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CITY COUNCIL MINUTES
November 5, 2003

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**CITY OF MIAMI GARDENS
REGULAR COUNCIL MINUTES
November 5, 2003**

1. CALL TO ORDER/ROLL CALL OF MEMBERS:

The City Council of the City of Miami Gardens, Florida, met in regular session on Wednesday, November 5, 2003, beginning at 7:16 p.m., in Suite 201 of the Administrative Offices, 17801 NW 2nd Avenue, Miami Gardens, Florida.

The following members of the City Council were present: Mayor Shirley Gibson, Vice Mayor Aaron Campbell and Council members Audrey J. King, Barbara Watson, Melvin L. Bratton, Sharon Pritchett and Oscar Braynon, II.

Also in attendance were: Interim City Manager Cynthia W. Curry, Transition Coordinator William J. Green, Interim City Attorney Hans Ottinot and City Clerk Ronetta Taylor.

2. INVOCATION:

Reverend Kendrick Peart, Bishop of Bible Way Church delivered the Invocation.

3. PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited in unison.

4. APPROVAL OF MINUTES – October 22, 2003.

Moved by Councilmember Braynon, seconded by Councilmember Bratton to approve the minutes with the necessary typo correction on page 7, line 42. There being no other discussion the motion carried by a 7-0 vote.

5. AGENDA/ORDER BUSINESS (ADDITIONS/DELETIONS/AMENDMENTS):

Interim City Attorney Ottinot related he had an add on item for tonight's agenda, which related to the lease for permanent office space. He further said that Attorney Gallop had requested to have this item moved up on the agenda and heard before Item No. 7A, with the Council's permission.

Councilmember Pritchett asked if a portion of the public comments be moved up on the agenda as well.

Moved by Councilmember Pritchett, seconded by Councilmember Braynon to amend the official by adding the City Attorney's item regarding Permanent Office Space for the City of Miami Gardens. This item was heard after Item No. 6; a portion of the Public Comments section was also moved up to be heard after Item No. 7C "Ordinances For First Reading". There, being no further discussion the motion carried by a 7-0 vote.

6. SPECIAL PRESENTATIONS:

There were none.

Interim City Attorney Ottinot related that he'd been in discussions with Attorneys Gallop and Owens to work out a mutually beneficial settlement agreement regarding the bid protest that was filed by Ross Properties. This resolution benefits all the parties involved. Golden Glades and Ross Properties have agreed to accept the recommendations of the Interim City Attorney, which is to reject all bids and cancel the RFP for the permanent office space. In turn the City will provide Golden Glades and Ross Properties with the opportunity to present their offer to the City Council at the November 19th City Council meeting. This will provide the City Council with an opportunity to review the offers being made by both parties. He recommended approval of the settlement agreement.

Mayor Gibson asked if Council would have to formally waive the protest that was originally filed, and presented to the Board on last meeting.

Interim City Attorney Ottinot said that this settlement agreement meets the protest.

Councilmember King asked if this meant that all the other bids would be resubmitted.

Interim City Attorney Ottinot said the agreement articulates that the top two proposals, which the Interim City Manager had recommended will present at the next City Council meeting.

Councilmember Braynon shared that usually a protest is filed when the bid has been awarded, this Council did not award any bid.

Interim City Attorney Ottinot clarified that the protest was filed at the time the recommendation was presented to the Council.

Councilmember Braynon inquired if the Selection Committee, which reviewed the bid proposals for the Permanent Office Space, were consulted during this settlement agreement process.

Interim City Attorney Ottinot related that he has consulted with Mr. William Green throughout the whole process. This agreement was made this afternoon.

Councilmember Braynon inquired if Morgan Reed, the third proposal was involved in this process.

Interim City Attorney Ottinot indicated that representatives from Morgan Reed were notified of the protest but did not show an interest. The qualified candidates will come before this Council. Initially all three proposals were considered for the

presentation. However, since the issue involves Golden Glades and Ross Properties the process was narrowed down so that Council can address those two proposals.

Councilmember King inquired if Morgan Reed did not show an interest because of the assumption that it had already been bided out and didn't know that there was going to be a protest and now can actually put in the paperwork again.

Interim City Attorney Ottinot said that the third company did not show an interest in terms of filing a complaint, nevertheless this does not preclude the Council from reviewing the offer made by the Morgan Reed Group.

Councilmember King expressed concern with excluding the Morgan Reed Company. She opined that the City has an obligation to let this company know the outcome of the protest and the settlement agreement.

