be noted that it was also determined that the elderly and women were also susceptible to opportunistic personal crimes when sexually oriented businesses were located in close proximity to residential areas, or religious and educational institutions.

3C Exhibit B(5)

In addition, it was also concluded that sexually oriented businesses have a negative impact upon both residential and commercial property values located within three blocks of the adult use. The presence of sexually oriented businesses was considered by real estate appraisers and lenders to be evidence of community decline and decay. Also, other research indicated that areas with sexually oriented businesses experience lower rates of appreciation in property values and/or higher turnover in properties in comparison to comparable areas without sexually oriented businesses.

9. "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994)

The City of New York commenced this study following a 35% increase in adult entertainment establishments over a 10 year period. At the time of the study, New York City had no adult use regulations – a triple XXX video store was subject to the same regulations as family video store. The study evaluated existing studies in other localities, studies and reports on adult entertainment establishments in New York City and an analysis and survey of the impacts adult entertainment establishments were having on the communities in New York City. In evaluating the impacts of these establishments, the City considered impacts identified by the City Planning Commission in a 1977 study, impacts identified by the Office of Midtown Enforcement and a Chelsea Business Survey, impacts identified through public hearing, a Times Square Business Improvement District Study and in newspaper reports and correspondence. The study also included an analysis of criminal complaint data and property assessed values.

The results of the Department's study of local impacts mimicked the findings of other studies. Specifically, the location of adult uses creased "dead zones" in commercial areas that shoppers avoid, greater concentrations of crime in areas surrounding adult uses especially where multiple establishments were located. These issues resulted in additional perceived issues pressuring neighboring business to hire private security guards for parking lots and closing area businesses early. A survey of 100 business owners in one New York City community found that 61% felt the location of the adult video stores in their community had a negative impact on their businesses and a telling 88% thought the potential for doing business in the area had been negatively affected by the establishments. Additional concerns identified by the City in addition to the crime, deterioration of the business and residential climates, included quality of life impacts such as littering, noise, night-time operations, offensive signage and exposure of children to inappropriate materials. The City's survey of realtors found that 80% reported that an adult entertainment establishment decreased market values as at least 500 feet from the establishment. While the Planning Department's survey of assessed values did not clearly identify negative impacts resulting from the establishment of adult uses, the Department found that the diversity of the City and the limitation of available data would make create issues with due to the difficulty in isolating specific impacts attributable to any particular land use. However, the Department found that regardless of trackable deterioration in assessed values, the perceptions created by the establishment of the adult

3C Exhibit B(6)

uses created a disincentive to invest resulting in a deterioration in the neighborhood surrounding the adult establishment.

10. The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado)

This study was an update to a 1988 study conducted by the Adams County Sheriff's Office in order to provide support for a proposed nude entertainment ordinance, which prohibited persons to appear in a "state of nudity"[2] for the purpose of entertaining patrons. The 1988 study consisted of two phases: first, an April 1988 study of six representative locations in Adams County was undertaken to determine the transiency of adult business customers. Second, crime statistics in two Adams County areas featuring adult businesses were gathered for the years of 1986 and 1987. The study concluded that there was a direct correlation between nude entertainment establishments and an increase in crime, alcohol related offenses, and transiency of patrons. After review of this study, the County Commissioners passed the nude entertainment ordinance which 1) restricted the hours of operation; 2) provided distance requirements; 3) provided a six-month amortization period reducing the number of adult businesses from 28 to 14; and 4) provided a public nuisance provisions for repeat or continuing violations. Subsequently, this ordinance was challenged and upheld by the Colorado Supreme Court. The court found that the ordinance did not violate constitutionally protected free speech because it did not ban nude dancing altogether and it did not unreasonably inhibit the presentation of nude dancing. The 1991 report re-evaluated the 1988 study based on 1990 statistics and found no significant changes with a few exceptions. One exception showed a block from the original study which had experienced a 900 percent increase in reported crimes including a 290% increase attributable to adult businesses offering nude entertainment and/or alcohol.

11. "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986)

This study, done by the Department of Planning, Research and Development, the City Attorney's Office, the Police Department Data Processing Division, and New Mexico State University, involved one year of studying the impacts of sexually oriented businesses on the El Paso area. A separate report by New Mexico State University on perceived neighborhood problems was also included in this study. Three control areas and three study areas were used to evaluate the secondary effects of sexually oriented businesses. The study concluded that the following conditions existed within the study areas:

(1) The housing base within the study area decreased substantially

[2] A "state of nudity" occurs when such a person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

3C Exhibit B (7)

with a concentration of sexually oriented businesses

(2) Property values decreased for properties located within a 1-block radius of sexually oriented businesses
(3) There was an increase in listings on the real estate market for properties located near sexually oriented businesses
(4) The presence of sexually oriented businesses resulted in a relative deterioration of the residential area of a neighborhood
(5) There was a significant increase in crime near sexually oriented businesses
(6) The average crime rate in the study areas was 72% higher than the rate in the control areas
(7) Sex-related crimes occurred more frequently in neighborhoods with even one sexually oriented business;
(8) Residents in the study areas perceived far greater neighborhood problems than residents in control areas; and
(9) Residents in study areas had a greater fear of deterioration and crime than residents in control areas.

The study of perceived neighborhood problems done by New Mexico State University revealed a strong, consistent pattern of higher neighborhood crime, resident fear and resident dissatisfaction in the neighborhoods containing sexually oriented businesses.

12. "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005.

This is a collection of summaries of 43 municipal and state government studies on the secondary effects of sexually-oriented businesses conducted between 1977 and 1998. The summaries identify a historical trend of negative secondary effects from sexually oriented businesses, related to all types of criminal and economic/market behaviors.

3C Exhibit B(8)

MINUTES

PLANNING & ZONING BOARD MEETING

CITY COMMISSION CHAMBERS
1700 KENNEDY CAUSEWAY, #132
NORTH BAY VILLAGE, FL. 33141

TUESDAY, MAY 29, 2012 – 7:30 P.M.

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

The meeting was called to order by the Chair, Reinaldo Trujillo, at 7:37 P.M. and the Pledge of Allegiance was recited. Present at Roll Call were the Chair, Reinaldo Trujillo; the Vice Chair, Jorge Gonzalez; Board Member James Carter; and Board Member Bud Farrey.

Board Member Barry Beschel was absent and excused by the Chair.

Attending the meeting were Mayor Connie Leon-Kreps, Vice Mayor Eddie Lim, and Commissioner Richard Chervony.

City staff present were City Manager Dennis Kelly, City Attorney Kathy Mehaffey, City Attorney Susan Trevarthen, Interim City Planner James LaRue, and Building Department Clerk Ana DeLeon.

2. (PUBLIC HEARINGS) ALL INDIVIDUALS DESIRING TO PROVIDE TESTIMONY SHALL BE SWORN IN.

City Attorney Kathy Mehaffey read the provisions for conduct of quasi-judicial public hearings, and asked for disclosure of ex-parte communications on the part of members of the Board. No Board members had anything to disclose.

The Clerk read the title of the request in Item 2A and swore in all those planning to speak regarding the Item.

A. A REQUEST BY MIGUEL FORNELLA FOR A SPECIAL USE EXCEPTION UNDER SECTION 152.098 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES FOR THE OPERATION OF A JET SKI RENTAL BUSINESS AT THE COMMERCIAL MARINA AT 7904 WEST DRIVE, HARBOR ISLAND, NORTH BAY VILLAGE, FLORIDA.

3C Exhibit D (1)

Interim City Planner James LaRue reported on the application for a special use exception for a proposed jet ski tour/rental business, which was to be located at the southernmost dock of the commercial marina at the Bayshore Yacht and Tennis Club. He explained that both the yacht club and the marina are listed as special use exceptions within the commercial general zoning district; jet ski rental is an additional use of the marina, and also exists as a special use category within the Land Development Code. He further clarified two points that had been previously questioned: one, that the marina was in fact a commercial marina; and two, that refueling could not be done on-site by hand but must be done off-site where proper gas station facilities for fueling existed. On the last point, he said, the applicant would state for the record his agreement.

No traffic impact was expected and therefore no traffic analysis had been performed.

On the issue of parking, based on six jet skis located in two slips or berths and a group tour type of approach to the rental business as indicated by the applicant, Interim City Planner James LaRue suggested a total of three parking spaces. One parking space per slip was already a requirement for the marina, and a review of regulations concerning existing jet ski rental businesses showed precedents requiring one parking space for every two jet skis. Given the probability of clients sharing vehicles to arrive for the group tour service that the applicant intended to operate, Interim City Planner Larue felt that three parking spaces would prove adequate for six jet skis; and the applicant, he said, had agreed to provide one parking space additional to the two spaces already supplied by the marina for the two slips. More information as to the locations of the parking spaces would be supplied by the applicant.

The Interim City Planner further recommended that it be ascertained there were no restrictions on access to the marina, and that if any permissions were required from the condominium association involved, then those permissions needed to be furnished in writing. Other recommended conditions were that the hours of operation were to be confined between 10 A.M. and 6 P.M.; that the jet skis be safely secured when not in operation; that operation of the jet skis comply with rules governing the use of boats in the Biscayne Bay Aquatic Preserve, including noise, no-wake, and other issues.

The applicant, Miguel Fornella, took the podium and described his business operation and the parking provisions, including one parking space located inside the building used for his business equipment, and two parking spaces located outside. He also explained his plan to lead jet ski tours around the bay, and not in the vicinity of the area's buildings.

3C Exhibit D(2)

To facilitate communication with the applicant, the Chair conducted his questioning of the applicant in Spanish and also translated the discussion into English.

The Chair questioned whether parking for jet ski customers could become an issue on Harbor Island, when each jet ski could hold up to two people, and one of the three parking spaces being supplied for the use of up to six jet skis was to be used for equipment storage. The Chair noted that parking was already an issue on Harbor Island. The applicant, Mr. Miguel Fornella, described how people came in groups, rarely alone; that clients who were hotel guests might be transported by him to the marina; and that only five of his jet skis were available to be rented by customers. The Chair asked whether the applicant had parking spaces that were marked and specifically reserved for him; and upon learning that the applicant had no marked and exclusive spaces, considered this to be a major drawback both for the applicant's business viability and the area's parking problems. Mr. Fornella said that he needed to get more information from the marina regarding parking.

The Chair asked whether the applicant had been in touch with the condominium association, and Mr. Fornella responded that he had been, and the property manager had been made aware of the business.

The Vice Chair, Jorge Gonzalez, sought clarification from the applicant regarding the location of parking and access to the marina pier. The Vice Chair noted that access to the pier was through the building and a considerable distance from the parking location pointed out by the applicant, which was street-side. The Vice Chair confirmed with the applicant that he had permission from the condominium association for access.

The Vice Chair questioned how the growth of the business would be managed, and where people might be expected to wait for available jet skis as the popularity of the business increased. Mr. Fornella replied that he expected his customers to be served primarily by appointment.

The Interim City Planner LaRue sought clarification regarding whether the parking was street-side, or by the tennis courts as he had supposed and which he felt was the best location. Upon learning that the applicant had indicated street-side parking, the Chair pointed out that this parking was shared with other commercial visitors to the building and therefore it was critical that the applicant have assigned parking. The Interim City Planner suggested to the Chair that a solution would be to have the recommendation include three allocated spaces, marked, and as close to the pier as possible; and City Attorney Mehaffey affirmed that such a recommendation was permissible.

Board Member Bud Farrey questioned what type of advertising and signage would be employed to designate the location of the jet ski rental business. Mr.

3C Exhibit D (3)

Fornella suggested using a flag sign on the pier. Interim City Planner LaRue informed him that any sign would need to be approved and have a permit as a separate issue; that flag signs were generally not allowed; and that signage requirements could also be added as another condition of approval.

At 8: 10 P.M., the Chair opened the meeting to the public.

The first speaker was Stephanie Chambers, a resident of the Bayshore Yacht and Tennis Club, who felt the business enhanced the City and agreed with the conditions of marked parking and operating hours between 10 A.M. and 6 P.M.

The next speaker, Ann Bakst, a 39 year resident of the Kennedy House, was sworn in by the Clerk. She welcomed new business in the City and was in favor of approval; felt that the congestion in public parking on West Drive was due to the reliance of the residents of the Bayshore Yacht and Tennis Club upon public rather than private parking; and expressed the opinion that this business should have as much right to the public parking as any other Harbor Island user.

The next speaker, Mario Garcia of 7540 Cutlass Avenue, was sworn in by the Clerk. He agreed with the Chair's concern regarding parking, but felt that the City needed new business and that parking should not be an obstacle.

The next speaker, Maria Garcia, of the Bayshore Yacht and Tennis Club, was sworn in by the Clerk. She spoke as owner-resident, owner-investor, and member of the condominium association board against the detrimental effects of a near-by jet ski rental business with regard to traffic, noise and liability. She submitted her speech and a legal article on tortuous interference for the record (entered into the record as Exhibit 1.)

The next speaker, George Piedra of Treasure Island, was sworn in by the Clerk. He confirmed with the applicant, Miguel Fornella, that refueling would take place elsewhere, such as the Grandview Palace Marina, and that jet ski renters would always be led in tours, and then expressed his approval.

The next speaker, Joseph Green, an owner and resident at the Bayshore Yacht and Tennis Club, was sworn in by the Clerk. As someone who worked nights, his main concern was the noise generated by jet skis during the day. He also questioned the ability of the applicant to manage tours alone with so many jet skis involved, and whether the applicant had permission from the condominium to enter through the lobby.

The next speaker was Virgilio Castro, recently become a renter at the Bayshore Yacht and Tennis Club, who was opposed to the noise of jet skis and the use of the building's lobby by customers for access.

3C Exhibit D(4)

The applicant, Miguel Fornella, took the podium and clarified that access would not be through the building's lobby, but through the parking garage. He also maintained that jet skis were not noisy until reaching speeds of about 40mph, and not at the 5mph or lower speeds at which he would be leading groups away from the dock.

There were no more speakers and the Chair closed the meeting to the public at 8:35 P.M.

Interim City Planner James LaRue added to the record that personal watercraft could not be operated earlier than one half hour before sunrise or one half hour after sunset. He also observed that noise from jet skis would be no greater than the noise from outboard motors that would be expected at a marina, and that the State had regulations on jet ski rentals which were a control on their possible indiscriminate use. The Vice Chair confirmed with the Interim City Planner that the sale and use of alcohol was prohibited by State law.

Interim City Planner reviewed the conditions for approval: refueling only off-site at an authorized refueling station; adherence to regulations regarding speed, noise, and no-wake in the Biscayne Bay Aquatic Preserve; that the jet skis be safely secured when on site and not in use; that three parking spaces be designated, located as close as possible to the operation; that the hours of operation be confined between 10 A.M. and 6 P.M. every day of the week; and he advised he was unsure whether or not written authorization was required from the condominium for access.

The Chair questioned the availability and location of restrooms, which were a requirement for operating a business. The applicant, Mr. Fornella, explained that restrooms were behind the parking; Bayshore Yacht and Tennis Club resident Maria Garcia argued that those restrooms were in the common area for the condominium residents when using the pool. The Chair responded that the marina must have access to restrooms as well, or it would not have been given a license. He used the example of Grandview Palace, which provided access through an area common to both its marina and the condominium.

1.) Board Recommendation

The Vice Chair, Jorge Gonzalez, made a Motion to recommend approval of the request for a special use exception under Section 152.098 of the City of North Bay Village Code of Ordinances by Miguel Fornella for the operation of a jet ski rental business at the commercial marina located at 7904 West Drive, Harbor Island, North Bay Village, Florida; subject to the conditions recommended by City Staff and noting the contingencies of: three (3) required parking spaces, two (2) of them marked with the business name; a prohibition on

3C Exhibit D(5)

refueling by hand on-site; and adherence to all legislation regarding no-wake zones, noise, and other rules on the operation of personal watercraft in Biscayne Bay. The Motion was seconded by Board Member James Carter. The votes were as follows: James Carter-Yes; Bud Farrey-Yes; Jorge Gonzalez-Yes; Reinaldo Trujillo-Yes. The Motion carried 4-0.

City Attorney Kathy Mehaffey explained that the following Item, 2B, was not quasi-judicial but rather legislative in nature, and speakers were not required to be sworn in. The Clerk then read the title of Item 2B.

B. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING" BY REVISING SECTION 152.111 PERTAINING TO ADULT ENTERTAINMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Interim City Planner James LaRue presented for the Board to review and recommend to the City Commission zoning regulation for adult entertainment establishments and an accompanying back-up memo. He explained that the attached Ordinance, Exhibit A, was intended to improve the clarity of the existing regulations while providing for the appropriate location of such establishments consistent with all controlling laws. He described the memo as talking in terms of the regulation of adult entertainment establishments, the zoning and distance requirements, and clarifying the distance requirements, while making sure that it is a content-neutral ordinance that serves the City's government interest only in reducing the secondary effects associated with adult entertainment establishments.

The revisions, he continued, clarify the calculating of the distance requirements to eliminate confusion in trying to interpret and apply the current wording without substantively changing the requirements, and provide that distance shall be calculated by following a straight line from any portion of a building used for an adult entertainment establishment or any building on the property of an adult entertainment establishment to: the nearest point of the property designated as residential; or the residential area of any property on which over 25% of the floor area is devoted to residential use; or any area used for a religious facility, public school, private school, public park, public playground, library, daycare center or nursery for children, hotel or motel.

He went on to state that Section 152.111.01(b) of the proposed Code lists the governmental studies which serve as evidence and testimony in support of the

3C Exhibit D(6)

City's substantial government interest in adopting the Ordinance and the business regulations. Copies of the studies, which analyze the negative secondary effects of sexually-oriented businesses on the community, and a cover memorandum which summarizes each study, have been provided for the Board's review.

City Attorney Susan Trevarthen described cooperating with City staff, the City Manager and the Interim City Planner, in preparing the Item now being presented and recommended in a joint memorandum by the City Manager, Interim City Planner, and City Attorney's Office for the Board's review and recommendation to the City Commission.

