

## SUMMARY MINUTES

Regular City Commission Meeting  
Thursday, October 14, 2004, 7:30 p.m.  
City of Sunny Isles Beach, Florida

**ATTENTION ALL LOBBYISTS: CITY LAW REQUIRES YOUR REGISTRATION PRIOR TO ENGAGING IN LOBBYING ACTIVITIES BEFORE CITY STAFF, BOARDS, COMMITTEES OR THE CITY COMMISSION. PLEASE CONTACT THE CITY CLERK FOR FORMS AND ADDITIONAL INFORMATION.**

### AGENDA

#### 1. CALL TO ORDER/ROLL CALL OF MEMBERS

The meeting was called to order by Mayor Edelcup at 7:02 p.m., with the following officials present:

Mayor Norman S. Edelcup  
Vice Mayor Gerry Goodman  
Commissioner Roslyn Brezin  
Commissioner Danny Iglesias  
Commissioner Lewis J. Thaler

City Manager Christopher J. Russo  
City Attorney Lynn Dannheisser  
City Clerk Jane A. Hines

#### 2. PLEDGE OF ALLEGIANCE/INVOCATION

**Action:** Richard C. Schulman led the Pledge of Allegiance to the flag and gave an invocation.

Mayor Edelcup noted that this is the last Commission meeting before the General Election on November 2, 2004 and reminded people to vote, from the President down to the City's five Charter Amendments. He said that early voting begins Monday, October 18, 2004 and that the City is providing bus transportation to the polling place in Aventura, as well as bus service to the City's polling places on November 2, 2004. He then gave opening remarks of decorum.

#### 3. APPROVAL OF MINUTES

- 3A. Special City Commission Meeting/2<sup>nd</sup> Budget Hearing FY 2004/05 – Sept. 22, 2004.  
**Action:** Vice Mayor Goodman moved and Commissioner Thaler seconded **a motion to approve the above-mentioned Summary Minutes. The motion was approved by a voice vote of 5-0 in favor.**

- 3B. Regular City Commission Meeting – September 22, 2004.  
**Action:** Commissioner Thaler moved and Commissioner Brezin seconded **a motion to approve the above-mentioned Summary Minutes. The motion was approved by a voice vote of 5-0 in favor.**

#### 4. ORDER OF BUSINESS (Additions/Deletions/Amendments)

- 4A. Request to Hear Items: Revised TDR Ordinance Item 7D.  
*Action:* Mayor Edelcup noted the above change.

5.     **SPECIAL PRESENTATIONS**

- 5A. Rendition of Dedication Plaque for the Sunny Isles Beach Government Center Commission Chambers Named in Honor of David P. Samson, the City’s First Mayor and Founding Father.

*Action:* Mayor Edelcup proposed that we honor our first Mayor by naming the Commission Chambers in the new Government Center as the David Samson Commission Chambers and that we would have a bronze 3-dimensional plaque with a bust of Mayor Samson mounted at the entrance to the Chambers commemorating his devotion and service to Sunny Isles Beach, and **asked the Commission for their unanimous consent, and Vice Mayor Goodman moved and Commission Iglesias seconded the motion. The motion was approved by a voice vote of 5-0 in favor.** Mayor Edelcup then presented a framed rendition of the Dedication Plaque and a dozen red roses to Mrs. Marion Samson.

Mayor Edelcup noted that we should be in the new City Hall by February and that there will be a citywide party celebrating its grand opening, and he commended City Manager Russo on getting the facility built ahead of schedule.

- 5B. A Good Samaritan Award Plaque to be presented to Stuart and Reesa Kalishman, in special recognition of their Heroic Efforts in saving the life of Bob Leidner on Sunday, September 12, 2004.

*Action:* Commissioner Brezin presented the Good Samaritan Award Plaque to Stuart and Reesa Kalishman who had administered mouth-to-mouth resuscitation resulting in saving the life of Mr. Leidner who had collapsed at a local restaurant and stopped breathing. She also commended the Police Department who had responded to 911 within three minutes from the time they were called.