Interim City Attorney Ottinot said this is okay if that's Council's direction.

Vice Mayor Campbell conveyed the opinion that all bids should be rejected and the bid process waived. He further opined that there was no need to contact anybody else.

Interim City Attorney Ottinot said that his recommendation provides an opportunity for the companies to present their proposals to the Council. This eliminates the protest and liability issues. The recommendation is for the Council to review and determine who has the best proposal.

Councilmember Watson inquired as to the number of proposals submitted and the determining factor in reaching the short list; how many people were participating in the short list. She opined that the short list people should be all inclusive for the presentation.

Mr. Green addressed Councilmember Watson's inquiry. He related that there were four proposals received. One was deemed non-responsive leaving three proposals on the short list. As the contact officer for the RFP and Chairman of the Selection Committee that reviewed the RFP, Mr. Green indicated that there was a statement he'd like to make on behalf of that Committee, with the Mayor's permission. "As the Council is aware there has been a lot of discussion lately about the Permanent Office Space for the City. On September 15, 2003 the Request For Proposals were issued. On September 23rd a pre-proposal conference was held. This provided staff with an opportunity to respond directly to concerns that any prospective proposal may have. In response to the RFP, four proposals were received by staff. As outlined in the original recommendation by the Interim City Manager, one proposal was deemed non-responsive. The other three proposals were evaluated by the Committee based on the requirement set forth in the RFP. The evaluation of the proposals was conducted at a duly noticed public meeting, which was attended by representatives of the proposals. At the meeting the Selection Committee utilized the RFP Criteria to evaluate each proposal separately to come up with

a total score for the proposal. Afterwards the total scores were compared. Golden Glades Association, LLD was the highest overall score. D.D. Ross Properties had the third highest score, As such; staff's recommendation in accordance with the evaluation process outlined in the RFP requested authorization to negotiate with the highest ranked proposal. Prior to the recommendation being presented to the Council D.D. Ross Properties filed a protest against the recommendation alleging that their proposal had not received all of the points that was due to them under the criteria set forth in the RFP. With the recommendation of the Interim City Attorney, Council deferred the item in an effort to allow the Interim City Attorney adequate time to review the protest and all relevant information. Staff provided the Interim City Attorney with all relevant documentation to the process, but was not given the opportunity to discuss any of the details associated with the process. On October 28, 2003, the Interim City Attorney provided his recommendation the Council that essentially recommended that the Council reject all proposals and authorize staff to negotiate with multiple property owners simultaneously. On October 30, 2003, the Interim City Manager submitted a response outlining concerns that were misinterpreted in the Interim City Attorney's recommendations. On November 4, 2003, Earl G. Gallop the legal council for Golden Glades Association, LLD submitted a memorandum challenging the Interim City Attorney's recommendation and requested that the City Council follow the original recommendation of the Interim City Manager. Also on November 4, 2003 D.D. Ross Properties submitted a memorandum in support of the Attorney's recommendation and another memorandum indicating that Golden Glades Association, LLD did not comply with the RFP. In response to all of this I would like to take this opportunity to bring to the Council a few issues that I believe have been overlooked and/or misconstrued. The first issue that I would like to discuss is the presumption that any proposal was any proposal was evaluated differently than any other proposal. The evaluation process...

Mayor Gibson interjected for clarification purposes and commented that the only protest to the bid process was filed by Ross Properties. Ross Properties at this particular time has withdrawn that protest and Attorney Gallop, who represents Golden Glades, has in essence withdrawn their concerns about that bid protest...

Interim City Attorney Ottinot related that all the issues have basically been with drawn.

Mayor Gibson conveyed that the bid protest is no longer an issue, because of the fact that Mr. Gallop and Ross Properties Attorney have now withdrawn their protests. She asked for clarification purposes if there was no longer a bid protest.

Interim City Attorney Ottinot said in the settlement agreement basically Ross Properties has agreed to withdraw the protest.

Mayor Gibson articulated that the bid protest has been withdrawn, and said that at this particular juncture, the Council must now make a decision on the fact that they will accept the fact that the protestor has withdrawn....

Interim City Attorney Ottinot interjected and said that there was a disputed issue of facts.

Mayor Gibson said, "If there was a disputed issue, the two entities that had the issue have come together and said we no longer have an issue"... She questioned is this where the Council is in this process.

Interim City Attorney Ottinot said correct.

Mayor Gibson clarified that the Council is now at a position to approve having the proposals make a presentation before the City Council. She said that if this is where the Council is in this process, the Council has to accept the fact that the protestor has withdrawn that protect.