The Chair explained the rules of conduct, limited speakers to three minutes, each, and opened the meeting to the public at 8:42 P.M.

The first speaker was Kevin Vericker, of 7520 Hispanola Avenue, who stated that the main concerns of himself and other citizens were: the need for the change and the timing of changing the Ordinance in the middle of a lawsuit; whether the attorneys had an opinion on the effect this change would have on the outcome of the lawsuit; and whether it would be wise to hire more specialized external expertise to review the Ordinance.

The Chair suggested continuing with the other speakers and responding to questions at the end of the public meeting; City Attorney Susan Trevarthen advised that the City Attorney's Office and City staff would respond to any questions that the Board would bring forward at the conclusion of the public meeting.

The next speaker was resident Mario Garcia, who hoped that the proposed changes would not make opening the strip club any easier, in accordance with the feelings that the City's residents had already made clear, and urged the City to "cross its t's and dot its i's."

The next speaker was resident Fane Lozman, who also asked why change the Ordinance now, when in his opinion the change would only impact future applications and not the existing one. He also offered the opinion that the City was fighting an expensive losing battle by trying to "zone out" any possibility of a strip club; questioned the decision making process; and claimed that newer studies on the secondary effects of strip clubs contradicted the studies that were being presented as justification for the Ordinance change.

The next speaker was Nancy Sonnett-Selwyn of 7512 Cutlass Avenue, who questioned whether the City was required to make a place for a strip club and observed that other municipalities in South Florida were in the process of restricting strip clubs.

3C Exhibit D(7)

The next speaker was Scott Greenwald of 1415 79th Street Causeway, who stated that the City had enacted an Ordinance that was quite specific in allowing an adult entertainment use in a specified area under specified conditions in obedience to the First Amendment of the Constitution, and urged the Board to uphold it.

The next speaker was Bunny Hart, a resident of the Lexi, who said that when considering constitutional rights, the rights of all the residents of this small town should also be considered, and their wish to not see a club like this across the street from where their children play.

The next speaker was George Piedra, a resident of Treasure Island, who was uncertain whether the changes to the Ordinance would make it easier or harder for a strip club to be approved, and urged that the opposition of the majority of the residents to the strip club be taken into consideration.

The Chair closed the public meeting at 8:55 P.M.

The Chair asked the City Attorneys if they had any comments to make, and City Attorney Susan Trevarthen advised the Chair that she would answer any questions posed by the Board.

The Chair commented that he had read the extensive report, and had compared both the first Ordinance and the amended one. He noted that he saw clarification on questions that he himself had asked regarding the original Ordinance. While language that he considered vague had been clarified, he saw no changes in the numbers for measurements.

The Chair brought forward to the City Attorney the questions of some of the residents as to the reason for changing the Ordinance now and the possible effect on the current events in the City.

City Attorney Susan Trevarthen stated that the Item was being brought forward by the City Manager, the Interim City Planner, and the City Attorney, as shown by the staff memo; and that all those departments recommended it for consideration. The Ordinance, she said, clarifies and improves, and she offered to respond further to more specific questions. The Chair felt he understood the staff report and had no further questions.

1.) Board Recommendation

The Chair, Reinaldo Trujillo, made a Motion to accept the changes to the Ordinance as written, and was seconded by Board member Bud Farrey. The votes were as follows: James Carter-Yes; Bud Farrey-Yes; Jorge Gonzalez-Yes; Reinaldo Trujillo-Yes. The Motion carried 4-0.

3c Exhibit D(8)

C. DISCUSSION REGARDING YOUTH SERVICES MASTER PLAN

Kevin Vericker, Chair of the Youth Services Board, took the podium to acquaint the Board with issues that the Youth Services Board had been addressing, and to discuss joining forces with the Planning & Zoning Board as had been suggested to him by City Manager Dennis Kelly. When the Planning & Zoning Board took up the review of the City's Recreation and Open Space Master Plan, Mr. Vericker suggested that youth services be considered and included; and noted that the City's demographics had shifted, creating more need for those services.

He pointed to the 2010 Census which showed that 20% of North Bay Village's population is under the age of 18; and of that group, the largest cohort is under the age of 8 years old. He felt that the implication of this was that, if they were to remain in the City, the children would be in need of places to go. Currently there were few options for them, as the City's small land area created limitations, the City's financial resources were constrained, and the local businesses were not geared toward children.

He explained that the Youth Services Board, since its revival last year, had taken some steps to address the needs of youth in the City, such as implementing background checks for volunteers working in a capacity that interacted with children; work on creating a directory of youth services available in the nearby area; exploration of the possibility of agreements with other cities to participate in their youth services programs, in which the Mayor had been active; and discussion regarding a Master Recreational Plan to systematically address the future needs of the City's children.

Kevin Vericker suggested that the planning that the Youth Services Board wished to undertake was best integrated into the City's development plans as a whole, and that perhaps an ad hoc committee could be formed to address youth services as an integrated part of the City's overall goals and plans.

The Chair had concerns about possible costs, and suggested first identifying those programs which are immediately possible for the City, as well as trying to attract more businesses to the City that offered services for children. The Chair offered the opinion that summer programs were the most important to have, and also felt that parents would need to contribute financially.

Board Member James Carter spoke in favor, and mentioned that he hoped that the discussions with Miami Beach would result in more access to programs for the children.

3C Exhibit D (9)

Kevin Vericker hoped the City would develop a longer term, strategic plan for addressing its youth services needs, and pointed out that teen-agers particularly lacked recreational options. He asked if he might have permission to report to the Youth Services Board that they would be able to send representatives attend Master Plan meetings, and the Chair agreed.

3. APPROVAL OF MINUTES

A. REGULAR MEETING – APRIL 17, 2012

1.) Board Recommendation

The Chair, Reinaldo Trujillo, made a Motion to approve the minutes of the regular meeting of May 29, 2012 as written; and was seconded by the Vice Chair, Jorge Gonzalez. The Motion carried with all in favor, 4-0.

4. ADJOURNMENT

The meeting was adjourned by the Chair, Reinaldo Trujillo, at 9:15 P.M.

Prepared and submitted by: Katharine Price
Clerical Assistant

Adopted by the Planning & Zoning Board on
this 27th *day of* June 2012

Reinaldo Trujillo

Reinaldo Trujillo, Chair

(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.)

3C Exhibit D(10)

CITY OF MIAMI BEACH, FLORIDA
NOTICE OF SPECIAL ELECTION
AUGUST 14, 2012

NOTICE IS HEREBY GIVEN that a Special Election has been called by the Mayor and City Commission of the City of Miami Beach, Florida, pursuant to City Resolutions 2012-27902 and 2012-27903, adopted on May 9, 2012, to be held in the City of Miami Beach, from 7:00 a.m. until 7:00 p.m. on Tuesday, August 14, 2012, at which time there shall be submitted to the duly registered and qualified voters of the City of Miami Beach the following official ballot questions:

QUESTION 1:
Allowing Up to One Percent Increase in Room Rent Portion of Resort Tax

Shall Section 5.03 of the Charter be amended to allow the Commission to increase, up to one percent, the resort tax on room rent, to expand, enlarge, renovate, and/or improve the Convention Center, including payment of debt service related thereto, and providing that the excess of such additional tax be used, after providing for payment of annual debt service and related obligations, to establish a Capital Renewal and Replacement Fund for the Center?

Permitir el Aumento hasta del Uno por Ciento en la Parte del Impuesto a los Complejos Turísticos Sobre el Alquiler de Habitaciones

¿Deberá enmendarse la Sección 5.03 de la Carta Constitucional a fin de permitir que la Comisión aumente, hasta el uno por ciento, el impuesto a los complejos turísticos sobre el alquiler de habitaciones, para extender, agrandar, renovar o realizar mejoras en el Centro de Convenciones, incluido el pago del servicio de deuda relacionado con ello, y proveer que el excedente de dicho impuesto adicional se emplee, tras el pago del servicio de deuda anual y las obligaciones relacionadas, para establecer un Fondo de Renovación y Reemplazo de Capital para el Centro?

Pèmèt Ogmantasyon Jiska Yon Pousan nan Pòsyon Taks Sejou sou Lwaye Chanm yo

Èske se pou yo amande Seksyon 5.03 Konstitisyon an pou pèmèt Komisyon an ogmante, jiska yon pousan, taks sejou sou lwaye chanm yo, pou devlope, agrandi, renove, ak/oswa amelyore Sant Konvansyon an, ki gen ladan peman pou sèvis dèt ki an rapò yo, epi etabli ke nenpòt lajan ki rete nan taks adisyonèl sila fèt pou itilize, apre yo fin prevwa lajan pou kouvri peman sèvis dèt anyèl la ak lòt obligasyon ki an rapò yo, pou etabli yon Fon Renouvèlman ak Ranplasman Kapital pou Sant la?

YES/SÍ/WI 502
NO/NO/NON 503

QUESTION 2:
Majority of Members of City Commission May Call Special Meetings

Shall Section 2.04 of the Miami Beach Charter be amended to provide that, in addition to being called by the Mayor or City Manager, special meetings of the City Commission may be called by a majority of the members of the Commission upon written notice to the City Clerk and in accordance with the procedures set forth in a resolution of the City Commission?

La Mayoría de los Miembros de la Comisión de la Ciudad Puedan Convocar Reuniones Extraordinarias

¿Deberá enmendarse la Sección 2.04 de la Carta Constitucional de Miami Beach a fin de proveer que, además del Alcalde o el Administrador de la Ciudad, la mayoría de los miembros de la Comisión puedan convocar reuniones extraordinarias de la Comisión de la Ciudad mediante un aviso por escrito al Secretario de la Ciudad y conforme al procedimiento establecido en una resolución de la Comisión de la Ciudad?

Majorite Manm Komisyon Vil la Kapab Konvoke Reyinyon Espesyal

Èske se pou yo amande Seksyon 2.04 Konstitisyon Miami Beach la pou etabli ke, anplis de Majistra oswa Manadjè Vil la ki ka konvoke reyinyon espesyal Komisyon Vil la yo, reyinyon sila yo ka konvoke tou pa yon majorite manm Komisyon an avèk yon avi alekri adrese a Grefye Vil la epi an akò ak pwosedi ki etabli nan yon rezolisyon Komisyon Vil la?

YES/SÍ/WI 504
NO/NO/NON 505

The Special Election will be conducted in accordance with the applicable provisions of the Florida Statutes and the Charter and Code of the City of Miami Beach, Florida. Copies of Resolutions 2012-27902 and 2012-27903 are available at the City Clerk's Office and online at http://web.miamibeachfl.gov/cityclerk/elections/scroll.aspx?id=31214

All qualified electors of the City of Miami Beach may vote YES or NO on these proposals.

Ad No. 710

MIAMIBEACH

Rafael E. Granado, City Clerk
City of Miami Beach, Florida

CITY OF NORTH BAY VILLAGE
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, WILL HOLD A SPECIAL MEETING ON **WEDNESDAY, JULY 25, 2012** AT 7:00 P.M., OR AS SOON AS POSSIBLE THEREAFTER, IN THE CITY COMMISSION CHAMBERS AT 1700 KENNEDY CAUSEWAY, #132, NORTH BAY VILLAGE, FLORIDA. DURING THIS MEETING THE CITY COMMISSION WILL CONSIDER THE FOLLOWING:

1. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING" BY REVISING SECTION 152.111 PERTAINING TO ADULT ENTERTAINMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*
2. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, CREATING CHAPTER 119 OF THE CODE OF ORDINANCES PERTAINING TO ADULT ENTERTAINMENT LICENSING AND BUSINESS REGULATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*
3. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 35 "TAXATION AND FINANCE," OF THE CITY CODE OF ORDINANCES TO REVISE THE REQUIREMENTS AND PROCEDURES RELATED TO GENERAL AND ENTERPRISE FUND RESERVES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*
4. AN APPLICATION BY SOTREZA, LLC CONCERNING PROPERTY LOCATED AT 7800 HISPANOLA AVENUE (FORMERLY USED AS A TEMPLE), LOTS 1&2 & E1/2 LOT 3, BLOCK 1, COMMERCIAL ADDITION TO TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA AS FOLLOWS:
   A. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C) (9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE OPERATION OF A PRE-SCHOOL/DAY CARE CENTER. *(FINAL PUBLIC HEARING)*
5. AN APPLICATION BY ZF DEVELOPMENT, LLC, CONCERNING PROPERTY LOCATED AT 8000 WEST DRIVE, TRACT C OF HARBOR ISLAND NORTH BAY VILLAGE, FLORIDA IN CONNECTION WITH THE DEVELOPMENT OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT FOR THE FOLLOWING:
   A. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE CONSTRUCTION OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT ON A 4.47+ ACRE SITE. *(FINAL PUBLIC HEARING)*

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT, OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE CITY COMMISSION C/O THE CITY CLERK, 1700 KENNEDY CAUSEWAY, #132, KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FL 33141.

THE DOCUMENTS PERTAINING TO THIS PUBLIC HEARING MAY BE INSPECTED AT THE OFFICE OF THE CITY CLERK DURING REGULAR BUSINESS HOURS. INQUIRIES MAY BE DIRECTED TO THAT DEPARTMENT AT (305) 756-7171.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES IF ANY PERSON DECIDES TO APPEAL ANY DECISION BY THE CITY COMMISSION WITH RESPECT TO THIS OR ANY MATTER CONSIDERED AT ITS MEETING OR ITS HEARING, SUCH PERSON MUST ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDING, PLEASE CONTACT (305) 604-2489 (VOICE), (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

YVONNE P. HAMILTON, CMC
CITY CLERK
July 12, 2012

3 D(4)

CITY OF NORTH BAY VILLAGE
MEMORANDUM

DATE: July 25, 2012

TO: Mayor and City Commission Members

FROM: Dennis Kelly, City Manager
Jim LaRue, Interim City Planner
Susan L. Trevarthen, City Attorney's Office
Kathryn M. Mehaffey, City Attorney's Office

SUBJECT: Business Regulations for Adult Entertainment Establishments (Creating Chapter 119 of the Code of Ordinances)

The attached proposed Ordinance, Exhibit A (the "Ordinance"), is for public hearing and your review and adoption on second reading. It creates business regulations for adult entertainment establishments, which are allowed to be established in the City pursuant to the zoning regulations found in Chapter 152.111. This Business Regulation Ordinance provides for licensing for adult entertainment establishments and for application requirements and procedures, as well as structural and operational criteria for approval and maintenance of such licenses consistent with all controlling laws.

I. Background

Adult entertainment establishments have limited protection under the freedom of expression clause of the First Amendment of the United States Constitution, because courts have concluded that "adult entertainment" includes an element of expression or speech. The United States Supreme Court has determined that adult entertainment establishments may be regulated by "content-neutral" regulations. A content-neutral regulation does not regulate the actual speech, but instead regulates the secondary effects associated with the speech. This Ordinance balances the legitimate governmental purposes of the City against the above-described constitutional rights, by imposing incidental, content-neutral place, time, and manner business regulations of adult entertainment establishments.

II. Proposed Regulations

3D(1)

The City currently provides extensive business regulations, generally and for specific businesses, in Title XI, Business Regulations, Chapters 110-118. The proposed Ordinance creates Chapter 119, Adult Entertainment Establishments, to provide content neutral regulations requiring a business license for all adult entertainment establishments and guiding the development and operation of such establishments.

The location of these uses, and process and requirements for approval of locations, are addressed separately through zoning regulations in Chapter 152.111, also before you on this agenda.

The attached Ordinance provides purpose, findings and authority as well as definitions, including a number of definitions that were relocated from Chapter 152.111 of the zoning code because they are primarily used in this Chapter. The Ordinance comprehensively identifies and defines the different types of adult entertainment establishments which are regulated by and require licenses under this Chapter. Application requirements, review processes, and approval and enforcement procedures are also established.

The Ordinance extensively regulates the operations of adult dancing establishments and other adult entertainment establishments:

1. Maximum hours of operation;
2. Prohibition of alcoholic beverage sales, service, and consumption;
3. Minimum lighting and seating;
4. Minimum separations between the dancer and the patron;
5. Standards for furnishings and floor plan to assure the effectiveness of cleaning and monitoring for criminal activity;
6. Minimum attire (no full nudity);
7. Security requirements; and
8. Other prohibited activities.

These regulations address important governmental interests such as preventing the spread of diseases, avoiding opportunities for prostitution, sex crimes, drug and other offenses, preventing those who have previously been convicted of crimes related to these businesses from reestablishing them in another community, protecting the ability of police to effectively inspect and monitor all areas of the business operation as needed, and protecting patrons, as discussed in greater detail in the various studies.

3 D(2)

Section 119.01(b) of the proposed Chapter lists the governmental studies which serve as evidence and testimony in support of the City's substantial government interest in adopting the business regulations ordinance and analyze the negative secondary effects of sexually-oriented businesses on the community. Due to their voluminous nature, copies of the studies have been provided for your review only as part of the companion agenda item establishing zoning regulations for adult entertainment establishments (See Exhibit C to Agenda Item 11.D.) However, they should also be reviewed and relied upon as a basis for this Ordinance, as detailed in the cover memorandum summarizing each study provided here as Exhibit B.

Attachments:
Exhibit A: Business Regulation Ordinance, for second reading
Exhibit B: Memorandum re Studies
Exhibit C: Studies – See Exhibit C to Agenda Item 11.D.

