



CITY OF MIAMI GARDENS CITY COUNCIL MEETING AGENDA

Meeting Date: March 9, 2011
1515 NW 167th St., Bldg. 5, Suite 200
Miami Gardens, Florida 33169
Next Regular Meeting Date: March 23, 2011
Phone: (305) 622-8000 **Fax:** (305) 622-8001
Website: www.miamigardens-fl.gov
Time: 7:00 p.m.

Mayor Shirley Gibson
Vice Mayor Aaron Campbell Jr.
Councilwoman Lisa C. Davis
Councilman André Williams
Councilwoman Felicia Robinson

Councilman Oliver G. Gilbert III
City Manager Dr. Danny O. Crew
City Attorney Sonja K. Dickens, Esq.
City Clerk Ronetta Taylor, MMC

City of Miami Gardens Ordinance No. 2007-09-115 requires all lobbyists before engaging in any lobbying activities to register with the City Clerk and pay an annual fee of \$250.00. This applies to all persons who are retained (whether paid or not) to represent a business entity or organization to influence “City” action. “City” action is broadly described to include the ranking and selection of professional consultants, and virtually all-legislative, quasi-judicial and administrative action. All not-for-profit organizations, local chamber and merchant groups, homeowner associations, or trade associations and unions must also register however an annual fee is not required.

- (A) CALL TO ORDER/ROLL CALL**
- (B) INVOCATION**
- (C) PLEDGE OF ALLEGIANCE**
- (D) APPROVAL OF MINUTES**
Regular City Council Minutes – February 23, 2011
- (E) ORDER OF BUSINESS** (Items to be pulled from Consent Agenda at this time)
- (F) SPECIAL PRESENTATIONS (5 minutes each)**
 - F-1) Annual Audit
 - F-2) Dr. Danny O. Crew, City Manager Employee of the Month Presentation

F-3) Councilman André Williams – Job Creation Status Update

(G) PUBLIC COMMENTS

(H) ORDINANCE(S) FOR FIRST READING:

H-1) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 18-297 OF THE CODE OF ORDINANCES REGARDING BACKGROUND CHECKS FOR PARKS AND RECREATION DEPARTMENT EMPLOYEES AND VOLUNTEERS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

H-2) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES TO CREATE ARTICLE X RELATING TO ALCOHOL SALE AND CONSUMPTION; REGULATING HOURS AND DAYS OF SALE AND CONSUMPTION; PROVIDING FOR VIOLATIONS AND COMPLIANCE; AMENDING SECTION 34-146 OF THE CITY'S LAND DEVELOPMENT REGULATIONS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

H-3) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING ARTICLE IX, DIVISION 3, SECTION 2-752(2) OF THE CODE OF ORDINANCES, TO REDUCE THE PERFORMANCE BOND REQUIREMENT FOR CONTRACTS VALUED AT LESS THAN \$150,000.00, FROM TEN PERCENT TO FIVE PERCENT IN INSTANCES WHERE THE CITY MANAGER DEEMS A BOND TO BE APPROPRIATE; AMENDING SECTION 2-753 TO ADD SUBSECTION 4 TO PROVIDE A PROCESS FOR THE WAIVER OF BID BONDS FOR CONTRACTS VALUED BETWEEN \$10,001.00 AND \$50,000.00, FOR BIDDERS WHO HAVE SUCCESSFULLY COMPLETED THREE (3) OR MORE BIDS WITH THE CITY WITHOUT MAJOR COMPLAINTS OR DEFICIENCIES, AND AMENDING SECTION 2-753 TO ADD

SUBSECTION 5 TO PROVIDE THAT PROOF OF INSURANCE SHALL ONLY BE REQUIRED AFTER RANKING OF THE BIDDERS BY THE CITY, OR PRIOR TO EXECUTION OF A CONTRACT WITH THE CITY, WHICHEVER COMES FIRST; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY COUNCILMAN OLIVER G. GILBERT III)

(I) ORDINANCE(S) FOR SECOND READING/PUBLIC HEARING(S)
None

(J) RESOLUTION(S)/PUBLIC HEARING(S)
None

(K) CONSENT AGENDA

K-1) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AND ATTEST RESPECTIVELY, AN ADDENDUM TO THAT CERTAIN AGREEMENT WITH HARVEY, COVINGTON & THOMAS, L.L.C., TO PROVIDE FISCAL YEAR 2011 & 2012 ANNUAL FINANCIAL AUDITING SERVICES IN AN AMOUNT NOT TO EXCEED SIXTY-ONE THOUSAND FIVE HUNDRED DOLLARS (\$61,500.00), AND A GENERAL OBLIGATION BOND AUDIT IN AN AMOUNT NOT TO EXCEED SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00); PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

K-2) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA ACCEPTING THE FISCAL YEAR 2009/2010 ANNUAL AUDIT REPORT PREPARED BY THE CITY'S AUDITORS, HARVEY, COVINGTON AND THOMAS LLC; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

K-3) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA ADOPTING THE 2011 STATE LEGISLATIVE PROGRAM FOR THE CITY OF MIAMI GARDENS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING INSTRUCTIONS TO THE CITY CLERK; PROVIDING AN EFFECTIVE DATE.

(SPONSORED BY THE CITY MANAGER)

K-4) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA ADOPTING THE 2011 FEDERAL LEGISLATIVE PROGRAM FOR THE CITY OF MIAMI GARDENS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

(L) RESOLUTION(S)

L-1) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ACCEPTING THE MAYOR'S NOMINATION OF _____ TO FILL THE UNEXPIRED TERM OF COUNCILWOMAN SHARON PRITCHETT UNTIL THE NEXT REGULARLY SCHEDULED MIAMI-DADE COUNTY-WIDE ELECTION; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY MAYOR SHIRLEY GIBSON)

(M) REPORTS OF CITY MANAGER/CITY ATTORNEY/CITY CLERK

(N) REPORTS OF MAYOR AND COUNCIL MEMBERS

(O) WRITTEN REQUESTS, PETITIONS & OTHER WRITTEN COMMUNICATIONS FROM THE PUBLIC

(P) ADJOURNMENT

IN ACCORDANCE WITH THE AMERICAN WITH DISABILITIES ACT OF 1990, ALL PERSONS WHO ARE DISABLED AND WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT RONETTA TAYLOR, MMC, CITY CLERK (305) 622-8000 EXT./ 2750, NO LATER THAN 48 HOURS PRIOR TO SUCH PROCEEDINGS. TDD NUMBER 1-800-955-8771.

ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM MAY CONTACT RONETTA TAYLOR, MMC, CITY CLERK (305) 622-8000 EXT. 2750. THE ENTIRE AGENDA PACKET CAN ALSO BE FOUND ON THE CITY'S WEBSITE AT www.miamigardens-fl.gov.

ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE CITY OF MIAMI GARDENS WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY 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.



City of Miami Gardens Agenda Cover Memo

Council Meeting Date:	March 9, 2011		Item Type:	Resolution	Ordinance	Other	
			(Enter X in box)				
Fiscal Impact: (Enter X in box)	Yes	No	Ordinance Reading: (Enter X in box)	1st Reading		2nd Reading	
	X			Public Hearing: (Enter X in box)	Yes	No	Yes
					X		
Funding Source:	General Fund- Parks and Recreation		Advertising Requirement: (Enter X in box)	Yes		No	
Contract/P.O. Required: (Enter X in box)	Yes	No	RFP/RFQ/Bid #:				
	X						
Strategic Plan Related (Enter X in box)	Yes	No	Strategic Plan Priority Area:	Strategic Plan Obj./Strategy: (list the specific objective/strategy this item will address) N/A			
		X					
			Enhance Organizational <input type="checkbox"/> Bus. & Economic Dev <input type="checkbox"/> Public Safety <input type="checkbox"/> Quality of Education <input type="checkbox"/> Qual. of Life & City Image <input type="checkbox"/> Communication <input type="checkbox"/>				
Sponsor Name	Dr. Danny Crew, City Manager		Department:	Parks and Recreation			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING SECTION 18-297 OF THE CODE OF ORDINANCES REGARDING BACKGROUND CHECKS FOR PARKS AND RECREATION DEPARTMENT EMPLOYEES AND VOLUNTEERS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

Background Information

Up until recently, no state statutes existed governing the backgrounds of Parks and Recreation employees that work directly with minor children. However, the City of Miami Gardens currently has an

**ITEM H-1) ORDINANCE
FIRST REDAING
Background Checks for Parks & Rec
Employees and Volunteers**

ordinance related to Parks and Recreation Department employees and volunteers. Exclusion criteria from employment or volunteering with the department include:

- 1- Conviction of a violent felony or conspiracy to commit a violent felony within the past five years;
- 2- Conviction of a felony involving the trafficking of a controlled substance within the past five years;
- 3- Two (2) or more convictions for a violent felony, for conspiracy to commit a violent felony, or involving the trafficking of a controlled substance;
- 4- Sexual offender or a sexual predator classification;

Current Situation

The City's ordinance was adopted with the intent of creating a local standard for exclusion criteria for Parks employees and volunteers. Recently, this ordinance has been superseded by the adoption of state legislation which governs Parks and Recreation employees that work in summer camp programs. As a result of House Bill 7069 (H.B. 7069), adopted May 26, 2010, regulating background screening for employees with direct contact with children (individuals under the age of 18), an amendment to the current City ordinance is required as it applies to Parks and Recreation employees working in summer camp programs. Further, in accordance with H.B. 7069, City staff is recommending that a Level 2 background screening be required for all Parks employees *and* volunteers.

The Level 2 background screening will include fingerprinting, a national background check, and a screening through the national sex offender database. The administration of the Level 2 background screening will be done by the Florida Department of Law Enforcement c, [whowhich](#) will also be responsible for an analysis of the background screening.

Anyone who has been charged with any disqualifying offense pending in court shall not be hired until the official adjudication of the case has been reviewed by the City of Miami Gardens. The following are the disqualifying offenses outlined in H.B. 7069:

- Relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Relating to adult abuse, neglect, or exploitation of aged persons or disabled adults
- Relating to murder
- Relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child
- Relating to vehicular homicide
- Relating to killing of an unborn quick child by injury to the mother
- Relating to assault, battery, and culpable negligence, if the offense was a felony
- Relating to battery, if the victim of the offense was a minor

- Relating to kidnapping
- Relating to false imprisonment
- Relating to luring or enticing a child
- Relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings
- Relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person
- Relating to exhibiting firearms or weapons within 1000 feet of a school
- Relating to possessing an electric weapon or device, destructive device, or other weapon on school property
- Relating to sexual battery
- Relating to prohibited acts of persons in familial or custodial authority
- Relating to unlawful sexual activity with certain minors
- Relating to prostitution
- Relating to lewd and lascivious behavior
- Relating to lewdness and indecent exposure
- Relating to arson
- Relating to burglary
- Relating to voyeurism, if the offense is a felony
- Relating to video voyeurism, if the offense is a felony
- Relating to theft, robbery, and related crimes, if the offense is a felony
- Relating to fraudulent sale of a controlled substance, only if the offense was a felony
- Relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult
- Relating to lewd and lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Relating to exploitation of an elderly person or disabled adult, if the offense was a felony
- Relating to incest
- Relating to child abuse, aggravated child abuse, or neglect of a child
- Relating to contributing to the delinquency or dependency of a minor
- Relating to negligent treatment of a child
- Relating to sexual performance by a child
- Relating to resisting arrest with violence
- Relating to depriving ~~a law~~law enforcement, correctional, or correctional probation officer means of protection or communication.
- Relating to aiding in an escape
- Relating to aiding in the escape of juvenile inmates in correctional institutions
- Relating to obscene literature
- Relating to encouraging or recruiting another to join a criminal gang
- Relating to drug abuse prevention and control, only if the ~~offense was~~offense was a felony or if any other person involved in the offense was a minor
- Relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct
- Relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

- Relating to escape
- Relating to harboring concealing, or aiding an escaped prisoner
- Relating to introduction of contraband into a correctional facility
- Relating to sexual misconduct in juvenile justice programs
- Relating to contraband introduced into a detention facility
- Domestic violence
- Sexual predator
- Career offender
- Sexual offender (unless requirement to register has been removed)
- Relating to assault or battery of law enforcement ~~officers, firefighters~~officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers
- Relating to criminal use of personal identification information

Moreover, Staff is seeking to further strengthen the credentials of its programming by adding to the list of disqualifying offenses. The following offenses are not included in H.B. 7069, but are recommended by City Staff to be included in the proposed ordinance amendment:

- Any other felony arrest resulting in a plea of guilty, plea of no contest or conviction, regardless of adjudication may be considered for eligibility after ten (10) years from the date of conviction
- Any misdemeanor arrest resulting in a plea of guilty, plea of no contest or conviction, regardless of adjudication, within the past ten (10) years that would be considered a potential danger to children or is directly related to the functions of that individual
- Any misdemeanor arrest resulting in a plea of guilty, plea of no contest or conviction, regardless of adjudication, within five (5) years (may be considered for eligibility following committee review**)

Parks and Recreation Employees

All prospective Parks and Recreation ~~Department~~Department employees will require a Level 2 background screening. Any prospective employee to the Parks and Recreation Department found to have any of the above disqualifying offenses shall not be hired. Those employees who are cleared ~~through~~ this Level 2 screening, and who meet all the other employment qualifications will have to be re-screened every three (3) years. If an employee commits any of the offenses listed above during their employment, the City is notified ~~through~~ the Florida Department of Law Enforcement's database and is then subject to the City's disciplinary action policy.

