

## SUMMARY MINUTES

Regular City Commission Meeting  
Thursday, March 10, 2005, 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 7:31 p.m., with the following officials present:

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

City Manager Christopher J. Russo  
City Attorney Lynn Dannheisser  
Deputy City Attorney Hans Ottinot  
City Clerk Jane A. Hines  
Planning and Zoning Administrator Jorge Vera

Mayor Edelcup noted that this is an historic occasion for the City as we are meeting for the first time in our new David Samson Commission Chambers, and he commended Mayor David Samson, and the present and former Commissioners.

#### 2. PLEDGE OF ALLEGIANCE/INVOCATION

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

Mayor Edelcup gave opening remarks of decorum.

#### 3. APPROVAL OF MINUTES

##### 3A. Regular City Commission Meeting – December 9, 2004.

**Action:** Commissioner Iglesias moved and Vice Mayor 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 – February 10, 2005.

**Action:** Commissioner Brezin noted that she had a correction to make to the minutes on page 13, second paragraph, "...when asked by Commissioner Brezin" is not correct, she said she was making a statement, not asking a question. City Clerk Hines will correct the minutes.

Commissioner Brezin moved and Commissioner Iglesias seconded **a motion to approve the above-mentioned Summary Minutes, as amended. 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; 7C Substitute Ordinance; Add-on Item 10H and 10I; and additional information for Item 12A.

**Action:** Mayor Edelcup announced the above. Commissioner Iglesias moved and Commissioner Brezin seconded **a motion to approve the above changes. The motion was approved by a voice vote of 5-0 in favor.**

**5. SPECIAL PRESENTATIONS**

*None*

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

- 6A.** Request of **Benge Enterprises, Inc., LSB Investments, Sunny Isles Beach Entertainment Corp. and Franco Posteraro and Domenico Figlia, Owners of the Property Located at 150 – 260 Sunny Isles Boulevard, Sunny Isles Beach, Florida**, for the Following:  
[Hearing #Z2004-07]

1. Pursuant to Section 265-23 of the City of Sunny Isles Beach Land Development Regulations, the applicant is requesting to transfer 12,023 square feet of development rights and 65 units. (An adjustment to be made for a decrease of 112,905 square feet and 65 units from the City's Transferable Development Rights Bank).
2. Pursuant to Section 265-18 of the City of Sunny Isles Beach Land Development Regulations, the applicant is requesting a site plan approval for three 19-story, 285-unit condominiums.
3. Variance of Section 265-37 requiring the penthouse portion (top 3 floors) of the buildings to setback an additional 20 feet from the tower; to waive same.

**(Item to be Submitted)**

**Action:** Planning and Zoning Administrator Jorge Vera announced that this item and item 6C will have to be deferred as they were not noticed properly [individual notices mailed to the property owners had an incorrect hearing date]. This item will be deferred to March 22, 2005.

Mayor Edelcup noted that most of the time we have one meeting a month but additional meetings have been scheduled in the event of a backlog of work, therefore, there is a regular meeting scheduled on Tuesday, March 22, 2005, at 7:30 p.m.

- 6B.** Request of **TRG Sunny Isles VII, LTD, Owner of the Property Located at 15800 Collins**

**Avenue, Sunny Isles Beach, Florida**, for the Following:  
 [Hearing #Z2004-11]

1. Pursuant to Section 265-18 of the Code of the City of Sunny Isles Beach, the applicant is requesting a modification of Condition IV(A)(2) of Resolution 04-Z-86 passed and adopted by the City Commission of the City of Sunny Isles Beach on the 17<sup>th</sup> of June 2004, reading as follows;

**From:** Plans are on file and may be examined in the Zoning Department entitled “Dezer South Sales Trailer”, prepared by Pacetti Architects, consisting of 3 sheets dated received 5-14-04 and plans entitled “Dezer South Sales Trailer Paving and Drainage Plans”, prepared by Fortin, Leavy, Skiles, Inc., consisting of 3 sheets dated signed 5-06-04 and plans entitled “Dezer South Sales Trailer Landscape Plan”, prepared by EGS2 Corp dated 05-14-04.

**To:** Plans are on file and may be examined in the Zoning Department entitled “Dezer South Sales Trailer”, prepared by Pacetti Architects, consisting of 11 sheets dated stamped received 11-16-04 and plans entitled “Dezer South Sales Trailer Paving and Drainage Plans”, prepared by Fortin, Leavy, Skiles, Inc., consisting of 3 sheets dated signed 11-18-04 and plans entitled “Dezer South Sales Trailer Landscape Plan”, prepared by EGS2 Corp dated 11-22-04. Plans may be modified at public hearing. All plans and conditions approved under resolution 04-Z-86 remain in effect.