3D(3)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, CREATING CHAPTER 119 OF THE CODE OF ORDINANCES PERTAINING TO ADULT ENTERTAINMENT LICENSING AND BUSINESS REGULATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. *(INTRODUCED BY CITY COMMISSIONER RICHARD CHERVONY, CITY MANAGER DENNIS KELLY, AND CITY ATTORNEYS SUSAN TREVARTHEN AND KATHRYN MEHAFFEY)*

WHEREAS, the City Commission of the City of North Bay Village (the "City") recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the City's regulations are current and consistent with the needs of the City and the requirements of Florida and federal Law; and

WHEREAS, the City Commission desires to provide adult entertainment business regulations pursuant to the City's home rule powers; and

WHEREAS, the City Commission relies upon the evidence and testimony presented before the City Commission, and on the findings incorporated in the following studies to support the modifications made by this Ordinance:

(1) The "Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas);

(2) The "Crime-Related Secondary Effects – Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas);

(3) "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California);

3D Exhibit A (1)

(4) "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio);

(5) "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City Attorney's Office, Denver, Colorado (January 1998);

(6) "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997);

(7) "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996);

(8) "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996);

(9) "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994);

(10) The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado);

(11) "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); and

(12) "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005; and

WHEREAS, based on the evidence and testimony which has been presented to the City Commission, and based upon the findings provided in the studies above, the City Commission finds that there is convincing documented evidence that Adult Entertainment Establishments, because of their very nature, have deleterious effects on existing and future business establishments and residential areas, causing increased crime and the deterioration of property values; and

3D Exhibit A (2)

WHEREAS, the City Commission finds that Adult Entertainment Establishments, because of their very nature, have serious objectionable operational characteristics; and

WHEREAS, the City Commission finds that the regulation of the location and operation of Adult Entertainment Establishments is necessary to prevent undesirable adverse secondary impacts on surrounding areas; and

WHEREAS, the City Commission desires to minimize and control these adverse secondary impacts and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of adjacent areas; and deter the spread of blight; and

WHEREAS, the City Commission, although concerned about these adverse secondary impacts, upholds constitutionally protected speech and expression and does not desire to infringe on or censor constitutionally protected speech and expression; and

WHEREAS, the City Commission desires to enact a content neutral ordinance that addresses only the adverse secondary impacts of Adult Entertainment Establishments; and

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

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

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

3 D Exhibit A(3)

Section 2. **City Code Amended.** That Chapter 119 "Adult Entertainment Establishments," of the City of North Bay Village Code of Ordinances is hereby created to read as follows:[1]

CHAPTER 119. ADULT ENTERTAINMENT ESTABLISHMENTS.

ARTICLE I. ADULT ENTERTAINMENT LICENSING.

Section 119.01 – Purpose, Findings and Authority.

(a) *Purpose.* In the development and enforcement of this chapter, it is recognized that there are adult entertainment uses which, because of their very nature, are recognized as having serious objectionable characteristics, particularly when several of them are concentrated in any given location thereby having a deleterious effect upon the adjacent business and residential areas. It is desirable, therefore, to protect the well-being of the youth of the City from objectionable operational characteristics of these adult entertainment uses by locating adult oriented activities away from residential areas and public facilities used frequently by minors such as schools, religious facilities, parks, libraries, playgrounds and day care centers. The City finds that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied, and encourages criminal sexual behavior.

In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor the effect of this chapter to:

(1) inhibit freedom of speech or the press;

(2) impose a limitation or restriction on the content of any communicative materials, including sexually oriented materials;

(3) restrict or deny access by adults to sexually oriented materials protected by the First Amendment; or

(4) deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

[1] All text is new. Additions to the new text since the draft was provided (for informational purposes only) to the Planning and Zoning Board are shown in underline; deletions from the new text since the draft was provided to the Planning and Zoning Board are shown in ~~strikethrough~~.

3 D Exhibit A(4)

This chapter balances the legitimate governmental purposes of the City against the above-described constitutional rights, by imposing incidental, content-neutral place, time, and manner regulations of adult entertainment establishments without limiting alternative avenues of communication. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this chapter.

(b) *Findings.* Based on the evidence and testimony presented before the City Commission and on the findings incorporated in (i) "Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas); (ii) "Crime-Related Secondary Effects – Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas); (iii) "Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California); (iv) "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio); (v) "A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City Attorney's Office, Denver, Colorado (January 1998); (vi) "Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997); (vii) "Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996); (viii) "Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996); (ix) "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994); (x) The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado); (xi) "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986); (xii) "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005, the City Commission finds as follows:

(1) Establishments exist or may exist within the city where books, magazines, motion pictures, videos, prints, photographs, periodicals, records, novelties, and devices that depict, illustrate, describe, or relate to specified sexual activities are possessed, displayed, exhibited, distributed, and sold.

(2) Establishments exist or may exist within the city where:

(a) The superficial tissues of one person are manipulated, rubbed, stroked, kneaded, or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;

3D Exhibit A(5)

(b) Dancers, entertainers, performers, or other individuals, who, for forms of commercial gain, perform or are presented while displaying or exposing specified anatomical areas; or

(c) Lap dancing occurs.

(3) The activities described in subsections (1) and (2) occur at establishments for the purpose of making a profit and, as such, are subject to regulation by the city in the interest of the health, safety, and general welfare of city residents.

(4) The competitive commercial exploitation of such nudity and seminudity is adverse to the public's interest, quality of life, tone of commerce, and total community environment.

(5) The commercial exploitation of nudity and seminudity consists of the use of nude and seminude entertainment in connection with or for the promotion of the sale of goods or services, and the receipt of money by the person engaging in nude or seminude entertainment in exchange for or as consideration for nude or seminude performance by such individuals.

(6) The commercial exploitation of nude and seminude acts, exhibitions, and nude entertainment occurs frequently at commercial establishments either selling or allowing consumption of alcoholic beverages on the premises.

(7) There is a direct relationship between the consumption of alcoholic beverages and the nude and seminude activities mentioned above, and an increase in criminal activities, disturbances of the peace and good order of the community. The occurrence of these activities is hazardous to the health and the safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole.

(8) The combination of the sale and consumption of alcoholic beverages with the performance of nude and seminude acts, exhibitions and entertainment is adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the city.

(9) To promote and preserve the public peace and good order and to safeguard the health, safety, and welfare of the community and its citizens, it is necessary and advisable for the city to prohibit nude and seminude acts, exhibitions, and entertainment establishments at which alcoholic beverages are, or are available to be, sold or consumed.

3 D Exhibit A(6)

(10) To preserve the public peace and good order, and to safeguard the health, safety, and welfare of the community and its residents, it is necessary and advisable to regulate and restrict the conduct of owners, operators, agents, employees, entertainers, performers, patrons, spectators, and persons on the premises of the commercial establishment subject to this chapter.

(11) There is a direct relationship between the display or depiction of specified anatomical areas as defined in this chapter and an increase in criminal activities and disturbances of the peace and good order of the community, and the occurrence of these activities is hazardous to the health and safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole. These secondary effects are adverse to the public's interest and quality of life, tone of commerce, and total community environment in the city.

(12) When the activities described in subsections (1) and (2) take place in establishments within the city, other activities that are illegal or unhealthy tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, solicitation for prostitution, lewd and lascivious behavior, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property.

(13) When the activities described in subsections (1) and (2) are present in establishments within the city, they tend to blight neighborhoods, adversely affect neighboring businesses, lower property values, foster an atmosphere that promotes crime, and ultimately lead residents and businesses to move to other locations.

(14) Physical contact between employees exhibiting specified anatomical areas and customers within establishments at which the activities described in subsections (1) and (2) occur poses a threat to the health of both and may lead to the spread of communicable, infectious, and social diseases.

(15) To preserve and safeguard the health, safety, and general welfare of the people of the city, it is necessary and advisable for the city to regulate the conduct of owners, managers, operators, agents, employees, entertainers, performers, and customers at establishments where the activities described in subsections (1) and (2) occur.

(16) The potential dangers to the health, safety, and general welfare of the residents of the city from the activities described in subsections (1) and (2) occurring at establishments without first obtaining a license under this chapter are so great as to require the licensure of such establishments before they are permitted to operate.

(17) "Lap dancing" does not contain an element of communication, and is therefore conduct rather than expression.

3D Exhibit A(7)

(18) "Lap dancing" in establishments poses a threat to the health of the participants and promotes the spread of communicable, infectious, and social diseases.

(19) Adult entertainment establishments are frequently used for unlawful and unhealthy sexual activities, including prostitution and sexual liaisons of a casual nature.

(20) The concern over sexually transmitted diseases is a legitimate health concern of the city that demands reasonable regulation of adult entertainment establishments in order to protect the health and well-being of the citizens.

(21) The prevention of sexual contact between patrons and employees at adult dancing establishments is unrelated to the suppression of free expression, but serves to address the concerns raised in the findings contained in this chapter. Although the dancer's erotic message may be slightly less effective from four (4) feet away, the ability to engage in the protected expression is not significantly impaired.

(22) Separating dancers from patrons, and prohibiting dancers and patrons from engaging in sexual fondling and caressing in adult dancing establishments, would reduce the opportunity for prostitution transactions and thus should help to deter prostitution.

(23) To preserve and safeguard the health, safety, and general welfare of the people of the city, it is necessary and advisable for the city to obtain sufficient information regarding the owners of establishments where the activities described in subsections (1) and (2) occur in order to preclude the involvement of organized crime.

(24) Removal of doors on adult booths and requiring sufficient lighting in adult theaters advances the substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring at adult theaters.

(25) Requiring that the facilities of adult theaters be constructed of materials that are easy to clean, that the facilities be cleaned on a regular basis, and that the employees cleaning the facilities take reasonable precautions to avoid contact with possible disease-transmitting media is reasonably related to the protection of both employees and patrons from sexually transmitted diseases.

(26) Licensing is a legitimate, reasonable means of accountability to ensure that operators of adult entertainment establishments comply with the reasonable regulations within this chapter and the location requirements of the Zoning Code, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

(c) *Authority.* This chapter is enacted pursuant to the City's home rule power to enact regulations to protect the public health, safety, and general welfare of the residents of the city; F.S. § Ch. 163 and Ch. 166; and the city's authority to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment of the Constitution of the United States.

Section 119.02 – Definitions.

3D Exhibit A (8)

Adult Bookstore/Adult Video Store. Shall mean an adult entertainment establishment which offers adult material for sale or rent for commercial gain, or having such materials as a substantial percentage or significant portion of its sale or stock in trade, or an establishment with a substantial or significant portion or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, or actual sales. A substantial or significant portion of its stock in trade shall be deemed to occur when: (1) twenty-five (25) percent or 400 square feet (whichever is less) of the floor area of the establishment contains the items listed above; or (2) the items listed above comprise at least twenty-five (25) percent of the value of the stock in trade of the establishment.

Adult Booth. Shall mean a small enclosed or partitioned area inside an adult entertainment establishment which is:

(1) Designed or used for the viewing of adult material by one (1) or more persons; and
(2) Accessible to any person, regardless of whether a fee is charged for access.

The term "adult booth" includes but is not limited to a "peep show" booth, or other booth used to view "adult material." The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, or a restroom.

Adult dancing establishment. Shall mean an adult entertainment establishment wherein performers or employees of the establishment display or expose to others specified anatomical areas as defined in this chapter, regardless of whether the performer or employee so exposed is actually engaging in dancing.

Adult domination/submission parlor. Shall mean an adult entertainment establishment specializing in bondage, sadomasochism, humiliating activities or other similar activities which depicts, describes or relates to the "specified sexual activities" or "specified anatomical areas," as defined below.

Adult entertainment. Shall mean any action intended to amuse which is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing or less than completely and opaquely covering specified anatomical areas, or similar activities.

3 D Exhibit A(9)

Adult entertainment establishment. Shall mean:

(1) Any adult arcade, adult theater, adult bookstore/adult video store, adult modeling establishment, adult motel, encounter studio, or adult dancing establishment as these uses are defined in this Chapter; or any other establishment or business operated for commercial gain where any employee, operator or owner exposes his or her specified anatomical area for viewing by patrons, including but not limited to massage establishments, whether or not licensed pursuant to Chapter 480, Florida Statutes, tanning salons, modeling studios, or lingerie studios.

(2) Any establishment where an action is taken which is intended to amuse and which is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas or which features topless dancers, exotic dancers, strippers, male or female impersonators, the modeling of clothing revealing, or less than completely and opaquely covering, specified anatomical areas, or similar activities.

(3) An adult entertainment establishment shall include the entire site ~~or premises~~ on which the adult entertainment establishment is located, including the exterior and interior of the establishment, or any portion thereof, upon which the activities or operations described in subsection (1) and (2) above are being conducted for commercial gain.

(4) Excluded from this definition are any educational institutions, as defined herein, where the exposure of specified anatomical areas is associated with a curriculum or program.

(5) An establishment that possesses an adult entertainment license is presumed to be an adult entertainment establishment.

Adult material. Shall mean any one (1) or more of the following, regardless of whether it is new or used:

(1) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, slides, or other visual representations; recordings, other audio matter; and novelties or devices which have as their primary or dominant theme subject matter depicting, exhibiting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or

(2) Instruments, novelties, devices or paraphernalia that are designed for use in connection with specified sexual activities.

3 D Exhibit A (10)

Adult modeling establishments. Shall mean any establishment offering nude or partially nude modeling sessions or lingerie, swimwear, or photography modeling sessions between two (2) or more persons or private modeling sessions between two (2) or more persons requiring the exclusion of minors pursuant to Chapter 847, Florida Statutes.

Adult motel. Shall mean a hotel, motel, boarding house or rooming house or other place of temporary lodging presenting adult material by means of closed circuit television, for observation by patrons therein.

Adult theater/Adult movie theater. Shall mean an enclosed building used for presenting adult materials for observation by patrons or any material which may not be exposed to minors under F.S. Ch. 847. An establishment which has adult booths is considered to be an adult theater. Theaters designed to allow the outdoor viewing of adult material are not permitted.

Educational institution. Shall mean any premises or site upon which there is an institution of learning, whether public or private, which conducts regular classes, courses of study, or both, required for accreditation by or membership in the State Department of Education of Florida, Southern Association of Colleges and Secondary Schools, or the Florida Council of Independent Schools. This term also includes art galleries and museums open to the public; or other accredited special institutions of learning.

Establishment. Shall mean the site or premises on which the adult entertainment establishment is located, including the interior of the establishment, or portion of it, upon which certain activities or operations are being conducted for commercial gain.

Encounter studio. Shall mean all establishments offering nude or partially nude encounter sessions between two (2) or more persons, nude dance/photo sessions, or sexual consultations, which have as their dominant or primary theme matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein or requiring the exclusion of minors pursuant to Chapter 847, Florida Statutes.

Lap dance or lap dancing. Also known as a "straddle dance," "face dance," "friction dancing," or "flash dance," shall mean the use by an employee, whether clothed or partially or totally nude, of a part of his or her body to touch, massage, rub, stroke, caress, or fondle the genital or pubic area of a person while at the establishment, or the touching of the genital or pubic area of an employee by a person while at the establishment. It shall be a "lap dance" regardless of whether the "touch" or "touching" occurs while the employee is displaying or exposing a specified anatomical area. It shall also be a "lap dance" regardless of whether the "touch" or "touching" is direct or through a medium. However, incidental touching shall not constitute lap dancing.

Licensed premises. See "Establishment."

3D Exhibit A(11)

Massage establishment. Shall mean:

(1) Any shop, parlor, establishment or place of business wherein all of any one (1) or more of the following named subjects and methods of treatments are administered or practiced: body massage either by hand or by any mechanical or electrical apparatus or device (excluding fever therapy), apply such movements as stroking, friction, rolling, vibration, kneading, cupping, petrissage, rubbing, effleurage, or tapotement.

(2) Provided, however, that, for the purpose of this chapter, the terms "massage establishment" shall not include any massage establishment wherein at least one (1) state licensed massage therapist is employed and on duty full time during the hours opened for business.

(3) Nothing in this chapter shall be construed as applying to state licensed massage therapist, barbers, cosmetologists, manicurists, pedicurists, physical therapists' assistants, midwives, practical nurses, agents, servants of employees in licensed hospitals or nursing home or other licensed medical institutions, licensed physicians, osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners, or their agents, or employee acting in the course of such agency, service or employment under the supervision of the licensee.

Nude entertainment establishment. Shall mean any establishment which features male or female entertainers, performing in a state of full nudity, displayed in a setting, section, stage or cubicle within a business, which has as its principal or incidental purpose the offering for viewing to adults of performances which have as their dominant or primary theme matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below.

Full nudity. Shall mean the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.

Patron. Shall mean any natural person other than an employee, operator, licensee, or governmental officer while such persons are performing duties pursuant to this Code or other law.

3 D Exhibit A(12)

Principal stockholder. Shall mean an individual, partnership or corporation that owns or controls, legally or beneficially, thirty-three (33) percent or more of a corporation's capital stock and includes the officers, directors and principal stockholders of a corporation that is a principal stockholder under this chapter; provided, that if a corporation is registered with the Securities and Exchange Commission or pursuant to Chapter 517, Florida Statutes and its stock is for sale to the general public, it shall not be considered to have any principal stockholders.

Private performance. Shall mean the display or exposure of any specified anatomical area by an employee of an adult entertainment establishment to a person other than another employee, while the person is in an area not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons outside the area.

Regulated use or adult entertainment establishment. Shall include, but not be limited to, the following:

(1) Adult bookstore/adult novelty store/adult video store;
(2) Adult dancing establishment;
(3) Adult domination/submission parlor;
(4) Adult theater/adult movie theater;
(5) Adult motel;
(6) Encounter studio/modeling studio;
(7) Massage establishment; and
(8) Any bookstore, video store, motion picture theater, motel/hotel, dancing establishment, massage establishment, or photo or modeling studio: (a) that includes the word "adult" in its name; (b) where an employee, operator, or owner exposes his or her specified anatomical area for viewing by patrons; or (c) that requires the exclusion of minors under Chapter 847, Florida Statutes, shall be considered a regulated use.

Specified anatomical areas. Shall mean:

(1) Less than completely and opaquely covered:

a. Human genitals and pubic region; or
b. Cleavage of the human buttocks; or
c. That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola, including the areola; this definition shall include the entire lower portion of the human female breast, but shall not include a portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not so exposed; and

3 D Exhibit A (13)

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified criminal offense. Shall mean:

(1) A conviction under F.S. § 60.05 (Nuisance Abatement);
(2) A conviction under F.S. Ch. 480 (Massage Practice);
(3) A conviction under F.S. Ch. 561 (Beverage Law: Administration) or F.S. Ch. 562 (Beverage Law: Enforcement); or
(4) A judgment against or conviction under F.S. Ch. 823 (Public Nuisances).