Although the Bill does not mandate Parks maintenance staff to be included in the mandatory background screening regulation, staff feels it is necessary to apply the ~~parameters~~parameters to this employee group based on the possibility of unsupervised contact with children on park grounds. The exclusion from hiring of a prospective employee will be determined by the Human Resources/Risk

Management Director based on the mandatory exclusions set forth in H.B. 7069 and the additional offenses listed above. The cost of the background screening for employees is borne by the City as part of the hiring process. Currently, the cost to the City is less than \$45.00 per applicant. The Human Resources/Risk Management Department shall adhere to all current and future state statutes related to Parks and Recreation employees and volunteers, and will update internal guidelines as necessary.

Parks and Recreation Volunteers

Currently, Senate Bill 150 regulates volunteer coaches and requires all coaches to be screened through two sexual offender databases. Numerous sports programs in the Parks and Recreation Department entail direct and sometimes unsupervised contact with minor children, especially since the launch of the CMGYS sports program. Due to the delicate situation of unsupervised volunteers having direct contact with children on a daily basis throughout a sports season, the department sought to add additional provisions to the City's ordinance governing Parks and Recreation employees and volunteers which closely mirrored H.B. 7069's parameters for summer camp staff. It is recommended that all ~~propective~~prospective volunteers will require a Level 2 background screening, identical to that which is required of prospective Parks and Recreation employees.

City staff researched volunteer guidelines of various local cities as well as recommendations from the Florida Recreation and Parks Association, National Recreation and Parks Association, and the National Alliance for Youth Sports to be sure that the recommended ordinance amendment was in line with industry standards.

Any volunteer determined eligible for participating in any Parks program, but who is later arrested/convicted of any of the above offenses is required to immediately notify the Parks and Recreation Department. The volunteer will be immediately removed from his/her position until the case is adjudicated and their volunteer identification will be surrendered. Failure on the part of the volunteer to notify the City of arrests/convictions for any offense listed above will result in his/her being removed and declared ineligible to participate with any youth sports or children's activities associated with the City of Miami Gardens for a minimum of three (3) years beginning on the date the failure to notify was discovered.

The cost of the Level 2 background screening is currently less than \$40.00. Volunteers would be responsible for bearing the cost of this screening, which would be done through the Volunteer Employee Criminal History System (VECHS). Similar to the process for employees, the VECHS will provide the City with updates of any offenses ~~commited~~committed by volunteers.

Committee Review:

Although H.B. 7069 does not include an appeal process, City staff recognizes that there may be extenuating circumstances surrounding the offenses committed by volunteers. To that end, Staff has

implemented a committee review process. The committee ~~will be~~ will be appointed by the City Manager and is to be comprised of the Parks and Recreation Director or designee, Police Chief or designee, and Human Resources/Risk Management Director or designee. **Volunteers found guilty of a misdemeanor offense within the last five (5) years may be considered for volunteer services with the City subject to review by this committee. This would be the only offense that a volunteer applicant can appeal to be allowed to volunteer for the City. All other offenses listed in H.B. 7069, as well as the offenses being recommended by City staff are disqualifying offenses and not subject to an appeal by the volunteer applicant.

The committee shall be authorized to review volunteer applications, interview the volunteer applicant, and to determine the eligibility or disqualification of said volunteer applicants. The committee's decision of eligibility or disqualification shall be binding. The committee shall notify the volunteer applicant of the decision of eligibility or disqualification.

Summary

The recent adoption of state legislation has prompted a review of the City's current ordinance governing Parks and Recreation employees and its volunteers. Staff believes that the proposed ordinance amendments are in the best interest of the City because it strengthens the credibility of the individuals working closest with those that are the most vulnerable, minor children; in turn limiting potential liability of the City. With the adoption of the proposed ordinance amendment, staff also recommends that any future state or federal ~~legislative~~ legislative rules that apply to this population be incorporated into the City's ordinance governing Parks and Recreation employees and volunteers.

Proposed Action:

City staff proposes that City Council approve the attached ordinance regarding background screening for Parks and Recreation department employees and volunteers.

Attachment:

Attachment A- Ordinance: Parks and Recreation Employee and Volunteer background screening
Attachment B- Comparison of local cities volunteer standards

ORDINANCE NO. 2011 _____

1
2
3 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
4 OF MIAMI GARDENS, FLORIDA, AMENDING SECTION
5 18-297 OF THE CODE OF ORDINANCES REGARDING
6 BACKGROUND CHECKS FOR PARKS AND RECREATION
7 DEPARTMENT EMPLOYEES AND VOLUNTEERS;
8 PROVIDING FOR THE ADOPTION OF
9 REPRESENTATIONS; REPEALING ALL ORDINANCES IN
10 CONFLICT; PROVIDING A SEVERABILITY CLAUSE;
11 PROVIDING FOR INCLUSION IN CODE; PROVIDING AN
12 EFFECTIVE DATE.

13
14 WHEREAS, until recently, Florida law was absent of any statutes
15 mandating background screening for Parks and Recreation employees and
16 volunteers who work directly with minor children, and

17 WHEREAS, the Florida Legislature recently enacted Florida Statute
18 943.0438 and Chapter 2010-114, Laws of Florida (2010), which requires sexual
19 offender screening for athletic coaches and criminal background screening for
20 summer camp employees and volunteers, respectively, and

21 WHEREAS, the City of Miami Gardens currently has an Ordinance which
22 requires background screening for Parks and Recreation employees and
23 volunteers, and

24 WHEREAS, it is necessary to amend the City's current Ordinance to
25 comply with newly enacted State law, and

26 WHEREAS, City staff also recommends the inclusion of review process
27 whereby excluded individuals may be considered for volunteer positions if certain
28 misdemeanor offenses are remote in time, and

29 WHEREAS, volunteers will be responsible for bearing any costs
30 associated with background screening,

31 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
32 CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

33 Section 1. ADOPTION OF REPRESENTATIONS: The foregoing
34 Whereas paragraphs are hereby ratified and confirmed as being true, and the same
35 are hereby made a specific part of this Ordinance.

36 Section 2.: AMENDMENT: Section 18-297 of the City of Miami Gardens'
37 Code of Ordinances is hereby amended as follows:

38 (a) The ~~parcs and recreation department director~~ City shall
39 secure a nationwide criminal background check of all
40 employees and volunteers whose primary duties require
41 physical presence on park property owned or operated by
42 the City. In addition, the ~~parcs and recreation department~~
43 ~~director~~ City shall secure a nationwide criminal background
44 fingerprint check prior to employing, or allowing to volunteer,
45 a person whose primary duties would require physical
46 presence on park property owned or operated by the City.
47 This nationwide criminal background fingerprint check shall
48 be conducted through the state department of law
49 enforcement.

50
51 (b) Every three years thereafter, the City ~~parcs and recreation~~
52 ~~department director~~ shall secure nationwide criminal
53 background checks for existing employees ~~and volunteers~~
54 whose primary duties require physical presence on park
55 property owned or operated by the City. These nationwide
56 criminal background checks shall be conducted by a
57 professional background screener and shall include a report
58 as to whether each employee or volunteer is located on the
59 National Sex Offender Public Registry, and a comprehensive
60 report and analysis, obtained from ~~two~~ independent
61 databases/sources, on the nationwide criminal history of
62 such employee or volunteer.

63

64 (c) Any employee or volunteer of the parks and recreation
65 department who:

66
67 (1) Has been convicted of a ~~violent felony, or conspiracy~~
68 ~~to commit a violent felony~~ regardless of adjudication,
69 within the past five ~~ten~~ years;

70
71 (2) Has been convicted of a ~~felony involving the~~
72 ~~trafficking of a controlled substance~~ misdemeanor,
73 regardless of adjudication, which would be considered
74 a potential danger to children or is directly related to
75 the employee or volunteer's job function, within the
76 past five ~~ten~~ years;

77
78 (3) Has ~~two or more convictions for a violent felony, for~~
79 ~~conspiracy to commit a violent felony, or involving the~~
80 ~~trafficking of a controlled substance~~ been convicted of
81 a misdemeanor, regardless of adjudication, within the
82 past five years;

83
84 (4) ~~Is a sexual offender or a sexual predator~~ Has been
85 arrested for and is awaiting final disposition of, has
86 been found guilty of, regardless of adjudication, or
87 entered a plea of nolo contendere or guilty to, or has
88 been adjudicated delinquent and the record has not
89 been sealed or expunged for, any of the offenses
90 listed in Section 435.04, Florida Statutes; or

91
92 (5) ~~Has failed to provide the parks and recreation~~
93 ~~department with proof of United States citizenship or~~
94 ~~legal immigration status in the United States;~~

95
96 shall be prohibited from working or volunteering on park property
97 owned or operated by the City. All employees and volunteers of the
98 parks and recreation department shall ~~submit to the parks and~~
99 ~~recreation department an affidavit affirming that no work or~~
100 ~~volunteer duties will be performed on park property owned or~~
101 ~~operated by the city in violation of this subsection and that any~~
102 report any arrest will be reported to his/her employer within 48
103 hours three days of such arrest.

104
105 (d) The ~~parks and recreation department~~ City shall maintain
106 copies of the results of the criminal background checks
107 required by this section for a period of three years from the
108 date they were secured. ~~The parks and recreation~~

109 ~~department shall maintain the affidavits required by~~
110 ~~subsection (c) of this section and shall maintain copies of the~~
111 ~~proof of United States citizenship or legal immigration status~~
112 ~~until the person is no longer an employee or volunteer.~~

113
114 (e) Every employee and volunteer of the parks and recreation
115 department shall wear, in a conspicuous and visible manner,
116 an identification badge that contains his/her photograph and
117 full name while working or volunteering on park property
118 owned or operated by the City, except when in costume and
119 during a performance. The identification badge shall be of a
120 size, design, and format approved by the parks and
121 recreation department director.

122
123 (f) Penalties and enforcement.

124
125 (1) It shall be unlawful for any volunteer of the parks and
126 recreation department to volunteer on park property
127 owned or operated by City in violation of this Section.

128
129 (2) Any volunteer who shall violate a provision of this
130 section or who shall knowingly or willingly provide
131 false or erroneous information to the parks and
132 recreation department, or fail to comply therewith, or
133 with any of the requirements thereof, shall upon
134 conviction thereof in the county court, be punished by
135 a fine not to exceed \$500.00 or by imprisonment in
136 the county jail for not more than 60 days, or by both
137 such fine and imprisonment.

138
139 (3) Any volunteer who violates or fails to comply with this
140 section may be subject to civil penalties in
141 accordance with chapter 8, regarding code
142 enforcement. Each day of violation or noncompliance
143 shall constitute a separate offense.

144
145 (g) To the extent permissible under the law, volunteer applicants
146 convicted of misdemeanor offenses within the last five years
147 may be considered for positions in park property owned or
148 operated by the City, upon review by a committee comprised
149 of the Parks and Recreation director or designee, Police
150 Chief or designee, and the Human Resources/Risk
151 Management director or designee, if such conviction did not
152 pose a danger to children.

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(h) The City shall adhere to all state statutes related to parks and recreation employees and volunteers that would supersede the minimum standards for background checks pursuant to this Section.

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Section 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

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Section 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

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Section 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the section of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

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Section 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

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PASSED ON FIRST READING ON THE _____ DAY OF _____, 2011.

176 PASSED ON SECOND READING ON THE ____ DAY OF _____,
177 2011.

178
179 ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF
180 MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE _____ DAY OF
181 _____, 2011.

