

INDEX
CITY COUNCIL MINUTES
January 28, 2004

1.	Called to Order/Roll Call of Members.....	Page 1
2.	Invocation.....	Page 1
3.	Pledge of Allegiance.....	Page 1
4.	Approval of Minutes.....	Page 1
	Approve Minutes of City Council Meeting of:	
	Regular Council Meeting of December 10, 2003.....	Page 1
	Regular Council Meeting of January 14, 2004.....	Page 1
5.	Agenda/Order of Business (Additions/Deletions/Amendments.....	Page 2
	The agenda was amended to include the following item:	
	An Ordinance relating to entering into a non-exclusive franchise	
	Agreement with NUI Utilities, Inc.	Page 2
6.	Special Presentations.....	Page 2
	There were none.....	Page 2
7.	Ordinances for First Reading	
	7A) Providing for the issuance of Solid Waste Franchise for	
	Commercial and Multi-Family Residential solid Waste Collection...	Page 2
	7B) Relating to entering into a non-exclusive franchise agreement	
	With NUI Utilities, Inc.	Page 3
8.	Ordinance for Second Reading (Public Hearings)	Page 3
	8A) Ord. 2004-18 Relating to Lobbying.....	Page 3-4
	8B) An Ordinance providing for the issuance of Gas Franchise.....	Page 3-4
9.	Public Comment.....	Page 4
10.	Resolutions	
	10A) Res. 2004-67 Approving the agreement with New Community	
	Strategies.....	Page 5-8
	10B) Res. 2004-68 An agreement with Weed-A-Way, Inc.....	Page 8-9
	10C) Res. 2004-69 Approving an agreement with Cool Kids Learn,	
	Inc.	Page 9-11
	10D) Res. 2004-70 Adopting a 457 Retirement Plan.....	Page 11
	10E) Res. 2004-71 To execute the Letter on Behalf of the City with	
	Rachlin Cohen & Holtz, LLP.....	Page 12-15
	10F) Relating to advertising on Bus Benches.....	Page 14-16
	10G) Res. 2004-72 approving a permit with Miami-Dade County	
	Department of Park and Recreation to conduct private business on	
	County property.....	Page 16
	10H) Res. 2004-73 Relating to membership in the Florida	
	Retirement System.....	Page 16-17
	10I) Res. 2004-74 Requesting services and a fee waiver from the	
	Florida League of Cities.....	Page 17
	10J) Adopting a 401 Money Purchase Plan.....	Page 17-18
11.	Reports of City Manager.....	Page 18
12.	Reports of Mayor and Council Members	Page 18
	12A) General Reports from Mayor and Council Members.....	Page 18
13.	Requests, Petitions & Other Communications from the Public.....	Page 19
14.	Special Presentations	
	None.....	Page 19
15.	Adjournment.....	Page 19



CITY OF MIAMI GARDENS CITY COUNCIL MINUTES JANUARY 28, 2004

1. CALL TO ORDER/ROLL CALL OF MEMBERS

The City Council of the City of Miami Gardens, Florida met in regular session on Wednesday, January 28, 2004, beginning at 7:14 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: City Manager Danny O. Crew, Transition Coordinator William J. Green, Jr., Interim City Attorney Hans Ottinot, and City Clerk Ronetta Taylor.

2. INVOCATION:

Mr. Joseph Hodges delivered the Invocation.

3. PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited in unison.

4. APPROVAL OF MINUTES:

4A) Approve Minutes of City Council Meeting of: Regular Council Meeting - December 10, 2003

Moved by Councilman Braynon, seconded by Councilman Bratton to **approve** the minutes as presented. Motion **carried by a 7-0 vote**.

Regular Council Meeting - January 14, 2004

Moved by Councilwoman Pritchett, seconded by Councilman Braynon to **approve** the minutes **with the necessary corrections**. Motion **carried by a 7-0 vote**. Corrected minutes will be provided to Council members.

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

The agenda was amended to include the following item. "AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO ENTERING INTO A NON-EXCLUSIVE FRANCHISE AGREEMENT WITH NUI UTILITIES, INC., D/B/A NUI CITY GAS COMPANY OF FLORIDA ALLOWING FOR THE USE OF PUBLIC RIGHTS OF WAY OF THE CITY OF MIAMI GARDENS, FLORIDA, AND PRESCRIBING THE TERMS AND CONDITIONS UNDER WHICH THE FRANCHISE MAY BE EXERCISED; MAKING FINDINGS; AND PROVIDING FOR SEVERABILITY, ORDINANCES IN CONFLICT, AND AN EFFECTIVE DATE "

It was moved by Councilman Braynon, seconded by Councilman Bratton to **amend** the official agenda by adding the above referenced item as Item No. 7B, and deleting Item No. 8B. The motion **carried by a 7-0 vote.**

6. SPECIAL PRESENTATIONS:

There were none.