Specified sexual activities. Shall mean:

(1) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
(2) Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sexual intercourse or sodomy; or
(3) Fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast; or
(4) Excretory functions as part of or in connection with the activities set forth in subsections (1)—(3).

Section 119.03 - Adult entertainment license.

(a) No adult entertainment establishment shall be allowed to operate without first having been issued an adult entertainment license by the City Clerk pursuant to this chapter.

(b) Adult entertainment licenses referred to in this chapter shall be licenses limited to the following classifications:

(1) Adult bookstore /adult video store;
(2) Adult theater/adult movie theater;
(3) Adult dancing establishment;
(4) Adult domination/submission parlor;
(5) Adult motel;
(6) Encounter studio/modeling studio;
(7) Massage establishment; or
(8) Any other adult use as defined in this chapter.

(c) No adult entertainment license shall be issued to a nude entertainment establishment, or any establishment engaging in any display of full nudity.

(d) An adult entertainment license for a particular adult entertainment establishment shall be limited to one (1) classification of license.

(e) An adult entertainment establishment may hold more than one (1) classification of adult entertainment license.

3 D Exhibit A (14)

Section 119.04 - Administration.

The ultimate responsibility for the administration of this chapter is vested in the City Commission. Several agencies have been delegated responsibility pursuant to the provisions outlined in this chapter:

(1) The City Clerk or designee shall be the "business licensing section" responsible for issuing the official notice of the grant, denial, revocation, renewal, suspension, or cancellation of adult entertainment licenses for existing or proposed adult entertainment establishments.

(2) The Chief of Police is responsible for verifying information contained in an application for an adult entertainment license by means of a criminal background check, and for inspecting a proposed, licensed, or unlicensed establishment in the city in order to ascertain whether it is in compliance with applicable articles and criminal statutes, and for enforcing applicable ordinances and criminal statutes, including those provisions set forth in articles this Chapter and in Section 152.111 of this Code.

(3) The building official is responsible for inspecting a proposed establishment for which a license is being applied in order to ascertain whether it complies with or is complying with article II of this chapter and all applicable building codes, statutes, ordinances, and regulations in effect in the city. The building official shall compare and certify that all aspects of the submitted floor plan, site plan, and certified survey accurately depict the actual structure, and comply with the provisions of this chapter.

(4) The fire department is responsible for the inspection of licensed premises or a proposed establishment to ascertain whether it complies with or is complying with Article II of this chapter and all applicable fire codes, statutes, ordinances, and regulations in effect in the city.

(5) The City Planner is responsible for ascertaining whether a proposed establishment for which a license is being sought complies with section 152.111 of the City Code, the applicable portions of article II, and all applicable zoning regulations in effect in the city, and whether a licensed establishment is complying with section 152.111 of the City Code, Article II of this chapter, and all applicable zoning regulations and land use laws in effect in the city.

(6) Any employee of the agencies referenced in subsections (2) through (5) above who is authorized by the person in charge of the agency shall at any reasonable hour, when the agency has reasonable cause to believe that a violation of this chapter may exist, have access to and shall have the right to inspect the premises of all licensees under this chapter for compliance with any or all of the applicable codes, statutes, ordinances, and regulations in effect in the city and within the responsibilities of their respective agencies as outlined in this chapter.

Section 119.05 - Application.

(a) *Filing.* A person desiring to operate an adult entertainment establishment shall file with the business licensing section a sworn license application on a standard application form supplied by the business licensing section.

(b) *Contents.* The application shall contain the following information and shall be accompanied by the following documents:

3 D Exhibit A (15)

(1) If the applicant is:

a. An individual, his or her legal name, aliases, and date of birth, driver's license number or a state or federally issued identification card number;

b. A partnership, the full and complete name of the partners, dates of birth, driver's license numbers or state or federally issued identification card numbers of all partners, and all aliases used by all of the partners, whether the partnership is general or limited, and, if in existence, a copy of the partnership agreement; or

c. A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, driver's license numbers or state or federally issued identification card numbers of all officers, directors and principal stockholders, and all aliases used, the capacity of all officers, directors, and principal stockholders, and, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process; and

(2) The application shall list the current local and legal domiciliary residential addresses of all individual applicants, partners in a partnership application, and the principal stockholders of a corporate applicant; for purposes of this subsection, principal stockholders are natural persons and not corporate or other legal entities; when the principal stockholder is a corporate or other legal entity, the application must trace back the ownership through layers of corporate organization to the eventual principal stockholder who is a natural person; and

(3) If the applicant intends to conduct business under a name other than that of the applicant, the applicant shall state the establishment's fictitious name and the county of registration under F.S. § 865.09, all legal names, dates of birth, addresses and all aliases used by all owners; and

(4) Whether the applicant, or other individuals listed pursuant to subsection (1) above, has within the five-year period immediately preceding the date of the application, ever been convicted of a specified criminal offense and, if so, the specified criminal act involved, the date of conviction, and the place of conviction; and

(5) Whether the applicant, or other individuals listed pursuant to subsection (1) above, has (a) had a previous license issued under this chapter suspended or revoked, or by court order, been required to cease operation, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation, and (b) whether the applicant, or any other individuals listed pursuant to subsection (a), has been a partner in a partnership or an officer, director or principal stockholder of a corporation whose license issued under this chapter has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation; and

3 D Exhibit A (16)

(6) Whether the applicant, or other individuals listed pursuant to subsection (1) above, holds other licenses under this chapter and, if so, the names and locations of such other licensed establishments; and

(7) The single classification of license for which the applicant is filing and the general nature of adult use for which the applicant is seeking a license, including a statement concerning the degree to which the anticipated activities at the adult entertainment establishment meet the definitions of the enumerated adult use classifications listed in the definitions section (section 119.02); such characterization shall serve as an initial basis for the permitted activities allowed under the license issued as well as a basis for the fee charged; and

(8) The location of the proposed establishment, including a legal description of the property site, and a legal street address; and

(9) The names of all employees, dates of birth, and aliases used for the proposed establishment, if known, or, if currently unknown, a statement to that effect; and

(10) The applicant's mailing address, residential address and residential telephone number (if any); and

(11) A site plan and certified survey drawn to appropriate scale of the proposed establishment including, but not limited to, all property lines, rights-of-way, and the location of buildings, parking areas and spaces, curb cuts, and driveways and shall state and indicate on the survey that the distance and location requirements of section 152.111.04 have been satisfied; and

(12) A floor plan drawn to appropriate scale of the proposed establishment including, but not limited to:

a. All windows, all doors, all entrances and exits; and

b. Proposed seating arrangement; and

c. All fixed structural interior features including, but not limited to, doors, aisles, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, counters, platforms, and similar structures; and

d. All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size; and

(13) The name, address and phone number of the person whom the building official should contact to schedule the inspection; and

(14) The phone number and address of the existing or proposed establishment; and

(15) The name, phone number and address of the manager; and

(16) A detailed security plan;

3 D Exhibit A (17)

(17) A notarized, signed, and sworn statement that the information within the application is truthful, independently verifiable, and complete and that the photocopies of the attached driver's licenses or state or federally issued identification cards are true and correct copies of the originals.

(c) *Copies.*

(1) In addition to the requirements of subsection (b) above, the applicant shall supply a minimum of five (5) copies of the application, or more as may be required, to the business licensing section.

(2) An application shall not be considered complete until the application satisfies the requirements of subsection (b) and subsection (c)(1) above.

(d) *Application fee.* Each application shall be accompanied by a nonrefundable fee to be set by resolution of the City Commission to recoup the costs related to administering the licensing program. If the application for a license is approved and a license is granted, half of the application fee shall be applied as a credit towards the annual license fee required for the first year pursuant to subsection 119.08(f).

(e) *Rejection of application.* In the event the business licensing section is notified by one of the agencies listed in subsections 119.04(2) through (5) above, that the applicant has not satisfied the application requirements for a proposed establishment, the applicant shall be notified of such fact within the time frame specified in this chapter, with a detailed list of reasons, and the application shall be denied.

Section 119.06 - Investigation of application.

(a) Upon receipt of a complete application filed properly with the business licensing section and upon payment of the nonrefundable application fee, the business licensing section shall send the attached photocopies of the application to the Police Chief, the fire department, building official, and City Planner. Each agency shall ~~promptly~~ conduct an investigation of the applicant and the proposed establishment in accordance with its responsibilities outlined in Article II of this chapter. At the conclusion of its investigation, each agency shall indicate on the photocopy of the application whether the application satisfies each requirement of this chapter, and shall date and sign the application.

(b) Any of the foregoing reviewers shall recommend denial of an application upon finding that the proposed establishment will be in violation of a provision of article II or of any building, fire, or zoning code, statute, ordinance or regulation. If the application fails to satisfy this Code or any building, fire or zoning code, statute, ordinance or regulation, the reviewer shall state specifically its reasons, on a separate letter attached to the photocopy of the application.

3D Exhibit A (18)

Section 119.07 - Administrative review.

(a) The reviewers shall conduct and complete an investigation of the application within twenty-one (21) days of receipt of the application. If a provision of this chapter, any building, fire, zoning, or any other applicable code, statute, ordinance or regulation is found to be applicable to the applicant who is in violation of any such provisions, the respective reviewer shall notify the business licensing section of the violation, state the reasons, and offer suggestions for correction. Upon receipt of notice of a violation from a reviewer, the business licensing section shall wait until day twenty-one (21) for the review from the other agencies. Then, the business licensing section shall notify the applicant of the denial. All communications regarding approval or denial shall be issued by and through the business licensing section. Oral statements issued directly or independently by the reviewers shall not be deemed to create a reliance or estoppel situation as to the provisions of this chapter.

(b) The business licensing section shall issue or deny an application for an adult entertainment license within forty (40) days from the date of the filing of a complete application. Upon the expiration of the forty-day period, the applicant may demand a license and begin operating the establishment for which a license is sought. The date of the proper filing of the application shall be the date the applicant furnishes the fully completed and sworn application, the required number of copies, and the appropriate, non-refundable application fee.

(c) If the applicant has satisfied the requirements of this chapter, the business licensing section shall notify the applicant and issue the license to the applicant upon payment of the appropriate annual license fee provided in subsection 119.08(f), with credit as provided in subsection 119.05(d).

(d) The business licensing section shall deny the application upon notification by one of the reviewers that:

(1) The application violates or fails to meet the provisions of this chapter, any building, fire, zoning, or any other applicable code, statute, ordinance or regulation;

(2) The application contains material false information, or information material to the decision was omitted; failure to list an individual required to be listed, and whose listing would result in a denial, is presumed to be material false information for purposes of denial of the application; the certification that the licensee owns, possesses, operates and exercises control over the proposed or existing adult use establishment is a material representation for purposes of this chapter;

(3) The applicant, or other individuals listed pursuant to section 119.05(b) has a license under this chapter, or has had a license under this chapter, which has been suspended or revoked;

(4) The granting of the application would violate a statute or ordinance, or an order from a court of law that effectively prohibits the applicant from obtaining an adult entertainment license; or

(5) An applicant, or any other individual required to be listed, has been convicted of a specified criminal offense;

a. For which:

i. Less than two (2) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or

ii. Less than five (5) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or

iii. Less than five (5) years has elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or a combination of misdemeanor offenses occurring within any twenty-four-month period.

b. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

c. An applicant who has been convicted of a specified criminal offense may qualify for an adult entertainment establishment license only when the time period set forth above has elapsed and if his or her civil rights have been restored.

(c) If a person applies for a license at a particular location within a period of one (1) year from the date of denial of a previous application for a license at the location, and there has not been an intervening change in the circumstances material to the decision regarding the former reason(s) for denial, the application shall not be accepted for consideration.

Section 119.08 - License.

(a) *Contents.* An adult entertainment license shall state on its face the name of the licensee, the business name, local residential and legal domiciliary residential address of the licensee, the name of the establishment, the street address of the establishment, the classification of the license, a twenty-four-hour working phone number, the date of issuance, and the date of expiration.

(b) *Term.* All licenses issued under this chapter shall be annual licenses which shall commence running on October 1, on which date they shall have been paid for, and shall expire on September 30 of the following year. If a license is issued after October 1, but prior to March 31 of the following year, the applicant shall pay the prorated license fee. If a license is issued after March 31, but prior to October 1 of the same year, the applicant shall pay one-half (½) the appropriate license fee.

(c) *Renewal.* Licenses shall be entitled to renewal annually subject to the provisions of this chapter. Before the October 1 expiration date, the annual license may be renewed by presenting the license for the previous year, by paying the appropriate license fee, and by updating the information supplied with the latest application or certifying that the information supplied previously remains unchanged.

(d) *Expiration.* A license shall expire for failure to obtain a renewal pursuant to this chapter by October 1. An expired license may be renewed no later than November 30 of the same year upon:

(1) The submission of an affidavit stating that the establishment has not been operated as an adult entertainment establishment from the date of expiration of the license;

(2) The payment of the appropriate license fee; and

(3) Payment of a penalty of ten (10) percent of the appropriate license fee for the month of October and, if renewed after October 31, an additional penalty of five (5) percent of the appropriate license fee for the month of November.

(e) *Cancellation.* All licenses not renewed by November 30 shall be deemed expired by the business licensing section unless such license is involved in litigation. The applicant may reapply for an adult entertainment license. Upon the payment of the application fee, satisfaction of the application requirements, and payment of the license fee, operation of the adult entertainment establishment may continue.

(f) *Annual license fees.* The annual license fees under this chapter for an adult entertainment establishment shall be set by resolution of the City Commission.

(g) *Collection of fees.* The business licensing section shall be responsible for the collection of the application and annual license fees pursuant to this chapter.

Section 119.09 - Transfer of license.

(a) A licensee shall not transfer his or her license to another person, or surrender possession, control, or operation of the licensed establishment to such other person.

(b) A licensee shall not transfer his or her license to another location.

(c) An attempted transfer of a license either directly or indirectly in violation of this section is declared void and, in that event, the license shall be deemed abandoned, and the license shall be forfeited.

Section 119.10 - Changed name.

No licensee may change the name of an adult entertainment establishment unless and until he or she satisfies all of the following requirements:

3D Exhibit A(21)

(a) Provides the business licensing section with thirty (30) days' notice in writing of the proposed name change;

(b) Pays to the business licensing section a change-name fee to be set by resolution of the City Commission; and

(c) Complies with F.S. § 865.09, the Florida Fictitious Name Statute.

Section 119.11 - Enforcement.

(a) *Suspension.*

(1) *Violation of regulations.* In the event a licensed adult entertainment establishment is operating in violation of a building, fire, or zoning code, statute, ordinance or regulation, whether federal, state, or local, or the respective requirements of article II of this chapter, the appropriate agency shall promptly notify a code enforcement officer, who shall notify the licensee of the violation. The licensee shall have ten (10) business days in which to correct the violation. If the licensee fails to correct the violation within ten (10) business days, the agency shall notify a code enforcement officer, who shall schedule a hearing before the special master. If the special master determines that a licensed establishment is in violation of a building, fire, or zoning statute, code, ordinance, or regulation, whether federal, state, or local, the code enforcement officer shall notify the business licensing section, which shall forthwith suspend the license and shall notify the licensee of the suspension. The suspension shall remain in effect until the code enforcement officer notifies the business licensing section in writing that the violation of the provision in question has been corrected. Nothing in this section shall take away other enforcement powers of the special master or any other agency provided by the City Code or statute.

(2) *Illegal transfer.* Upon the written notification by one of the agencies that a licensee is or has engaged in a license transfer contrary to section 119.09, the business licensing section shall officially suspend the license and notify the licensee of the suspension. The suspension shall remain in effect until all of the requirements of this chapter have been satisfied and a new license has been issued by the business licensing section.

(3) *Violations of article II of this chapter.*

a. In the event two (2) or more convictions for violations of the rules and regulations within article II or of any health code, statute or regulation occur within a two-year period, the business licensing section shall, upon notification of the date of the second conviction, suspend the license and notify the licensee of the suspension. The suspension shall remain in effect for a period of sixty (60) days.

3D Exhibit A(22)

b. In the event one (1) or more convictions for violations of the rules and regulations of article II or of any health code, statute or regulation occur within a period of two (2) years from the date of the violation from which the conviction resulted, for which the license was suspended for sixty (60) days under subsection a. above, the business licensing section shall, upon notification of the date of the first conviction, suspend the license again and notify the licensee of the suspension. The time during which the license was previously suspended for sixty (60) days shall not be included within the two-year period. The suspension shall remain in effect for a period of ninety (90) days.

c. In the event one (1) or more convictions for violations of a rule or regulation of article II or of any health code, statute or regulation occur within a period of two (2) years from the date of the violation from which the conviction resulted, for which the license was suspended for ninety (90) days under subsection b., the business licensing section shall, upon notification of the date of the first conviction, suspend the license again and notify the licensee of the suspension. The time during which the license was previously suspended for ninety (90) days shall not be included within the two-year period. The suspension shall remain in effect for a period of one hundred eighty (180) days.

d. The renewal of, or new application for, a license pursuant to this chapter shall not defeat the terms of this section.

(4) *Effect of suspension.* If a license is suspended, all operations within the adult entertainment establishment shall cease for the period of the suspension, and the license shall be suspended for the suspension period. The State of Florida, Division of Alcoholic Beverages and Tobacco and the Department of Business and Professional Regulation shall be notified of the suspension, and no other person shall be allowed to operate an adult entertainment establishment at that location for a period of one hundred eighty (180) days.

(5) *Effective date of suspension.* All periods of suspension shall begin fifteen (15) calendar days after the date the business licensing section mails the notice of suspension to the licensee, or on the date the licensee surrenders his or her license to the business licensing section, whichever occurs first.

3 D Exhibit A (23)

(b) *Revocation.*

(1) *False information.* In the event it is learned or found, or upon sufficient cause determined that a license was granted based upon false information, misrepresentation of fact, or mistake of fact by the licensee or his or her agent, the respective agency that has knowledge of the false information shall notify the business licensing section. The business licensing section shall notify the licensee in writing of the business licensing section's intent to revoke the license. The licensee shall have ten (10) days from the date of receipt of the notification to request a hearing. The hearing shall be scheduled before the special master. If the licensee does not request a hearing, the license shall be considered revoked ten (10) days after the receipt of the notification. If the licensee does request a hearing, the license shall remain in effect during the pendency of the action before the special master.