182
183 _____
184 SHIRLEY GIBSON, MAYOR
185

186
187
188 **ATTEST:**

189
190
191 _____
192 RONETTA TAYLOR, MMC, CITY CLERK

193
194 PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

195
196 SPONSORED BY: DR. DANNY CREW, CITY MANAGER

197
198
199 Moved by: _____

200 Second by: _____

201
202 **VOTE:** _____

203
204 Mayor Shirley Gibson _____ (Yes) _____ (No)
205 Vice Mayor Aaron Campbell, Jr. _____ (Yes) _____ (No)
206 Councilwoman Lisa Davis _____ (Yes) _____ (No)
207 Councilman Oliver Gilbert, III _____ (Yes) _____ (No)
208 Councilwoman Felicia Robinson _____ (Yes) _____ (No)
209 Councilman Andre' Williams _____ (Yes) _____ (No)
210 _____ _____ (Yes) _____ (No)

Municipality	Type	Disqualifying Offenses Regardless of Time	Disqualifying Offenses within a period of time
Miami Gardens	Local	SEX OFFENSES: If found guilty FELONY VIOLENCE OFFENSE: if convicted two or more times for act or conspiracy FELONY DRUG OFFENSE: if convicted two or more times of trafficking a controlled substance	WITHIN THE LAST 5 YEARS FELONY DRUG OFFENSE: if convicted involving trafficking of a controlled substance
Sunrise	National	SEX OFFENSES: if found guilty regardless of time or adjudication FELONY VIOLENCE OFFENSES: if found guilty regardless of time or adjudication	WITHIN THE LAST 10 YEARS FELONY OFFENSES- OTHER: if found guilty regardless of adjudication WITHIN THE LAST 7 YEARS MISDEMEANOR VIOLENCE: if found guilty regardless of adjudication WITHIN THE LAST 5 YEARS OR MULTIPLE IN 10 YEARS MISDEMEANOR DRUG & ALCOHOL OFFENSES: if found guilty regardless of adjudication WITHIN THE LAST 5 YEARS ANY OTHER MISDEMEANOR: regardless of adjudication that would be a potential danger to children or is directly related to their function (theft, delinquency of a minor)
Miami Lakes	National	SEX OFFENSES: if found guilty regardless of time or adjudication ANY CRIM AGAINST CHILDREN: if found guilty regardless of time or adjudication ANY SEXUAL CRIME: if found guilty regardless of time or adjudication ANY DRUG OFFENSE: if found guilty regardless of time or adjudication if related to possession with intent to distribute	WITHIN THE LAST 7 YEARS FELONY OFFENSE: if found guilty regardless of adjudication ALCOHOL RELATED: if found guilty more than once regardless of adjudication MORAL TERPITUDE: if found guilty regardless of adjudication ECONOMIC CRIME: if found guilty at the felony level
Lauderhill	State	SEXUAL BATTERY, ABUSE OF CHILDREN, OBSCENITY: any plea of guilty, no contest, or conviction FELONY VIOLENCE: conviction FOR COMMITTEE REVIEW: any felony conviction of moral terpitude	WITHIN THE LAST 5 YEARS ANY FELONY OFFENSE: if found guilty regardless of adjudication COMMITTEE REVIEW ANY MISDEMEANOR CONVICTION: if found guilty regardless of adjudication
Aventura	National	SEX OFFENSES: if found guilty regardless of adjudication FELONY VIOLENCE OFFENSE: if found guilty regardless of adjudication	WITHIN THE LAST 10 YEARS FELONY OFFENSE: if found guilty regardless of adjudication MISDEMEANOR VIOLENCE OFFENSE: if found guilty regardless of adjudication DRUG AND ALCOHOL OFFENSES, INCLUDING DUI: if found guilty regardless of adjudication
Hollywood	National	SEXUAL BATTERY, ABUSE OF CHILDREN, OBSCENITY: any plea of guilty, no contest, or conviction FELONY VIOLENCE: conviction FOR COMMITTEE REVIEW: any felony conviction of moral terpitude	WITHIN THE LAST 5 YEARS ANY FELONY OFFENSE: if found guilty regardless of adjudication COMMITTEE REVIEW ANY MISDEMEANOR CONVICTION: if found guilty regardless of adjudication



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	March 9, 2011		Item Type:	Resolution	Ordinance	Other	
			(Enter X in box)		X		
Fiscal Impact:	Yes	No	Ordinance Reading:	1st Reading		2nd Reading	
(Enter X in box)		X	(Enter X in box)	X			
			Public Hearing:	Yes	No	Yes	No
			(Enter X in box)		X		
Funding Source:	N/A		Advertising Requirement:	Yes		No	
			(Enter X in box)			X	
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:	N/A			
(Enter X in box)		X					
Strategic Plan Related	Yes	No	Strategic Plan Priority Area:	Strategic Plan Obj./Strategy: (list the specific objective/strategy this item will address)			
(Enter X in box)		X	Enhance Organizational <input type="checkbox"/> Bus. & Economic Dev <input type="checkbox"/> Public Safety <input type="checkbox"/> Quality of Education <input type="checkbox"/> Qual. of Life & City Image <input type="checkbox"/> Communication <input type="checkbox"/>	N/A			
Sponsor Name	Dr. Danny O. Crew, City Manager		Department:	City Manager's Office			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES TO CREATE ARTICLE X RELATING TO ALCOHOL SALE AND CONSUMPTION; REGULATING HOURS AND DAYS OF SALE AND CONSUMPTION; PROVIDING FOR VIOLATIONS AND COMPLIANCE; AMENDING SECTION 34-146 OF THE CITY'S LAND DEVELOPMENT REGULATIONS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Staff Summary:

The sale and consumption of alcoholic beverages is currently regulated under Section 34-146 of the City's Land Development Code. It is more appropriate to regulate alcohol sale and consumption in the City's Code of Ordinances. Hence, this Ordinance proposes moving regulations of such sale and consumption from the Land Development Code to the City's Code of Ordinances. This Ordinance will also establish the day and time for alcohol sale and consumption, and will provide for an administrative

**ITEM H-2) ORDINANCE
SECOND READING
Alcohol Sale and Consumption
Regulations**

variance process whereby the City Manager will be authorized to grant an additional two (2) hour extension for the sale of alcohol at certain establishments.

During the January 26, 2011, Council meeting City staff proposed a set of initial revisions to the City's Alcoholic Beverages Ordinance. At that time, Council expressed concerns about the complexity of the times and the inconsistencies that existed between the various types of uses. As such, staff has revised the ordinance to address concerns expressed by Council. The following is a summary of the proposed hours of operation for establishments dispensing alcoholic beverages:

CHANGES AS COMPARED TO THE OLD PROPOSAL:

BANQUET HALLS** – The old proposal allowed sales between 8:00 a.m. and 11:00 p.m.

- The new proposal would allow sales between 10:00 a.m. and 1:00 a.m. of the following day.
- Current code does not set any hours for alcoholic beverage sales at banquet halls.

FOOD STORES/GROCERY STORES/RETAIL DRUG STORES. – The old proposal allowed sales between 6:00 a.m. and 12:00 a.m.

- The new proposal would allow sales between 6:00 a.m. and 12:00 a.m. This time restriction is being recommended due to issues that the City has experienced with loitering and alcohol related offenses in or around these types of establishments.
- Current code allows food stores, convenience stores and gas stations to sell beer and wine all hours that they remain open up to 24 hours a day, seven days per week.

PACKAGE STORES. The old proposal allowed sales between the hours of 8:00 a.m. and 10:00 p.m. Monday through Saturday, and on Sundays between the hours of 1:00 p.m. and 10:00 p.m.

- The new proposal would allow sales from 8:00 a.m. to 12:00 a.m. of the following day, every day.
- Current Code allows package stores to sell between 8:00 a.m. to 10:00 p.m., Monday through Saturday, but no sales on Sunday except for Christmas Eve and New Year's Eve.

RESTAURANTS (NO BAR/LOUNGE)** – These were included in the sports bar/lounge category previously. It is proposed that they be permitted to sell between the hours of 8:00 a.m. and 1:00 a.m. every day.

- The current code permits sales on the weekdays between the hours of 8:00 a.m. and 1:00 a.m. of the following day; on Sundays they are permitted to sell beer only between the hours of 10:00 a.m. and 1:00 a.m. of the following Monday; They are permitted to sell other alcoholic beverages on Sundays between the hours of 1:00 p.m. and 1:00 a.m. of the following Monday.

SPORTS BAR/RESTAURANT, AMUSEMENT BAR/RESTAURANT, BARS/LOUNGES, NIGHTCLUBS, DISCOTHEQUES, CLUBS, AND CABARETS** – The old proposal allowed sales between the hours of 8:00 a.m. and 1:00 a.m. of the following day.

- The Current Code treats these uses differently:

- *For nightclubs, the Code permits sales between 8:00 a.m. and 4:50 a.m. of the following day during weekdays. On Sundays beer only can be sold between 10:00 a.m. and 4:50 a.m. of the following Monday. Other alcoholic beverages can be served on Sunday from 5:00 p.m. to 4:50 a.m. of the following Monday; except where the alcoholic beverages are served with meals at tables. In this case, alcohol may be served between 1:00 p.m. on Sunday and 4:50 a.m. on the following Monday.*
- *For bars/lounges, the hours the Code permits sales between the hours of 8:00 a.m. and 1:00 a.m. of the following day. On Sundays, beer may be sold between the hours of 10:00 a.m. and 1:00 a.m. of the following Monday. Other alcoholic beverages may be sold on Sunday between 5:00 p.m. and 1:00 a.m. of the following Monday.*

The New proposal would allow existing nightclubs to sell alcohol in accordance with any prior public hearing approvals previously granted. New uses would be permitted to operate each day between the hours of 8:00 a.m. and 2:00 a.m. of the following day. However, such uses shall be entitled to request an extension in accordance with Section 6-349(B) of the code. Sales for bars and lounges would be permitted between 8:00 a.m. and 1:00 a.m. of the following day, as currently permitted.

ADULT ENTERTAINMENT CLUBS. No change is being proposed. These uses currently operate between the hours of 8:00 a.m. to 4:50 a.m. of the following day during week days, and on Sundays between the hours of 10:00 a.m. to 4:50 a.m. of the following Monday. They are permitted remain open and sell other alcoholic beverages on Sunday for the consumption on the premises from 5:00 p.m. to 4:50 a.m. of the following Monday.

**These uses would be entitled to request an additional two hours through an administrative process.

Proposed Action:

It is recommended that the City Council adopt the attached Ordinance relating to the sale and consumption of alcoholic beverages.

Attachment:

ORDINANCE NO. 2011 _____

1
2
3 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
4 MIAMI GARDENS, FLORIDA, AMENDING CHAPTER 6 OF THE
5 CODE OF ORDINANCES TO CREATE ARTICLE X RELATING TO
6 ALCOHOL SALE AND CONSUMPTION; REGULATING HOURS
7 AND DAYS OF SALE AND CONSUMPTION; PROVIDING FOR
8 VIOLATIONS AND COMPLIANCE; AMENDING SECTION 34-146
9 OF THE CITY'S LAND DEVELOPMENT REGULATIONS;
10 PROVIDING FOR THE ADOPTION OF REPRESENTATIONS;
11 REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A
12 SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN
13 CODE; PROVIDING AN EFFECTIVE DATE.

14
15 WHEREAS, the City currently regulates alcohol sale and consumption in
16 Section 34-146 of the City's Land Development Regulations, and

17 WHEREAS, it is more appropriate to regulate alcohol sale and
18 consumption in the City's Code of Ordinances, and

19 WHEREAS, in addition, this Ordinance establishes the days and times for
20 alcohol sale and consumption within the City of Miami Gardens, and

21 WHEREAS, this Ordinance also provides an administrative variance
22 process whereby the City Manager can grant an additional two (2) hour
23 extension for those establishments where alcohol can be consumed on the
24 premises, and establishes a process for an appeal of the City Manager's decision
25 in the event of a denial,

26 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
27 THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

28 Section 1. ADOPTION OF REPRESENTATIONS: The foregoing
29 Whereas paragraphs are hereby ratified and confirmed as being true, and the same
30 are hereby made a specific part of this Ordinance.

31 Section 2. AMENDMENT: Chapter 6 of the City of Miami Gardens' Code
32 of Ordinances is hereby amended to add Article X as follows:

33 **Chapter 6 – Article X Alcohol Sale and Consumption.**

34
35 **Sec. 6-349 Hours and days of sale and consumption**

36
37 (A) Hours and days of sale. Hours of sale, consumption. It shall be
38 unlawful for any person to purchase and for any licensee and any
39 manager, agent or employee of any licensee to sell, serve or
40 distribute in any form or by any method any alcoholic beverage, as
41 defined in Section 34-732 of the City's Land Development Code, in
42 any place of business except as outlined below:

43
44 1. Banquet halls/Hall for hire/caterers. Each day
45 between the hours of 10:00 a.m. and 1:00 a.m. of the following
46 day.