- 5C. A Proclamation Declaring November 2004, as National Epilepsy Awareness Month in the City of Sunny Isles Beach.

*Action:* Mayor Edelcup noted that November is National Epilepsy Awareness Month and that City Clerk Hines will mail the Proclamation.

6.     **ZONING - ZONING HEARINGS ARE QUASI-JUDICIAL PUBLIC HEARINGS.**

None

7.     **ORDINANCES FOR FIRST READING**

- 7A.** An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, **Establishing Procedures for the Revocation of Any Permit Issued by the City; Providing for Appeal; Providing for Suspension of Permit; Providing for Severability; Providing for Inclusion in the Code; Providing for an Effective Date.**

*Action:* City Clerk Hines read the title and City Attorney Dannheisser reported.

*Public Speakers:* none

Vice Mayor Goodman moved and Commissioner Thaler seconded **a motion to approve the proposal on first reading. The motion was approved by a roll call vote of 5-0 in favor. Second reading, public hearing will be held on Thursday, November 18, 2004, at 7:30 p.m.**

<b>Vote:</b>	Commissioner Brezin	<u>yes</u>
	Commissioner Iglesias	<u>yes</u>
	Commissioner Thaler	<u>yes</u>
	Vice Mayor Goodman	<u>yes</u>
	Mayor Edelcup	<u>yes</u>

- 7B.** An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, Amending Section 265-46 of the Code of Sunny Isles Beach Relating to Parking Regulations to Prohibit **Parking of Vehicles on Front Lawns** in Residential Districts and to Prohibit Parking of Vehicles on Publicly Maintained Lawns and Landscaped Areas; Providing for an Exception; Providing for Enforcement; Providing for Penalties; Providing for Severability; Providing for Inclusion in the Code; Providing for Repealer; and Providing for an Effective Date.

*Action:* City Clerk Hines read the title and City Attorney Dannheisser reported and noted that there were discussions with Code Enforcement, Planning and Zoning, and the Building Department and that there are some issues that need to be clarified.

*Public Speakers:* Mary Ann Eicke

Mayor Edelcup noted that he requested this Ordinance because he has received numerous complaints that a number of neighbors are parking their vehicles on their front lawns leaving ruts as a result of cars parked there continuously especially during the rainy season.

Shelley Eichner, City Planner, said if you go into the R1 Single Families Zoning category, in terms of lot coverage, you can have your structure filling up no more than 42% of the lot area. She said there is another requirement about minimum landscaped area of 25%, that sums up to 67%, which means there is 33% of a lot area that does not necessarily have to be landscaped and is not building coverage, and that it could be things like a pool, asphalt, and more paving, a third of the site is not restricted to either lot coverage or minimal landscaping.

Commissioner Thaler said that he sees two different things: 1) some are renting the homes and therefore there are a multitude of cars, for instance in Golden Shores, a number of those homes have rentals, and if we institute this, we will get a number of complaints; and 2) the penalty of \$25 per occurrence is not stiff enough, it should be changed to a day, not an occurrence. City Manager Russo said that there has been a tremendous program, particularly in the Golden Shores area, which has ridden out most of the illegal occupancies in that entire neighborhood, and under the Code Enforcement Ordinances as they exist, is the ability under the property maintenance to give a \$250 fine for each occurrence on property that is unkempt by the ruts, and so the fine structure is one issue in the ordinance that needs to be looked at. Commissioner Iglesias said that is the key and we need to go after these properties that are not maintained and have the ruts. He said he is a renter, and the person that rents from him has various vehicles, and he has visitors all the time. Robert Solera, Assistant Administrator, Code Enforcement & Licensing/ Building Department, said that they did a sweep of the Golden Shores area about three years ago, and they acquired original plans from the County with the purpose to find out if the plans were the same as it existed at the time of inspections, and we have an ordinance that covers multiple families in terms of subdividing, and we found a number of them which we eliminated mainly in the area of Atlantic Boulevard. He said at this point there is follow-up, and there has not been any multiple-family. Vice Mayor Goodman noted in the ordinance that the section shall not apply to special events involving family or social gathering providing that such events do not occur more frequently than once a week, which means that cars can park on the lawns once a week. Mayor Edelcup said it is the abuse of the privilege.