(2) *Convictions for violations of article II of this chapter.* In the event one (1) or more convictions for violations of article II or of any applicable health code, statute or regulation occur within a period of two (2) years from the date of the violation from which the conviction resulted, for which the license was suspended for a period of one hundred eighty (180) days pursuant to subsection (a)(4), the business licensing section shall forthwith revoke the license and notify the licensee of the revocation. The time during which the license was previously suspended for one hundred eighty (180) days shall not be included within the two-year period.

(3) *Effect of revocation.* If a license is revoked, the licensee shall not be allowed to obtain another adult entertainment license for a period of two (2) years, and no license shall be issued during that time period to another person for the location and premises upon which the adult entertainment establishment was situated.

(4) *Effective date.* The revocation shall take effect fifteen (15) calendar days after the date the business licensing section mails the notice of revocation to the licensee, or on the date the licensee surrenders his or her license to the business licensing section, whichever occurs first.

Section 119.12 - Records and reports; consent.

(a) Each licensee shall keep such records and make such reports as may be required by the business licensing section and the agencies to implement this chapter and to carry out its purpose.

(b) By holding a license under this chapter, the licensee shall be deemed to have consented to the provisions of this chapter, and to the exercise by the applicable agencies of their respective responsibilities under this chapter.

[Sections 119.13-119.19 Reserved]

3D Exhibit A (24)

ARTICLE II - ADULT ENTERTAINMENT ESTABLISHMENTS: BUSINESS REGULATIONS.

Section 119.20 - Hours of operation.

(1) It shall be unlawful for an operator of an adult entertainment establishment to allow such establishment to remain open for business, or to allow an employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 2:00 a.m. and 10:00 a.m. on all days.

(2) It shall be unlawful for an employee of an adult entertainment establishment to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 2:00 a.m. and 10:00 a.m. on all days.

Section 119.21 - Alcoholic beverages prohibited.

(1) No alcoholic beverages shall be sold, served, or consumed in an adult entertainment establishment.

(2) No person or employee shall expose to public view his or her specified anatomical areas, or simulation thereof, in an establishment selling, serving, or allowing the consumption of alcoholic beverages.

(3) No person maintaining, owning or operating an establishment selling, serving or allowing the consumption of alcoholic beverages shall allow a person or employee to expose to public view his or her specified anatomical areas, or simulation thereof, within the establishment.

(4) No person maintaining, owning or operating an establishment selling, serving or allowing the consumption of alcoholic beverages shall allow the exposure to public view of specified anatomical areas, or the simulation thereof, within the establishment.

(5) No person shall cause and no person maintaining, owning or operating an establishment selling, serving or allowing the consumption of alcoholic beverages shall allow the exposition of graphic representation, including pictures or projection of film, which depicts specified anatomical areas engaged in specified sexual activities, or other sexual acts prohibited by law, or simulation thereof, within the establishment.

Section 119.22 - Supplementary requirements; prohibitions.

(1) *Adult theater*: In addition to the general requirements for an adult entertainment establishment contained in this article, an adult theater shall comply with the following special requirements:

(a) If the adult theater contains a hall or auditorium area, the area shall comply with each of the following provisions:

1. Have individual or separate seats, not couches, benches, beds, or the like, to accommodate the maximum number of persons who may occupy the area; and

2. Have a continuous main aisle alongside of the seating areas in order that each person seated in the areas shall be visible from the aisle at all times; and

3. Have a sign posted in a conspicuous place at or near each entrance way to the hall or auditorium area listing the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the auditorium area; and

4. Have premises equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 1 foot-candle as measured at floor level; and

5. It shall be the duty of the licensee, the owners, and operator and it shall also be the duty of any agents and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises; and

6. Have an AIDS crisis sign visible to all patrons on the side of the door that opens and allows patrons to enter the theater.

(b) Furnishing of adult theaters:

1. Each adult theater subject to this article shall cover the floor of areas accessible to patrons with smooth and nonpermeable flooring material which can withstand frequent effective cleaning in accordance with subsection (1)(c)3. Carpeting of any type is prohibited; and

2. Each adult theater shall use smooth and non-permeable upholstery material which can withstand frequent cleaning in accordance with paragraph (1)(c)3. to cover furniture permitted by this chapter for use of patrons; and

3. Each adult theater shall have, in areas accessible to patrons, interior wall surfaces which can withstand frequent cleaning in accordance with paragraph (1)(c)3; and

4. Each adult theater shall use only those shades, blinds and vertical blinds which can withstand frequent cleaning in accordance with paragraph (1)(c)3. Draperies are prohibited.

3D Exhibit A(26)

(c) Sanitation:

1. All areas of each adult theater which are accessible to patrons shall be maintained in a clean and sanitary condition. The surfaces of all floors, furniture, counter tops, shades, blinds, vertical blinds, doors and walls of areas accessible to patrons shall be cleaned in accordance with paragraph (1)(c)3;

2. All floors, furniture, counter tops, shades, blinds, vertical blinds, doors and walls of areas accessible to patrons of adult theaters subject to this chapter shall be renovated or be replaced as needed. All furniture must be kept free from holes and rips; and

3. Any individual cleaning or sanitizing of the areas accessible to patrons shall be accomplished a minimum of 1 time each 24 hours with a 1:10 bleach solution (1 part bleach to 10 parts water), mixed daily, as recommended by the U.S. Center for Disease Control as a precaution for the prevention of transmission of the HIV virus and other diseases. A copy of the approved procedure shall be kept on file at the adult theater and a copy shall be provided to each person cleaning or sanitizing the areas accessible to the patrons. Each such individual shall certify that he or she has read and understood the procedure. Records of the sanitation performed on the premises as required herein shall be kept and maintained on the premises and posted in a conspicuous place. The signed copy of the sanitation procedure executed by each sanitation employee and the sanitation record referenced above shall be kept as a part of the records of the adult theater, and open for inspection by the applicable agencies.

(2) *Adult dancing establishment*: In addition to the general requirements for an adult entertainment establishment contained in article II of this chapter, an adult dancing establishment shall observe the following special requirements:

(a) It shall have a stage provided for the display or exposure of specified anatomical areas by an employee to a person other than another employee, consisting of a permanent platform (or other similar permanent structure) raised a minimum of 18 inches above the surrounding floor and encompassing an area of at least 100 square feet; and

(b) The exposure by an employee of specified anatomical areas, or simulation thereof, to public view shall be restricted to the stage required above; and nonemployees or patrons shall not be allowed closer than 4 feet to the stage edge when an employee exposes those anatomical areas; and

(c) The establishment provides 2 security officers consisting of sworn law enforcement officers or identified security personnel if the occupant capacity is less than or equal to 150 persons, and an additional sworn law enforcement officer or identified security personnel for each additional increase of occupant capacity of 100 persons. The security officers or personnel shall be granted unfettered access to all parts of the establishment in order to monitor the interior and exterior of the establishment; and

(d) The establishment provides at least 1 responsible person under the supervision of a manager to check identification at the door to ensure that minors do not enter; and

(e) In all areas in which a private performance shall occur:

1. The private performance area shall be at least 100 square feet in size; and

2. Have a permanently open entrance way not less than 7 feet wide and not less than 7 feet high, which entrance way will never be closed or partially closed by a curtain, door or other partition which would be capable of wholly or partially obscuring a person situated in the area; and

3. Have a wall-to-wall, floor-to-ceiling partition of solid construction without holes or openings, which partition may be completely or partially transparent and which partition separates the employee from the person viewing the display; and

4. Have, except for the entrance way, walls or partitions of solid construction without holes or openings in such walls or partitions.

(f) Parking. All adult dancing establishments shall offer valet parking, and shall further comply with the parking requirements of Chapter 152.

(g) Sign. All adult dancing establishments shall post in a conspicuous area at least 1 sign which states that patrons may not touch employees and drugs are prohibited.

(h) Food service.

(i) No person shall cause and no person maintaining, owning or operating an establishment storing, preparing, serving, selling, or allowing the consumption of food shall allow the exposition or graphic representation, including pictures or projection of film, which depicts specified anatomical areas engaged in specified sexual activities, or other sexual acts prohibited by law, or simulation thereof, within the establishment.

(ii) Notwithstanding the foregoing, any person maintaining, owning or operating an adult dancing establishment may sell, serve or allow the consumption of customary bar snacks on the premises.

Section 119.23 - Violations of ordinance.

It shall be unlawful for a person to be an operator of an adult entertainment establishment which does not satisfy all of the requirements of article II of this chapter.

Section 119.24 - Allowing employee to engage in prohibited acts.

It shall be unlawful for an operator of an adult entertainment establishment to knowingly, or with reason to know, allow an employee:

3 D Exhibit A(28)

(1) To engage in a lap dance with a person at the establishment; or

(2) To contract or otherwise agree with a person to engage in a lap dance with a person at the establishment; or

(3) To contract or otherwise agree with a person to engage in specified sexual activity at the establishment; or

(4) To display or expose a specified anatomical area while simulating a specified sexual activity with another person at the establishment, including with another employee; or

(5) To allow a person, excluding another employee, to touch a portion of the clothed or unclothed body of the employee below the neck and above the knee, excluding that part of the employee's arm below the wrist, referred to as the hand; or

(6) To engage in a private performance unless such employee is in an area that complies with the special requirements set forth in section 119.22(2); or

(7) To intentionally touch the clothed or unclothed body of a person at the adult entertainment establishment, excluding another employee, at a point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist, referred to as the hand.

(8) To display or expose at the establishment a specified anatomical area unless such employee is continuously positioned away from a person other than another employee, and unless such employee is in an area as described in section 119.22(2); or

Section 119.25 - Engaging in prohibited activity.

It shall be unlawful for an employee of an adult entertainment establishment:

(1) To engage in a lap dance with a person at an establishment; or

(2) To contract or otherwise agree with a person to engage in a lap dance with a person at an establishment; or

(3) To contract or otherwise agree with a person to engage in specified sexual activity at the establishment; or

(4) To display or expose a specified anatomical area while simulating a specified sexual activity with another person at the establishment, including with another employee; or

(5) To allow a person, excluding another employee, to touch a portion of the clothed or unclothed body of the employee below the neck and above the knee, excluding that part of the employee's arm below the wrist, referred to as the hand.

(6) To engage in a private performance unless such employee is in an area which complies with the special requirements set forth in section 119.22(2); or

3 D Exhibit A(29)

(7) To intentionally touch the clothed or unclothed body of a person at the adult entertainment establishment, excluding another employee, at a point below the neck and above the knee of the person, excluding that part of the person's arm below the wrist, referred to as the hand; or

(8) To display or expose at the establishment a specified anatomical area unless such employee is continuously positioned away from a person other than another employee, and unless such employee is in an area as described in section 119.22(2); or

Section 119.26 - Advertising prohibited activity.

It shall be unlawful for an operator of an adult entertainment establishment to advertise the presentation of an activity prohibited by an applicable state statute or local ordinance.

Section 119.27 - Specified criminal offense.

It shall be a violation of this Code if the operator is convicted or is adjudged guilty of a specified criminal offense that occurred at the establishment.

Section 119.28 - Minors prohibited.

It shall be unlawful for an operator of an adult entertainment establishment to knowingly, or with reason to know, allow:

(1) Admittance to the establishment of a person under 18 years of age; or

(2) A person under 18 years of age to remain at the establishment; or

(3) A person under 18 years of age to purchase goods or services at the establishment; or

(4) A person to work at the establishment as an employee who is under 18 years of age.

Section 119.29 - Touching of employee by nonemployee.

It shall be unlawful for a person in an adult entertainment establishment, other than another employee, to intentionally touch the unclothed or clothed body of an employee at a point below the neck and above the knee of the employee, excluding that part of the employee's arm below the wrist, referred to as the hand.

Section 119.30 - Use of rest rooms or dressing rooms.

(1) Notwithstanding any provision of this Code to the contrary, it shall not be unlawful for an employee of an adult entertainment establishment to expose a specified anatomical area during the employee's bona fide use of a rest room, or during the employee's bona fide use of a dressing room, which is accessible only and restricted to employees.

(2) The restrictions of this article also apply to all rest rooms and dressing rooms.

(3) Notwithstanding any provision of this Code to the contrary, it shall not be deemed unlawful for a person to expose a specified anatomical area during that person's bona fide use of a rest room.

Section 119.31 - Violation subject to prosecution.

A violation of any requirement of this article may be prosecuted by the city attorney in a court of competent jurisdiction and/or before the city special master for code enforcement.

Section 119.32 - Miscellaneous.

(a) *Appeal process.* Subject to article I, after a denial of an application for a license, or a notice of suspension or revocation of a license, the aggrieved party may timely file a notice of appeal with any court of competent jurisdiction in accordance with applicable law and court rules.

(b) *Variances.* In the event the notice of denial of an application for a license was grounded in whole or in part upon failure to comply with or satisfy all applicable zoning regulations, the applicant may apply for a variance in accordance with the provisions of the City Code. However, no variance shall be granted from Section 152.111.04(2).

(c) *Notice.* A notice required under this chapter shall be accomplished by sending a written notification by certified mail, return receipt requested, to the mailing address set forth on the application for the license. This mailing address shall be considered the correct mailing address unless the business licensing section has been otherwise notified in writing by certified mail, return receipt requested, by the licensee of the new address. The licensee shall have the burden of proving the business licensing section received the new address.

(d) *Immunity from prosecution.* The city or an agency of the city shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon an adult entertainment establishment while acting within the scope of its authority under this chapter.

(e) *Enforcement of this chapter.* The City Commission, Chief of Police, or state attorney may bring suit in any court of competent jurisdiction to restrain, enjoin, or otherwise present the violation of this chapter.

Section 3. **Repeal.** That all ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict.

3D Exhibit A (31)

Section 4. **Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, and they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. **Inclusion in the Code.** That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of North Bay Village; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

The motion to approve the foregoing Ordinance on first reading was made by Commissioner Stuart Blumberg, seconded by Commissioner Richard Chervony.

THE VOTES WERE AS FOLLOW:

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

APPROVED ON FIRST READING during a regular session of the City Commission of North Bay Village this 10th day of July 2012.

3D Exhibit A (32)

The motion to adopt the foregoing Ordinance on final reading was offered by _____, seconded by _____.

FINAL VOTE ON ADOPTION:

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

PASSED AND ENACTED BY THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, THIS _____ DAY OF _____, 2012.

_____
Connie Leon-Kreps, Mayor

ATTEST:

_____
Yvonne Hamilton, City Clerk

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

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

City of North Bay Village Ordinance: Adult Entertainment Business Regulations: Chapter 119, City of North Bay Village Code of Ordinances

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

Memo

To: Planning and Zoning Board Members
City Manager

From: Susan L. Trevarthen, Esq., AICP
Kathryn M. Mehaffey, Esq.

Date: July 25, 2012

Subject: Summary of Adult Use Studies Regarding Zoning Regulations of Adult Entertainment Establishments of Land Development Regulations

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The following memorandum provides a summary of the municipal and state government summaries on the secondary effects of sexually-oriented businesses which have been provided to you as part of your July 10, 2012 Commission agenda materials. Please review the studies in preparation for your review and consideration of the proposed Adult Entertainment Land Use Regulation Ordinance and the proposed Adult Entertainment Business Regulation Ordinance. The studies summarized below are listed in the proposed Ordinances.

1. **The "Survey of Texas Appraisers – Secondary Effects of Sexually-Oriented Businesses on Market Values" study by Connie B. Cooper, FAICP and Eric Damian Kelly, FAICP in association with David C. Keuhl, Ph.D. and Shawn Wilson, MAI (2008)(Texas)**

This study, commissioned as part of a two part study by the Texas City Attorneys Association was conducted by planning consultants, recognized as experts within the field of sexually oriented business regulations and impacts, in order to evaluate the impacts of retail-only adult businesses on the property values of surrounding properties. This study surveyed 195 Texas appraisers who were Members of the Appraisal Institute (MAI) and Senior Residential Appraisers (SRA). The survey questionnaire included a number of uses besides different types of sexually oriented businesses that appraisers often found concerning in relationship to market values in order to decrease the likelihood of targeted responses. The study found that both live and retail-only sexually oriented businesses had a large negative impact on market values of both single family homes and community shopping centers. Further, for single family homes, 86% of survey respondents felt those negative impacts would not diminish until at least a ¼ mile separation existed and 71% felt those negative impacts would not diminish until a ½ mile

3D Exhibit B(1)

separation existed. For community shopping centers, 63% felt the negative effects did not diminish until at least ¼ mile away and 44% said the negative impacts did not diminish until ½ mile away. While the study focused on retail-only sexually oriented businesses, the survey results clearly showed the same significant impacts for sexually oriented businesses with live entertainment or video components.

2. **The "Crime-Related Secondary Effects – Secondary Effects of "Off-Site" Sexually Oriented Businesses" study by Richard McCleary, Ph.D. in association with Alexi Alexander, J.D., Larry Bush, M.A., and Mark Vasquez, B.A. (2008)(Texas)**

The second part of the study commissioned by the Texas City Attorneys Association is a statistical analysis which explains the criminological theory of secondary effects and applies that theory to sexually oriented businesses. The study provides analyses of other studies evaluating the crime rate impacts of sexually oriented businesses and concludes with a case study of crime data from a Texas jurisdiction. The study concludes that sexually oriented businesses pose significant public safety hazards related to prostitution, drugs, assault, robbery and vandalism. The study also analyzed a 2006 study supporting location of sexually oriented businesses. The 2008 analysis demonstrated with the 2006 study's own data the increased risks of crime and showed that the risk diminished exponentially with distance from the sexually oriented business. As such, the sexually oriented businesses were neighborhood point-sources creating significant risk for crime victimization.