Protests   0        Waivers   0        Ex-Parte   0  

**Action:** City Clerk Hines read a disclaimer for the Zoning hearing, and read the applicant’s name, hearing number, location and then administered the oath to the witness for the Zoning hearing. Planning and Zoning Administrator Jorge Vera reported that this item came before the Commission previously however the applicant added another sales trailer to the old approval and therefore they had to come back and modify the existing plan. He said all the parking and landscaping stays the same, the additional trailer does not impair any of the prior approvals and therefore staff recommends approval of this application.

*Public Speakers:* Joseph Goldstein, Esq.; Peter Weiner; Edith Sandquist

Mayor Edelcup said he would like to add a condition on the approval, he noticed that the area where the sales trailer is being established still has a chain link fence there that has not been covered in accordance with our recent ordinance that requires chain link on the west side of Collins Avenue to be covered, therefore he wants to add the condition that this approval tonight will only cover this particular situation if we will have the fence put up as a condition to getting the approval. Planning and Zoning Administrator Vera noted that Code Enforcement has already cited the site, the applicant has to put in the mesh to hide the construction. Mayor Edelcup said the reason he is bringing this up is because throughout the City we still have a lot of sites that are not complying to our most recent Ordinance about fencing, whether it be on the east side of Collins Avenue, whether it be a demolition site or a construction site, the minute work begins on those projects, the fences have to go up because it is destroying landscaping in medians and causing unsightly views.

Joseph Goldstein, Esq., representing TRG Sunny Isles VII, Ltd., said that he thought they were grandfathered from the ordinance and he was not aware of any notice of violation, but if

it is the wish of the Commission, they will cover that chain link fence and they agree to the condition. Vice Mayor Thaler asked if there was a time schedule, and Mr. Weiner said in the next several months. Commissioner Brezin asked if the new addition is going to change the overall look, and Mr. Weiner said the trailer goes in the center and will be administrative offices and in no way affects the outward appearance of the sales office.

Commissioner Goodman moved and Commissioner Brezin seconded **a motion for approval, subject to staff conditions, and the condition that the construction fence be altered in order to comply with the City's Ordinance. Resolution No. 05-Z-90 was approved by a roll call vote of 5-0 in favor.**

**Vote:**

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

Mayor Edelcup noted that the applicant is coming up with another one shortly for the east side and he has the same problem that there is no fence on the east side of Trump I, II, and III, so when they bring that application in to make sure that the fence is up because he won't approve it without the fence up.

**6C. Request of Sayan Developers, Inc., Owner of the Property Located at 16275 Collins Avenue, Sunny Isles Beach, Florida, for the Following:**  
[Hearing #Z2005-1]

1. Pursuant to Section 265-18 of the Code of the City of Sunny Isles Beach, the applicant is requesting to delete Condition #7 of Resolution 03-Z-74 passed and adopted by the City Commission of the City of Sunny Isles Beach on the 19<sup>th</sup> of June 2003. All plans and conditions previously approved under Resolution 03-Z-74 remain in effect.

**(Item to be Submitted)**

**Action:** Planning and Zoning Administrator Jorge Vera announced that this item is deferred

**7. ORDINANCES FOR FIRST READING**

- 7A.** An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, Relating to **Temporary Toilets in a Construction Site**; Providing for Specific Location Relative to Adjacent Highways or Streets; Providing for Penalties for Violation; Providing for Repealer; Providing for Severability; Providing for Codification; Providing for an Effective Date.

**Action:** City Clerk Hines read the title and Building Official/Administrator Clayton L. Parker reported. Commissioner Goodman asked if it has to be fenced on three sides or fenced just from Collins Avenue and open to their construction site; Building Official Parker said depending on the location of the toilet, if the doors are facing Collins Avenue, then we would want it to be fenced, and if it is facing the other way, it wouldn't have to be fenced.