47
48 2. Food stores/grocery stores/retail drug stores.
49 Between the hours of 6:00 a.m. and 12:00 a.m., of the following
50 day, or during such hours as their establishments legally remain
51 open for the sale of other goods; whichever hours are more
52 restrictive.

53
54 3. Not-for-profit theatres with live performances. Sales of
55 alcoholic beverages shall be permitted only for consumption on the
56 premises and only to patrons during any regularly scheduled live
57 theatre performance. No sit-down bar shall be permitted.

58
59 4. Package stores. Each day between the hours of 8:00
60 a.m. and 12:00 a.m. of the following day, every day.

61
62 5. Nightclubs, discotheques, clubs, and cabarets.
63 Existing uses shall operate in accordance with any prior public
64 hearing approvals previously granted. New uses shall be permitted
65 to operate each day between the hours of 8:00 a.m. and 2:00 a.m.
66 of the following day. However, such uses shall be entitled to
67 request an extension in accordance with Section 6-349(B) of this
68 Article.

69
70 6. Adult entertainment clubs. Between the hours of 8:00
71 a.m. to 4:50 a.m. of the following day during week days, and on
72 Sundays between the hours of 10:00 a.m. to 4:50 a.m. of the
73 following Monday; and to remain open and sell other alcoholic

Added language is underlined. Deleted language is stricken through.

74 beverages on Sunday for the consumption on the premises from
75 5:00 p.m. to 4:50 a.m. of the following Monday. It is specifically
76 provided, however, that every adult entertainment club that may
77 operate in accordance with this Section shall close its doors and
78 have all its patrons off its premises no later than 5:00 a.m. of each
79 day.

80
81 7. *Restaurants/bars/lounges.* Between the hours of 8
82 a.m. and 1:00 a.m. daily.

83
84 (B) *Extension of hours.* The City Manager shall have the authority to
85 grant an administrative variance to allow the extension of said
86 hours of alcohol sales up to two additional hours for premises
87 selling alcohol to be consumed on the premises. Any establishment
88 wishing to extend its hours of sales or consumption beyond the
89 two-hour extension set out herein, or which has been denied the
90 administrative variance by the City Manager may file an application
91 for a public hearing for non-use variance before the City Council for
92 the extension of such hours. Any establishment having previously
93 been authorized to extend its hours of operation by public hearing
94 may continue to operate pursuant to the extension granted
95 previously and no further public hearing is necessary, unless the
96 City Council acts to further restrict or terminate such extended
97 hours. Once an extension of hours is granted, no further extension
98 can be granted unless approved by public hearing. *State law*
99 *references: Authority of city to regulate time of sale of alcoholic beverages, F.S.*
100 *§§ 562.14(1), 562.45(2).*

101
102 **Sec. 6-350 Violations and compliance**

103
104 (A) *Penalty for violation.* It shall be a violation for any person or entity
105 licensed to operate an alcoholic beverage establishment, or
106 employed by, or acting as an agent of any such establishment, and
107 who sells or causes to be sold any alcoholic beverage, to permit
108 such beverage to be consumed on any property under the control,
109 directly or indirectly, of the licensee, except within the area of the
110 premises which is licensed for such sales and consumption. Any
111 person found to be in violation of this chapter is subject to
112 suspensions, revocations, and other penalties provided for by this
113 Code.

114
115 (B) *Violation of state law.* It is intended that the provisions of this
116 Chapter shall apply solely to those beverages constituting alcoholic
117 beverages under F.S. §561.01 et seq. Every violation of the laws
118 of the state relating to the sale of alcoholic beverages is hereby
119 specifically made a violation of this chapter, with the same force

120 and effect as if the provisions of such laws were fully set forth
121 herein.

122
123 (C) Prohibiting sales during emergency. Whenever, in the opinion and
124 judgment of the City Manager, a public emergency shall be created
125 or exist in the City, causing or tending to cause public disorder,
126 lawbreaking and confusion, the City Manager is hereby authorized
127 and empowered to prohibit, by and through the issuance of his
128 official decree, the sale, serving or consumption of beer, wine,
129 spirituous and other intoxicating liquors and beverages for and
130 during a period of 24 hours or such longer period of time as may be
131 described in such decree, at all commercial establishments and at
132 all other places in the city where such beer, wine and all other
133 alcoholic beverages are licensed to be sold, served or otherwise
134 dispensed. In the issuance of such decree, the City Manager shall
135 have the fact of the issuance and the contents of such decree
136 broadcast by police and by commercial radio stations and
137 otherwise given publicity as quickly and as widely as shall be
138 feasible. It is hereby declared to be illegal for any person operating,
139 employed at or otherwise controlling any of the commercial
140 establishments or other places described in this section to sell,
141 serve or permit the consumption on the premises of beer, wine, and
142 all other alcoholic beverages during the period described in the
143 decree of the City Manager provided for in this section. Each
144 violation of, or noncompliance with, any of the provisions of this
145 Section shall constitute a separate offense, and shall subject every
146 person guilty thereof to the penalty prescribed in this Chapter. State
147 law references: Declaration of emergency, F.S. § 870.043 et seq.

148
149 (D) Employees not to mingle with customers. It shall be unlawful for
150 employees, waitresses, entertainers or hostesses in any place
151 selling alcoholic beverages for consumption on the premises to
152 mingle or fraternize with the customers or patrons of such
153 establishment for the purpose of enticing, encouraging or luring
154 customers to purchase multiple drinks by sitting at the table or other
155 seating area with customers for conversation, touching, sexual
156 innuendo or the promise of sexual favors or attention. Case law
157 references: Prohibitions against employees mingling with customers held valid.
158 City of Miami v. Kayfetz, 92 So. 2d 798. Purchase of a female employee's time
159 by a customer or dancing with a female employee in an alcoholic beverage
160 establishment constitutes a violation of prohibition of this section. City of Miami v.
161 Penley, 21 Fla. Supp. 42; aff'd 21 Fla.

162
163 (E) Possession of liquor not authorized by license. The possession by
164 a licensee under this Chapter in his place of business of any
165 alcoholic beverage not authorized to be sold under his City license
166 shall be prima facie evidence that such alcoholic beverage is being

167 sold by such licensee. The finding of this violation by a police officer
168 or City inspector may result in the revocation of the Certificate of
169 Use issued in accordance with Section 6-36 of the Code of
170 Ordinances. *Presumption of noncompliance.* Two or more of the
171 following activities shall constitute a rebuttable presumption that the
172 provisions of this section hereof have been violated:

173
174 1. Persons being served beer, wine or alcoholic
175 beverages without full-course meals on three separate occasions
176 during different days within a 30-day time period.

177
178 2. Two or more consecutive inspections by the division
179 of hotels and restaurants of the state department of business and
180 professional regulation, the state department of agriculture and
181 consumer services, or the city citing the same or substantially
182 similar critical violations in a one-year period. The term critical shall
183 be interpreted as defined in section 1-201.10(B)(19), Food Code,
184 2001 Recommendations of the U.S. Public Health Service/Food
185 and Drug Administration, as amended and utilized by state
186 agencies.

187
188 3. Four or more non-consecutive inspections by the
189 division of hotels and restaurants of the state department of
190 business and professional regulation, the state department of
191 agriculture and consumer services, or the city citing the same or
192 substantially similar critical violations in a two-year period, that
193 when combined establish a pattern of violations that would lead a
194 reasonable person to believe that the restaurant is operated in
195 disregard to the standards and requirements for the proper and
196 sanitary storage, preparation, processing and/or service of food to
197 the public.

198
199 Failure to produce, upon demand of the City code officer or police
200 officer, the records required to be maintained to ascertain whether
201 the operator complies with the required gross sales percentage of
202 food and non-alcoholic beverages.

203
204 (F) *Inspection of licensed premises.* Any place of business selling
205 alcoholic beverages may be inspected by City police officers and
206 code inspectors. Police officers and code inspectors shall ensure
207 compliance with the hours of operation for establishments selling
208 alcoholic beverages.

209
210 (G) *Drinking on public property.* The consumption, holding or carrying
211 of any alcoholic beverage in an open bottle, glass or other drinking
212 container shall be unlawful if conducted outside of an enclosed or

213 walled structure or patio portion of premises licensed under this
214 chapter. It shall be unlawful to carry on such activities while upon
215 any public street, thoroughfare, park, sidewalk or other public place
216 or area regularly devoted to public vehicular or pedestrian use. The
217 service of alcoholic beverages shall be restricted to on-premises
218 consumption by customers within a licensed outdoor cafe.

219
220 (H) Caterers. Notwithstanding any other provision of law to the
221 contrary, a licensee by the Division of Hotels and Restaurants
222 under Chapter 509 shall sell or serve alcoholic beverages only for
223 consumption on the premises of a catered event at which the
224 licensee is also providing prepared food, and shall prominently
225 display its license at any catered event at which the caterer is
226 selling or serving alcoholic beverages. A licensee under this
227 subparagraph shall purchase all alcoholic beverages it sells or
228 serves at a catered event from a vendor licensed under F.S.
229 563.02(1), F.S. 564.02(1), or licensed under F.S. 565.02(1) subject
230 to the limitation imposed in subsection (1), as appropriate. A
231 licensee under this subparagraph may not store any alcoholic
232 beverages to be sold or served at a catered event. Any alcoholic
233 beverages purchased by a licensee under this subparagraph for a
234 catered event that are not used at that event must remain with the
235 customer; provided that if the vendor accepts unopened alcoholic
236 beverages, the licensee may return such alcoholic beverages to the
237 vendor for a credit or reimbursement.

238
239 (I) Posting of Property. The licensee of any package store or food
240 store selling alcoholic beverages shall prominently post in English,
241 Spanish and Haitian Creole on the outside of each entrance and on
242 the inside of the main customer exit of each food store selling
243 alcoholic beverage or package store, a sign with contrasting letters
244 at least two (2) inches tall, stating the following:

245
246 1. IT IS UNLAWFUL FOR ANY PERSON TO
247 CONSUME, OR POSSESS, IN AN OPEN CONTAINER, ANY
248 ALCOHOLIC BEVERAGE IN THIS STORE OR WITHIN 100 FEET
249 OF ANY PART OF THIS STORE. VIOLATORS ARE SUBJECT TO
250 ARREST AND PROSECUTION.

251
252 2. The licensee of any package store or food store
253 selling alcoholic beverages shall prominently post, on the outside of
254 the display case and coolers containing alcoholic beverages, a sign
255 which is at least eleven (11) inches by seventeen (17) inches in
256 size, which is plainly visible and legible, stating the following: IT IS
257 UNLAWFUL TO POSSESS AN OPEN CONTAINER OF ALCOHOL
258 WHILE DRIVING OR RIDING IN A MOTOR VEHICLE. DRIVING

259 UNDER THE INFLUENCE OF ALCOHOL IS UNLAWFUL.
260 VIOLATORS ARE SUBJECT TO IMMEDIATE ARREST AND
261 IMPOUNDMENT OF THEIR VEHICLE.

262
263 3. *Area of applicability and exceptions.* For the purpose
264 of this section, the area within one hundred (100) feet of any
265 property described in this section shall be the area within a one
266 hundred-foot radius of any part of such property, but shall not
267 include any property lawfully used for a private residence or any
268 area where possession or consumption of alcoholic beverages is
269 specifically prohibited or permitted by State law or by any license or
270 permit issued pursuant thereto. Nor shall this provision apply to any
271 alcoholic beverage served by a religious organization, community
272 center, senior citizens' center, day care center, funeral home, or
273 school and consumed on its premises as part of a religious service,
274 community meal, or event sponsored by that organization.

275
276
277 Section 3: AMENDMENT: Sec. 34-146 of the City's Land

278 Development Regulations is amended as follows:

279 Hours and days of sale and consumption of alcohol shall be
280 administered ~~as set forth in this chapter.~~ in accordance with
281 Chapter 6, Article X of the Code of Ordinances. An administrative
282 variance may be granted to allow the extension of said hours of
283 operation up to two additional hours in accordance with section 34-
284 50.

285
286 Section 4: AMENDMENT: Sec. 34-50 (17) of the City's Land

287 Development Regulations is amended as follows:

288 (17) Variances to extend hours of operation up to two additional hours
289 for alcoholic beverage establishments, as set forth in section ~~34-~~
290 ~~146~~ 6-349(D) of the Code of Ordinances, or for other
291 establishments of which the City may have regulations governing
292 hours of operations.