7. ORDINANCES FOR FIRST READING:

7A) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, PROVIDING FOR THE ISSUANCE OF SOLID WASTE FRANCHISE FOR COMMERCIAL AND MULTI-FAMILY RESIDENTIAL SOLID WASTE COLLECTION; PROVIDING FOR DEFINITIONS; IMPOSING A FRANCHISE FEE FOR COMMERCIAL AND MULTI-FAMILY RESIDENTIAL SOLID WASTE COLLECTION ACTIVITIES; AWARDED FRANCHISES TO CERTAIN PERMITTED PRIVATE HAULERS; PROVIDING FOR PENALTIES, SPECIAL ASSESSMENT LIEN PRIORITY; PROVIDING FOR REPEALER AND INCLUSION IN THE CODE, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE (SPONSORED BY MAYOR GIBSON)

Moved by Councilwoman Watson, seconded by Vice Mayor Campbell to **approve** this item **on first reading, with second reading and public hearing scheduled for February 11, 2004.** Motion **passed by a 7-0 vote.**

Councilman Bratton:	Yes
Councilman Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilwoman King:	Yes
Councilwoman Pritchett:	Yes
Councilwoman Watson:	Yes
Mayor Gibson:	Yes

7B) AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO ENTERING INTO A NON-EXCLUSIVE FRANCHISE AGREEMENT WITH NUI UTILITIES, INC., D/B/A NUI CITY GAS COMPANY OF FLORIDA ALLOWING FOR THE USE OF PUBLIC RIGHTS OF WAY OF THE CITY OF MIAMI GARDENS, FLORIDA, AND PRESCRIBING THE TERMS AND CONDITIONS UNDER WHICH THE FRANCHISE MAY BE EXERCISED; MAKING FINDINGS; AND PROVIDING FOR SEVERABILITY, ORDINANCES IN CONFLICT, AND AN EFFECTIVE DATE.

Mayor Gibson passed the gavel to Vice Mayor Campbell prior to making the motion to approve this item on first reading, with second reading and public hearing scheduled for February 11, 2004. This motion was seconded by Councilman Braynon. Motion passed by a 7-0 vote.

Councilman Braynon:	Yes
Councilwoman King:	Yes
Councilwoman Pritchett:	Yes
Councilwoman Watson:	Yes
Councilman Bratton:	Yes
Vice Mayor Campbell:	Yes
Mayor Gibson:	Yes

Interim City Attorney Ottinot indicated that the attorneys representing NUI were very amenable to this agreement.

After this vote was taken, Vice Mayor Campbell relinquished the gavel to Mayor Gibson.

8. ORDINANCES FOR SECOND READING (PUBLIC HEARINGS):

ORDINANCE NO. 2004-18

8A) AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO LOBBYING, ENTITLED “LOBBYIST REGISTRATION”; PROVIDING DEFINITIONS AND EXCLUSIONS; PROVIDING FOR REGISTRATION OF LOBBYISTS, DISCLOSURE OF MEETINGS WITH CITY PERSONNEL AND REPORTS ON EXPENDITURES; REQUIRING DISCLOSURE OF COMPENSATION OF LOBBYIST AND PROHIBITING CONTINGENCY FEES; CREATING PENALTIES FOR VIOLATIONS AND DEBARMENT; PROVIDING FOR APPEALS TO SPECIAL MASTER; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE. (SPONSORED BY COUNCILWOMAN WATSON) (1st Reading – January 14, 2004)

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

Councilwoman Watson explained that this ordinance provides for the registration of individuals acting as lobbyists before individual council members, staff, City Boards, and the City Council.

There being no further discussion, it was moved by Councilwoman Watson, seconded by Councilman Braynon to **adopt** this ordinance. Motion **passed by a 7-0 vote**.

Councilwoman Pritchett:	Yes
Councilwoman Watson:	Yes
Councilman Bratton:	Yes
Councilman Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilwoman King:	Yes
Mayor Gibson:	Yes

~~8B) AN ORDINANCE OF THE CITY OF MIAMI GARDENS, FLORIDA, PROVIDING FOR THE ISSUANCE OF GAS FRANCHISE; PRESCRIBING THE TERMS AND CONDITIONS OF SUCH FRANCHISE; PROVIDING FOR PAYMENT OF A FRANCHISE FEE; PROVIDING FOR INDEMNIFICATION; PROVIDING FOR INSPECTION OF BOOKS AND RECORDS; PROVIDING FOR ACCEPTANCE OF THE FRANCHISE; AND PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER) (1st Reading January 14, 2004)~~

9) PUBLIC COMMENT – 10 MINUTES

Mr. Reginald J. Clyne with addresses at 2600 Douglas Road, Coral Gables, Florida, and 18500 SW 82nd Avenue, Miami, Florida, appeared before the City Council to express concern with Item No. 10E, and the white auditing firm selected to perform the City’s auditing needs. He related that the memorandum from the City Manager indicated that this is a bid for auditing services. He said that from his knowledge this item was never bid out. He said the black accounting firms did not have a chance to compete for this service. He related that it pained him to see that black professionals aren’t given a chance to compete, in a majority black municipality, where all seven council members are black. He opined that this is unfair and wrong. He recommended approving the auditing service contract for one year, and then bidding the process out to allow for the competitive bid process.