*Public Speakers:* none

Commissioner Goodman moved and Vice Mayor 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, April 14, 2005, at 7:30 p.m.**

**Vote:**

Commissioner Brezin	<u>yes</u>
Commissioner Goodman	<u>yes</u>
Commissioner Iglesias	<u>yes</u>
Vice Mayor Thaler	<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 265-35D(9)E of the Land Development Regulations of the Code of Sunny Isles Beach **Including in the Calculation of the Floor Area of that Portion of Covered or Enclosed Parking Structures Which Exceeds 30 Feet Above Grade and Exceeds the Required Parking Unless the Parking Structure is Contained Within the Primary Use Structure Tower**; Providing for Severability; Providing For An Effective Date. (Sponsored by Commissioner Iglesias)

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

*Public Speakers:* none

Commissioner Iglesias reported that this is to accommodate what Commissioner Goodman came up with on parking requirements. He said for example, if you have a 400-ft lot that has parking of 1.25 parking per unit, buy-down of 15% and that would have been 63 spaces, which you need on a 100-ft lot, and that is an extra floor, we are not adding any density and the tower stays the same, setback stays the same on the tower. Commissioner Goodman said that he does not want to go up another 10-feet because for example, La Perla has seven stories of garage underneath the building and when that building is finished it won't look like a garage, it will look like part of the building. H said if we are going up 10-feet, that will make it 30-feet, 75-foot setback on Collins Avenue, if you take away that 10-feet and put it back to 20-feet that is what he would be interested in doing. Commissioner Iglesias said what would we do for parking, it would work on the Pinnacle, but you would still have to put another story, it won't work on a 100-foot or 120-foot lot. Commissioner Goodman suggested putting the garage back further than 75-feet. Commissioner Iglesias said you can't do that on some lots like on 163<sup>rd</sup> Street. He said that you have to go up to handle the extra parking spaces. Mayor Edelcup said if a builder needs an extra floor then they have to take it out of FAR, he said he feels we have a pretty liberal ordinance on our books, he doesn't have a problem if the garage gets bigger because we require more parking spaces in it, then it needs to be counted against the FAR. Mayor Edelcup said his understanding in this is that we would not make any changes in the zoning because it is already covered. Commissioner Iglesias said that they are changing the ballgame because they are requiring to put in more parking, and Mayor Edelcup said right but the ordinance tonight doesn't have to be changed if we are all agreeing that it is going to count as FAR and the ordinance stands as is.

Commissioner Iglesias moved **a motion to approve the proposal on first reading, but it died due to the lack of a second.**

- 7C.** An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, Repealing Ordinance No. 2004-210 Relating to Disclosure of Personal Investments that Might Create a Conflict with Official Duties; **Amending Section 33-3K, Conflict of Interest and the Code of Ethics to Prohibit Any Investment in Any Enterprise Which Will Create an Appearance of Conflict of Interest**; Providing for Dissemination of Such Disclosure by City Clerk; Providing for Disciplinary Action; Providing for Severability; Providing for Repealer; Providing for Inclusion in the Code; Providing for an Effective Date (Sponsored by Commissioner Iglesias)

**Action:** City Clerk Hines read the title and City Attorney Dannheisser reported and noted that a substitute Ordinance was distributed with a minor amendment that would allow for any interpretation that needs to be rendered on this issue, should the ordinance pass, to confer jurisdiction on the Miami-Dade Commission on Ethics.

**Public Speakers:** Mary Ann Eicke; Lila Kauffman; Murray Gold; Henry Kay; Isaac Aeilon

Commissioner Iglesias said that back in July we passed this ordinance and even though he made various comments that it would deter people from running in public office because they cannot abstain from voting and he still voted in favor of it, and at that time he said he would come back with another ordinance which would make our Ethics law stronger and the strictest in the County because speakers at that time used the words ethics, appearance, perception, and the Mayor used a moral issue, and he believes this will clearly demonstrates that. He said that this City will take good ethical conduct to its highest form and avoid the perception that any employee or public official in this City will use their position for personal gain or favoritism, and that it would exceed the previous ordinance. Commissioner Iglesias thanked those people that spoke at that hearing, and Robert Meyers and Christina Pzerkic from the Ethics Commission, and Howard Rosen from the State Attorney's Office for their valuable input. He noted that he had tapes from the July 22, 2004 meeting, and quoted various speakers including the Commission. He said that it is very important to remember that nothing replaces common sense, and perception. Commissioner Goodman said that another statement he made at that hearing was if all five of them decided to do the same thing with Commissioner Iglesias who would be voting on these things as a Commission, in the past he said Commissioner Iglesias did and recused himself, so that is where the question arose. He said that who can be anybody here or any lawyer in Dade County that gets elected to any office can be in the same position.