293
294
295 Section 5. CONFLICT: All ordinances or Code provisions in conflict
296 herewith are hereby repealed.

297 Section 6. SEVERABILITY: If any section, subsection, sentence,
298 clause, phrase or portion of this Ordinance is for any reason held invalid or
299 unconstitutional by any court of competent jurisdiction, such portion shall be
300 deemed a separate, distinct and independent provision and such holding shall
301 not affect the validity of the remaining portions of this Ordinance.

302 Section 7. INCLUSION IN CODE: It is the intention of the City
303 Council of the City of Miami Gardens that the provisions of this Ordinance shall
304 become and be made a part of the Code of Ordinances of the City of Miami
305 Gardens and that the section of this Ordinance may be renumbered or relettered
306 and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or
307 such other appropriate word or phrase, the use of which shall accomplish the
308 intentions herein expressed.

309 Section 8. EFFECTIVE DATE: This Ordinance shall become effective
310 immediately upon its final passage.

311 PASSED ON FIRST READING ON THE _____ DAY OF _____,
312 2011.

313 PASSED ON SECOND READING ON THE _____ DAY OF _____,
314 2011.

315 ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF
316 MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE _____ DAY OF
317 _____, 2011.

318
319
320
321

SHIRLEY GIBSON, MAYOR

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ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: DR. DANNY O. CREW, CITY MANAGER

Moved by: _____

Second by: _____

VOTE: _____

Mayor Shirley Gibson	_____ (Yes)	_____ (No)
Vice Mayor Aaron Campbell, Jr.	_____ (Yes)	_____ (No)
Councilwoman Lisa Davis	_____ (Yes)	_____ (No)
Councilman Oliver Gilbert, III	_____ (Yes)	_____ (No)
_____	_____ (Yes)	_____ (No)
Councilwoman Felicia Robinson	_____ (Yes)	_____ (No)
Councilman Andre' Williams	_____ (Yes)	_____ (No)



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date: <i>(Enter X in box)</i>	March 9, 2011		Item Type: <i>(Enter X in box)</i>	Resolution	Ordinance	Other	
					X		
Fiscal Impact: <i>(Enter X in box)</i>	Yes	No	Ordinance Reading: <i>(Enter X in box)</i>	1st Reading		2nd Reading	
		X			X		
			Public Hearing: <i>(Enter X in box)</i>	Yes	No	Yes	No
					X		
Funding Source:	N/A		Advertising Requirement: <i>(Enter X in box)</i>	Yes		No	
						X	
Contract/P.O. Required: <i>(Enter X in box)</i>	Yes	No	RFP/RFQ/Bid #:	N/A			
		X					
Strategic Plan Related <i>(Enter X in box)</i>	Yes	No	Strategic Plan Priority Area:	Strategic Plan Obj./Strategy: <i>(list the specific objective/strategy this item will address)</i>			
		X					
			Enhance Organizational <input type="checkbox"/> Bus. & Economic Dev <input type="checkbox"/> Public Safety <input type="checkbox"/> Quality of Education <input type="checkbox"/> Qual. of Life & City Image <input type="checkbox"/> Communcation <input type="checkbox"/>				
Sponsor Name	Councilman Oliver Gilbert		Department:	Mayor and City Council			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING ARTICLE IX, DIVISION 3, SECTION 2-752(2) OF THE CODE OF ORDINANCES, TO REDUCE THE PERFORMANCE BOND REQUIREMENT FOR CONTRACTS VALUED AT LESS THAN \$150,000.00, FROM TEN PERCENT TO FIVE PERCENT IN THOSE INSTANCES WHERE THE CITY MANAGER DEEMS A BOND TO BE APPROPRIATE; AMENDING SECTION 2-753 TO ADD SUBSECTION 4 TO PROVIDE A PROCESS FOR THE WAIVER OF BID BONDS FOR CONTRACTS VALUED BETWEEN \$10,001.00 AND \$50,000.00, FOR BIDDERS WHO HAVE SUCCESSFULLY COMPLETED THREE (3) OR MORE BIDS WITH THE CITY WITHOUT MAJOR COMPLAINTS OR DEFICIENCIES, AND AMENDING SECTION 2-753 TO ADD SUBSECTION 5 TO PROVIDE THAT PROOF OF INSURANCE SHALL ONLY BE REQUIRED AFTER RANKING OF THE BIDDERS BY THE CITY, OR PRIOR TO EXECUTION OF A CONTRACT WITH THE CITY, WHICHEVER COMES FIRST; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

**ITEM H-3) ORDINANCE
FIRST READING
Reducing Performance
Bond Requirements**

Summary:

In an effort to encourage smaller businesses to participate in the City's purchasing process, Councilman Oliver Gilbert, III proposes to create an "Access to Business" program to provide a mechanism for relaxing some of the upfront costs associated with responding to certain City bids. Specifically, Councilman Gilbert proposes the following:

- a. When bid bonds are required for projects valued less than \$150,000.00, the bid bond be reduced from ten percent (10%) to five percent (5%);
- b. That for contracts valued between \$10,000.00 and \$50,000.00, bidders be permitted to pre-apply for a waiver of bid bond, if they meet certain requirements; and
- c. That the timeframe be delayed for prospective bidders to provide proof of insurance on contracts valued between \$10,001.00 and \$50,000.00 until after ranking of the bidders by the City, or prior to execution of a contract with the City, whichever comes first.

Proposed Action:

Councilman Oliver Gilbert, III recommends that the City Council approve the attached Ordinance.

Attachment:

N/A

ORDINANCE NO. 2011 _____

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3 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI
4 GARDENS, FLORIDA, AMENDING ARTICLE IX, DIVISION 3, SECTION
5 2-752(2) OF THE CODE OF ORDINANCES, TO REDUCE THE
6 PERFORMANCE BOND REQUIREMENT FOR CONTRACTS VALUED
7 AT LESS THAN \$150,000.00, FROM TEN PERCENT TO FIVE
8 PERCENT, IN THOSE INSTANCES WHERE THE CITY MANAGER
9 DEEMS A BOND TO BE APPROPRIATE; AMENDING SECTION 2-753
10 TO ADD SUBSECTION 4 TO PROVIDE A PROCESS FOR THE WAIVER
11 OF BID BONDS FOR CONTRACTS VALUED BETWEEN \$10,001.00
12 AND \$50,000.00, FOR BIDDERS WHO HAVE SUCCESSFULLY
13 COMPLETED THREE (3) OR MORE BIDS WITH THE CITY WITHOUT
14 MAJOR COMPLAINTS OR DEFICIENCIES, AND AMENDING SECTION
15 2-753 TO ADD SUBSECTION 5 TO PROVIDE THAT PROOF OF
16 INSURANCE SHALL ONLY BE REQUIRED AFTER RANKING OF THE
17 BIDDERS BY THE CITY, OR PRIOR TO EXECUTION OF A CONTRACT
18 WITH THE CITY, WHICHEVER COMES FIRST; PROVIDING FOR
19 ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES
20 IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING
21 FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.
22

23 WHEREAS, the City of Miami Gardens would like to encourage smaller
24 businesses to participate in the City's purchasing process, and

25 WHEREAS, oftentimes, these businesses have a difficult time complying
26 with the requirements for responding to City solicitations, due to the up-front
27 costs involved, and

28 WHEREAS, Councilman Oliver Gilbert, III proposes to relax the bid bond
29 requirements for projects valued at less than \$150,000.00, from ten percent
30 (10%) to five percent (5%), in instances where the City Manager deems that a
31 bond is appropriate, and

32 WHEREAS, in addition, for contracts valued between \$10,0001.00 and
33 \$50,000.00, Councilman Gilbert proposes a process whereby bidders can pre-
34 apply for a waiver of bid bond, if they meet certain requirements, and

1 WHEREAS, Councilman Gilbert also proposes to delay the timeframe for
2 prospective bidders on contracts between \$10,001.00 and \$50,000.00 to provide
3 proof of insurance,

4 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
5 CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

6 Section 1. ADOPTION OF REPRESENTATIONS: The foregoing
7 Whereas paragraphs are hereby ratified and confirmed as being true, and the same
8 are hereby made a specific part of this Ordinance.

9 Section 2. AMENDMENT: Article IX, Division 3, Section 2-752 of the
10 Miami Gardens Code of Ordinances is hereby amended as follows:

11 Sec. 2-752. - Purchases in excess of \$50,000.00.

12 Except as otherwise provided in this division, the purchase of
13 commodities or services of an estimated value of over \$50,000.00 shall be
14 approved by the city council and may be by purchase order and/or other
15 written contract with the vendor submitting the lowest responsible bid
16 whose bid has been solicited, received and approved, pursuant to the
17 following procedures:

18 * * * * * * * *

19 (2) *Security (bid bonds)*. When the estimated cost of a public works
20 contract is \$150,000.00 or higher, or when otherwise deemed
21 necessary by the city manager, security in the form of a bid
22 bond issued by a surety company licensed to do business in the
23 state or a cash bond in an amount equal to ten percent of the
24 bid shall be prescribed in the public notices inviting bids. When
25 the City Manager deems it necessary to require a bid bond for
26 bids less than \$150,000.00, the bond shall be in an amount
27 equal to five percent of the bid. A vendor shall forfeit a bid
28 security upon a refusal or failure to execute the contract within
29 ten days after the notice of award of contract has been mailed,
30 unless the city is solely responsible for the delay in executing
31 the contract. The city council may, upon the refusal or failure of
32 the successful vendor to execute the contract, award the
33 contract to the next lowest vendor.

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Section 3. AMENDMENT: Article IX, Division 3, Section 2-753 of the Miami Gardens Code of Ordinances is hereby amended to add subsections (4) and (5) as follows:

Sec. 2-753. - Purchases between \$10,001.00 and \$50,000.00.

Except as otherwise provided in this section, purchases of commodities or services of a value over \$10,001.00 but not more than \$50,000.00 may be made by the city manager, through a purchase order or a written contract to be approved by the city attorney, without approval by the city council, pursuant to one of the following procedures:

* * * * *

(4) Upon written application, the City Manager may, based upon past performance of a prospective bidder, waive the requirements for a bid bond for future bids to be awarded in accordance with this section. Such waivers shall only be granted, and shall not be unreasonably withheld to bidder's who have successfully completed three (3) or more bids with the City without major complaints or deficiencies. Such application shall be made and approved before a bid is posted. Waivers granted or denied, shall be without prejudice to the city's right, at its sole discretion, to require payment of a bid bond in the future.

(5) The proof of insurance required for all bids awarded in accordance with this Section shall only be required after ranking of the bidders by the City, or prior to execution of a contract with the City, whichever comes first.

Section 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be

1 deemed a separate, distinct and independent provision and such holding shall
2 not affect the validity of the remaining portions of this Ordinance.

3 Section 5. INCLUSION IN CODE: It is the intention of the City
4 Council of the City of Miami Gardens that the provisions of this Ordinance shall
5 become and be made a part of the Code of Ordinances of the City of Miami
6 Gardens and that the section of this Ordinance may be renumbered or relettered
7 and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or
8 such other appropriate word or phrase, the use of which shall accomplish the
9 intentions herein expressed.

10 Section 6. EFFECTIVE DATE: This Ordinance shall become effective
11 immediately upon its final passage.

12 PASSED ON FIRST READING ON THE ____ DAY OF _____,
13 2011.

14 PASSED ON SECOND READING ON THE ____ DAY OF _____,
15 2011.

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17 ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF
18 MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE ____ DAY OF
19 _____, 2011.