Mr. Ronald Thompkins, representing the firm of Watson Rice with a business address at 500 NW 165th Street Road, North Miami Beach, Florida, appeared before the City Council to further expound on the concerns, and sentiments raised by Mr. Clyne. He also shared that he served as the first African-American president of the Florida Institute of CPAs. Currently he serves on the 350,000 Board of Directors of the American Institute of CPAs. He expressed concern that his firm, the second largest African-American Accounting firm in the Country never got an opportunity to

submit a proposal for auditing services. He pointed out that in Florida Statutes Section 11.45; paragraph 5 is very specific as it relates to defining the competitive process. He related that the City Council has to document that it has competitively selected a firm for auditing services. He related that his firm currently provides auditing services for Miami-Dade County Aviation Department.

Mr. Anthony Brunson of Sharpton Brunson and Company appeared before the City Council to further expound on the concerns raised by Messrs. Clyne and Thompkins in regard to Item 10E. He related that his firm is the largest black owned accounting firm in the State of Florida. This firm is ranked 4th in the State of Florida. He related that it is very disheartening to not have gotten an opportunity to participate in this process.

10. RESOLUTIONS:

RESOLUTION NO. 2004-67

10A) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO FINANCIAL SERVICES; APPROVING THE AGREEMENT BY AND BETWEEN THE CITY OF MIAMI GARDENS AND NEW COMMUNITY STRATEGIES; AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT; AUTHORIZING CITY MANAGER TO DO ALL THINGS TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Manager Crew explained that this contract is a follow up to the bid relating to financial services that was awarded at the last City Council meeting.

Councilman Braynon questioned whether the Risk Management portion of this contract could be separated out. He related that there are a lot of qualified firms that mainly concentrated on providing Risk Management Services.

Manager Crew indicated that Risk Management isn't one of the City's big priorities right now. He related that the City Council already has a Liability Insurance Policy in place. The Risk Management portion of this contract is really minor.

Councilwoman Watson questioned why there was no clause in the agreement relating to confidentiality.

Manager Crew related that under Florida Statutes there is nothing that this organization will perform that is confidential. Financial records are available to the public. Those public records must be maintained by this provider.

Councilwoman Watson related for clarification purposes that she was concerned about information being disseminated to the media before or during the evaluation and assessment process.

Manager Crew said this firm will act as the City's finance department and as such would probably get requestsw for information. He said Mr. Wallace, having served as the Finance Director

for many years, would inform the City of Miami Gardens of such requests.

Councilman Watson said that she was concerned about the firm's staff and wanted to make sure that all requests for public information be made to the City instead of going directly to the firm. She related that she wanted to make sure the City had one voice, rather than a multitude of voices.

Manager Crew related that there is no way to prevent something like this from happening. This firm is working through the City Manager's office and there will only be a few individuals from that firm who will actually work on this project.

Interim City Attorney Ottinot interjected and said that any public record requests that the City would have to comply with as it regulates the City's business would be centralized. The City Clerk is the records custodian for the City, and as such, it is her responsibility to provide information, as the central person, to a person or any business making a public records request.

Councilwoman Watson indicated that she would feel more comfortable if specific language was written into the contract addressing this issue.

Manager Crew indicated that once the City has grown with a lot more employees, an administrative policy will be established addressing this issue.

Councilwoman King concurred with Councilwoman Watson's concerns about putting specific language in the document addressing public information requests.

Manager Crew said that he would put out a memorandum to the firm and copy the City Council addressing this issue.

Councilman Braynon indicated that he'd felt a little uncomfortable with this item when it was passed by the Council because of some of the services that were bunched together. He related that there are a few things in this contract that could have been outside of the finance department's scope. He related that he might have a problem supporting the item this time. He further referenced the firm of Severn Trent, which provides financial services for the City of Weston, and asked if Mr. Wallace was the individual that had separated from that firm.

Manager Crew replied that the individual that had left Severn Trent was Randy White. He related that Mr. Wallace's last position was with the City of Davie where he'd worked for 22 years, with the last 17 of those years as that City's finance director.

Councilwoman Pritchett asked for clarification as it related to the Risk Management provision in the contract, specifically the language "review, recommend and purchase all insurance types on behalf of the City."

Manager Crew said that is staff language. The City has already purchased its insurance through the Florida League of Cities. If the City did require insurance New Community Strategies would be responsible for the bid process. This firm would act at the City's Finance Department, which would normally put the bid out for City insurance.

Councilwoman Pritchett referenced the Records/Right to Inspect and Audit provision of the contract, and asked if the City was stuck with the system that NCS stated is required or could the City install a system that is much broader.

Manager Crew related that the City can purchase its own software. He said there is a provision in the contract, which provides that if the City wanted to use NCS's software, the City would have to get a separate license. He said that the data belongs to the City, the software belongs to NCS.

Councilwoman Pritchett referenced the Insurance provision, specifically the language "Consultant shall carry a minimum of \$500,000 coverage for errors and omissions" and asked for a copy of that coverage.

Manager Crew related that he thought this information was included. He asked that the contract be amended to add to the end of this sentence the language "a copy of which shall be provided to the City."