Vice Mayor Thaler said that the word appearance is the key word here and we need a definition of what appearance actually means. He said he stayed away from buying property in Sunny Isles Beach and he invested in other areas where there is no perception of wrong doing. He said for an example, if one of his investments would come in and buy Mr. Katz out, then he would have a substantial interest in Sunny Isles Beach and the real estate in Sunny Isles Beach where he has an investment, does that mean he has no vote relative to that? Commissioner Iglesias clarified that we need to address appearance because what is apparent to him may not be apparent to you. He said he has something with the help from the State Attorney's Office and it would define what appearance is. Mayor Edelcup said that we can't read this tonight and comment on it because the material was not given to them prior. He said

he would be glad to look at it if Commissioner Iglesias would defer this item. Commissioner Iglesias said that he is only adding to the Ordinance and asked City Attorney Dannheisser if we can hear this tonight since this is first reading. Commissioner Brezin said she would like this item deferred so she can have the opportunity to really read this through and study it.

City Attorney Dannheisser said that what Commissioner Iglesias is referring to is the question on whether you can make a material change on a second reading and this would be a material change on a second reading, at first reading you can present anything you want, then it is a matter for the Board to decide. Commissioner Iglesias asked the Commission to look at page 2 of the ordinance and for the record, he said that this starts from now on, it is the perception that we are trying to deal with, from this day forward. Mayor Edelcup asked if this ordinance substitutes the amended ordinance, and Commissioner Iglesias said yes, and he read the second page of the ordinance. He said that the first one he did was more strict than this one but Howard Rosen of the State Attorney's Office gave him input that the disqualification should be in there. Mayor Edelcup noted that the word appearance is missing from this one, and Commissioner Iglesias said yes they dropped appearance, that it is very clear using specific instances.

Mayor Edelcup said he would like to get into the record and he would like to see it somehow incorporated in the ordinance as to what our real intent was if we were to do something, and something similar came up in the State of Connecticut and the Connecticut Supreme Court made some comments that are appropriate here and we should listen to those comments and work them into the ordinance. He said this was in the Supreme Court in July 1970, "Local governments would be seriously handicapped if any conceivable interest no matter how remote and speculative would require the disqualification of the zoning official. If this were so, it would not only discourage, but might even prevent capable men and women from serving as members of the various zoning authorities. Of course courts should scrutinize the circumstances with great care and to condemn anything which indicates the likelihood of corruption or favoritism, they must however, be mindful that to abrogate a municipal action on the basis that some remote or nebulous action may be present and would deprive unjustifiably a municipality in many important instances of the services of its duly elected appointed officials.", and he said he thinks that is the intent that Commissioner Iglesias is building his suggestion on. Commissioner Iglesias said yes pretty much but he also has from the Ohio Ethics Commission, but the bottom line is when we did our laws that everything was covered here but we decided to take it to a higher level. He said the Ohio one also addresses the bank issue, the one he used with the passbook. He quoted the Ohio one "that the Commission of Ethics adopted a standard that a public official is prohibited from participating in matters involving other parties where relationship between the official and the other party is such that the official's objectivity or independence of judgment could be impaired with regards to matters that effects his interest of that party." Commissioner Brezin said that she thinks Commissioner Iglesias is extending himself over and above and beyond what our original intent was in stopping you from purchasing apartments at pre-site plan approvals and she said she doesn't think that something like this is a justifiable action because she can understand what Commissioner Iglesias' feelings are about this and she can see it is very obvious where he is coming from. Mayor Edelcup read into the record from Ohio "It would not however prohibit per se the planning commission member from participating in any matter affecting the interest of a bank customer where the bank itself would have no interest in the outcome of the matter, unless the relationship between the commissioner and

the customer of the bank is such that the commissioner's objectivity or independence of judgment could be impaired with regard to the matters affecting the interest of that customer.", and this basically explains the situation. Commissioner Iglesias said for the record, what this is, is an ordinance for the future, and it says, "that it should be noted however, that the Commission members participation in matters affecting the bank's customer may create an appearance of impropriety.", we remove the word "appearance" and we added specific examples, so in this particular case it may or may not appear to you, that is not for us to decide, this is an ordinance that is going to govern this City for future years. Mayor Edelcup said he doesn't think there is anything wrong in increasing the moral standards of the way a commission acts and he said he thinks it is important that we all try to adhere to that, what we have to be careful about some inappropriate language getting used by mistake not be intent, and that is what we need to protect ourselves with, and maybe we should look at this ordinance like we look at land use ordinance where we have permitted uses and not permitted uses and from time to time we can amend it, take care of anything that we see as a specific instance belongs in column A permitted use or non-permitted use in column B, and maybe this is an ordinance that will grow in time by specific example because he said he thinks specific example helps the Ethics Commission later in determining what was the intent of this Commission when it passed this ordinance. Commissioner Iglesias said he has no problem but he is a strong advocate of a, b, c, that we put here and again this is first reading, at second reading we can change it. Commissioner Goodman said the original ordinance that was passed, if you would read the first sentence, it says almost the same thing that Commissioner Iglesias is bringing up, "An official officer including an elected official or employee of this City shall not make any personal investments in enterprises which he or she has reason to believe that he or she may be directly involved in the final decision making as to development approval to be made by him or her or which will otherwise create conflict between his or her public duty." Commissioner Iglesias said he doesn't agree with it and when he spoke with the Attorney General's office, the Commission of Ethics, and he gave this, it made it more clear, and he said that Robert Meyers said it seems that interest and enterprise is covered with more than just real estate, so Commissioner Iglesias wants to include this one now.