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21 _____
22 SHIRLEY GIBSON, MAYOR
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25 ATTEST:
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1 _____
2 RONETTA TAYLOR, MMC, CITY CLERK

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4 Prepared by SONJA KNIGHTON DICKENS, ESQ.
5 City Attorney

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7 SPONSORED BY: COUNCILMAN OLIVER GILBERT, III

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10 Moved by: _____
11 Second by: _____

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13 VOTE: _____

14			
15	Mayor Shirley Gibson	_____ (Yes)	_____ (No)
16	Vice Mayor Aaron Campbell, Jr.	_____ (Yes)	_____ (No)
17	Councilwoman Lisa Davis	_____ (Yes)	_____ (No)
18	Councilman Oliver Gilbert, III	_____ (Yes)	_____ (No)
19	Councilwoman Felicia Robinson	_____ (Yes)	_____ (No)
20	Councilman Andre' Williams	_____ (Yes)	_____ (No)
21	_____	_____ (Yes)	_____ (No)
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City of Miami Gardens Agenda Cover Memo

Council Meeting Date:	March 9, 2010		Item Type:	Resolution	Ordinance	Other
			(Enter X in box)	X		
Fiscal Impact: (Enter X in box)	Yes	No	Ordinance Reading: (Enter X in box)	1st Reading		2nd Reading
	X		Public Hearing: (Enter X in box)	Yes	No	Yes No
					X	
Funding Source:	General Fund		Advertising Requirement: (Enter X in box)	Yes		No
						X
Contract/P.O. Required: (Enter X in box)	Yes	No	RFP/RFQ/Bid #:	(Enter #)		
	X					
Strategic Plan Related (Enter X in box)	Yes	No	Strategic Plan Priority Area:	Strategic Plan Obj./Strategy: (list the specific objective/strategy this item will address) N/A		
		X	Enhance Organizational <input type="checkbox"/>			
			Bus. & Economic Dev <input type="checkbox"/>			
			Public Safety <input type="checkbox"/>			
			Quality of Education <input type="checkbox"/>			
			Qual. of Life & City Image <input type="checkbox"/>			
			Communication <input type="checkbox"/>			
Sponsor Name	City Manager		Department:	Finance		

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AND ATTEST RESPECTIVELY, AN ADDENDUM TO THAT CERTAIN AGREEMENT WITH HARVEY, COVINGTON & THOMAS, L.L.C., TO PROVIDE FISCAL YEAR 2011 & 2012 ANNUAL FINANCIAL AUDITING SERVICES IN AN AMOUNT NOT TO EXCEED SIXTY-ONE THOUSAND FIVE HUNDRED DOLLARS (\$61,500.00), AND A GENERAL OBLIGATION BOND AUDIT IN AN AMOUNT NOT TO EXCEED SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00); PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

In May 2008, the Council selected Harvey, Covington & Thomas, LLC as the City's external auditor to perform annual auditing services according to Florida Statute 218.39 for fiscal year 2008, 2009 and 2010.

**ITEM K-1) CONSENT AGENDA
RESOLUTION**

Agreement w/ Harvey, Covington & Thomas, LLC

The agreement also allows the City to renew the agreement for a period of two years under the same terms and conditions.

For fiscal year 2011, the City is required to implement GASB Statement 54 "Fund Balance Reporting and Governmental Fund Type Definitions". Staff believes that the current auditor who is familiar with the City's financials can assist staff in this implementation and as such recommends to extend the engagement of Harvey, Convington & Thomas, LLC for two years with the stipulation that the same audit staff and director be assigned to the City. Harvey, Convington & Thomas, LLC has to inform the City immediately of any staff changes and will present the City's the new staff on the engagement their education and experience. Should the City feel uncomfortable with the staff assigned, the City has the right to terminate the extension.

The fee charged by the auditing firm for FY 2010 audit is \$61,500 for the annual audit, and \$7,500 for the General Obligation Bond single audit required by the County. Harvey, Convington & Thomas, LLC will perform the audit for FY 2011, and FY 2012 for the same fees as set forth in FY 2010.

Proposed Action:

It is recommended that Council approve the extension of two year engagement with Harvey Convington & Thomas to perform the City's FY 2011 and FY 2012 annual audit.

Attachment:

Attached A: Addendum to the agreement

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3 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
4 MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY
5 MANAGER AND CITY CLERK TO EXECUTE AND ATTEST
6 RESPECTIVELY, AN ADDENDUM TO THAT CERTAIN
7 AGREEMENT WITH HARVEY, COVINGTON & THOMAS,
8 L.L.C., TO PROVIDE FISCAL YEAR 2011 & 2012 ANNUAL
9 FINANCIAL AUDITING SERVICES IN AN AMOUNT NOT
10 TO EXCEED SIXTY-ONE THOUSAND FIVE HUNDRED
11 DOLLARS (\$61,500.00), AND A GENERAL OBLIGATION
12 BOND AUDIT IN AN AMOUNT NOT TO EXCEED SEVEN
13 THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00);
14 PROVIDING FOR THE ADOPTION OF
15 REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.
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17 WHEREAS, in accordance with §218.39, Florida Statutes, all municipalities are
18 required to have an annual audit performed by an independent certified public
19 accountant, and

20 WHEREAS, the City Council selected Harvey, Convington & Thomas L.L.C. in
21 May 2008 in accordance with Resolution No. 2008-111-798 to provide auditing services
22 for Fiscal Years 2008, 2009 and 2010, and

23 WHEREAS, the City is required to implement GASB Statement No. 54 "Fund
24 Balance Reporting and Governmental Fund Type Definitions" in FY 2011, and

25 WHEREAS, staff recommends that the City extend Harvey, Convington &
26 Thomas, L.L.C.'s engagement for two (2) years to assist in this implementation, and

27 WHEREAS, Harvey, Convington & Thomas L.L.C., proposes a fee of Sixty-One
28 Thousand Five Hundred Dollars (\$61,500.00) for the Fiscal Year 2011 & 2012 Annual
29 Financial Audit, and Seven Thousand Five Hundred Dollars (\$7,500.00) for the General
30 Obligation Bond single audit required by the County,

31 NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
32 OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

33 Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas
34 paragraphs are hereby ratified and confirmed as being true, and the same are hereby
35 made a specific part of this Resolution.

36 Section 2: AUTHORIZATION: The City Council of the City of Miami Gardens
37 hereby authorizes the City Manager and the City Clerk to execute and attest
38 respectively, an Addendum to that certain agreement with Harvey, Covington &
39 Thomas, LLC to provide fiscal year 2011 & 2012 Annual Financial Auditing services in
40 the amount not to exceed Sixty-One Thousand Five Hundred Dollars (\$61,500.00), and
41 a General Obligation Audit in an amount not to exceed Seven Thousand Five Hundred
42 Dollars (\$7,500.00).

43 Section 3: INSTRUCTIONS TO THE CLERK: The City Clerk is hereby
44 authorized to obtain two (2) fully executed copies of the subject Agreement with one to be
45 maintained by the City, and one to be delivered to Harvey, Covington & Thomas, LLC.

46 Section 4: EFFECTIVE DATE: This Resolution shall take effect immediately
47 upon its final passage.

48 PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI
49 GARDENS AT ITS REGULAR MEETING HELD ON _____, 2011.

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SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

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PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: DR. DANNY O. CREW, CITY MANAGER

VOTE:

Mayor Shirley Gibson	____(Yes)	____(No)
Vice Mayor Aaron Campbell	____(Yes)	____(No)
Councilwoman Lisa Davis	____(Yes)	____(No)
Councilman Oliver Gilbert, III	____(Yes)	____(No)
Councilwoman Felicia Robinson	____(Yes)	____(No)
Councilman André Williams	____(Yes)	____(No)

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ADDENDUM TO CONTRACT FOR PROFESSIONAL AUDITOR SERVICES

THIS ADDENDUM ("Addendum") is incorporated into that Agreement between the City of Miami Gardens ("City") and Harvey Covington & Thomas, LLC ("Harvey Covington & Thomas").

WITNESSETH

1. Article 4 Compensation is hereby amended to add the following language to the first paragraph:

For all Services provided by Auditor, the City shall pay Auditor \$57,500.00 for all-inclusive maximum price for 2008 audit; \$59,500.00 for 2009 audit; \$61,500.00 for 2010, 2011 and 2012 audits pending budget approval. The fee for the general obligation bond single audit shall be \$7,500.00. All invoices for fees and compensation shall be submitted in sufficient detail to demonstrate compliance with the terms of this Agreement, and shall include a detailed explanation of all fees and charges.

2. Article 9 Term shall be amended as follows:

This Agreement shall become effective upon execution by both parties and shall continue in force for a two year period through the completion, acceptance and presentation to City Council of ~~2010~~ 2012 fiscal year audit, unless sooner terminated as provided herein.

~~The City shall have the option to renew this Agreement for a period of two years upon the same terms and conditions contained herein upon 90 days written notice to Auditor. Thereafter, any renewal shall be in writing and executed by both parties.~~

3. **STAFF.** AUDITOR agrees to utilize the same staff as in FY 2010 to work on the City of Miami Gardens FY 2011 and 2012 audits. Any proposed staff changes by AUDITOR must be approved by the City, and if the City does not agree with the staff change, the City shall have the right to immediately terminate this Agreement.

4. **INCONSISTENCY.** In the event of an inconsistency or contradiction between the terms hereof and the terms of the Agreement, to which this Addendum is attached, the terms hereof shall control.

5. **CONFLICT:** In the event of any conflicts between this Addendum and the Agreement, this Addendum shall control. In all other respects, the Agreement shall remain in full force and effect.

6. **EFFECT OF ORIGINAL AGREEMENT.** All terms of the Agreement not affected by this Addendum shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year set forth below their respective signatures.

ATTEST:

CITY OF MIAMI GARDENS

City Clerk
Ronetta Taylor, MMC

Dr. Danny Crew, City Manager

Date: _____

WITNESS:

HARVEY, COVINGTON, THOMAS, LLC

Print Name

By: _____

Print Name: _____

Approved as to form and legal
Sufficiency:

Sonja K. Dickens, City Attorney



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	March 9, 2010		Item Type:	Resolution	Ordinance	Other	
			(Enter X in box)	X			
Fiscal Impact:	Yes	No	Ordinance Reading:	1st Reading		2nd Reading	
(Enter X in box)		X	(Enter X in box)				
			Public Hearing:	Yes	No	Yes	No
			(Enter X in box)		X		
Funding Source:	N/A		Advertising Requirement:	Yes		No	
			(Enter X in box)			X	
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:	(Enter #)			
(Enter X in box)		X					
Strategic Plan Related	Yes	No	Strategic Plan Priority Area:	Strategic Plan Obj./Strategy: (list the specific objective/strategy this item will address)			
(Enter X in box)		X	Enhance Organizational <input type="checkbox"/>				
			Bus. & Economic Dev <input type="checkbox"/>				
			Public Safety <input type="checkbox"/>				
			Quality of Education <input type="checkbox"/>				
			Qual. of Life & City Image <input type="checkbox"/>				
			Communication <input type="checkbox"/>				
Sponsor Name	City Manager		Department:	Finance			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA ACCEPTING THE FISCAL YEAR 2009/2010 ANNUAL AUDIT REPORT PREPARED BY THE CITY'S AUDITORS, HARVEY, COVINGTON AND THOMAS LLC; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

In accordance with Florida Statute 218.39, all municipalities are required to have annual audit performed by an independent certified public accounts firm. The Council has selected Harvey, Covington and Thomas LLC to perform the City's FY 2010 financial audit, and staff is submitting the FY 2010 Annual Comprehensive Financial Report to Council for acceptance.

**ITEM K-2) CONSENT AGENDA
RESOLUTION
FY 2009/2010 Annual Audit Report**

Proposed Action:

Staff recommends that Council approve this resolution accepting the FY 2010 annual report.

Attachment:

FY 2011 Comprehensive Annual Financial Report

RESOLUTION NO. 2011_____

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3 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI
4 GARDENS, FLORIDA ACCEPTING THE FISCAL YEAR 2009/2010
5 ANNUAL AUDIT REPORT PREPARED BY THE CITY'S AUDITORS,
6 HARVEY, COVINGTON AND THOMAS LLC; PROVIDING FOR THE
7 ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE
8 DATE.
9

10 WHEREAS, in accordance with Section 218.39, Florida Statutes, municipalities
11 are required to have an annual audit performed by an independent Certified Public
12 Accounting firm, and

13 WHEREAS, the City has received its Fiscal Year 2009/2010 Audit Report from its
14 external auditors, Harvey, Covington and Thomas LLC, and

15 WHEREAS, the City Council would like to accept the Fiscal Year 2009/2010
16 Annual Audit Report,

17 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
18 OF MIAMI GARDENS, FLORIDA AS FOLLOWS:

19 Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas
20 paragraphs are hereby ratified and confirmed as being true, and the same are hereby
21 made a specific part of this Resolution.

22 Section 2: AUTHORIZATION: The City Council of the City of Miami Gardens
23 hereby accepts the Fiscal Year 2009/2010 Annual Audit Report prepared by Harvey,
24 Covington and Thomas LLC.