Commissioner Iglesias presented photos of his house and Mayor Edelcup's house, where he has a lot of green and Mayor Edelcup has asphalt. He said he would like to change the ordinance in Section 15 to say "No vehicles or boats shall be permitted to park permanently on front or side lawns of any property located in any residential district." He suggested striking the last sentence of that paragraph that says "~~This section shall not apply to special events involving family or social gathering provided such events do not occur more frequently than once a week.~~" He said permanently shall mean no more than 24-hours or on a consistent basis, and Mayor Edelcup said permanently or on a continuing basis. After considerable discussion, the Commission determined to make the above changes to the ordinance as suggested by Commissioner Iglesias, and to change the civil penalty from \$25.00 to \$250.00 per occurrence. Mayor Edelcup said for Code Enforcement to give warnings first before issuing a citation.

Commissioner Iglesias moved and Commissioner Thaler seconded **a motion to approve the proposal on first reading, as amended. The motion was approved by a roll call vote of 5-0 in favor. Second reading, public hearing will be held on Thursday, November 18, 2004, at 7:30 p.m.**

<b>Vote:</b>	Commissioner Brezin	<u>yes</u>
	Commissioner Iglesias	<u>yes</u>
	Commissioner Thaler	<u>yes</u>

Vice Mayor Goodman     yes  
 Mayor Edelcup           yes

- 7C. An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, Amending Section 265-11 of the Code of Sunny Isles Beach, to **Require Zoning Clearance Before the Issuance of a Building Permit**; Providing for Severability; Providing for Repealer; Providing for Inclusion in the Code; and Providing for an Effective Date.

*Action:* City Clerk Hines read the title and City Attorney Dannheisser reported.

*Public Speakers:* none

Commissioner Brezin moved and Commissioner Iglesias seconded **a motion to approve the proposal on first reading. The motion was approved by a roll call vote of 5-0 in favor. Second reading, public hearing will be held on Thursday, November 18, 2004, at 7:30 p.m.**

**Vote:** Commissioner Brezin     yes  
           Commissioner Iglesias   yes  
           Commissioner Thaler     yes  
           Vice Mayor Goodman    yes  
           Mayor Edelcup           yes

- 7D. An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, Amending Section 265-23 of the Land Development Regulations, Relating to **Transfer of Development Rights**; Providing for Revised Definitions; Providing for Amendments to the Provision on TDRs Transferred from City-Owned Sender Sites; Providing for Amended Development Limitations on TDRs Transferred from Privately-Owned Sender Sites; Providing for a Clarification to the Provision on TDRs from a Privately Owned Sender Site to a Privately Owned Receiver Site; Providing for Clarifications to Development Limitations Upon Receiving Sites; Providing for Amendments to the Review Process by the City Commission and Recording of Documents; Providing for an Amendment to the Zoning in Progress Provision and the TDR Bank Procedures and Limitations; Providing for a Repealer; Providing for Severability; Providing for an Effective Date.

*Action:* City Clerk Hines read the title and City Attorney Dannheisser reported that an amended Ordinance was distributed. Mayor Edelcup said that this was a follow-up on a discussion that was held in July in which we were talking about revising the TDR Ordinance because it was still a work in progress and needed to have some amendments, and that there were some major changes that may be needed to be incorporated into that ordinance. He said that we are defining the sender site, that is the site that gives up the land as a site that the City will be able to use as a park or open space, any land that is subject to having TDRs on it so that we don't double count in density, it has to be a piece

of land that will remain open as a park, open space, etc., and that is not encumbered with buildings as opposed to having a site being donated to the City in which, for instance, a City Hall is built on that site, and there is a box that creates a density, if we have the density there, then we can't really transfer the density somewhere else because we have used it. He said the other item that we are changing is that when a receiver site, actually where something is going to be built, is being presented to the City for site plan approval, and if there are TDRs involved in the construction on the new site, that the sender site needs to be identified at the time that the site plan is being reviewed. Mayor Edelcup noted that we had that situation earlier in the life of this ordinance and then we reverted to allowing sites that would be the sender site be designated at a later date, and we have decided that isn't really working. He stated that there seems to be an inability of getting those sites defined, and felt it would be better to force the issue and create an impetus that when the site plan is being reviewed, that the negotiations are completed for where the extra TDRs are coming from, whether it be the City or a private owner.