Interim City Attorney Ottinot said what you have is a settlement agreement...

Mayor Gibson said that she was trying to get a clear understanding, if there has been a settlement about the protest, does that make it null and void at this point so that the Council can move on.

Interim City Attorney Ottinot said a motion can be made by this Council to approve the settlement agreement.

Mayor Gibson told Mr. Green that in all fairness she understood his report, but if it all mute and the Council want to make a motion to accept the settlement agreement...

Councilmember King opined that the Council had no choice but to hear all three proposals.

Councilmember Braynon conveyed his understanding of where Mayor Gibson was going with this but before he made a decision he wanted to hear the end of Mr. Green's report. He related that the report seems to have certain information and he wasn't sure exactly where Mr. Green was going and he could complete that report, the Council could then vote on whatever is applicable.

Mr. Green said, "And just in response, Madam Mayor before I finish my statement, this statement is speaking more toward the process and not toward either of the proposed protests, or any of that. This is simply information to the Council as to how the Selection Committee saw the process as they went through it. This evaluation process is outline in Section 4.0 of the RFP. The evaluation is defined as a two part process. The evaluation of the technical part of the proposal, and the evaluation of the pricing portion. The technical portion is broken down into two categories. First it looks at the proposal's capabilities, qualifications and past performances as a service provider and second look at the approach proposed for providing the service. In addition to these categories, the proposal allows for in Section 4.2 and 4.3 of the RFP for the Committee to conduct oral

presentations and site visit to any and/or all the locations submitted in the RFP. It also allows the Committee to utilize any information including presentation and site visit in their evaluation process. The price component of the evaluation process was cancelled. The mathematical formula that was to be used involved the lowest price proposed by the proposals price and multiplied by the total number of points. In evaluating all of the proposals the Committee first looked at the experience, capabilities, qualifications and past performances as a service provider. In initially reviewing D.D. Ross Properties proposal the Committee determined that D.D. Ross Properties met the requirements outlined in the RFP. However, subsequent to this determination the Committee was provided with additional information during the site visit that brought forward issues that were not presently clear on the written proposal. This additional information stated that property is under a binding purchase agreement with a third party. The Committee was further informed that the third party was a church that was intending to utilize the bottom floor of the property for its sanctuary. In lieu of this information and pursuant to Section 4.3 of the RFP, the Committee re-evaluated the D.D. Ross proposal on two issues: 1) first was there a separation of church and state issue with regard to the property being owned by a church. This issue was forwarded to the Interim City Attorney who verbally informed me that he did not see a problem; 2) the second issue was looking at all the information that was provided to the Committee. The provider of the service would not be the proposer, but the third party. There is no information that the third party provided even in the proposal submitted or at the site visit. The Committee taking this into consideration believed to ascertain the experience, capability, past performance and qualifications of the actual entity that we will be contractually bound to provide. The management service being proposed could not do that in this case because that information was not provided. Had it been clear to the Committee that D.D. Ross Properties would not be the entity actually providing the service this issue would not be before you today. Another issue that I would like to address is the issue of assurance provided by D.D. Ross Properties that any potential sale of the property would be dealt with during the contract phase and not factored in during the evaluation process.

In reviewing the minutes of the pre-proposal conference the question was proposed to staff as to what happens if the building ownership changes. The response from staff was that this would be covered in the contract protection for the City would be outlined in the lease. That was all that was discussed on the issue at the pre-proposal conference. Furthermore, as the contact officer for the RFP and the individual who responded to the question posed there was no consideration given to the sale of the proposed property prior to the initiation of the lease. Also there is no where in the minutes that informed any proposer that any information received by the City will not be utilized in the evaluation process. It is always in the best interest of this City to evaluate all relevant information provided.

Finally, I would like to speak directly to the recommendation to this Council from the Interim City Attorney. Rejecting all the bid proposals and waiving the bid process, and authorizing staff to negotiate with multiple property owners is an option that is authorized by the RFP. However, it is reviewed as a last resort in the event that the process outlined by the RFP was either tainted, or the proposals received in response to

the RFP were deemed not in the best interest of the City. The process outlined in this RFP was followed to the letter. The meetings were noticed and open to the public. The evaluation process was transparent and fair. There is nothing in the record or proposed by any party that is different that this assertion. Furthermore, the mere fact that there is discussion shows how effective the competitive process can be. As for the proposals being presented, not being of the best interest of the City, there is not evidence presented that can contest that the recommended proposal did not provide more than adequate service to the City and provide it at a comfortable price to the market in this area. I believe this to be a serious concern to the Council as to what message is sent to the community on this issue. Thank you.”