25 Section 3: EFFECTIVE DATE: This Resolution shall take effect immediately
26 upon its final passage.

27 PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI
28 GARDENS AT ITS REGULAR MEETING HELD ON _____, 2011.

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SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: DR. DANNY O. CREW, CITY MANAGER

Moved by: _____

VOTE: _____

Mayor Shirley Gibson	_____ (Yes)	_____ (No)
Vice Mayor Aaron Campbell	_____ (Yes)	_____ (No)
Councilwoman Lisa Davis	_____ (Yes)	_____ (No)
Councilman Oliver Gilbert, III	_____ (Yes)	_____ (No)
Councilwoman Felicia Robinson	_____ (Yes)	_____ (No)
Councilman Andre' Williams	_____ (Yes)	_____ (No)
_____	_____ (Yes)	_____ (No)



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	March 9, 2011		Item Type:	Resolution	Ordinance	Other	
			(Enter X in box)	X			
Fiscal Impact: (Enter X in box)	Yes	No	Ordinance Reading: (Enter X in box)	1st Reading		2nd Reading	
		X		Public Hearing: (Enter X in box)	Yes	No	Yes
					X		
Funding Source:	N/A		Advertising Requirement: (Enter X in box)	Yes		No	
						X	
Contract/P.O. Required: (Enter X in box)	Yes	No	RFP/RFQ/Bid #:	N/A			
		X					
Strategic Plan Related (Enter X in box)	Yes	No	Strategic Plan Priority Area:	Strategic Plan Obj./Strategy: (list the specific objective/strategy this item will address)			
		X					
			Enhance Organizational <input type="checkbox"/> Bus. & Economic Dev <input type="checkbox"/> Public Safety <input type="checkbox"/> Quality of Education <input type="checkbox"/> Qual. of Life & City Image <input type="checkbox"/> Communication <input type="checkbox"/>	N/A			
Sponsor Name	Dr. Danny O. Crew, City Manager		Department:	City Manager's Office			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA ADOPTING THE 2011 STATE LEGISLATIVE PROGRAM FOR THE CITY OF MIAMI GARDENS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING INSTRUCTIONS TO THE CITY CLERK; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

The Regular Session of the Florida Legislature will convene on Tuesday, March 8, 2011. In preparation for the legislative session, staff established a legislative program based on the input from various City Council members and staff. The proposed State Legislative Program documents the City of Miami Garden's legislative priorities in 2011 and will be used to assist our lobbyist in advocating for the City during the current session.

Proposed Action:

That the City Council approve the attached resolution adopting the 2011 City of Miami Gardens State Legislative Program.

Attachment:

Attachment A: - Proposed 2011 State Legislative Program

RESOLUTION NO. 2011_____

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3 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI
4 GARDENS, FLORIDA ADOPTING THE 2011 STATE LEGISLATIVE
5 PROGRAM FOR THE CITY OF MIAMI GARDENS; PROVIDING FOR
6 THE ADOPTION OF REPRESENTATIONS; PROVIDING
7 INSTRUCTIONS TO THE CITY CLERK; PROVIDING AN EFFECTIVE
8 DATE.

9
10 WHEREAS, the Regular Session of the Florida Legislature will convene on
11 Tuesday, March 8, 2011, and

12 WHEREAS, in preparation for the upcoming session, City staff established a
13 legislative program based upon input from various City Council members and staff, and

14 WHEREAS, the proposed legislative program outlines the City's priorities and will
15 be used to assist our lobbyist in advocating on behalf of the City during the 2011
16 session,

17 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
18 OF MIAMI GARDENS, FLORIDA AS FOLLOWS:

19 Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas
20 paragraphs are hereby ratified and confirmed as being true, and the same are hereby
21 made a specific part of this Resolution.

22 Section 2: AUTHORIZATION: The City Council of the City of Miami Gardens
23 hereby adopts the 2011 State Legislative Program for the City of Miami Gardens.

24 Section 3: INSTRUCTIONS TO THE CLERK: The City Clerk is hereby directed
25 to send a certified copy of this Resolution to Governor Rick Scott and to all members of
26 the Florida Legislature to support the legislation as outlined in Exhibit "A", attached
27 hereto.

28 Section 4: EFFECTIVE DATE: This Resolution shall take effect immediately
29 upon its final passage.

30 PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI
31 GARDENS AT ITS REGULAR MEETING HELD ON _____, 2011.

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SHIRLEY GIBSON, MAYOR

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ATTEST:

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RONETTA TAYLOR, MMC, CITY CLERK

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PREP

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ARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

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SPONSORED BY: DR. DANNY O. CREW, CITY MANAGER

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Moved by: _____

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VOTE: _____

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56 Mayor Shirley Gibson	_____ (Yes)	_____ (No)
57 Vice Mayor Aaron Campbell	_____ (Yes)	_____ (No)
58 Councilwoman Lisa Davis	_____ (Yes)	_____ (No)
59 Councilman Oliver Gilbert, III	_____ (Yes)	_____ (No)
60 Councilwoman Felicia Robinson	_____ (Yes)	_____ (No)
61 Councilman Andre' Williams	_____ (Yes)	_____ (No)
62 _____	_____ (Yes)	_____ (No)

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2011 Proposed City of Miami Gardens State Legislative Program

POLICY STATEMENTS

Cultural Arts/Recreation and Open Space Program Funding

The City of Miami Gardens City Council supports the preservation of state funding for cultural programs and recreation and opens space programs.

Home Rule

Miami Gardens City is dedicated the fundamental concept that government closed to the people is the appropriate authority to serve the needs and requirements of the community. **The City of Miami Gardens City Council opposes** legislative efforts to interfere with the governance or administration of local government.

Municipal Memberships

The City of Miami Gardens City Council opposes any legislation that seeks to remove a municipality's ability to pay membership dues to organizations that assist in representing municipal interests before the Florida Legislature or any other unit of Federal, State, or local government.

Municipal Revenues

The City of Miami Gardens City Council opposes any legislative action that seeks to further limit or reduce local government revenues, including additional constitutional amendments.

Pari-Mutuel Gaming

City of Miami Garden City Council supports passage of legislation creating parity with Indian gaming casino competitors in the nature of regulatory requirements, taxation, or revenue sharing structures and competing product offerings.

Proportionate Share of State Funding

The City of Miami Gardens City Council supports the Florida legislature equalizing the proportionate share amount of funding provided to each jurisdiction from state funds based on population of each region in Florida.

LEGISLATIVE PROPOSALS

Red Light Cameras

~~**The City of Miami Gardens City Council opposes** legislation that seeks to limit a municipality's ability to impose civil penalties for traffic infractions related to red light running and/or restrict a municipality's ability to obtain right of Way permits for the installation of red light cameras with their jurisdiction.~~

The City of Miami Gardens City Council opposes any legislation that seeks to eliminate the red light camera program implemented by the Florida Legislature during the 2010 Legislative Session. (City Manager)

Water Surcharge Legislation

The City of Miami Gardens City Council supports legislation that seeks to reinstate limitations on utility rates charged outside municipal boundaries in counties with a population of more than 1.5 million as of the most recent decennial census.

~~PCB RBP 10-03~~ Outdoor Advertising

Currently Chapter 125.0102 F.S. entitled Sign Ordinances states that: *Nothing in chapter 78-8, Laws of Florida, shall be deemed to supersede the rights and powers of municipalities and counties to establish sign ordinances; however, such ordinances shall not conflict with any applicable state or federal laws.* **The City of Miami Gardens City Council opposes** any legislation that seeks to remove this language from the statute, which would remove local government's ability to regulate signs within their jurisdictions.

Transit System Surtax - CITT

In 2009, HB 1205 sponsored by Rep. Oscar Braynon was enacted. HB 1205 sought to ensure that the City of Miami Gardens and other new municipalities in Miami Dade County received their share of the half-cent sales tax for transportation. Since that time, the City of Miami Gardens has pursued legal action to obtain its annual allocation. **The City of Miami Gardens opposes** any legislation that impedes the City's ability to obtain its ability to pro-rata share of the Miami Dade County half-cent sales tax for transportation.

Sports Facility- Bed Tax funding

House Bill 141 and Senate Bill 466 are pending before the Florida Legislature, and if approved, they would allow the additional one percent (1%) Tourist Development Tax to be used for the issuance of bonds related to the construction, reconstruction, or renovation of a professional sports facility within the boundaries of a county or an adjacent county, under certain circumstances. In contrast to the aforementioned legislation, Senate Bill 980, sponsored by Senator Bennett, would allow charter counties to increase the Convention Development Tax rate on transient rental transactions from three percent (3%) to four percent (4%). However, SB 980 does not provide a mechanism for tax dollars to be extended to pay for the renovation and/or construction of sport facilities.

The City of Miami Gardens is host to SunLife Stadium, a development that has significant regional economic impact in the South Florida area. Due to the fact that SunLife contributes to the number of transient rental transactions in the region, additional revenues gained from an increase in the tax rate should not be limited to construction and renovation of county-owned convention centers as currently proposed in SB 980.

The City of Miami Gardens Council supports SB 466 and HB 141 to provide for a mechanism to assist with the modernization, construction, reconstruction, or renovation of Sun Life Stadium and opposes SB 980, which excludes revenues from being used for renovations to sporting facilities. (Councilman Gilbert)



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	March 9, 2011		Item Type:	Resolution	Ordinance	Other	
			(Enter X in box)	X			
Fiscal Impact:	Yes	No	Ordinance Reading:	1st Reading		2nd Reading	
(Enter X in box)		X	(Enter X in box)				
			Public Hearing:	Yes	No	Yes	No
			(Enter X in box)		X		
Funding Source:	N/A		Advertising Requirement:	Yes		No	
			(Enter X in box)			X	
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:	N/A			
(Enter X in box)		X					
Strategic Plan Related	Yes	No	Strategic Plan Priority Area:	Strategic Plan Obj./Strategy: (list the specific objective/strategy this item will address)			
(Enter X in box)		X	Enhance Organizational <input type="checkbox"/> Bus. & Economic Dev <input type="checkbox"/> Public Safety <input type="checkbox"/> Quality of Education <input type="checkbox"/> Qual. of Life & City Image <input type="checkbox"/> Communication <input type="checkbox"/>	N/A			
Sponsor Name	Dr. Danny O. Crew, City Manager		Department:	City Manager's Office			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA ADOPTING THE 2011 FEDERAL LEGISLATIVE PROGRAM FOR THE CITY OF MIAMI GARDENS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

In order to provide our federal lobbyist with clear direction during the 112th Congress staff established a Federal Legislative program based on the input from various City Council members and staff. The proposed Federal Legislative Program documents the City of Miami Garden's legislative priorities during the 112th Congress and will be used to assist our lobbyist in advocating for the City.

Proposed Action:

That the City Council approve the attached resolution adopting the 2011 City of Miami Gardens Federal Legislative Program for the 112th Congress.

**ITEM K-4) CONSENT AGENDA
RESOLUTION
2011 Federal Legislative**

Attachment:

Attachment A: - Proposed 2011 Legislative program 112th Congress

RESOLUTION NO. 2011_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA ADOPTING THE 2011 FEDERAL LEGISLATIVE PROGRAM FOR THE CITY OF MIAMI GARDENS; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, City staff established a Federal Legislative Program based upon input from various City Council members and staff, and

WHEREAS, the proposed Federal legislative program outlines the City's legislative priorities during the upcoming Congressional Session and will be used by our lobbyist in advocating on behalf of the City,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AS FOLLOWS:

Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2: AUTHORIZATION: The City Council of the City of Miami Gardens hereby adopts the 2011 Federal Legislative Program for the City of Miami Gardens.

Section 3: EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON _____, 2011.

SHIRLEY GIBSON, MAYOR

ATTEST:

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RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: DR. DANNY O. CREW, CITY MANAGER

Moved by: _____

VOTE: _____

Mayor Shirley Gibson	_____ (Yes)	_____ (No)
Vice Mayor Aaron Campbell	_____ (Yes)	_____ (No)
Councilwoman Lisa Davis	_____ (Yes)	_____ (No)
Councilman Oliver Gilbert, III	_____ (Yes)	_____ (No)
Councilwoman Felicia Robinson	_____ (Yes)	_____ (No)
Councilman Andre' Williams	_____ (Yes)	_____ (No)
_____	_____ (Yes)	_____ (No)



**City of Miami Gardens
Federal Legislative Program
112th Congress (2011-2012)**

FEDERAL LEGISLATIVE PRIORITIES

Community Development Block Grant Program

In light of the current state of the economy and the housing market in particular, **the City of Miami Gardens City Council opposes** the current proposal to reduce Community Development Block Grant funding by 7.5 percent or \$300 million as compared to current funding levels. **(City Manager)**

Urban Area Security Initiative Funding – Fort Lauderdale UASI

Currently H.R. 1, the FY 2011 continuing resolution, prohibits the Federal Emergency Management Agency from providing Urban Area Security Initiative grants to more than 25 high-risk urban areas. The Fort Lauderdale UASI is one of those urban areas where funding may be eliminated. The City of Miami Gardens is a voting member on the Fort Lauderdale UASI and receives \$350,000 - \$400,000 each year to better prepare our community to respond to various types of man-made or natural disasters. **The City of Miami Gardens opposes** the elimination of funding for the Fort Lauderdale UASI and other high risk urban areas as currently proposed under HR 1. **(City Manager)**

Repeal of Section 511 of the Tax Increase Prevention and Reconciliation Act (TIPRA)

Section 511 of the Tax Increase Prevention and Reconciliation Action requires governments with annual expenditures in excess of \$100 million dollars to withhold three (3) percent on payments made for most goods and services. The requirement of a three (3) percent withholding not only places an enormous burden on state and local governments; it is extremely detrimental to the small businesses that are the backbone of Florida’s economy. Furthermore, it is likely that this three (3) percent withholding will result in increased costs for local governments. **The City of Miami Gardens supports the repeal of Section 511 of the TIPRA** due to the possible negative fiscal implications on the City’s budget.