Councilwoman Pritchett referenced the Term provision, specifically the language "the City shall have the option to renew this Agreement for a period of three years upon the same terms and conditions" and questioned why has the City opted for a three year term of a very new company as opposed to three one year renewal options.

Manager Crew said the City can be flexible with the options because it has the right to give notice at any time. He conveyed that this is the City's finance department, therefore the City did not want to be changing finance departments every couple of years. He emphasized that this is like a City operated department, and as long as they are doing the job, you don't want to change firms. If they are not doing the job to satisfaction, then they should be fired.

Councilwoman Pritchett asked where is the tool that allows the Council to actually evaluate the performance of this provider of services.

Manager Crew said that the tool is the City Manager. He related as with any department, the City Manager is responsible for their work. It is the City Manager's job and responsibility to oversee these people and their work.

Councilman Braynon expounded on Manager Crew's last statement. He said that it is important for the Council to understand that the City Manager answers to the Council. If there is a problem with one of the departments that falls under the City Manager, the City Manager is ultimately responsible for that action. He said that he look forward to having this accountability in place.

Mayor Gibson emphasized the importance of having a City finance department. She related that this department is very crucial to this City's success. She said to hire an in-house Finance Director would have required a lot of other expenditures in order to create a finance department. At this particular time the City is not in a position to expend that kind of money. She reiterated that this firm will be working for the City of Miami Gardens just like all the other services that have been

contracted out thus far.

Manager Crew anticipated bringing 75% of this function in-house by September 2005. He said that there is nothing that happens in City government that does not involve the Finance Department.

Councilwoman Pritchett referred the Reference page of NCS's proposal and asked what kind of services did this company provide to those municipalities with established finance departments.

Manager Crew indicated that NCS conducts special studies such as: Management Studies, and Revenue Analysis.

At the conclusion of this discussion, it was moved by Councilman Bratton, seconded by Councilwoman Watson to approve this item, with the necessary change, which references insurance purposes. The motion **passed by a 5-2 vote.**

Councilwoman Watson:	Yes
Councilman Bratton:	Yes
Councilman Braynon:	No
Vice Mayor Campbell:	Yes
Councilwoman King:	Yes

Before voting Councilwoman Pritchett stated "I believe that a company that was started in the spring of 2003, irregardless of the fact that they have previous experiences in other forms of municipal government, does not afford this City the very best possible service that is before us this evening and for that reason I vote no."

Councilwoman Pritchett:	No
Mayor Gibson:	Yes

RESOLUTION NO. 2004-68

10B) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN AGREEMENT BY AND BETWEEN THE CITY OF MIAMI GARDENS AND WEED-A-WAY, INC. FOR LAWN MAINTENANCE, HAULING/DEBRIS REMOVAL AND JANITORIAL SERVICES, ATTACHED HERETO AS EXHIBIT "A"; AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Mr. Green the City's Transition Coordinator recounted the process involved leading up to the recommendation of Weed-A-Way as the most responsible bidder for lawn maintenance and janitorial services for the City's parks. This contract reflects what was in the proposal and what was agreed upon from the negotiations with Weed-A-Way, Inc.

Councilwoman Pritchett inquired if the emergency services (e.g. tree removal, etc.) provision was included in the contract.

Mr. Green said this contract addresses what was outlined in the proposal. However from discussions with Weed-A-Way, they can provide emergency services and will invoice the City for the cost of those services.

Councilwoman Pritchett asked Mr. Oktogbo if he would be willing to add a clause to the contract that provided for the removal of hurricane debris, etc.

Mr. Monday Oktogbo, President of Weed-A-Way, Inc., appeared before the City Council to indicate that his company could provide the emergency service, if required to do so. The City would subsequently be invoiced for those additional services.

Mr. Green suggested making debris removal a separate item because to add that service to this existing contract would increase the cost.

Councilwoman Pritchett withdrew her request of Mr. Oktogbo.

At the conclusion of this discussion, it was moved by Councilwoman Watson, seconded by Councilman Braynon to approve this item. The motion **passed by a 7-0 vote.**

Councilman Bratton:	Yes
Councilman Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilwoman King:	Yes
Councilwoman Pritchett:	Yes
Councilwoman Watson:	Yes
Mayor Gibson:	Yes

RESOLUTION NO. 2004-69

10C) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN AGREEMENT BY AND BETWEEN THE CITY OF MIAMI GARDENS AND COOL KIDS LEARN, INC. FOR YOUTH PROGRAM MANAGEMENT SERVICES, ATTACHED HERETO AS EXHIBIT "A"; AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE (SPONSORED BY THE CITY MANAGER)

Mr. Green recounted the process involved leading up to the recommendation of Cool Kids Learn, Inc., as the most responsible bidder for parks and recreational programming for the City's parks. This contract reflects what was in the proposal and what was agreed upon from the negotiations with Cool Kids Learn, Inc.

Councilman Braynon asked if there would be a smooth transition of the parks from Miami-Dade County to the City.

Mr. Green related that an inspection of all the parks will take place on Thursday and Friday of this week. In addition, Miami-Dade County has indicated that it would be removing all locks on Saturday. Cool Kids Learn, Inc. will have all the parks operational on February 1, 2004.