Mayor Edelcup said that what Commissioner Iglesias has proposed has some merit and it needs some work, and noted what the Supreme Court in Connecticut said is that you have to be careful when you do these things because you don't want to disqualify good people from running for office, so we should be extremely careful in our wordings of any ordinance that increases the responsibility of our ethics and with that he hopes that this is voted down tonight or that it is changed so that we can get the proper wording in at a future date. Vice Mayor Thaler said he would like this pulled off for a month to give them time to digest it and go through it word for word. Mayor Edelcup suggested having a workshop so they can all comment on it. Commissioner Brezin said that this may have many merits but she would like an opportunity to read it through very carefully and would like it deferred tonight and have a workshop on it. Commissioner Goodman said he needs clarification on some of the words in the ordinance and would like this deferred tonight. Commissioner Iglesias said he proposes that we adopt this ordinance on first reading tonight and on second reading, if the Commission believes they don't have enough time to vote on it or study it, then turn it down and then later decide, and doesn't feel that we need a workshop. Mayor Edelcup said he feels we need a workshop because we are dealing in moral issues and ethical terms that don't have clear definitions and the reason he is suggesting a workshop is because of the Sunshine Law we all need to get our input in together in some public forum otherwise we are going to be at

the same place we are at today a month from now. Commissioner Iglesias said to adopt it tonight with the condition that if by second reading, if the Commission feels that there still needs to be a workshop then he would agree.

Commissioner Goodman moved and Vice Mayor Thaler seconded **a motion to defer this item, and schedule a workshop.** City Attorney Dannheisser asked for clarification: at this workshop, since you are looking for professional input, she suggested to invite the Commission on Ethics staff to address each issue, so the Commission understands fully what the impact of each issue will be, and the Commission agreed. **The motion was approved by a roll call vote of 4-1 (Commissioner Iglesias against) in favor.**

**Vote:**

Commissioner Brezin	<u>yes</u>
Commissioner Goodman	<u>yes</u>
Commissioner Iglesias	<u>no</u>
Vice Mayor Thaler	<u>yes</u>
Mayor Edelpup	<u>yes</u>

[*City Clerk's Note:* Mayor Edelpup adjourned the meeting for a five-minute break]

Mayor Edelpup reconvened and said for the sake of some of the people that are here tonight that items 10A, 12A, and 12B be moved forward and then come back to 7D. Vice Mayor Thaler moved and Commissioner Iglesias seconded **a motion to move the items forward, and the motion was approved by a voice vote of 5-0 in favor.**

- 7D.** An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, Entitled “**Tree Preservation and Replacement Ordinance**”; Providing for Purpose; Providing for Definitions; Establishing Procedures for Replacement of Trees and Donation of Trees Within the City’s Limits; Providing for the Protection of Trees During Construction Project; Providing for Enforcement and Penalties; Providing for Severability; Providing for Repealer; Providing for Inclusion in the Code; Providing For An Effective Date. (Sponsored by Commissioner Iglesias)

**Action:** City Clerk Hines read the title and Commissioner Iglesias reported. Mayor Edelpup said there is already an ordinance on the books regarding trees, and City Manager Russo confirmed that there is another ordinance in the LDRs, and we can combine the two ordinances, and Commissioner Iglesias said that we can incorporate what is not here into the other ordinance. City Manager Russo said that when we did all our landscaping on Collins Avenue, the City was able to keep and reuse every tree that was pulled out.