3. **"Crime-Related Secondary Effects of Sexually-Oriented Businesses: Report To The City Attorney" by Richard McCleary, Ph.D. (2007)(Los Angeles, California)**

This study statistically evaluated the facts and materials in *Alameda Books v. City of Los Angeles,* U.S. District Court, Central District of California, Case No. CV 95-7771, and also evaluated 2006 data to consider the differences between retail only sexually oriented bookstores and sexually oriented businesses with retail and arcade/on-site viewing components. The study developed several conclusions:

1) There are three factors which produce large, significant crime-related secondary effects include: 1) sexually oriented businesses draw patrons from large geographical areas; 2) because patrons are disproportionately male, open to vice overtures, reluctant to report victimizations to the police, etc., these patrons are "soft" targets; and 3) the large number of "soft" targets concentrated at the site of a sexually oriented business attracts predatory criminals, including purveyors who dabble in crime and criminals who pose as vice purveyors in order to lure or lull potential victims.

3 D Exhibit B (2)

2) Thirty years of empirical studies employing a wide range of designs have found that sexually oriented businesses have large, significant crime-related secondary impacts.
3) While all sexually oriented business subclasses pose significant public safety hazards, these hazards vary based on the opportunities for different types of crime created by the subclass of business.
4) Considering the two subclasses of stand-alone bookstores and combined bookstore-arcades, the combined bookstore-arcade poses higher risks for crime.
5) The risk of victimization at the site of a combined bookstore-arcade is more than double the risk at the site of a stand alone bookstore. These risks both diminish with distance, but the two types of businesses are not equal until approximately 900 feet from the business.

4. "Survey of Findings and Recommendations of Sexually Oriented Businesses" by Eric Damian Kelly, PhD, FAICP and Connie B. Cooper, FAICP (August 2002) (Toledo, Ohio)

This study evaluated the secondary effects of sexually oriented businesses and included an analysis of ordinances, police calls and field studies of the sexually oriented businesses in Toledo, and provided findings and recommendations for zoning, licensing and other regulatory changes. The Survey was conducted working with a steering committee which included the City's planning department, police force, building services, and legal department. Issues and concerns were additionally identified and analyzed through meetings with city council members, neighborhood groups and representatives of the sexually oriented businesses. One important issue highlighted in this report was the importance of the definitions, where the City regulated adult uses through zoning but the definitions failed to adequately identify the targets which resulted in the inability to regulate a sex toy shop with limited books and videos, as an adult entertainment establishment. The study analyzed the secondary effects of the external impacts of sexually oriented businesses on adjacent neighborhoods as well as the impacts of activities at these businesses that might not be protected by the First Amendment but that caused additional impacts in the community – often stemming from activities that started inside the business which were either unprotected activities or which often spilled out into the community.

The study found that clustering or two or more sexually oriented businesses resulted in a statistically significant increase in crime rates. There were also significant differences in criminal activity based on the type of sexually oriented business. Sexually oriented businesses with live entertainment were likely to have disproportionately higher criminal activity. For instance, in the analysis of Toledo's existing businesses, sexually oriented cabarets accounted for only 20% of the sexually oriented businesses but generated 44% of the total police calls. Adding an on-site entertainment component to any sexually oriented business, including a bookstore, lengthened the amount of time that patrons remained on the premises and increased the opportunity and likelihood for interaction with other patrons thereby increasing the negative impacts of the use above

3 D Exhibit B(3)

that of a simple retail establishment. In analyzing the data on a business by business type and ownership, the study concluded that the effects of Management on the secondary impacts of a business are also significant, thus supporting the need for an effective licensing ordinance. Of the Adult Cabarets, one establishment had 102 incidents while one had 25, two had only 8 and one had no incidents reported. Of 26 calls to "encounter and touching" establishments, one establishment accounted for 69% of the calls. Of 37 calls to sexually oriented bookstores, 17 calls went to two stores which were under common ownership.

One of the major concerns identified in the study was location. A perfectly legitimate business located across from a school or in another location whereby residential neighbors, often including children, have a forced exposure to the business, will have significantly higher negative impacts on the neighborhood. The business becomes a "pig in the parlor" rather than a "pig in the barn."

The study recommended specific revisions to Toledo's ordinance including revisions to definitions, location criteria including distance criteria from sensitive uses and other sexually oriented businesses, inventory thresholds and access control, as well as extensive licensing requirements based on the type of sexually oriented business.

5. **"A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver," by the Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor's Office, and in consultation with the City Attorney's Office, Denver, Colorado (January 1998)**

In 1996, an Adult Use Study Team was established to assess the secondary impacts caused by adult use businesses on nearby properties and neighborhoods, and to determine the availability of sites for adult businesses. This Team found that adult use businesses caused negative secondary impacts to nearby properties and neighborhoods, including criminal activity, litter, noise, traffic problems, and depreciation in residential property values. A survey of residents in areas where adult use businesses were located demonstrated that the litter generated by such businesses included printed material containing pornography, used condoms, sex paraphernalia, and used syringes. The criminal activity, which was significantly higher around adult use businesses compared with the city as a whole, included disturbing the peace, public indecency, prostitution, drug-related violations, loitering, robbery, larceny, theft from motor vehicle, and urinating in public.

6. **"Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas (January 7, 1997)**

This report was drafted by a committee tasked with updating prior research studies completed in 1983, 1986, and 1991 in order to determine and make

3 D Exhibit B.(4)

recommendations on any needed reforms to the city's existing sexually oriented business ordinance. The committee found that criminal activities, anonymous sex, spreading of sexually transmitted diseases, and other such acts were occurring within sexually oriented businesses. In order to try to regulate these secondary effects, the committee determined that it was necessary to license all of the entertainers and managers of sexually oriented businesses, provide for certain configurations and lighting requirements within the businesses to aid the police department in their investigations, provide distancing requirements from the city's family centers, parks, and neighborhoods, and provide for the elimination of "glory holes" to reduce the risk of anonymous sex.

7. **"Adult Use Study," by the Newport News Department of Planning and Development, Newport News, Virginia (March 1996)**

This study examined adult use studies from other cities around the country as well as the secondary effects of the adult uses currently operating in Newport News. The studies from other cities indicated that adult uses increase crime and decrease property values in the areas surrounding the uses. In Newport News, the police calls for service indicated that the adult uses experienced crime problems that impacted nearby neighborhoods or businesses. A survey of realtors in the city indicated that adult uses lessen nearby residential property values and may lessen nearby commercial property values depending on the type of adult use and the amount of concentration. The study determined that regulation of adult uses was warranted, and after evaluating the dispersal and concentration theories, recommended spatial separation of adult uses, and separation of these uses from residential areas.

8. **"Report to American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses," by Peter R. Hecht, Ph.D. of the Environmental Research Group (March 31, 1996)**

This study compiled new data, examined municipal land use studies and historical data from the late eighteenth century through 1996, and drew conclusions based on statements and conclusions of previous land use studies. This study concluded that sexually oriented businesses provide a potential focus for illicit and undesirable activities by providing a place of contact for numerous potential customers for prostitution, pandering, and other activities. In addition, when alcohol is provided on site or nearby, or when there is a large concentration of sexually oriented businesses, the quantity of undesirable activities increases. This provides for a snowball effect of undesirable activities that feed upon and support each other. The research also revealed that sexually oriented businesses have more of an impact on smaller towns than they do on larger towns. This study also concluded that when these businesses are located near residential areas or educational and religious institutions, a number of children were exposed to inappropriate models of behavior, and were victims of opportunistic personal crimes.[1]

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[1] It should be noted that it was also determined that the elderly and women were also susceptible to opportunistic personal crimes when sexually oriented businesses were located in close proximity to residential areas, or religious and educational institutions.

3 D Exhibit B(5)

In addition, it was also concluded that sexually oriented businesses have a negative impact upon both residential and commercial property values located within three blocks of the adult use. The presence of sexually oriented businesses was considered by real estate appraisers and lenders to be evidence of community decline and decay. Also, other research indicated that areas with sexually oriented businesses experience lower rates of appreciation in property values and/or higher turnover in properties in comparison to comparable areas without sexually oriented businesses.

9. "Adult Entertainment Study" by Department of City Planning, City of New York (November 1994)

The City of New York commenced this study following a 35% increase in adult entertainment establishments over a 10 year period. At the time of the study, New York City had no adult use regulations – a triple XXX video store was subject to the same regulations as family video store. The study evaluated existing studies in other localities, studies and reports on adult entertainment establishments in New York City and an analysis and survey of the impacts adult entertainment establishments were having on the communities in New York City. In evaluating the impacts of these establishments, the City considered impacts identified by the City Planning Commission in a 1977 study, impacts identified by the Office of Midtown Enforcement and a Chelsea Business Survey, impacts identified through public hearing, a Times Square Business Improvement District Study and in newspaper reports and correspondence. The study also included an analysis of criminal complaint data and property assessed values.

The results of the Department's study of local impacts mimicked the findings of other studies. Specifically, the location of adult uses creased "dead zones" in commercial areas that shoppers avoid, greater concentrations of crime in areas surrounding adult uses especially where multiple establishments were located. These issues resulted in additional perceived issues pressuring neighboring business to hire private security guards for parking lots and closing area businesses early. A survey of 100 business owners in one New York City community found that 61% felt the location of the adult video stores in their community had a negative impact on their businesses and a telling 88% thought the potential for doing business in the area had been negatively affected by the establishments. Additional concerns identified by the City in addition to the crime, deterioration of the business and residential climates, included quality of life impacts such as littering, noise, night-time operations, offensive signage and exposure of children to inappropriate materials. The City's survey of realtors found that 80% reported that an adult entertainment establishment decreased market values as at least 500 feet from the establishment. While the Planning Department's survey of assessed values did not clearly identify negative impacts resulting from the establishment of adult uses, the Department found that the diversity of the City and the limitation of available data would make create issues with due to the difficulty in isolating specific impacts attributable to any particular land use. However, the Department found that regardless of trackable deterioration in assessed values, the perceptions created by the establishment of the adult

3 D Exhibit B (6)

uses created a disincentive to invest resulting in a deterioration in the neighborhood surrounding the adult establishment.

10. The "Adams County Nude Entertainment Study" by the Adam's County Sheriff's Department (1991)(Colorado)

This study was an update to a 1988 study conducted by the Adams County Sheriff's Office in order to provide support for a proposed nude entertainment ordinance, which prohibited persons to appear in a "state of nudity"[2] for the purpose of entertaining patrons. The 1988 study consisted of two phases: first, an April 1988 study of six representative locations in Adams County was undertaken to determine the transiency of adult business customers. Second, crime statistics in two Adams County areas featuring adult businesses were gathered for the years of 1986 and 1987. The study concluded that there was a direct correlation between nude entertainment establishments and an increase in crime, alcohol related offenses, and transiency of patrons. After review of this study, the County Commissioners passed the nude entertainment ordinance which 1) restricted the hours of operation; 2) provided distance requirements; 3) provided a six-month amortization period reducing the number of adult businesses from 28 to 14; and 4) provided a public nuisance provisions for repeat or continuing violations. Subsequently, this ordinance was challenged and upheld by the Colorado Supreme Court. The court found that the ordinance did not violate constitutionally protected free speech because it did not ban nude dancing altogether and it did not unreasonably inhibit the presentation of nude dancing. The 1991 report re-evaluated the 1988 study based on 1990 statistics and found no significant changes with a few exceptions. One exception showed a block from the original study which had experienced a 900 percent increase in reported crimes including a 290% increase attributable to adult businesses offering nude entertainment and/or alcohol.

11. "Effects of Adult Entertainment Businesses on Residential Neighborhoods," by the Department of Planning, Research and Development, City of El Paso, TX (Sept. 26, 1986)

This study, done by the Department of Planning, Research and Development, the City Attorney's Office, the Police Department Data Processing Division, and New Mexico State University, involved one year of studying the impacts of sexually oriented businesses on the El Paso area. A separate report by New Mexico State University on perceived neighborhood problems was also included in this study. Three control areas and three study areas were used to evaluate the secondary effects of sexually oriented businesses. The study concluded that the following conditions existed within the study areas:

(1) The housing base within the study area decreased substantially

[2] A "state of nudity" occurs when such a person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

3 D Exhibit B (7)

with a concentration of sexually oriented businesses

(2) Property values decreased for properties located within a 1-block radius of sexually oriented businesses

(3) There was an increase in listings on the real estate market for properties located near sexually oriented businesses

(4) The presence of sexually oriented businesses resulted in a relative deterioration of the residential area of a neighborhood

(5) There was a significant increase in crime near sexually oriented businesses

(6) The average crime rate in the study areas was 72% higher than the rate in the control areas

(7) Sex-related crimes occurred more frequently in neighborhoods with even one sexually oriented business;

(8) Residents in the study areas perceived far greater neighborhood problems than residents in control areas; and

(9) Residents in study areas had a greater fear of deterioration and crime than residents in control areas.

The study of perceived neighborhood problems done by New Mexico State University revealed a strong, consistent pattern of higher neighborhood crime, resident fear and resident dissatisfaction in the neighborhoods containing sexually oriented businesses.

12. "NLC Summaries of "SOB Land Use" Studies, Crime Impact Studies by Municipal and State Governments on Harmful Secondary Effects of Sexually-oriented Businesses," National Law Center for Children and Families, 1991, 1994, 1996, 1997, 1999, 2000, 2001, 2002, 2005.

This is a collection of summaries of 43 municipal and state government studies on the secondary effects of sexually-oriented businesses conducted between 1977 and 1998. The summaries identify a historical trend of negative secondary effects from sexually oriented businesses, related to all types of criminal and economic/market behaviors.

3D Exhibit B(8)

Exhibit C

See Secondary Effects Studies, July 10, agenda materials

CITY OF MIAMI BEACH, FLORIDA
NOTICE OF SPECIAL ELECTION
AUGUST 14, 2012

NOTICE IS HEREBY GIVEN that a Special Election has been called by the Mayor and City Commission of the City of Miami Beach, Florida, pursuant to City Resolutions 2012-27902 and 2012-27903, adopted on May 9, 2012, to be held in the City of Miami Beach, from 7:00 a.m. until 7:00 p.m. on Tuesday, August 14, 2012, at which time there shall be submitted to the duly registered and qualified voters of the City of Miami Beach the following official ballot questions:

QUESTION 1:
Allowing Up to One Percent Increase in Room Rent Portion of Resort Tax

Shall Section 5.03 of the Charter be amended to allow the Commission to increase, up to one percent, the resort tax on room rent, to expand, enlarge, renovate, and/or improve the Convention Center, including payment of debt service related thereto, and providing that the excess of such additional tax be used, after providing for payment of annual debt service and related obligations, to establish a Capital Renewal and Replacement Fund for the Center?

Permitir el Aumento hasta del Uno por Ciento en la Parte del Impuesto a los Complejos Turísticos Sobre el Alquiler de Habitaciones

¿Deberá enmendarse la Sección 5.03 de la Carta Constitucional a fin de permitir que la Comisión aumente, hasta el uno por ciento, el impuesto a los complejos turísticos sobre el alquiler de habitaciones, para extender, agrandar, renovar o realizar mejoras en el Centro de Convenciones, incluido el pago del servicio de deuda relacionado con ello, y proveer que el excedente de dicho impuesto adicional se emplee, tras el pago del servicio de deuda anual y las obligaciones relacionadas, para establecer un Fondo de Renovación y Reemplazo de Capital para el Centro?

Pèmèt Ogmentasyon Jiska Yon Pousan nan Pòsyon Taks Sejou sou Lwaye Chanm yo

Èske se pou yo amande Seksyon 5.03 Konstitisyon an pou pèmèt Komisyon an ogmante, jiska yon pousan, taks sejou sou lwaye chanm yo, pou devlope, agrandi, renove, ak/oswa amelyore Sant Konvansyon an, ki gen ladan peman pou sèvis dèt ki an rapò yo, epi etabli ke nenpòt lajan ki rete nan taks adisyonèl sila fèt pou itilize, apre yo fin prevwa lajan pou kouvri peman sèvis dèt anyèl la ak lòt obligasyon ki an rapò yo, pou etabli yon Fon Renouvèlman ak Ranplasman Kapital pou Sant la?

YES/SÍ/WI 502
NO/NO/NON 503

QUESTION 2:
Majority of Members of City Commission May Call Special Meetings

Shall Section 2.04 of the Miami Beach Charter be amended to provide that, in addition to being called by the Mayor or City Manager, special meetings of the City Commission may be called by a majority of the members of the Commission upon written notice to the City Clerk and in accordance with the procedures set forth in a resolution of the City Commission?

La Mayoría de los Miembros de la Comisión de la Ciudad Pueden Convocar Reuniones Extraordinarias

¿Deberá enmendarse la Sección 2.04 de la Carta Constitucional de Miami Beach a fin de proveer que, además del Alcalde o el Administrador de la Ciudad, la mayoría de los miembros de la Comisión puedan convocar reuniones extraordinarias de la Comisión de la Ciudad mediante un aviso por escrito al Secretario de la Ciudad y conforme al procedimiento establecido en una resolución de la Comisión de la Ciudad?

Majorite Manm Komisyon Vil la Kapab Konvoke Reyinyon Espesyal

Èske se pou yo amande Seksyon 2.04 Konstitisyon Miami Beach la pou etabli ke, anplis de Majistra oswa Manadjè Vil la ki ka konvoke reyinyon espesyal Komisyon Vil la yo, reyinyon sila yo ka konvoke tou pa yon majorite manm Komisyon an avèk yon avi alekri adrese a Grefye Vil la epi an akò ak pwosedi ki etabli nan yon rezolisyon Komisyon Vil la?

YES/SÍ/WI 504
NO/NO/NON 505

The Special Election will be conducted in accordance with the applicable provisions of the Florida Statutes and the Charter and Code of the City of Miami Beach, Florida. Copies of Resolutions 2012-27902 and 2012-27903 are available at the City Clerk's Office and online at http://web.miamibeachfl.gov/cityclerk/elections/scroll.aspx?id=31214

All qualified electors of the City of Miami Beach may vote YES or NO on these proposals.