Councilmember Pritchett referenced the settlement agreement provided by the Interim City Attorney and questioned whether Attorney Gallop had signed. She related that she'd noticed only Mr. Owens signature.

Interim City Attorney Ottinot related that the agreement was faxed to both parties individually, with both parties signing and returning the document back.

Councilmember Pritchett said that if the process was followed where its “transparent and clear” why is the Council addressing this issue now as opposed to going by what the recommendation was from staff from the beginning, and enter into negotiations with the company that won fairly and squarely according to the competitive bidding.

Interim City Attorney Ottinot said that his responsibility is to provide this Council with legal advice. And the legal advice is to ensure that the Council and the City not incur any legal fees. He related that based on his conversation with Mr. Green and opposing counsels there are some issues. Therefore, it is in the best interest of all the parties to resolve this in a way that would eliminate the liabilities. The parties accepts the recommendations previous provided by Counsel.

Mr. Green clarified that his conversation with the Interim City Attorney did not discuss the process and what occurred during that process.

Councilmember Pritchett related that she was still trying to understand why the Council was here right now as opposed to where the Council should be because of the time limit as to when the City must vacate the building.

Interim City Manager Curry related that November 28th is the deadline to vacant the premises.

Councilmember Pritchett asked how the Interim City Attorney's recommendation would impact this time frame. She said if the City is not able to move would the City have to pay rent and if so in what amount.

Mr. Green related that the recommendation from the Interim City Attorney with the mutually agreed upon settlement was just received prior to the meeting therefore, it has not been evaluated.

Interim City Attorney Ottinot shared that Ross Properties has agreed to extend the original agreement and charge the City the sum of \$9.00 per square foot on a month to month basis until the issue is resolved. Ross Properties has agreed to modify the existing agreement to a month to month basis until the City finds a home.

Interim City Manager Curry indicated that the City did not have an agreement with Ross Properties.

Interim City Attorney Ottinot said that the City did have an agreement and indicated that he would provide Ms. Curry with a copy.

Councilmember Bratton inquired as to the cost of an RFP.

Interim City Attorney Ottinot related that there was advertisement costs associated with the RFP.

Mr. Green said there would be advertisement costs for the RFP and for the Selection Committee meetings. The City did a total of three advertisements for this process at \$900.00 each.

Councilmember Bratton opined that there was a lack of communication between staff. He then made a motion to declare the proposals submitted non-responsive and start the process all over again. He justified his motion by stating that each side is not talking to each other and there are too many problems.

Councilmember Watson related that with all due respect to the process that has taken place, the City was only looking at three contenders. She opined that she did not see the need to re-incur costs a second time to do this process over. There are only three parties that are involved currently and they are willing to allow this process come before this Board, the Council should be able to make that decision on the dais and move forward with what the Council has to do. The agreement seems to be limited to only two property owners, if the City could include that third property owner no conflict would occur. She emphasized the importance of moving forward with this process and getting the issue settled.

Councilmember Pritchett asked Interim City Attorney Ottinot to expound on the lease agreement for this property and when it was approved by the Council.

Mayor Gibson related that the lease agreement Interim City Attorney Ottinot was referring to allowed this Council stay here rent free for four months. Those arrangements were accepted by this Council.

Councilmember Pritchett said that she was not clear as to when that lease agreement was approved by this Council. She asked Interim City Manager Curry if she facilitated that process.

Interim City Manager Curry related that she is aware of the agreement that Mr. Ottinot is referring to. She said that it is not an agreement that she recalls coming before this Council for approval.

Interim City Attorney Ottinot explained that the Council had directed staff to accept the donated space from Ross Properties. The Council received a copy of the agreement between the City and Ross Properties whereby Ross Properties donated the space and pay all services with the exception of janitorial service.

Councilmember Bratton asked if this discussion took place at the Norland High School Auditorium.

Interim City Attorney Ottinot answered "Correct". This discussion took place at either the first or second meeting.

Interim City Manager Curry clarified that there was a resolution on the July 24th City Council agenda that resolution was sponsored by the Mayor. The resolution gave Mayor the authority to negotiate with some firms for office space on an interim basis. That resolution stated that whatever lease or agreement reached would come back to the Council for approval. She recalled the letter agreement Interim City Attorney Ottinot was referring to. She said this letter agreement was signed off by Ross Properties and executed by the Mayor. She said that she did not recall that agreement coming back to the Council for approval.