*Public Speakers:* none

Commissioner Iglesias moved and Commissioner Goodman 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, April 14, 2005, at 7:30 p.m.**

**Vote:**

Commissioner Brezin	<u>yes</u>
Commissioner Goodman	<u>yes</u>

Commissioner Iglesias yes  
 Vice Mayor Thaler yes  
 Mayor Edelcup yes

**7E.** An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, **Exempting City Commission Elections from the Provisions of Section 101.657, Florida Statutes, Concerning Early Voting**; Providing for Severability; Providing for Inclusion in the Code; Providing for an Effective Date.

*Action:* City Clerk Hines read the title and Mayor Edelcup said he had one correction on the ordinance, in Section 1, where it says “The City of Sunny Isles Beach is hereby exercising its right to exempt City Commission elections from the provision...”, he wants to make sure we are talking about local elections, and wants to add the word “local” in there.

*Public Speakers:* none

Commissioner 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, April 14, 2005, at 7:30 p.m.**

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

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

*None*

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

**Sitting in as the Local Planning Agency and the City Commission, to Consider an Ordinance Amending the Land Development Regulations (LDRs)**

**9A.1** A Resolution of the Local Planning Agency of the City of Sunny Isles Beach, Florida, Recommending to the City Commission of Sunny Isles Beach, the Ordinance Amending Section 265-46 of the Land Development Regulations 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 Effective Date.

*Action:* City Clerk Hines read the title, and Mayor Edelcup reported.

*Public Speakers:* none

Commissioner Iglesias moved and Commissioner Brezin seconded the **motion. LPA Resolution No. 2005-28 was adopted by a voice vote of 5-0 in favor.**

**9A.2** An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, Amending Section 265-46 of the Land Development Regulations 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.

(First Reading 2/10/05)

**Action:** City Clerk Hines read the title. Commissioner Goodman noted that people came to the Safety and Traffic Committee meeting of March 9, 2005, and they are confused where they can park on the swale area, and Mayor Edelpcup said we will educate people on this ordinance, and there will be warnings given out.

*Public Speakers:* none

Vice Mayor Thaler moved and Commissioner Iglesias seconded a **motion to adopt the ordinance. Ordinance No. 2005-223 was adopted by a roll call vote of 5-0 in favor.**

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

**9B.** An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, Amending Section 33-3 (E) (4) of the Ethics Code of the City of Sunny Isles Beach to Require Disclosure of Any Gift Having a Value in Excess of \$100.00; Providing for Severability; Providing for Repealer; Providing for Inclusion in the Code; Providing for an Effective Date.

(First Reading 2/10/05)

**(Deferred by Staff)**

**9C.** An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, Implementing the Provisions of Section 286.0115, Florida Statutes, to **Establish a Procedure Governing Ex Parte Communications with Local Public Officials Concerning Quasi-Judicial Matters**; Providing Adoption of Quasi-Judicial Hearing Procedures; Providing for Severability; Providing for Repealer; Providing for an Effective Date.

(First Reading 2/10/05)

**(Deferred by Staff)**

**10. RESOLUTIONS**

- 10A.** A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Entering into an Agreement between the City of Sunny Isles Beach and **F.D.F. Designs Studio, for Commissioned Art Work at the Samson Oceanfront Park**, in an Amount of \$190,000.00, Attached hereto as Exhibit "A"; Authorizing the Mayor to Execute Said Agreement; Authorizing the City Manager to Effectuate the Terms of this Resolution; Providing for an Effective Date.

**Action:** [City Clerk's Note: Item was approved to be heard out of order.] City Clerk Hines read the title and Assistant to the City Manager Jeff Maxim reported.

*Public Speakers:* none

Mayor Edelcup said he had asked the City Attorney that in the event the artist should die before the completion of the work of art, that we have language in the contract that would have the City take over the work of art and be able to finish it on its own and that the artist's estate would be releasing the City from any further obligation to pay them. City Attorney Dannheisser said in Section 9.4 which deals with the death of the artist automatically terminates the agreement but the Mayor had raised an excellent point, which is in fact there is a death and the agreement is terminated, he would like the City to have the right to secure the work, and so she amended the contract under Section 9.4 at the end of that paragraph, "The City shall have the right to secure with no additional payment for the work, and shall have the right to complete same. Credit will be accorded the artist for his portion of the work."

Vice Mayor Thaler asked what is the estimated cost meet, is it fixed, and if it is fixed then let's estimate it out. City Attorney Dannheisser said it is only in the report not in the contract. Commissioner Goodman asked how much of a deposit are we giving him, and how are the payments going to be made, and City Manager Russo said the schedule is in there, and Mayor Edelcup said it is in Exhibit B, page 95. City Attorney Dannheisser said it specifies the deposit of \$57,000.00 which is 30% and then each payment thereafter, and there is a 20% holdback.