Ad No. 710

MIAMIBEACH

Rafael E. Granado, City Clerk
City of Miami Beach, Florida

CITY OF NORTH BAY VILLAGE
NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT THE CITY COMMISSION OF NORTH BAY VILLAGE, FLORIDA, WILL HOLD A SPECIAL MEETING ON **WEDNESDAY, JULY 25, 2012** AT 7:00 P.M., OR AS SOON AS POSSIBLE THEREAFTER, IN THE CITY COMMISSION CHAMBERS AT 1700 KENNEDY CAUSEWAY, #132, NORTH BAY VILLAGE, FLORIDA. DURING THIS MEETING THE CITY COMMISSION WILL CONSIDER THE FOLLOWING:

1. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 152 OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES ENTITLED "ZONING" BY REVISING SECTION 152.111 PERTAINING TO ADULT ENTERTAINMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*

2. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, CREATING CHAPTER 119 OF THE CODE OF ORDINANCES PERTAINING TO ADULT ENTERTAINMENT LICENSING AND BUSINESS REGULATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*

3. AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 35 "TAXATION AND FINANCE," OF THE CITY CODE OF ORDINANCES TO REVISE THE REQUIREMENTS AND PROCEDURES RELATED TO GENERAL AND ENTERPRISE FUND RESERVES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. *(SECOND READING)*

4. AN APPLICATION BY SOTREZA, LLC CONCERNING PROPERTY LOCATED AT 7800 HISPANOLA AVENUE (FORMERLY USED AS A TEMPLE), LOTS 1&2 & E1/2 LOT 3, BLOCK 1, COMMERCIAL ADDITION TO TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA AS FOLLOWS:

   A. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C) (9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE OPERATION OF A PRE-SCHOOL/DAY CARE CENTER. *(FINAL PUBLIC HEARING)*

5. AN APPLICATION BY ZF DEVELOPMENT, LLC, CONCERNING PROPERTY LOCATED AT 8000 WEST DRIVE, TRACT C OF HARBOR ISLAND NORTH BAY VILLAGE, FLORIDA IN CONNECTION WITH THE DEVELOPMENT OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT FOR THE FOLLOWING:

   A. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE CONSTRUCTION OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT ON A 4.47+ ACRE SITE. *(FINAL PUBLIC HEARING)*

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT, OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE CITY COMMISSION C/O THE CITY CLERK, 1700 KENNEDY CAUSEWAY, #132, KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FL 33141.

THE DOCUMENTS PERTAINING TO THIS PUBLIC HEARING MAY BE INSPECTED AT THE OFFICE OF THE CITY CLERK DURING REGULAR BUSINESS HOURS. INQUIRIES MAY BE DIRECTED TO THAT DEPARTMENT AT (305) 756-7171.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES IF ANY PERSON DECIDES TO APPEAL ANY DECISION BY THE CITY COMMISSION WITH RESPECT TO THIS OR ANY MATTER CONSIDERED AT ITS MEETING OR ITS HEARING, SUCH PERSON MUST ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDING, PLEASE CONTACT (305) 604-2489 (VOICE), (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

YVONNE P. HAMILTON, CMC
CITY CLERK
July 12, 2012

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 35 "TAXATION AND FINANCE," OF THE CITY CODE OF ORDINANCES TO REVISE THE REQUIREMENTS AND PROCEDURES RELATED TO GENERAL AND ENTERPRISE FUND RESERVES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. *(INTRODUCED BY CITY COMMISSIONER RICHARD CHERVONY)*

WHEREAS, the City Commission of the City of North Bay Village (the "City") recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the City's regulations are current and consistent with the requirements of Florida Law; and

WHEREAS, the City Commission desires to strengthen its emergency reserve funding program to address such emergencies as Hurricanes and other natural disasters; and

WHEREAS, the City desires to update current finance provisions to conform to new regulatory guidelines including GASB 54; and

WHEREAS, the City Commission has reviewed this Ordinance at a duly noticed hearing and determined that it is consistent with State Law; and

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

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

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

3E(1)

Section 2. **City Code Amended.** That Chapter 35 "Taxation and Finance" of the City of North Bay Village Code of Ordinances is hereby amended to read as follows:[1]

§ 35.20 - Expenditures to be made in accordance with budget.

Except where formal contracting, bidding, or other procedures are required by law as a condition precedent to the expenditures of funds, the City Manager is authorized to expend city funds in accordance with the city's annual adopted budget as it may exist from time to time, including all mid-year adjustments, without further action of the City Commission.

§ 35.21 - Amendments to budget.

The city's annual budget may be amended from time to time in the following manner:

(A) Minor amendments. Transfers between line items within a departmental budget, or decreases in line items, not amounting to more than 5% of the total budget of each department, may be made by the City Manager by written statement describing the transfers and the reasons therefore. A copy of such statement shall be filed with the City Clerk and delivered to the Mayor and each of the City Commissioners. A copy shall also be posted at a conspicuous place in City Hall. The transfers shall become effective 14 days after posting, unless within that time, the Mayor or any City Commissioner shall notify the City Clerk that they wish the transfer placed upon the City Commission agenda for consideration by the City Commission. Any transfer considered by the Commission must be approved by majority vote of the Commission.

(B) Other amendments. All other budgetary transfers shall be approved by resolution of the City Commission.

(C) Nothing in this section shall authorize the City Manager to expend unanticipated revenues which may accrue to the city during the course of the fiscal year, unless and until the unanticipated revenues have been budgeted by the City Commission.

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[1] Additions to existing city code text are shown by underline; deletions from existing city code text are shown by ~~strikethrough~~.

3E(2)

§ 35.22 - Creation of Fund Balance/Retained Earnings Reserves.

A. Definitions. The following terms used in this Section shall be used in conformance with the definitions contained in GASB Statement #54:
   1. Nonspendable fund balance;
   2. Restricted fund balance;
   3. Committed fund balance;
   4. Assigned fund balance;
   5. Unassigned fund balance.

B. General Fund Reserve. The City shall maintain within the Ggeneral ~~governmental~~ Ffund ~~and enterprise fund~~ of the City, a reservedation ~~of~~ fund balance~~/retained earnings balance equal to the following:~~ equal to

   ~~1. General Fund. The city shall maintain~~ 20% of the current fiscal year general fund. ~~as a reserved fund balance/retained earnings balance~~. For the purposes of this calculation, the current fiscal year budget shall be the budget as originally adopted by ordinance in September of the applicable fiscal year. This reserved fund balance shall be classified as Assigned, for the specific purposes as delineated in Section D of Section 35.22 of the Code.~~, in addition to all other reserves or designations of fund balance, including, but not limited to, reservations of uncollected receivables and reservations of funds which have expenditure authority limited to specific purposes (i.e. proceeds from the sale or conversion of judicially forfeited properties).~~

C ~~2~~. Enterprise Funds Reserves. The city shall maintain within each of the enterprise funds now, or hereafter created by the Commission, a Restricted Net Assets ~~reservation of fund balance/retained earnings/balance~~ equal to 20% of the current water, sewer, sanitation and storm water fiscal year budget for that fund. For the purposes of this calculation, the fiscal year budget shall be the total water, sewer, sanitation and storm water budget for these four utilities or segments as originally adopted by ordinance in September of the current fiscal year. These~~is~~ Restricted Net Assets ~~reserve~~ shall be in addition to all other designations ~~reservations of retained earnings,~~ including but not limited to amounts reserved in current liabilities ~~for debt service and/or amounts reserved for renewal and replacement of long-lived assets.~~ Any utilization of the Restricted Net Assets shall be pursuant to Section D of Section 35.22.

3E(3)

~~**Purposes for which Fund Balance/Retained Earnings may be used.**~~

D~~B~~. Use of Fund Balance/Net Assets. The Assigned F~~f~~und B~~b~~alance in the General Fund and the Restricted Net Assets in any Enterprise Fund ~~/retained earnings~~ may be utilized, and therefore the fund balance~~/retained earnings balance~~ of 20% of the annual budget may be decreased, for the following purposes:

(1) Non-emergency uses limited to unanticipated capital improvements and infrastructure needs and unforeseen contingent liabilities.

(2) Emergency uses including unscheduled natural disasters/ emergencies, acts of God or war, and for the emergency health, safety and welfare needs of the city.

~~(1) Unscheduled natural disasters/emergencies~~

~~(2) Unanticipated capital improvements and infrastructure needs.~~

~~(3) Unforeseen contingent liabilities.~~

~~(4) Acts of God or war.~~

~~(5) For the emergency health, safety and welfare needs of the city.~~

E~~C~~. Utilization of Assigned Fund Balance and Restricted Net Assets. Funds and assets reserved pursuant to this Section may be used only in accordance with the following requirements:

(1) Expenditures for Non-emergency uses shall not exceed 50% of the balance.

(2) Any expenditure from the Assigned Fund Balance or Restricted Net Assets shall require approval by the City Commission by a super-majority vote of those present prior to expenditure of the funds.

F~~C~~. Replenishment of ~~Fund~~ Balances~~/Retained Earnings Reserve Deficits~~. In any fiscal year when the city is unable to maintain the 20% balances ~~reservation of fund balance~~ required by this section, the city in the subsequent fiscal years shall not be entitled to appropriate any portion of the remaining Assigned F~~f~~und Balance or Restricted Net Assets until the denoted reserves again reach 20%.

3E(4)

If, at the end of any fiscal year, the actual amounts required by this Section ~~of unreserved, undesignated fund balance or unrecovered retained earnings~~ falls below the required levels as established in this Section, the City Manager shall prepare and submit a plan for expenditure or expense reductions and/or revenue increases to the City Commission in order to replenish the required 20% ~~fund~~ balance~~/retained earnings reserve~~. As a part of the annual budget review, the City Commission shall review and amend the plan submitted by the City Manager for restoring the balance(s) ~~amount of unreserved, undesignated fund balance, or unreserved retained earnings~~ to the required levels. Any deficit in the required amount must be restored no later than the end of the second fiscal year following its occurrence.

~~D Utilization of Surplus Reserves. In the event that the unreserved undesignated fund balance or unreserved, retained earnings balance exceeds the minimum reservation of retained earnings established under this section, the excess may be utilized for any lawful purpose. The excess reserves shall first be utilized within the fund in which it was generated in order to address and fund and be used for: (1) one time expenditures or expenses which do not result in recurring operating costs; and (2) capital improvements and maintenance.~~

Section 3. Repeal. That all ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict.

Section 4. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, and they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of City of North Bay Village; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

3E(5)

Section 6. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

The motion to approve the foregoing Ordinance on first reading was made by Mayor Connie Leon-Kreps, seconded by Commissioner Richard Chervony.

THE VOTES WERE AS FOLLOW:

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

APPROVED ON FIRST READING during a regular session of the City Commission of North Bay Village this 10th day of July 2012.

FINAL VOTE ON ADOPTION:

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

PASSED AND ENACTED by the City Commission of North Bay Village, Florida, this ___ day of _____.

_____
Connie Leon-Kreps
Mayor

_____
Yvonne Hamilton, City Clerk, CMC

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

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

3E(6)

City of North Bay Village

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

MEMORANDUM
City of North Bay Village

DATE: July 3, 2012

TO: Dennis Kelly
City Manager

FROM: Richard Chervony
Commissioner

SUBJECT: Introduction of Ordinance

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

AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 35 "TAXATION AND FINANCE," OF THE CITY CODE OF ORDINANCES TO REVISE THE REQUIREMENTS AND PROCEDURES RELATED TO GENERAL AND ENTERPRISE FUND RESERVES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

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

RC:yph

CITY OF MIAMI BEACH, FLORIDA
NOTICE OF SPECIAL ELECTION
AUGUST 14, 2012

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¿Deberá enmendarse la Sección 5.03 de la Carta Constitucional a fin de permitir que la Comisión aumente, hasta el uno por ciento, el impuesto a los complejos turísticos sobre el alquiler de habitaciones, para extender, agrandar, renovar o realizar mejoras en el Centro de Convenciones, incluido el pago del servicio de deuda relacionado con ello, y proveer que el excedente de dicho impuesto adicional se emplee, tras el pago del servicio de deuda anual y las obligaciones relacionadas, para establecer un Fondo de Renovación y Reemplazo de Capital para el Centro?

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YES/SÍ/WI	502
NO/NO/NON	503

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YES/SÍ/WI	504
NO/NO/NON	505

The Special Election will be conducted in accordance with the applicable provisions of the Florida Statutes and the Charter and Code of the City of Miami Beach, Florida. Copies of Resolutions 2012-27902 and 2012-27903 are available at the City Clerk's Office and online at http://web.miamibeachfl.gov/cityclerk/elections/scroll.aspx?id=31214

All qualified electors of the City of Miami Beach may vote YES or NO on these proposals.

Ad No. 710

MIAMIBEACH

Rafael E. Granado, City Clerk
City of Miami Beach, Florida

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5. AN APPLICATION BY ZF DEVELOPMENT, LLC, CONCERNING PROPERTY LOCATED AT 8000 WEST DRIVE, TRACT C OF HARBOR ISLAND NORTH BAY VILLAGE, FLORIDA IN CONNECTION WITH THE DEVELOPMENT OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT FOR THE FOLLOWING:
   A. SITE PLAN APPROVAL PURSUANT TO SECTION 152.105(C)(9) OF THE CITY OF NORTH BAY VILLAGE CODE OF ORDINANCES IN CONNECTION WITH THE CONSTRUCTION OF A 285-UNIT RENTAL APARTMENT DEVELOPMENT ON A 4.47± ACRE SITE. *(FINAL PUBLIC HEARING)*

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT, OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE CITY COMMISSION C/O THE CITY CLERK, 1700 KENNEDY CAUSEWAY, #132, KENNEDY CAUSEWAY, NORTH BAY VILLAGE, FL 33141.

THE DOCUMENTS PERTAINING TO THIS PUBLIC HEARING MAY BE INSPECTED AT THE OFFICE OF THE CITY CLERK DURING REGULAR BUSINESS HOURS. INQUIRIES MAY BE DIRECTED TO THAT DEPARTMENT AT (305) 756-7171.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES IF ANY PERSON DECIDES TO APPEAL ANY DECISION BY THE CITY COMMISSION WITH RESPECT TO THIS OR ANY MATTER CONSIDERED AT ITS MEETING OR ITS HEARING, SUCH PERSON MUST ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE CITY FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY CITY-SPONSORED PROCEEDING, PLEASE CONTACT (305) 604-2489 (VOICE), (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

YVONNE P. HAMILTON, CMC
CITY CLERK
July 12, 2012

3E(8)

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 25, 2012

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

FROM: Dennis Kelly, City Manager

SUBJECT: Approval of Contract - *The Miami Herald Publishing Media Company* - Public Notices

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RECOMMENDATION:

It is recommended that the City Commission approve the attached Resolution authorizing the City Manager to execute the agreement attached hereto as Exhibit 1 with *The Miami Herald Publishing Media Company* for publishing City events, meetings, and other public notices required by State and local laws.

BACKGROUND:

Pursuant to State and local laws, the City is required to publicize notices of public, hearings, meeting notices, and other City actions in a newspaper of general circulation in the City.

4A(1)

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

The City has maintained the *Miami Herald Neighbors* as its publishing vendor for several years now, since the publication has become a familiar daily circulation throughout the City. The contract calls for a commitment of 48 notices during the contract year in order to enjoy the reduced rate as opposed to an open rate in the local section. For example, a one-third page advertisement under an open rate will cost in excess of $2,000.00, whereas the contract rate for the same advertisement in the *Miami Herald Neighbors* could be less than $540.

Advertisement in the *Miami New Times, the Sun Sentinel,* and *the Miami Daily Business Review* will be substantially lower, but these publications are not circulated daily and they do not fulfill the need that the *Neighbors* provide to have information readily available to the residents.

BUDGETARY IMPACT:

Account No. 01-013-512-5470
Amount: No cost will be incurred for entering into the contract.

PERSONNEL IMPACT:

None

CONTACT:

Dennis Kelly
City Manager

Yvonne P. Hamilton, CMC
City Clerk

4A (2)

The Miami Herald Media Company

(Referred to as "MHMC")
One Herald Plaza, Miami Florida 33132- 1693

ADVERTISING AGREEMENT

Advertising Agreement. 1st Run Date: 1st day of __, 201__ or Date 07/29/12 until: **Contract End Date:** 07/28/13

ADVERTISING IN THE MIAMI HERALD, BROWARD EDITION OF THE MIAMI HERALD, EL NUEVO HERALD AND INTERACTIVE

REVENUE SPENDING CONTRACT *(SELF-RENEWING)*

The Advertising rates charged by MHMC and paid for by the Advertiser will be the applicable MHMC published rate card rate for advertisers at the _____ Annual investment contract level in effect at the time of publication of each advertisement. If the $_____ Annual investment contract level is not fulfilled, the rates shall be adjusted to the applicable rate as provided under the Advertiser's advertising agreement with MHMC and MHMC's standard rate card. All other advertising will be billed by MHMC and paid for by Advertiser at the applicable rates in the MHMC rate card in effect at time of publication. Premium charges apply as outlined in MHMC rate cards. Contracts cannot be rebated. All advertising terms & conditions apply.

FREQUENCY CONTRACT *(NOT SELF-RENEWING)*

_____ PREPRINT ADVERTISING **Publish advertising ____ times within a maximum of _____weeks**
_____ WEEKEND **Publish advertising ____ times within a maximum of _____weeks**
_____ TROPICAL LIFE **Publish advertising ____ times within a maximum of _____weeks**
_____ OTHER:_____ **Publish advertising ____ times within a maximum of _____weeks**

FLEXIBLE FREQUENCY CONTRACT *(NOT SELF-RENEWING)*

Flexible Frequency Part Run ROP contracts entitle advertiser to the frequency level stated above for any combination of advertisements in any of the following products: **Neighbors** **Miami-Dade & Broward Weekend** **Broward Tropical Life** **Viernes**
Broward Local **Broward Business Monday** **Sabores/Viva Mas**
Other_____

_X___ FLEXIBLE FREQUENCY **Publish advertising _48___times within a maximum of ___52_____weeks**

For part run packages, (Auto Care, Restaurant, Everything for Kids, Business Builder and Health & Fitness) the same frequency rates apply, however the 3-part package counts as only one appearance for frequency contract fulfillment purposes

Frequency contract advertisers may receive the corresponding Part run frequency rate for all above listed product, but any such part run advertising will not count toward satisfying a full run frequency commitment.