Interim City Attorney Ottinot reiterated that the Council gave the Mayor the authority to enter into an agreement for temporary office space with Ross Properties.

Mayor Gibson invited both lawyers representing D.D. Ross Properties and Golden Glades Association, LLD to come forward for comments.

Attorney Frank Owens representing D.D. Ross Properties appeared before the City Council to expound on the Settlement Agreement reached earlier today. He related that D.D. Ross Properties would withdraw their protest and Golden Glades would also withdraw their concerns *if* the Council rejected all the bids and move forward with the negotiation.

Attorney Earl G. Gallop representing Golden Glades Association LLD appeared before the City Council to expound on the Settlement Agreement. He thanked the Selection Committee for giving Golden Glades the top ranking. He further thanked the Interim City Manager for recommending Golden Glades as well as D.D. Ross Properties. He said that if G. D. Ross and not filed the protest, the City would be negotiating a contract with Golden Glades right now. He opined if the City and Golden Glades had to

defend against the protest the City and Golden Glades would prevail. However, being tied up in litigation is not a favorable alternative. He related that Golden Glades offered to defend the City and hold it harmless. Golden Glades also offered to provide free office space for two months as well as free moving expense. He said the City has the authority to reject the bids without any legal repercussions. Golden Glades also agreed that it would sit down with the City and negotiate and allow D.D. Ross to make an offer for office space. The City might get a better deal that way. He opined that to negotiate with two parties simultaneously is better. The City could also decide without any legal repercussions to two or three parties. He conveyed his client's position of moving forward with the Settlement Agreement.

Moved by Councilmember Watson, seconded by Vice Chairperson Campbell to approve the settlement agreement as recommended by the Interim City Attorney and the recommendation of the Interim City Manager, ranking Golden Glades as number one and D.D. Ross Properties as number two

Councilmember Braynon requested the documentation from the RFP process. He was that he was inclined to vote for the recommendation of the Interim City Manager because the process was fair. He said that he would be voting "yes" on the motion for the reasons (avoiding litigation) stated by Attorney Gallop.

There, being no further discussion the motion carried by a 6-1 vote. Councilmember Pritchett voted "no."

7. ORDINANCES FOR FIRST READING:

- 7A) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO PUBLIC RECORDS, ESTABLISHING A RECORDS RETENTION COMMITTEE; PROVIDING FOR PHOTOGRAPHING AND DESTRUCTION OF PUBLIC RECORDS; PROVIDING FOR MICROFILMING, PROVIDING FOR MANNER OF DESTROYING RECORDS; PROVIDING FOR REPEALER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY CITY CLERK)**

Moved by Councilmember Bratton, seconded by Councilmember Watson to approve this item on first reading, with second reading and public hearing scheduled for November 19, 2003.

There being no discussion the motion passed by a 7-0 vote.

Councilmember Bratton:	Yes
Councilmember Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilmember King:	Yes

Councilmember Pritchett: Yes
Councilmember Watson: Yes
Mayor Gibson: Yes

7B) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO CITY RECORDS; ADOPTING THE STATE OF FLORIDA GENERAL RECORDS SCHEDULE FOR STATE AND LOCAL GOVERNMENT AGENCIES (SCHEDULES GS1-1, GS2, AND GS3); PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY CITY CLERK)

Moved by Councilmember Bratton, seconded by Councilmember Watson to approve this item on first reading, with second reading and public hearing scheduled for November 19, 2003.

There, being no discussion the motion passed by a 7-0 vote.

Councilmember Braynon: Yes
Vice Mayor Campbell: Yes
Councilmember King: Yes
Councilmember Pritchett: Yes
Councilmember Watson: Yes
Councilmember Bratton: Yes
Mayor Gibson: Yes

7C) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO REQUIRING AND COLLECTING PERMIT FEES FROM PROVIDERS OF COMMUNICATION SERVICES AND INCREASING THE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR INTENT; PROVIDING FOR ELECTION NOT TO REQUIRE AND COLLECTION PERMIT FEES; PROVIDING FOR ELECTION TO INCREASE LOCAL COMMUNICATIONS SERVICES TAX; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR THE RE-ADOPTION OF EMERGENCY ORDINANCE NO. 2003-03; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE, (SPONSORED BY CITY ATTORNEY)

Moved by Councilmember Braynon, seconded by Councilmember King to approve this item on first reading, with second reading and public hearing scheduled for November 5, 2003.