Commissioner Iglesias moved and Vice Mayor Thaler seconded a **motion to approve the resolution, with the amended contract. Resolution No. 2005-774 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 an **Agreement with the Village of Miami Shores and Participating Municipal Police Departments for Police Mutual Aid**; Authorizing the City Manager to Execute the Agreement and to Do All Things Necessary to Effectuate the Intent of this Resolution; Providing for an Effective Date.

**Action:** City Clerk Hines read the title and Police Chief Fred Maas reported.

*Public Speakers:* none

Commissioner Iglesias moved and Vice Mayor Thaler seconded a **motion to approve the**

**resolution. Resolution No. 2005-775 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 the Village of Indian Creek and Participating Municipal Police Departments for Police Mutual Aid and the Joint Declaration to the Mutual Aid Agreement**; Authorizing the City Manager to Execute the Agreement and the Police Chief to Execute the Joint Declaration; Authorizing the City Manager to Do All Things Necessary to Effectuate the Intent of this Resolution; Providing for an Effective Date.

**Action:** City Clerk Hines read the title and Police Chief Fred Maas reported.

*Public Speakers:* none

Vice Mayor Thaler moved and Commissioner Iglesias seconded a **motion to approve the resolution. Resolution No. 2005-776 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, **Urging the Miami-Dade Legislative Delegation to Persuade the Florida Legislature to Utilize the 2004-2005 District Cost Differential (DCD)** Until Such Time that a New Equitable Calculation for the DCD May be Devised by a Qualified, Unbiased Third Party; Providing for an Effective Date.

**Action:** City Clerk Hines read the title and Mayor Edelcup reported that this is a resolution that he was asked to present to the City by the Miami-Dade County School Board. He said last year the State of Florida did a reallocation of school funds and Dade County got short-changed, in the allocation of funding, and the School Board is asking that if the State hears from a lot of the cities that we don't want to see that happen in the future, and the operative paragraph is the fifth Whereas clause, "the use of the new amenities-adjusted DCD damages and decreases educational funding for the Miami-Dade County Public Schools by over \$26 million during 2004-2005, \$58 million during 2005-2006, and \$112 million when fully implemented in 2006-2007", and what this resolution is asking is to hold it at the level it was done last year so we don't use any more then what we lost last year.

*Public Speakers:* none

Commissioner Iglesias moved and Commissioner Brezin seconded a **motion to approve the resolution. Resolution No. 2005-777 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, **Correcting Scrivener's Errors in the Legal Description for Resolution No.'s 2005-754, 2005-755, and 2005-756**, regarding Porto Bellagio Partners, LLC, Attached Hereto as Exhibit "A"; 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 Deputy City Attorney Ottinot reported.

*Public Speakers:* none

Commissioner Iglesias moved and Commissioner Goodman seconded a **motion to approve the resolution. Resolution No. 2005-778 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, Approving the **First Amendment to the Declaration of Restrictive Covenants between the City of Sunny Isles Beach and Winston Yacht Club, Inc.**, Attached Hereto as Exhibit "A", Relating to Use of Parking Spaces and Dockage Space; Providing the City Manager with the Authority to Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

**Action:** City Clerk Hines read the title and City Manager Russo reported noting that this provides for our Police Boat dockage, we started out with one boat with no electrical connections, we now have two boats with electrical, storage and 100-foot of dockage, in return for that, the Marina gets the use of seven spaces, and for certain holidays or events we would lend them four parking permits on a case-by-case basis. He noted that there are 25 parking spaces along the dead end of North Bay Road. Mayor Edelcup asked that it be a condition to get rid of the constantine wire and chain-link fence, and City Manager Russo said yes he can add that provision. Commissioner Goodman asked how the Police get to the dockage, because there is a lot of discussion by Winston Towers as the park is owned by Winston Towers, and City Manager Russo said they get there by North Bay Road. Vice Mayor Thaler asked if there would be signs there, and City Manager Russo said yes.

*Public Speakers:* none

Commissioner Goodman moved and Commissioner Iglesias seconded a **motion to approve the resolution, as amended. Resolution No. 2005-779 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, Authorizing the **Purchase of Office Furniture from Herman Miller Corporate Design Choice Inc. and Workplace Resources**, Under State of Florida Government Contract No. A40913, in an Amount Not to Exceed \$63,758.03, Attached Hereto as Exhibit "A"; 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 Planning and Zoning Administrator Vera reported. Mayor Edelcup asked that a delivery date is in place.