Online Campaign Information: Campaign Start Date: _October 9/2011 _____ Campaign End Date: ___May 6, 2012 _____

Product/Position (circle one)	Channel	Run Dates	Impressions	CPM/Rate	Rate
MH.com Interactive Banner Products					$
Homefinder					$
Apts.com					$
Cars.com					$
Miami.com					$
					$
				Monthly Rate Total:	
				Total Contract Value:	

MHPC Internal Use Only Notes:

This Agreement is subject to: (i) the Advertising Terms and Conditions attached hereto; (ii) the applicable MHMC rate card; and, (iii) MHMC's publication deadlines, policies and procedures, all as amended by MHMC from time to time. Rates may be amended by MHMC upon 30 days' written notice to Advertiser.

A legible facsimile copy of this Agreement when fully executed shall be considered an original copy of this Agreement.

Advertiser:
By: _____
(Must be signed by Principal of Firm)
Print Name: _____
Title: _____
Address/City/State/Zip:_____

The Miami Herald
By: _____
Advertising Manager
By: _____

MHPC Internal Use Only: Sales Rep Name: _____
Account No: _____ Solbright/APT No: _____ Agency No:_____

4A(3)

ADVERTISING TERMS AND CONDITIONS

1. **Contract Terms.** Advertiser must consume and pay for the minimum space indicated herein within one year from the 1st Run Date (the "Minimum Amount"). If Advertiser fails to satisfy the Minimum Commitment, Advertiser shall not be entitled to the rates or discounts set forth herein and will be retroactively billed for all advertising during the Term at the applicable then current standard published rate card rate (the "Corrected Rate"). Advertiser will pay MHMC any such Corrected Rate balance immediately. Advertiser agrees to pay this Corrected Rate in addition to all amounts paid or payable by Advertiser under this Agreement. Payment of any Corrected Rate does not count toward the Minimum Commitment
2. **Earned Rating/Agreement Review.** Advertiser will be billed at the Earned Rate for advertising purchased after the initial term. "Earned Rate" means the rate applicable to the linage, revenue or frequency level reached by Advertiser at the conclusion of the then-expiring term of the Agreement. If Advertiser satisfies the linage, revenue or frequency level required of its contract and qualifies for a lower Earned Rate, it will be billed at the lower Earned Rate beginning the next billing period. No advertiser will receive an automatic rebate on past advertising purchases solely by qualifying for a lower Earned Rate during the contract term. Revenue and linage agreements are automatically renewed for successive 12-month periods at the Earned Level unless (i) Advertiser failed to meet the contract requirements in any 12-month period or, (ii) either party gives written notice of cancellation at least 30 days prior to the anniversary date of the Agreement. MHMC reserves the right to review the volume of advertising placed on a quarterly basis and cancel this contract at its sole discretion, if advertising placed falls __% or more below the quarterly average of linage or revenue needed to fulfill the twelve-month contract amount. Failure of MHMC to review the volume of advertising or cancel the contract for any reason shall not be deemed a waiver of the right to cancel in the future or to impose any applicable rate adjustments
3. **Payment Terms.** All invoices (including applicable sales taxes) are due on the 20th of the month following insertion(s) and if not paid by the 30th day of the month following the date of insertion(s) will be late (except for accounts designated by MHMC as weekly which are due within 7 days of the invoice date). Late amounts will bear interest at the maximum rate allowed by law. Advertiser shall pay all applicable taxes. If any invoice is not timely paid, then MHMC reserves the right to suspend its performance at any time and/or cancel this Agreement without notice. In the event of such a cancellation, all charges for advertising since the 1st Run Date will be re-invoiced to reflect the Corrected Rate, as described herein. All disputes of any kind must be reported in writing to MHMC no later than 30 days from the date the invoice containing such disputed item or such item will be deemed correct and conclusively accepted by Advertiser. Advertiser waives any claim after said 30-day period. Submission of a written dispute notice by Advertiser shall not relieve Advertiser of its obligation to timely pay all undisputed amounts. Credits, refunds or payments must be used or claimed within 2 years from the date of such credit, refund or payment or shall be deemed to have been earned and correctly applied or paid. Unless agreed in writing, multiple discounts shall not apply for the same advertising purchase. MHMC is not obligated to extend credit to Advertiser unless in writing. If Advertiser breaches this Agreement, Advertiser agrees to pay all of MHMC's collection agency fees and expenses, investigation, court and litigation expenses along with attorney fees equal to the greater of: (i) 25% of the amount owed, or (ii) the amount awarded by the court. Sunday circulation and advertising rates will apply to the following holidays: New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Day after Thanksgiving, Christmas Day, Day after Christmas and Day after Super Bowl.
4. **Obligations of Advertiser.** Advertiser agrees to indemnify MHMC for any and all costs, claims, damages, and/or liability claimed against or incurred by MHMC as a result of MHMC's publication of any advertising submitted by Advertiser (or submitted on behalf of Advertiser) to MHMC. Advertiser represents, warrants and guarantees that any ad copy so submitted to MHMC is accurate, truthful and in compliance with all copyright laws and all other applicable laws and regulations.
5. **Ownership of Ads.** MHMC retains all rights of ownership in and to all advertisements designed or created by MHMC. Advertiser grants MHMC a non-exclusive license to publish all camera-ready advertisements provided by Advertiser (or provided on Advertiser's behalf) to MHMC. MHMC is not obliged to return ads or ad materials to Advertiser and MHMC is not responsible for any damage or loss to any ads, copy, drawings, art or any other materials provided by Advertiser. Advertiser represents and warrants to MHMC that any advertisement submitted to MHMC is original, does not violate any law, or infringe the copyrights, trademarks, trade name or patents of any other person, entity or corporation, and contains no matter which is libelous, an invasion of privacy, and unlawful appropriation of name or likeness, or otherwise injurious to the rights of any other person and that Advertiser has obtained all necessary consents prior to the submission of such advertisement to MHMC.
6. **Copyrights.** Advertiser hereby grants a non-exclusive license to MHMC for all copyrights and ownership rights in any advertisement of Advertiser submitted for insertion in any publication of MHMC, including the right to publish, reproduce, display, adapt, transmit, or produce derivative works in any medium, including any digital electronic medium. Advertiser authorizes MHMC to bring suit in MHMC's discretion and at MHMC's expense for any unauthorized use, reproduction, display, distribution, or performance of advertisement as it appears in the Newspapers or for its unauthorized alteration
7. **Acceptance/Rejection of Advertising.** MHMC reserves the right to revise, alter or reject any advertisement for any reason whatsoever, or to omit ads without notice. MHMC may cancel any ad at its sole discretion, even if previously accepted for publication. Advertising copy not timely submitted by Advertiser will be excluded. Special position for advertising is not guaranteed but may be available for a premium and if agreed to in writing.
8. **Publication Errors and Omissions.** MHMC is not liable for any omission of all or any portion of any ad, nor is MHMC responsible for orders, cancellations or corrections given by telephone, facsimile or telegraph. MHMC is also not liable for any error in a published ad unless an advertising proof is requested in writing, Advertiser clearly marks any error in the advertising proof for corrections, and MHMC is notified of the error in sufficient time before publication, in which case Advertiser's sole remedy is an appropriate credit to the extent of the error up to the cost of the first insertion of the error (if there is more than one incorrect insertion, credit shall be allowed only for the first incorrect insertion).
9. **MHMC's Rights Regarding Mechanical Specifications.** MHMC reserves the right to alter any printed advertising material due to press/production requirements. This reservation of right includes MHMC's right to reduce the size of any advertisement as long as the advertisement maintains the same proportion of the entire page. Advertising will be billed based on the space reserved/ordered.
10. **Unavoidable Nonperformance.** MHMC is not liable for failure to publish ads or distribute its publications because of flood, fire, riots, strikes, terrorists, storms, shortages of material, orders of government, failure of transportation, acts of God or other causes beyond MHMC's control. In such an event, this Agreement will be extended for a period equal to the time during which such performance was not possible.
11. **Clerical Errors.** Incorrect rates on advertisements, which do not correspond to the rate card or as, otherwise specified in this Agreement, will be regarded as clerical errors and such advertisements will be charged at the applicable rate for such advertisement at the time of the signing of this Agreement.
12. **Multiple Advertisers.** Two or more advertisers will not be allowed to combine contracts, nor will advertising agencies be allowed to combine contracts of their clients or accounts, unless the businesses advertised are under common ownership and prior approval of MHMC has been obtained.
13. **Advertising Agencies.** The obligations of Advertiser and its advertising agency (if any) hereunder shall be joint and several.
14. **Self-Renewing Agreement.** Advertiser acknowledges and agrees that this Agreement shall automatically renew for successive one-year periods, subject to termination by either party without penalty upon 30 days prior notice to the other party after the expiration of the initial term of this Agreement.
15. **Online Advertising.** Without limiting the generality of any provision of this Agreement, any online advertising which is subject to this Agreement is subject to the following additional terms and conditions:

4A (4)

a) Advertiser grants to MHMC and any other party who is to publish the advertising described in this Agreement (each, a "Publishing Party") a non-exclusive, royalty-free, worldwide license in connection with this Agreement to (i) use, copy, adapt, reformat, recompile, manipulate, communicate by telecommunication, and/or modify any part of the Advertiser's online advertising materials (the "Advertisements") for public performance, public display, and distribution; (ii) access, index, cache, and display the websites to which the Advertisements link, or any portion thereof, by many mean, including web spiders and/or crawlers; (iii) create and display copies of any text, images, graphics, audio, or video on the websites to which the Advertisements link or elsewhere; and (iv) distribute the Advertisements through the websites, properties, applications, and/or devices described in this Agreement (the "Distribution Network").

b) Advertiser agrees that no Publishing Party shall have a liability for the Advertisements. Advertiser must provide all Advertisements to MHMC for review before any such Advertisement is published to the Distribution Network. A Publishing Party may refuse, reject, truncate, edit, cancel or remove any Advertisement or space reservation in its sole discretion at any time. Advertisements may be subject to inventory availability, and the final decision as to relevancy is at MHMC's discretion. MHMC does not guarantee that any Advertisement will be placed in, or available through, any part of the Distribution Network, nor does MHMC guarantee that any Advertisement will appear in a particular position or rank. Advertiser agrees to indemnify and hold harmless each Publishing Party, any other entities that own or operate any part of the Distribution Network, and the subsidiaries and affiliates of each of the foregoing, and their respective directors, officers, employees, agents, third-party service providers, and third parties distributing the Ads via the Distribution Network (collectively, the "Indemnified Parties"), from and against any and all damages, losses or expenses of any kind, whether actual or claimed (including reasonable attorneys' fees) (collectively, "Claims") that arise out of or in connection with (i) any Advertisement, or any website(s) or material(s) that can be linked to through an Advertisement or (ii) Advertiser's breach of this Agreement. Advertiser agrees to be solely responsible for defending any Claim against an Indemnified Party, subject to such Indemnified Party's right to participate with counsel of its own choosing, and for payment of any and all judgments, settlements, damages, losses, liabilities, costs and expenses, including reasonable attorneys' fees, resulting from all Claims against an Indemnified Party, provided that Advertiser may not agree to any settlement that imposes any obligation or liability on an Indemnified Party without that party's express written consent.

c) If a Publishing Party fails to deliver, by the end of the period specified in this Agreement, the aggregate number of Advertisements agreed herein, then Advertiser's sole and exclusive remedy is limited to the following, which the Publishing Party may choose in its discretion: (i) a refund of the charges representing the Advertisements that were undelivered; (ii) placement of the Advertisements at a later time in a comparable position as determined by the Publishing Party; and/or (iii) an extension of the term of this Agreement with a refund representing any remaining undelivered Advertisements at the end of such extended term.

d) In the event of any error in publishing an Advertisement, the liability of any Publishing Party shall not exceed the cost of the time occupied by the error. In no event shall any Publishing Party's liability to Advertiser under this Agreement exceed the total amount paid or payable by Advertiser thereunder for online advertising. Claims for errors must be submitted by the Advertiser in writing within ten (10) days following the date on which the Advertisement is first published. Advertiser must notify MHMC of the error to enable MHMC to make the appropriate correction. Credit, if allowed, will be given in the form of re-publishing the correct Advertisement. No adjustment will be made where Advertiser is responsible for the error.

e) No Publishing Party shall have any liability whatsoever in the event any act of God, the public enemy or government authority, labor dispute, war (whether declared or not), civil disobedience, riot or other occurrences beyond such Publishing Party's control shall in any way restrict or prevent the publishing of any Advertisement(s).

f) MHMC does not guarantee any given level of audience.

g) Any cancellation, change of date on which any Advertisement is to be published, and/or correction requested by Advertiser must meet MHMC's published deadlines. In the event Advertiser does not furnish Advertising in accordance with MHMC's deadline schedule, MHMC may, at its option, publish on behalf of Advertiser the last Advertisement provided as shall be necessary for Advertiser to comply with the terms of this Agreement.

h) Terms and conditions submitted by Advertiser and/or Advertiser's forms of insertion order or copy instructions are not binding on MHMC or any other Publishing Party. Only the terms and conditions of this Agreement are binding.

16. **Miscellaneous.** Florida law shall govern the enforcement and interpretation of this Agreement, without regard to any conflict of law principles. The parties agree to submit to the exclusive jurisdiction of a court of competent jurisdiction located in Miami-Dade County, Florida. In any action to enforce or interpret this Agreement, Advertiser and MHMC waive a trial by jury. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. A legible facsimile copy of this Agreement when fully executed shall be considered an original copy of this Agreement. Advertiser represents and warrants to MHMC that: (i) no additional consents, approvals or corporate actions are necessary for Advertiser to enter into this Agreement; (ii) execution of this Agreement by Advertiser will not cause a breach or default in any other agreement to which Advertiser is a party; and, (iii) Advertiser is not insolvent. In the event of a filing by or against Advertiser of a petition under the Bankruptcy Code, in its sole discretion, MHMC may (i) discontinue Advertiser's advertising; (ii) demand advance payment; or, (iii) terminate all agreements with Advertiser. This Agreement and any exhibits attached hereto contain the entire understanding between the parties and supersede any prior written or oral understandings, as well agreements, between them regarding the subject matter. This Agreement shall not be modified except in writing signed by the parties. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successor and assigns. The Agreement may not be assigned (by operation of law or otherwise) by Advertiser. In the event that any provision contained in this Agreement or the application thereto to any circumstance is for any reason held to be invalid or unenforceable, such provision shall be ineffective to the minimum extent of such invalidity or unenforceability and the remainder of this Agreement will remain valid and enforceable according to its terms.

17. **LIMITATION OF LIABILITY.** IN THE EVENT OF ANY ALLEGED BREACH BY MHMC OF THE AGREEMENT OR ANY OTHER CLAIMS BY ADVERTISER OR ANY OTHER PARTY, MHMC SHALL IN NO EVENT BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES. UNDER NO CIRCUMSTANCES SHALL MHMC BE LIABLE FOR DAMAGES IN EXCESS OF THE LESSER OF AN AMOUNT WHICH (I) EXCEEDS OF THE COST OF THE ADVERTISEMENT; OR, (II) THE AMOUNT ACTUALLY PAID BY ADVERTISER TO MHMC. MHMC's PAYMENT OF SUCH AMOUNT SHALL BE ADVERTISER'S EXCLUSIVE REMEDY AND AGREED UPON LIQUIDATED DAMAGES. MHMC HEREBY DISCLAIMS ANY WARRANTIES NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT AND ADVERTISER WAIVES ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR ARISING BY COURSE OF DEALING OR PERFORMANCE, CUSTOM, USAGE IN THE TRADE OR OTHERWISE.

City of North Bay Village

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

MEMORANDUM
City of North Bay Village

DATE: July 18, 2012

TO: Dennis Kelly
City Manager

Richard Chervony /yh

FROM: Richard Chervony
Commissioner

SUBJECT: Introduction of Resolution

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

> **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH "THE MIAMI HERALD MEDIA COMPANY" FOR THE PURPOSE OF PROVIDING PUBLISHING SERVICES; SETTING AN EFFECTIVE DATE.**

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

RC:yph

4A(6)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH "THE MIAMI HERALD MEDIA COMPANY" FOR THE PURPOSE OF PROVIDING PUBLISHING SERVICES; SETTING AN EFFECTIVE DATE. ***(INTRODUCED BY COMMISSIONER RICHARD CHERVONY)***

WHEREAS, the City of North Bay Village has utilized the services of "The Miami Herald Media Company" to publish the City's public notices required by State and local laws; and

WHEREAS, the City Manager hereby recommends that the City Commission renew the agreement with "The Miami Herald Media Company" for publishing City public notices in the *Neighbors* in accordance with the proposal and agreement attached hereto as Exhibit "1" (the "Agreement").

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

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

Section 2. Approval Agreement. The Agreement between the City of North Bay Village and "The Miami Herald Media Company" for advertising services, a copy of which is attached as Exhibit "1," is hereby approved.

Section 3. Authorization of City Officials. The City Manager is authorized to take all actions necessary to implement the terms and conditions of the agreement.

HA(7)

Section 4. **Execution of Agreement.** The City Manager is authorized to execute the Agreement on behalf of the City subject to the approval as to form and legality by the City Attorney.

Section 5. **Authorization of Funds Expenditure.** The City Manager is authorized to expend budgeted funds to implement the terms of this Agreement.

Section 6. **Effective Date.** This Resolution shall take effect immediately upon adoption.

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

FINAL VOTE AT ADOPTION:

PASSED AND ADOPTED this ____ day of July, 2012.

_____
Connie Leon-Kreps, Mayor

ATTEST:

_____
Yvonne P. Hamilton, CMC
City Clerk

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

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

4A(8)