There being no discussion the motion passed by a 7-0 vote. Councilmember Pritchett related that she was voting yes for this item contingent upon an item that she'd discussed with Interim City Attorney Ottinot prior to the meeting. Interim City Attorney

Ottinot indicated that a minor revision would be made to the ordinance between now and second reading.

Vice Mayor Campbell:	Yes
Councilmember King:	Yes
Councilmember Pritchett:	Yes
Councilmember Watson:	Yes
Councilmember Bratton:	Yes
Councilmember Braynon:	Yes
Mayor Gibson:	Yes

PUBLIC COMMENTS

Ms. Adeline LaFrance of 1601 NW 175th Street appeared before the City Council to express concern with the lack of security for after hour events, and illegal activities going on at Scott Park.

Councilmember King concurred with Ms. LaFrance's concerns and related experiences she's had with regard to traffic and complete disregard by motorist visiting the park, for the residents in this area.

Vice Mayor Campbell shared that the park is not designed for the kinds of organized activities taking place there, which draws a lot of people from all over Miami-Dade County.

Mayor Gibson related that the park situation is something that must be addressed. She conveyed that there are two sides to this issue. One side wanting to make sure the parks are there and the other side is the over utilization of the park, which is causing some difficulties on the quality of life for those residents living in this area.

Ms. Naomi Wright of 18339 NW 38th Court appeared before the City Council to express concern with the discord she's witnessed on the dais. She emphasized the importance of addressing these issues.

Mr. Daryl L. Jones of Adorno & Yoss, P.A., 2601 South Bayshore Drive appeared before the City Council and gave a brief presentation about Bus Benches as a possible revenue source.

Councilmember Braynon inquired if this revenue source was something the Council wanted to pursue.

Interim City Manager Curry said that this potential revenue source has been identified for in FY 2003-04 Budget.

8. ORDINANCES FOR SECOND READING(PUBLIC HEARING(S):

ORDINANCE NO. 2003-11

- 8A) **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI GARDENS, FLORIDA, ESTABLISHING THE OPERATING DEPARTMENTS OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY COUNCIL MEMBER MELVIN L. BRATTON)**

Mayor Gibson opened the floor for the public hearing. After there were no interested parties to speak on behalf of this item, the public hearing was closed.

Councilmember Braynon inquired if Interim City Manager Curry had spoken with Councilmember Bratton about this matter.

Interim City Manager Curry said that she was fine with the ordinance.

Councilmember Pritchett asked administration if there was any cash flow issues been formulated in terms of helping the Council understand financially how these departments would impact the budget.

Interim City Manager Curry indicated that the cash flow would have to be very limited. She related that the City has not received this fiscal year a check from the State of Florida. Any cash flow that the City has is from last fiscal year. This ordinance is simply putting the departments on the books, and will not impact the budget.

Moved by Councilmember Bratton, seconded by Councilmember Watson to adopt this ordinance.

There, being no further discussion the motion passed by a 7-0 vote.

Councilmember King:	Yes
Councilmember Pritchett:	Yes
Councilmember Watson:	Yes
Councilmember Bratton:	Yes
Councilmember Braynon:	Yes
Vice Mayor Campbell:	Yes
Mayor Gibson:	Yes

ORDINANCE NO. 2003-12

- 8B) **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, DESIGNATING THE CITY COUNCIL AS THE LOCAL PLANNING AGENCY FOR THE CITY; PROVIDING FOR PARTICIPATION BY THE SCHOOL BOARD; DIRECTING THE CITY CLERK TO FORWARD A COPY OF THIS ORDINANCE TO THE DEPARTMENT OF COMMUNITY**

AFFAIRS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY MAYOR SHIRLEY GIBSON)

Mayor Gibson opened the floor for the public hearing.

Ms. Barbara Jordan appeared before the City Council to ask if this item was related to the pro bono issue that came up at the last City Council meeting.

Mayor Gibson replied that it was not.

After there were no interested parties to speak of behalf of this item, the public hearing was closed.

Moved by Councilmember Watson, seconded by Councilmember Bratton to adopt this ordinance.

There, being no further discussion the motion passed by a 7-0 vote.

Councilmember Pritchett:	Yes
Councilmember Watson:	Yes
Councilmember Bratton:	Yes
Councilmember Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilmember King:	Yes
Mayor Gibson:	Yes

ORDINANCE NO. 2003-13

- 8C) **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, REQUIRING CHARGES INCURRED BY THE CITY FOR SUCH CONSULTANTS THAT MAY BE NECESSARY FOR ANY ZONING APPLICATION INCLUDING ENGINEERING, PLANNING, LEGAL, TECHNICAL, OR ENVIRONMENTAL CONSULTANT OR PROFESSIONAL(S) EMPLOYED BY THE CITY TO BE PAID BY THE APPLICANT IN ADDITION TO ANY OTHER APPLICATION FEES REQUIRED BY LAW; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY MAYOR SHIRLEY GIBSON).**

Mayor Gibson opened the floor for the public hearing.