City Attorney Dannheisser reported that the court has asked some questions based on arguments that have been raised and so we are clarifying this ordinance for the record. She said that the fact that a site plan on a receiver site cannot be approved by the City Commission with TDRs unless the sender site has first been identified or approved, or the owner of the sender site commits to purchase either City-owned TDRs or TDRs already located in a TDR bank from a previously approved privately owned sender site is clarified and reinstated as a requirement. She said that the sender and the receiver site has to be identified at the same time, this is to address the fact that there were no transactions occurring and we were approving receiver sites without their having to identify where they were getting the TDRs from. She said although it has to be identified the actual transfer does not have to occur until later, in other words, someone does not have to put up the money for the building permit but the building permit will not be issued until that is demonstrated that the transfer has occurred. She stated that we have also clarified the fact that the TDRs can include the underline zoning, approved bonuses, and allowable transferable development rights, but up to 130% and only if they can be performed. She said another change that was brought up by Commissioner Thaler is in no event can a receiver site accept transfers if the height of the improvements on that site will then exceed 550-feet.

City Attorney Dannheisser stated that the approval process by the City Commission including valuation has been further clarified that until TDRs are approved by the Commission, they have no inherent or intrinsic value and cannot be considered as "a matter of right" in the valuation of any potential Sender or Receiver Site, and procedurally we have codified that a resolution authorizing the withdrawal and transfer of TDRs has to be issued in order for the TDR bank statement to be automatically changed, and we have provided for mandatory recording of that resolution. She said that we have also clarified in the substitute Ordinance that while this second resolution has to be issued, once a receiver site gets approved for TDRs in addition to their underline zoning, that becomes an obligation of the Commission, it is not debatable after that, when a resolution comes before the Commission, it is a ministerial manner, you must authorize the transfer unless a

condition has not been met. She said that they have agreed that the Ordinance in effect at the time an application is filed will be the one applicable, but we are now requiring that the City shall receive an indemnification and hold harmless from both the seller and purchaser of the TDRs in a private transaction before any withdrawals are made. Mayor Edelcup asked about the 50,000 cap, and City Attorney Dannheisser said that has already been removed from the City-owned bank.

*Public Speakers:* Cliff Schulman, Esq.; Mary Ann Eicke; Herb Abramson; Henry Kay

Cliff Schulman, Esq., asked to meet with staff and consultants about their concerns, and City Attorney Dannheisser said that for the record, anything that he raised as a legal point was not a problem. Commissioner Thaler said that there was a second fax from Stanley Price, Esq., where he relates to the Regalia, and he asked City Attorney Dannheisser to explain any connection to the Ordinance, and she said since we are in litigation and we have supported this project, we have vigorously defended it, and so far have won in the challenge to this approval that there is nothing in this amendment that will adversely effect that approval, and that approval has been secured and the TDRs that were requested were granted as part of that site plan approval. She said that the only thing that may be affected is the ministerial transfer of those TDRs.