Iran and Darfur Divestment

The United States has imposed trade sanctions on the Government of Sudan since November 1997 under Executive Order (E.O.) No. 13067. The United Nations Security Council (UNSC) issued Resolution 1591 and Resolution 1672 condemning the actions of the Government of Sudan and calling on member nations to take certain measures against persons responsible for continuing conflicts. In response to UNSC Resolution 1672, President Bush issued a new Executive Order expanding on the original sanctions

of E.O. No. 13067, which authorizes the Department of Treasury and Department of State to designate additional persons as needed. Under this expanded authority, persons named as, or doing business with persons named as “Specially Designated Nationals” of Sudan would face the following sanctions:

- U.S. persons are prohibited from transacting business with these individuals and entities and all of their property in the United States or in the possession or control of a U.S. person is blocked.
- Any U.S. individual or organization engaging in transactions with foreign nationals must take reasonable care to make certain such foreign nationals are not owned, controlled by, or acting on behalf of Sudan.
- U.S. individuals or organizations that violate the regulations may be subject to civil or criminal prosecution. Goods or services of Sudanese origin may not be imported into the United States.

The City of Miami Gardens City Council urges Congress to adopt further legislation, which prohibits the investment of public funds managed by local governments nationwide in “scrutinized companies “ or “specialty designated nationals”.

Reinstatement of the Assault Weapons Ban

The Federal Semi-Automatic Assault Weapon ban expired in 2004, since that time there is credible evidence that it has been easier for criminals to buy powerful firearms. In the City of Miami Gardens alone, over 20 assault weapons have been seized in the commission of a crime since December 2007. **The City of Miami Gardens City Council urges** Congress to reinstate the Semi-Automatic Assault Weapons Ban.

REQUESTS FOR FEDERAL SUPPORT

Livable Neighborhoods Initiative

\$2,500,000

The Livable Neighborhoods Initiative for Sewer System Improvements project will fulfill the federal Environmental Protection Agency (EPA) priority to modernize waterways and protect the vital public service of water infrastructure. The initial benefits of this project include the elimination of the danger of flash flooding and extended water ponding posed by a lack of adequate drainage in these neighborhoods, especially during Hurricane Season. During the 2005 Hurricane Season, many residents were stranded in their homes because of excessive flooding. Emergency vehicles were unable to get to any resident that lived in these areas. The supplemental benefits are that this project intends to serve as the impetus for revitalization of neighborhood areas that are impoverished and whose residents feel neglected by local government. The City will provide matching funds in the amount of \$925,000 for this project.

Local Drainage Improvements

\$375,000.00

This project will reduce flood damage and improve water quality of stormwater runoff in two local areas within the City, as described below. This project will consist of the construction of on-site French Drain

systems that will capture polluted stormwater runoff, retain this runoff within the project area, and filter the captured water before it enters the aquifer system. The project will also reduce flooding, thereby reducing flood damage and potential repetitive loss properties as defined by the Federal Emergency Management Agency (FEMA).

The results and benefits of this project include:

- Filtering stormwater runoff before it enters the aquifer, thereby protecting our sole source of drinking water;
- Preventing pollutants from entering surface waters of the City, thereby preserving the aesthetic, recreational and biological quality and value of those surface waters;
- Reducing potential flood damage loss claims under the National Flood Insurance Program; and
- Increasing the capacity in the primary canals in the City, this will reduce flooding when major rain events occur.
- Project locations: NW 171 Terrace, from NW 44 Avenue to 45 Court
NW 38 Court, from NW 210 Street to 210 Terrace

State Road Seven Livable Community Corridor Project

\$1,930,000

The State Road 7 Livable Community Corridor Project as proposed will acquire right-of-way, design, and construct ten (10) feet of widened ADA accessible stamped concrete sidewalks and bus bays through the State Road 7 corridor in the City of Miami Gardens. This project is part of a Livable Community Corridor Study of State 7 (US 441 – six lanes) from NW 215 Street (Miami Dade County and Broward County line) to the Golden Glades Interchange (SR 826, I-95, and U.S. 441).

POLICY STATEMENTS

Energy Conservation

The City of Miami Gardens City Council supports the National League of Cities Core Principal, which states that sustainability is a defining issue of our time. The reason: increasing concern about climate change and other threats to public health and the environment related to human activities. Today, local governments find themselves at the epicenter of the sustainability movement. Cities and towns are actively pursuing initiatives to conserve energy, reduce greenhouse gas emissions and protect the environment in other ways. The federal government should be a full partner in these efforts, providing national leadership when appropriate, and supporting creative efforts that can only happen at the community level.

Home Rule

The City of Miami Gardens is dedicated to the fundamental concept that the government closest to the people is the appropriate authority to serve the needs and requirements of the community. **The City of Miami Gardens City Council supports** maintaining the integrity of home rule power that allows cities to develop and implement solutions to local problems.

Safe Cities

The City of Miami Gardens City Council supports the National League of Cities Core Principal, which states that the security of the United States and its citizens is a defining issue of the decade. In the face of these new challenges, the leaders of our cities and towns are best positioned to address traditional public safety needs while at the same time advancing the nation’s homeland security priorities. National top-down plans are not sufficient. We need collaborative strategies that emphasize partnerships, innovation and “all-hazard” approaches to public safety.

The National League of Cities urges Congress to:

- Direct resources where they are needed most;
- Strengthen information sharing at all levels; and
- Create a culture of public awareness and action to ensure all Americans understand their own responsibilities in preventing crime and preparing for disasters.

Stabilize the Housing Market

The City of Miami Gardens City Council supports the National League of Cities Core Principal, which states that encouraging home ownership for as many Americans as possible and giving people a stake in the future of their community remains a laudable goal. However, the challenge for the federal government, working in partnership with state and local governments, is to resolve the crucial questions raised by the collapse of the housing market including (1) what kind of housing we need; (2) how to finance construction, rehabilitation and resale of homes; and (3) how best to engage the private sector in the work of building houses and revitalizing America’s hometowns.

The National League of Cities urges Congress to:

- Ensure the availability of capital for mortgage financing and refinancing and continue to encourage lenders and loan servicers to work out unsound loans as an alternative to foreclosure.
- Invest in programs that stabilize and enhance neighborhoods while helping communities minimize the damage caused by the national foreclosure crisis.
- Protect homebuyers from predatory lending by ensuring that mortgage brokers are effectively regulated and that mortgage loans are well-suited to the financial means of the homebuyer.

Unfunded Mandates

The City of Miami Gardens City Council supports the National League of Cities Core principal that the federal government should avoid policies that impose disproportionate responsibilities or increased financial liability on local governments without recognizing the fiscal impact of those policies. In particular, federal policies should not mandate new costs for local governments without providing adequate funds to reimburse local governments for these new mandates.



**City of Miami Gardens
Agenda Cover Memo**

Council Meeting Date:	March 9, 2011		Item Type:	Resolution	Ordinance	Other	
			(Enter X in box)	X			
Fiscal Impact:	Yes	No	Ordinance Reading:	1st Reading		2nd Reading	
(Enter X in box)		X	(Enter X in box)				
			Public Hearing:	Yes	No	Yes	No
			(Enter X in box)		X		
Funding Source:	N/A		Advertising Requirement:	Yes		No	
			(Enter X in box)			X	
Contract/P.O. Required:	Yes	No	RFP/RFQ/Bid #:	N/A			
(Enter X in box)		X					
Strategic Plan Related	Yes	No	Strategic Plan Priority Area:	Strategic Plan Obj./Strategy: (list the specific objective/strategy this item will address)			
(Enter X in box)		X	Enhance Organizational <input type="checkbox"/> Bus. & Economic Dev <input type="checkbox"/> Public Safety <input type="checkbox"/> Quality of Education <input type="checkbox"/> Qual. of Life & City Image <input type="checkbox"/> Communication <input type="checkbox"/>	N/A			
Sponsor Name	Mayor Shirley Gibson		Department:	Mayor's Office			

Short Title:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ACCEPTING THE MAYOR'S NOMINATION OF _____ TO FILL THE UNEXPIRED TERM OF COUNCILWOMAN SHARON PRITCHETT, UNTIL THE NEXT REGULARLY SCHEDULED MIAMI-DADE COUNTY-WIDE ELECTION; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

Councilwoman Sharon Pritchett who represented At-Large Seat 5 in the City of Miami Gardens, resigned her position on the City Council effective March 1, 2011. Because of Ms. Pritchett's resignation, a vacancy has occurred on the City Council. In accordance with Section 2.5(c)(2) of the City Charter, the Mayor is required to nominate an individual to fill the unexpired term of Councilwoman Pritchett, within 30 days. If more than six (6) months remain on the unexpired term, the City Council has to confirm the Mayor's appointment. Mayor Gibson will submit her nominee to the City Council to fill the remaining term left by Councilwoman Sharon Pritchett. The Appointee will serve until the next regularly scheduled Miami-Dade countywide election, at which time an election is to be held to fill the vacancy for the balance of the term.

**ITEM L-1) RESOLUTION
Mayor's Nomination to fill the
term of Councilwoman Pritchett**

Proposed Action:

That the City Council approve the Mayor's nominee to complete the remaining term of Councilwoman Sharon Pritchett.

Attachment:

RESOLUTION NO. 2011_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA RATIFYING MAYOR SHIRLEY GIBSON'S APPOINTMENT OF _____ TO FILL THE UNEXPIRED TERM OF COUNCILWOMAN SHARON PRITCHETT UNTIL THE NEXT REGULARLY SCHEDULED MIAMI-DADE COUNTY-WIDE ELECTION; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Councilwoman Sharon Pritchett resigned her position as an At-Large Council Member effective March 1, 2011, and

WHEREAS, in accordance with Section 2.5(c)(2) of the City's Charter, if six (6) months or more remain on an unexpired term, the vacancy shall be filled by a nomination of the Mayor made within thirty (30) calendar days following the occurrence of the vacancy, subject to confirmation by the Council, and

WHEREAS, in accordance with the Charter, the nominee is to fill vacancy until the next regularly scheduled Miami-Dade countywide election, at which time an election is to be held to fill the vacancy for the balance of the term, and

WHEREAS, Mayor Gibson has nominated _____ to serve out the unexpired term, and

WHEREAS, it is appropriate in accordance with the Charter for the City Council to confirm Mayor Gibson's nomination,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AS FOLLOWS:

Section 1: ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2: AUTHORIZATION: The City Council of the City of Miami Gardens hereby ratifies Mayor Shirley Gibson's appointment of _____

31 to fill the unexpired term of Councilwoman Sharon Pritchett, until the next regularly
32 scheduled Miami-Dade countywide election.

33 Section 3: EFFECTIVE DATE: This Resolution shall take effect immediately
34 upon its final passage.

35 PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI
36 GARDENS AT ITS REGULAR MEETING HELD ON _____, 2011.

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SHIRLEY GIBSON, MAYOR

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44 **ATTEST:**

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RONETTA TAYLOR, MMC, CITY CLERK

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51 PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

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54 SPONSORED BY: MAYOR SHIRLEY GIBSON

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56 Moved by: _____

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58 **VOTE:** _____

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60 Mayor Shirley Gibson _____ (Yes) _____ (No)

61 Vice Mayor Aaron Campbell _____ (Yes) _____ (No)

62 Councilwoman Lisa Davis _____ (Yes) _____ (No)

63 Councilman Oliver Gilbert, III _____ (Yes) _____ (No)

64 Councilwoman Felicia Robinson _____ (Yes) _____ (No)

65 Councilman Andre' Williams _____ (Yes) _____ (No)

66 _____ (Yes) _____ (No)

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