Mr. Garcia of 17230 NW 27th Avenue appeared before the City Council and shared that he's applied for a zoning change through Miami-Dade County and has

already paid the necessary fees. He expressed concern with having to pay an additional fee.

Mayor Gibson said that she did not know which applicants had been scheduled for public hearings. She asked that Mr. Garcia give Mr. Green a call on tomorrow to find out if his application was scheduled for public hearing by Miami-Dade County before the City's Local Planning Agency.

Ms. Pat Lightfoot appeared before the City Council to express her concern about the pending applications, and whether applicants already in the process of being heard will be assessed this fee.

Councilmember Braynon articulated that this was second layer beyond Miami-Dade County's zoning application. This ordinance would put in place that next entity, which the applicant would be responsible for paying for.

Mayor Gibson said that would be one part of the fee, not everything will need to be paid. The entity would look at those applications to make sure that those applications are what this Council and this City want to have as it relates to zoning matters.

Councilmember Braynon asked if those applicants already in the process would be affected by this ordinance.

Interim City Attorney Ottinot said that this ordinance has a discretionary clause that gives the City Manager the authority to waive the fee. If there is a very complicated zoning application with a major project, which requires that the City has to utilize the services of a traffic engineer to review the plans as it relates to traffic concerns. The City will charge the applicant a processing charge to cover the cost of services provided by that traffic engineer. This ordinance would provide for the to applicant pay for the cost of the expertise when the city has to acquire those services, in order to make an informed decision on a zoning matter. Not all applications will be subject to the provisions of this ordinance.

Councilmember Braynon related that Miami-Dade County might have in-house staff with the necessary expertise would the City accept recommendations made by that expert or not accept.

Interim City Attorney Ottinot said this would be up to the Council.

Attorney Jerry Proctor of 200 S. Biscayne Boulevard appeared before the Council to express his views in regard to this particular item. He related that his firm will be representing some of the applicants that will be coming before this Council. He related that his clients have some of the same concerns, which have been answered. He suggested that there be some consideration to not having this ordinance apply to applications that have already been filed.

Mayor Gibson shared that Miami-Dade County is not going to hear zoning applications for the City. The City will not be staying with the County indefinitely. Those zoning applications need to be brought in-house to this Council who is empowered to making sure that all aspects of City government runs very smoothly and that it is done in the best interest of this City. When that is removed from Miami-Dade County the City will have the sole responsibility of all of that, not because Miami-Dade County didn't have the staff or expertise to do it, but when it comes to the City, the Council is going to be responsible for all of it. She opined that this Council needs to make sure that it has the ability to go out and get those people who can do that. When zoning applications are presented the applicant brings in as many experts as deemed necessary to get his/her point across. This Council needs to be in the same position of understanding that they have an obligation as well to make sure that they are well represented on the City's side, with the best experts and the best information possible.

Mayor Gibson said that she wasn't trying to overburden any applicant. She emphasized that the land use of any City is one of the most functions of the City Council. It is this Council's responsibility that this is done very diligently and understands how those zoning changes will ultimately impact this City and the residents who live here.

Mr. Proctor related his understanding of Mayor Gibson's rationale for sponsoring this legislation.

Councilmember Bratton asked for clarification as to when the City would implement the fee.

Mayor Gibson said the discretion would be with the City Manager. She opined that it also depends on the projects. There might be some major projects already scheduled.

There, being no other interested parties to speak on behalf of this item, the public hearing was closed.

Moved by Councilmember Bratton, seconded by Councilmember Watson to adopt this ordinance.

There, being no further discussion motion passed by a 7-0 vote.

Councilmember Watson:	Yes
Councilmember Bratton:	Yes
Councilmember Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilmember King:	Yes
Councilmember Pritchett:	Yes
Mayor Gibson:	Yes

9. RESOLUTIONS:

None

10. REPORTS OF INTERIM CITY MANAGER

10A) Transition Status Report

Interim City Manager Curry referenced page two of the Transition Status Report and discussed briefly the RFP for Park and Recreation services. A draft copy was provided to the Council members to get feedback. The item is presently with the Interim City Attorney's office for review. At the last council meeting the dates of assumption of services indicated in the Interlocal Agreement was taken out, with the utilization of 45 day notice instead. This information has been forwarded to Miami-Dade County for their input. The Park and Recreation department was suppose to provide service to the City through the end of December, with a contractor taking over the service on January 1, 2004.