Councilwoman King inquired about the unresolved issue of contamination in the parks.

Mr. Green indicated that the parks were not being conveyed to the City at this time. This will not take place until the Interlocal Agreement is approved. The City will be obtaining a permit to provide park services until such time as the Interlocal Agreement is executed. A request was made through DERM for Miami-Dade County to provide information of any known contamination in the parks. This information has not been provided as yet.

Councilman Bratton inquired about the status of the Optimist Clubs' agreement to utilize the parks.

Mr. Green indicated that the City has spoken to at least six of the seven Optimist Club Presidents to inform them that what they have been providing in the parks can continue. A meeting has been scheduled for next week with all Optimist Club Presidents to discuss the contracts they currently have with Miami-Dade County. Whether the fee currently being paid by the Optimist Clubs will remain the same has not been finalized, as yet by the City Manager.

Councilwoman Pritchett asked if Cool Kids Learn would be responsible for transporting children to the After School Programs.

Mr. Green said that Cool Kids Learn will be contracting with the School Board approved transportation vendors to provide this service.

Councilman Bratton asked who would be responsible for the cost of feeding the children.

Mr. Green said that this cost is a part of the Summer Program fee being paid by the participants.

Vice Mayor Campbell referenced the contamination issue brought up by Councilwoman King and shared that there is language included in the Interlocal Agreement, which states that the City agreed to accept the Parks, "as is."

Interim City Attorney Ottinot concurred with Vice Mayor Campbell's comments. He said that administration is addressing this issue, and is objecting to it. He shared that this language is not included in other Municipal Interlocal Agreements.

At the conclusion of this discussion, it was moved by Councilwoman King, seconded by Councilman Bratton. The motion **passed by a 7-0 vote.**

Commissioner Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilwoman King:	Yes
Councilwoman Pritchett:	Yes
Councilwoman Watson:	Yes
Councilman Bratton:	Yes
Mayor Gibson:	Yes

RESOLUTION NO. 2004-70

10D) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ADOPTING A 457 RETIREMENT PLAN; EXECUTING A DECLARATION OF TRUST; PROVIDING FOR THE PLAN TO BE HELD IN TRUST FOR THE BENEFIT OF THE PARTICIPANTS; PERMITTING LOANS FROM THE PLAN TO PARTICIPANTS; AUTHORIZING CITY MANAGER TO BE PLAN COORDINATOR AND TO TAKE ALL NECESSARY ACTIONS TO EFFECTUATE THIS AGREEMENT; AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Manager Crew indicated that this is a requirement of his employment contract. This is a voluntary 457 Plan, which is a taxed deferred compensation plan. There is no cost to the City. This Plan would be available for any employee wanting to put their money into a deferred plan.

Councilwoman Watson asked if Council members could participate in this Plan.

Interim City Attorney Ottinot said that this is a policy decision as to who is eligible to participate in this Plan.

Councilwoman Pritchett asked if language could be included in the resolution indicating that this plan is voluntary and that the City will not incur any cost.

Interim City Attorney Ottinot indicated that language would be included in the Resolution, addressing Councilwoman Pritchett's concern.

At the conclusion of this discussion, it was moved by Councilman Braynon, seconded by Councilwoman Pritchett to approve this item, with the necessary amendment as stated by Councilwoman Pritchett. The motion **passed by a 7-0 vote**.

Vice Mayor Campbell:	Yes
Councilwoman King:	Yes
Councilwoman Pritchett:	Yes
Councilwoman Watson:	Yes
Councilman Bratton:	Yes
Councilman Braynon:	Yes
Mayor Gibson:	Yes

RESOLUTION NO. 2004-71

10E) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO AUDITING SERVICES; AUTHORIZING THE MAYOR TO EXECUTE THE ATTACHED ENGAGEMENT LETTER ON BEHALF OF THE CITY WITH RACHLIN COHEN & HOLTZ, LLP, TO PROVIDE AUDITING SERVICES TO THE CITY OF MIAMI GARDENS; AUTHORIZING THE CITY MANAGER TO DO ALL THINGS TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Manager Crew related that he did not look at Miami Gardens as a Black City, but as an American City. He further defended his recommendation and stated that he did not know whether this firm was a black or white firm. He said the RFP process would take approximately two months, and opined that the City did not have two months. Even though the City did not bid this process out, it was bidded out by the Village of Palmetto Bay. Pursuant to State law, the City is allowed to piggyback off of an existing contract with another municipality. This process should have been done in August 2003, or no later than September 2003. He emphasized the importance of knowing where the City stands financially. He said that he'd conducted a survey as to what other new municipalities were using this firm for auditing services. All indicated that this particular firm was used. He related that his job is to provide the most qualified firm at this time for what the City is looking for.

The following individuals were afforded an opportunity to comment on this item.

Mrs. Barbara Jordan, residing at 2251 NW 188th Terrace, Miami Gardens, appeared before the City Council to convey her understanding of the City Manager's comment about the importance of knowing where the City stood financially. She agreed with Manager Crew's comments about Miami Gardens being an American City however it also happens to be 80% African America. She emphasized the importance of being sensitive to that fact. She further inquired about the ethnicity of the firm selected to provide financial services for the City of Miami. She further recommended limiting this contract to 2002-03 and FY 2003-04 fiscal years, and then bid the process out. She further asked that the Council adopt a preference ordinance, giving preference to residents of the City of Miami Gardens and Miami-Dade County.