Vice Mayor Goodman moved and Commissioner Iglesias seconded **a motion to approve the proposal on first reading, as amended. The motion was approved by a roll call vote of 5-0 in favor. Second reading, public hearing will be held on Thursday, November 18, 2004, at 7:30 p.m.**

<b>Vote:</b>	Commissioner Brezin	<u>yes</u>
	Commissioner Iglesias	<u>yes</u>
	Commissioner Thaler	<u>yes</u>
	Vice Mayor Goodman	<u>yes</u>
	Mayor Edelcup	<u>yes</u>

**8. PUBLIC HEARINGS (Other than Ordinances for Second Reading)**

None

**9. ORDINANCES FOR SECOND READING (*Public Hearings*)**

None

**10. RESOLUTIONS**

**10A.** A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, **Approving an Agreement Awarding Bid No. 04-08-01 To ADT Security Services, Inc., for a Security System for the Sunny Isles Beach Government Center,** in an

Amount of \$182,595.00, Attached Hereto as Exhibit “A”; Authorizing the Mayor to Execute Said Agreement; Authorizing the City Manager to Do All Things Necessary to Effectuate the Terms of the Agreement; Providing for an Effective Date.

**Action:** City Clerk Hines read the title and Information Technology Director Derrick Arias reported. City Attorney Dannheisser noted that the agreement was minimally revised and now has attached the full bid documents, which were not in the agenda package. City Manager Russo also noted that the Performance Bond was not in the package but is now attached to the revised agreement as part of the bid documents.

*Public Speakers:* none

Vice Mayor Goodman moved and Commissioner Iglesias seconded a **motion to approve the resolution. Resolution No. 2004-723 was adopted by a voice vote of 5-0 in favor.**

- 10B.** A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving **Agreements with BellSouth to Provide Local and Long Distance Services**, Attached hereto as Exhibit “A”; Authorizing the City Manager to Execute Said Agreements and to Do All Things Necessary to Effectuate the Terms of the Agreements; Providing for an Effective Date.

**Action:** Information Technology Director Derrick Arias reported noting that by putting this agreement in place, any installation charges will be waived, so when we move to the new City Hall, there won’t be any fees from BellSouth because we are actually moving them.

*Public Speakers:* none

Vice Mayor Goodman moved and Commissioner Thaler seconded a **motion to approve the resolution. Resolution No. 2004-724 was adopted by a voice vote of 5-0 in favor.**

- 10C.** A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving an Agreement with **Coleman Technologies, Inc., to Provide a Telephone System and Installation for the Sunny Isles Beach Government Center**, Under Florida State Contracts #250-000-03-1 and #973-561-04-2, in an Amount Not to Exceed \$178,367.30, Attached Hereto as Exhibit “A”; Authorizing the Mayor to Execute Said Agreement; Authorizing the City Manager to Do All Things Necessary to Effectuate the Terms of the Agreement; Providing for an Effective Date.

**Action:** Information Technology Director Derrick Arias reported and noted that the first year maintenance is included in this contract and after that we will have to come back to the Commission yearly for a maintenance contract.

*Public Speakers:* none

Commissioner Brezin moved and Vice Mayor Goodman seconded a **motion to approve the resolution. Resolution No. 2004-725 was adopted by a voice vote of 5-0 in favor.**

- 10D.** A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving an Agreement with **Audio Visual Innovations, Inc., to Provide Audio/Visual Equipment and Installation for the Sunny Isles Beach Government Center**, Under Existing Municipal Contracts, in an Amount Not to Exceed \$213,046.03, Attached Hereto as Exhibit “A”; Authorizing the Mayor to Execute Said Agreement; Authorizing the City Manager to Do All Things Necessary to Effectuate the Terms of the Agreement; Providing for an Effective Date.

*Action:* Information Technology Director Derrick Arias reported noting that the first year maintenance is included in this contract as well. Commissioner Thaler asked if this would permit us to send through our channel these commission meetings from the new building, and IT Director Arias said that this proposal does include the video system for the Chambers so that we will be able to either record or to eventually have live broadcast. City Manager Russo said that this is for remote cameras in the Chambers and also a live feed into the overflow area inside the lobby of City Hall. Vice Mayor Goodman asked if we are going to use the Cable Company to broadcast, and City Manager Russo said yes that they gave us \$56,000 toward the equipment, and that they are putting in 12 connections of cable and the City is putting in the rest.