Mayor Gibson related that she wanted to look at having the ground maintenance as a separate service and not included in the RFP. She further expressed concern with the current level of programming being provided by Miami-Dade County. She asked that when the RFP is put out that some viable programs be included that would make a difference. She asked if the City had a mechanism to assist the programming currently being provided by Miami-Dade County to know whether the City wanted those programs in this RFP, or whether the City wanted to explore other programming.

Interim City Manager Curry indicated that there has been no productivity study or quality assurance or any kind of assessment of the park services by staff. Administration basically took the RFP's it could find and put them together. The current programming provided by Parks now would pretty much be the same offering unless something different is proposed.

Interim City Manager Curry suggested putting out an RFQ as opposed to an RFP, which would provide an avenue to see what kind of services/programming those entities or organizations could provide. She related that the Miami-Dade County Park and Recreation department is currently spending in excess of \$267,000 per month. Unless something is done to put another entity in place to provide park services, with a budget of 2 million dollars, the City will be out of money before the end of the fiscal year.

Mayor Gibson inquired about the time frame for putting an RFQ out.

Interim City Manager Curry said that she didn't know how much time it would take to switch the RFP to an RFQ. She opined that it would not be substantial. She related that she was thinking about the impact on the budget because to go beyond January would affect the budget.

Mayor Gibson conveyed her concern for the dollars being spent on the programming the City currently has.

Interim City Manager Curry said that she wasn't sure the City would be able to make the January 1, 2004 deadline.

Mayor Gibson recommended taking the January 1, 2004 date out of the Interlocal Agreement as it related to the assumption of Park services.

Councilmember Braynon asked if a scope of programming would be added to the RFQ.

Interim City Manager Curry said that there will be a package of exhibits and information provided, which would include the desired programming.

Councilmember Pritchett asked for clarification as to whether the City will owe an additional \$267,000 on January 2, 2004 if the City has not reached an agreement with the Parks.

Interim City Manager Curry replied yes.

Councilmember Watson referenced Section 1.1 of the RFP, and the engagement clause, which represents a minimum of one year and asked is this exactly what we want to do.

Interim City Manager Curry said that this item was drafted without any input from Council. She opined that the final draft should come back to this Council for approval before it is put out.

Councilwoman Watson opined that an RFQ would be more beneficial to the City and asked her colleagues for their input on this matter.

Vice Mayor Campbell supported an RFQ and suggested having a workshop scheduled in order to provide input for the RFQ.

Councilmember Pritchett opined that the City should proceed with the RFQ with all of the inclusions that are practical so that the process can be moved along.

At the conclusion of this discussion staff was directed to put out an RFQ instead of an RFP.

11. REPORTS OF CITY CLERK

11A) Overview of City Clerk Responsibilities

Councilmember Pritchett indicated that because of the lateness of the hour, she wanted to hold off on this item and speak with the City Clerk individually regarding this matter. She said the memorandum can then be brought back at a later date.

12. REPORTS OF MAYOR AND COUNCIL MEMBERS

12A) GENERAL REPORTS FROM MAYOR AND COUNCIL MEMBERS

Moved by Gibson, seconded by Bratton to accept the two months pro bono services of the firm...

At the conclusion of this discussion the motion passed by a 6-1 vote. Braynon voted "no."

13. REQUESTS, PETITION & OTHER COMMUNICATION FROM THE PUBLIC:

13A) PUBLIC COMMENTS – 20 MINUTES

Ms. Janice Coakley of 19681 NW 33rd Avenue appeared before the City Council to express her concern with the cost estimate for school crossing guards provided by the Miami-Dade Police Department. She indicated that the amount quoted was double the amount she'd estimated.

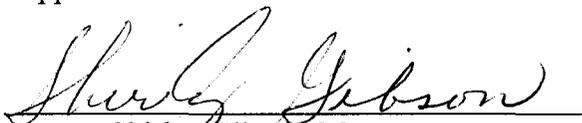
Mr. Thomas Spaulding of 18805 NW 32nd Place appeared before the City Council to express his views.

14. ADJOURNMENT:

There, being no further business to come before this Body, the meeting adjourned at 10:21 p.m.

Approved:

Attest:


Shirley Gibson, Mayor


Ronetta Taylor, CMC
City Clerk