Manager Crew said that he did not know how to answer Ms. Jordan's question regarding ethnicity of New Community Strategies. He shared that on his previous job he'd worked hard to increase the number of minorities for upper management positions.

Mr. Reginald J. Clyne re-appeared before the City Council to expound on his earlier comments.

Mr. C. Vernon Martin, residing at 3201 NW 174th Street, Miami Gardens, appeared before the City Council to express his views, and recommended putting in place a uniformity accounting system. He further recommended that this item not be adopted at this time.

Mr. Lemuel Wims, residing at 19675 NW 32nd Court appeared before the City Council to remind them of the commitment that was made during the incorporation process to hire residents of the City of Miami Gardens or Miami-Dade County.

Mr. Anthony Brunson re-appeared before the City Council to further expound on comments he'd made earlier. He related that he wasn't invited to participate in the bidding process for the other newly incorporated municipalities.

Mr. Ronald Thompkins re-appeared before the City Council to also expound on his earlier comments. He reiterated that the Florida Statutes is very clear as it relates to municipal auditing. He said the books have to be done before an audit can take place.

Mr. Anselm Smith, residing at 721 NW 187th Drive, Miami Gardens, appeared before the City Council to express his views about this item. He reminded everyone of the Charter's provision encouraging the employment of residents.

After there were no other interested parties to speak on behalf of this item, Mayor Gibson turned the discussion over to the Council.

Councilman Braynon spoke to the issue of allowing the opportunity to be afforded to other firms to come and do work for the City of Miami Gardens. He opined that the 03-04 fiscal year audit should be bidded out. He emphasized that the City has to give others an opportunity to be the first. He did concur that the audit is a pressing matter that needs to be done expeditiously.

Manager Crew recommended that the Council consider approving the 02-03 and 03-04 fiscal years audit and then putting this service out for bid.

Councilwoman Pritchett asked when is FY 2002-03 audit due.

Manager Crew replied, technically September 2004, normally though you'd want to have the preceding year by March 1st. By having the audit in by March 1st would qualify the City for GFOA Status. The audit will provide the City with the financial data it needs in order to function fiscally prudent. He emphasized that the City did not know where it was financially.

Mayor Gibson addressed her comments to concerns raised by those individuals speaking on this item. She said that Miami Gardens is a very sensitive issue. It is sensitive because of the fact that it is a predominately black city by population. That population of black folk is made up of a lot of black people from a lot of different places. Miami Gardens has an awesome burden on its shoulders. It is probably like the emancipator of a lot of black folk. That is an awesome responsibility to have; deliver services to this community that needs to be delivered. And to deliver those services in a manner that the Council is doing its job and making decision based on good information, and making sound decision. This is not easy when the past depicts that the Council needs to, in everything that it does, to right whatever wrongs that have been done to us as a group of people, for many years, by whom ever or whatever. It is a awesome task to say that whatever the Council does, it has to make sure that it really has to change the scenery or the scope of what has happened to us as black over a period of time.

Mayor Gibson conveyed her belief that the essence of what is being discussed is about what should have happened and has not happened and that the Council has to get it done expeditiously. She related that the Council is not going to do everything right the way the citizens want it ~~to~~ done. She related that she did not believe that any one of the Council members would sit on the dais and not try to do the very best that they can for the City of Miami Gardens. She said that it is another awesome responsibility to be accused of not being sensitive to black people and the plight that we have had and the fact that we have to be first in line. However, the fact that this is a black city is within itself an awesome responsibility. She shared that she has been chastised for saying this is an all black city by some of the white residents because they too live here. Some of the Hispanic residents have said the same thing. She emphasized that this is just not a black city. It has white folk as well as Hispanics who all want to be included in this City as well. She said the Council walks a very sensitive role in trying to make this work. She said that the Council can not correct all the wrongs that have been done to black folk over the years. She related that she is very mindful of her responsibility as Mayor of this City and black folk. She voiced her commitment to doing what is fair for all. It is just as good for the City to be fair about what it does as the people we've accused of not doing the right thing. Many times a tone can be set that nothing else can change. She emphasized the importance of moving forward with the City's business.

Councilwoman King expressed concern with the lack of a bid process. She emphasized the importance of getting the best process to make this City work. She said that she could support 2002-03 audit, with a bidding process to take place for the 2004-05.

Councilman Bratton asked Councilman Braynon to repeat his recommendation.

Councilman Braynon suggested eliminating the three year contract language and engage this auditing firm to conduct 2002-03 and 2003-04 audits, and putting the matter out for bid for the 2004-05 audit.

Manager Crew said that he did not have a problem with this.

Councilwoman Pritchett asked Mr. Thompkins to clarify his statement "the books have to be done, so I don't understand the urgency." She also asked for further clarification regarding the "Letter of Interest."