*Public Speakers:* none

Commissioner Brezin moved and Commissioner Thaler seconded a **motion to approve the resolution. Resolution No. 2004-726 was adopted by a voice vote of 5-0 in favor.**

- 10E.** A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving the **Appointment of Two Additional Members to the Historic Preservation Board**, Pursuant to Ordinance No. 2004-214, Changing the Number of Members on the Historic Preservation Board from Five (5) to Seven (7); Providing for an Effective Date.

*Action:* City Clerk Hines read the title and Mayor Edelcup reported that we are adding two members to this Board, Phillip Chernoff and Hassida (Cassey) Gabor.

*Public Speakers:* none

Commissioner Brezin moved and Vice Mayor Goodman seconded a **motion to approve the resolution. Resolution No. 2004-727 was adopted by a voice vote of 5-0 in favor.**

- 10F.** A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Authorizing the **Renaming of the Mayor’s Advisory Council’s Health and Welfare Committee to the “Health and Community Activities Committee”**; Providing for an Effective Date.

**Action:** City Clerk Hines read the title and Commissioner Brezin reported.

*Public Speakers:* none

Commissioner Thaler moved and Commissioner Iglesias seconded a **motion to approve the resolution. Resolution No. 2004-728 was adopted by a voice vote of 5-0 in favor.**

- 10G.** A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Confirming the **Declaration of Local Emergency** as Imposed by the City Manager Due to Hurricane Jeanne, and Confirming the Termination of the State of a Local Emergency; Authorizing the City Manager to Do All Things Necessary to Effectuate the Terms of this Resolution; Providing for an Effective Date.

**Action:** City Clerk Hines read the title and City Manager Russo reported.

*Public Speakers:* none

Commissioner Thaler moved and Commissioner Iglesias seconded a **motion to approve the resolution. Resolution No. 2004-729 was adopted by a voice vote of 5-0 in favor.**

- 10H.** A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Authorizing the **Transfer of Development Rights (TDRs) in the Amount of 54 Dwelling Units and 92,103 Square Feet of Floor Area to Royal Development Holdings LLC (“The Royale Condominium Project”) from the TDR Bank Established for 17200 Collins Avenue, LP. (The “Casino Property”)**; Directing the Planning and Zoning Administrator or Designee to Transfer the TDRs from the TDR Bank to Royal Development Holdings LLC in Accordance with Resolution No. 04-Z-84; Consent to the Transfer of the TDRs by the Casino Property; Authorizing the Adjustment of the TDR Bank by the Planning and Zoning Administrator or Designee; Providing the City Manager with the Authority to Do All Things Necessary to Effectuate this Resolution; and Providing for an Effective Date.

**Action:** City Attorney Dannheisser reported that issues have to be worked out by the applicant and that they have asked for a deferral to the next City Commission meeting.

*Public Speakers:* none

Vice Mayor Goodman moved and Commissioner Iglesias seconded a **motion to defer this item to November 18, 2004. The motion was approved by a voice vote of 5-0 in favor.**

**11.    MOTIONS**

None

**12.    DISCUSSION ITEMS**

**12A. Add-On Item**

Schedule an Executive Session regarding Litigation on the Alamo Property.

**Action:** Mayor Edelcup said that Commissioner Thaler and Vice Mayor Goodman requested that an Executive Session be scheduled to discuss litigation on the Alamo property. City Attorney Dannheisser said that the only thing that will be determined at this hearing will be the public necessity, and if we get to the issue of valuation there may be a trial on that, but that the Commission wanted to try and settle this. After discussion it was determined to **schedule the Executive Session on Monday, November 1, 2004 at 8:00 a.m.**

**13.    CITIZENS' FORUM: REQUESTS, PETITIONS & OTHER COMMUNICATIONS**

**14.    ADJOURNMENT**

Vice Mayor Goodman moved and Commissioner Thaler seconded a motion to adjourn the meeting, and Mayor Edelcup adjourned it at 9:07 p.m.

Respectfully submitted by:

Approved by the City Commission on Nov. 18, 2004

\_\_\_\_\_  
Jane A. Hines, City Clerk

\_\_\_\_\_  
Norman S. Edelcup, Mayor