*Public Speakers:* none

Commissioner Goodman moved and Vice Mayor Thaler seconded a **motion to approve the resolution, with the condition of a delivery date. Resolution No. 2005-780 was adopted by a voice vote of 5-0 in favor.**

**10H. Add-On**

A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving an **Addendum to the Agreement with B.K. Marine Construction, Inc.**, for Seawall Replacement and Restoration for the 183<sup>rd</sup> Street Seawall, Atlantic Avenue Seawall Restoration, and Atlantic Avenue Bridge Revetment Restoration, in an Amount of \$42,245.00, 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 City Manager Russo reported.

*Public Speakers:* none

Commissioner Goodman moved and Vice Mayor Thaler seconded a **motion to approve the resolution. Resolution No. 2005-781 was adopted by a voice vote of 5-0 in favor.**

**10I. Add-On**

A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Entering into an **Agreement with Coleman Technologies, Inc.**, for the Provision of IT Support Services, in an Amount of \$15,000.00, 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 City Manager Russo reported.

*Public Speakers:* none

Vice Mayor Thaler moved and Commissioner Goodman seconded a **motion to approve the resolution. Resolution No. 2005-782 was adopted by a voice vote of 5-0 in favor.**

**11. MOTIONS****11A.** Call for a Motion to accept the resignation of Arnold Klein and confirm the following appointment to the Mayor's Advisory Council (MAC):

- Commissioner Goodman's Appointment of \_\_\_\_\_ to the Long Range Planning and Intergovernmental Affairs Committee.

**Action:** Commissioner Goodman reported that he received a resignation from Arnold Klein and that he is going to be in the process of interviewing two people for the position on the Committee, and will be back at the April 14, 2005 Commission meeting. Commissioner Goodman moved and Vice Mayor Thaler seconded a **motion to accept the resignation of Arnold Klein. The motion was approved by a voice vote of 5-0 in favor.**

## 12. DISCUSSION ITEMS

### 12A. Discussion regarding Purchasing Holiday Decorations for Sunny Isles Beach.

**Action:** [City Clerk's Note: Item was approved to be heard out of order.] Cultural and Human Services Director Susan Simpson reported, noting that there was a handout for more recent prices based on 140 units. She and Assistant to the City Manager Maxim presented different holiday decorations on the screen, and noted that all the decorations have garland around them and can be lit or unlit, and would need to order 121 unlit and 25 lit, to be placed on Collins Avenue, 159<sup>th</sup> Street and 174<sup>th</sup> Street, and noted that this would have to go out to bid. After discussion it was determined to order three designs: snowman, bell and the double poinsettia, lit wherever possible.

*Public Speakers:* Mary Ann Eicke

### 12B. Discussion regarding the Atlantic Isles Landscaping Plan by William O'Leary.

**Action:** [City Clerk's Note: Item was approved to be heard out of order.] William O'Leary reported on landscaping on Atlantic Isle and handed out plans to the Commission, and noted that they have prepared bid specifications. City Manager Russo said that they are set and ready to go, but the thing that held them up was the landscaping plan with the circle at the end of Atlantic Avenue, when the question came up that instead of the landscaping plan to do a fountain there, on page L2. Mr. O'Leary said what they are reflecting now in that cul-de-sac is a beautiful date palm called Canary Island Date Palm with some shrubbery and colorful vegetation and adding some coconut palms on either side, leaving the vista to the waterway. He said there was comment on doing a fountain there and he did some preliminary plans on it. Mayor Edelcup said it would be costly to add the fountain and it is at the end of the road. After discussion it was determined to put in the Canary Island Date Palm. Mr. O'Leary said they can be ready within two weeks, open bids and award at next Commission meeting, and the actual construction will begin 60-90 days.

### 12C. Add-On:

Discussion regarding Deputy City Attorney Ottinot.

**Action:** Vice Mayor Thaler said that he thought that this was Deputy City Attorney Ottinot's last meeting and that he was leaving on March 15, 2005. City Attorney Dannheisser asked Mr. Ottinot if he would be here for the March 22, 2005 City Commission meeting, and he said yes he would be here.

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

## 14. ADJOURNMENT

Commissioner Goodman moved and Vice Mayor Thaler seconded a motion to adjourn the meeting, and Mayor Edelcup adjourned it at 10:35 p.m.

Respectfully submitted by:

Approved by the City Commission on April 14, 2005

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Jane A. Hines, City Clerk

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Norman S. Edelcup, Mayor