Mr. Thompkins explained that a lot of firms solicit business from cities. The Letter of Interest gives written qualifications of a firm and is a way of getting someone to accept their proposal. It is an expedited process. Under Florida Statutes auditors are hired by municipalities to conduct the audit however they are working for the State of Florida. Florida law prescribes how the audit should be done and the due dates for the audits. As per Florida Law the due date for a municipal audit is September 30. He emphasized that the books have to be done first before the audit can take place. He emphasized that auditors can not cross the line to do any origination of work requiring an audit.

Vice Mayor Campbell said one of the concerns that he has regarding the recommendation made by Councilman Braynon regarding elimination of the three year option. He said part of the

reason why the City is getting such a reasonable rate is because of that three year option. He said the elimination of the three year option will have an effect on the cost.

Manager Crew opined that the company would be willing to accept whatever the City votes on.

Interim City Attorney Ottinot said the City always has the option and the three option is more a contractual language.

Councilwoman Watson indicated that she would be willing to go along with the 2002-03 and 2003-04 fiscal years audits. She said that she did not want anyone to get comfortable with a three year option. She emphasized the importance of knowing that this City is financially sound. She opined that the City needs to act swiftly. She asked for clarification on the deadline dates.

Manager Crew related that there is a Governmental Finance Officers Association Excellence in Financial Reporting Certification that is given when an audit is properly done. This certification is critical when the City goes for financing and bond issues. He indicated that the timing is too short to qualify for the Certification this year.

At the conclusion of this discussion, it was moved by Councilwoman Watson, seconded by Councilman Bratton to approve this item, with the removal of three year option language. The motion **passed by a 5-2 vote.**

Councilwoman King indicated that this is a very difficult decision however she could live with two years and due to the nature and expediency involved she was going to vote yes.

Councilwoman King: Yes

Councilwoman Pritchett stated "I fully understand and agree that municipal audits are important. However we seem to find ourselves once again in a position sidestepping the open competitive bidding process; a process that gives people an equal opportunity to participate in the business of our city. One of the reasons we created the City of Miami Gardens was to provide avenues whereby business people who live, live near ~~hear~~, here, or work in this area would have an opportunity to do business with our city. I think Mr. Clyne said and I would like to quote him "we need to be fair." I agree with him 100%. Therefore I believe as a Council to make sure that our process is open to every one. For these reasons and some other concerns that I have that I don't want to belabor the time line and for that reason I vote "no."

Councilwoman Watson: Yes

Councilman Bratton: Yes

Councilman Braynon said that he wanted to accolade Councilwoman Pritchett's sentiments. He said that he was agreeable with the two year limitation however he did had a problem with the process and because of that he voted "No."

Vice Mayor Campbell: Yes

Mayor Gibson: Yes

~~10F) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO ADVERTISING ON BUS BENCHES; AUTHORIZING THE MAYOR TO APPROVE THE ATTACHED AGREEMENT ON BEHALF OF THE CITY WITH BENCH ADS MANAGEMENT OF SOUTH FLORIDA, INC. TO PROVIDE BUS BENCHES AND SHELTERS TO THE CITY OF MIAMI GARDENS AND TO ADVERTISE ON SAME; AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY ACTIONS TO EFFECTUATE THIS AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)—This item was withdrawn by the City Manager.~~

RESOLUTION NO. 2004-72

10G) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING A PERMIT WITH MIAMI-DADE COUNTY DEPARTMENT OF PARK AND RECREATION TO CONDUCT PRIVATE BUSINESS ON COUNTY PROPERTY; AUTHORIZING THE MAYOR TO SIGN SAID PERMIT; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Manager Crew explained that the only way the City can operate the parks prior to the Interlocal Agreement being signed is through the permitting process. Cool Kids Learn, Inc., will take over the park programming on February 1, 2004.

Moved by Councilman Braynon, seconded by Councilwoman Pritchett to approve this item.

There being no discussion, the motion passed by a 6-0 vote.

Councilwoman Watson:	Yes
Councilman Bratton:	Out of room
Councilman Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilwoman King:	Yes
Councilwoman Pritchett:	Yes
Mayor Gibson:	Yes

RESOLUTION NO. 2004-73

10H) A RESOLUTION OF THE CITY OF MIAMI GARDENS, FLORIDA, RELATING TO MEMBERSHIP IN THE FLORIDA RETIREMENT SYSTEM; DESIGNATING MEMBERS; PROVIDING A DECLARATION OF THE INTENT; DESIGNATING THE CITY MANAGER AS ADMINISTRATOR; PROVIDING FOR WITHHOLDING OF EMPLOYEE CONTRIBUTIONS; PROVIDING FOR CONTRIBUTIONS TO BE PAID; PROVIDING FOR APPROVAL OF AN AGREEMENT SETTING FORTH TERMS AND CONDITIONS OF MEMBERSHIP; DESIGNATING THE CITY MANAGER AS CUSTODIAN OF FUNDS; AUTHORIZING THE MAYOR

TO SIGN THE RESOLUTION AND AGREEMENT; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Manager Crew explained that this is in preparations for the City to take on employees. Majority of municipalities now have a pension system. He indicated that there is a provision included whereby the City Clerk would be enrolled in the System as of September 29, 2004. There is nominal cost for this enrollment date.

At the conclusion of this discussion, it was move by Councilman Braynon, seconded by Councilman Bratton to approve this item. Motion passed by a 7-0 vote.

Councilman Bratton:	Yes
Councilman Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilwoman King:	Yes
Councilwoman Pritchett:	Yes
Councilwoman Watson:	Yes
Mayor Gibson:	Yes

RESOLUTION NO. 2004-74

10I) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, REQUESTING SERVICES AND A FEE WAIVER FROM THE FLORIDA LEAGUE OF CITIES; AUTHORIZING THE MAYOR TO SIGN THE RESOLUTION; PROVIDING AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)

Manager Crew said this would allow the Florida League of Cities to waive the fee for conducting the Revenue Enhancement Workshop scheduled for February 12, 2004.

It was moved by Councilman Braynon, seconded by Vice Mayor Campbell to approve this item. Motion passed by a 7-0 vote.

Councilman Braynon:	Yes
Vice Mayor Campbell:	Yes
Councilwoman King:	Yes
Councilwoman Pritchett:	Yes
Councilwoman Watson:	Yes
Councilman Bratton:	Yes
Mayor Gibson:	Yes

~~10J) A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ADOPTING A 401 MONEY PURCHASE PLAN; EXECUTING A DECLARATION OF TRUST; PROVIDING FOR THE CITY TO SERVE AS A TRUSTEE; PERMITTING LOANS FROM THE PLAN TO PARTICIPANTS; AUTHORIZING CITY MANAGER TO BE PLAN COORDINATOR AND TO TAKE ALL NECESSARY ACTIONS TO~~

~~EFFECTUATE THIS AGREEMENT; AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE. (SPONSORED BY THE CITY MANAGER)~~

The following individuals were afforded an opportunity for comments regarding this item:

Mr. Daryl L. Jones with an address of 19589 NE 10th Avenue, Miami, Florida.

Edward Weinstein, Esquire with an office address of 152 NE 167th Street, 3rd Floor, Miami, Florida.

Mr. Rick Goodman with an address of 19501 NE 10th Avenue, North Miami Beach, Florida.

Mr. Scott Martin with an address of 18261 NE 4th Court.

At the conclusion of all discussions, this item withdrawn by the City Manager pending an RFP process.

11. REPORTS OF CITY MANAGER

12. REPORTS OF MAYOR AND COUNCIL MEMBERS

12A) GENERAL REPORTS FROM MAYOR AND COUNCIL MEMBERS

Councilwoman Pritchett asked that a resolution establishing a Martin Luther King, Jr., Committee be brought back at the next City Council meeting on February 11, 2004. This board would be governed by the Sunshine Law.

Councilman Braynon announced that he would not be in attendance for the February 4, 2004 Zoning meeting.

Mayor Gibson asked each Council member to make a concrete effort to meet with staff prior to the City Council meeting in order to go over the agenda items. This would allow the Council to get their questions and concerns addressed prior to the Council meeting.

It was moved by Councilwoman Pritchett, seconded by Councilwoman Watson to extend the meeting past the 12:00 a.m. deadline. Motion carried by a 7-0 vote.

12A) Councilwoman Barbara Watson – Ex-parte communication on zoning matters (Jennings Ruling).

Councilwoman Watson explained why she's brought this issue forward. She indicated that this would allow the Council members to speak directly to their constituents about pending zoning matters.

At the conclusion of this discussion the City Council members indicated their preference of continuing to following the established quasi-judicial procedures in place.

13. REQUEST, PETITIONS & OTHER COMMUNICATION FROM THE PUBLIC:

Ms. Marsha Hillman Harris residing at 3143 NW 213 Street, Miami Gardens, Florida appeared before the City Council to express support on the passage of Item 10-H.

Mr. Thomas Spaulding residing at 18805 NW 32nd Place, Miami Gardens, Florida appeared before the City Council to commend the members for doing an outstanding job.

Ms. Laura Rzeszotarski, residing at 20525 NW 28th Avenue, Miami Gardens, Florida appeared before the City Council to bring forth information on Safe Neighborhood Parks funding.

Ms. Lanette R. Jones, residing at 18611 NW 8th Court, Miami Gardens, Florida appeared before the City Council to encourage the City Council to establish more boards and or committees and to utilize volunteers to assist the City will various projects.

Ms. Pat Lightfoot, residing at 2750 NW 172nd Terrace, Miami Gardens, Florida appeared before the City Council to express concern with her astronomical water bill. She related that she's been fighting with North Miami Beach's Water Department for the last four years trying to get this matter resolved.

14. SPECIAL PRESENTATION(S)

None

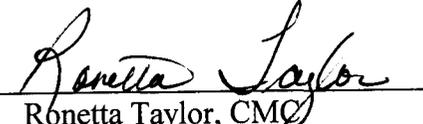
15. ADJOURNMENT:

There being no further business to come before and after being duly moved and properly seconded the meeting adjourned at 12:30 a.m.

Approved/


Shirley Gibson, Mayor

Attest:


Ronetta Taylor, CMC
City Clerk