



TOWN OF CUTLER BAY

Mayor Edward P. MacDougall
Vice Mayor Ernest N. Sochin
Councilmember Peggy R. Bell
Councilmember Mary Ann L. Mixon
Councilmember Sue Ellen Loyzelle

Town Attorney Mitchell Bierman
Town Attorney Chad Friedman
Town Manager Steven Alexander
Town Clerk Esther B. Coulson

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodations to participate in this proceeding should contact the town clerk at (305) 234-4262 for assistance no later than four days prior to the meeting.

TOWN COUNCIL MEETING AGENDA

Wednesday, March 16, 2011, 7:00 p.m.
South Dade Regional Library, First Floor
10750 Southwest 211 Street
Cutler Bay, Florida 33189

1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

ADDITIONS, DELETIONS AND DEFERRALS

2. PUBLIC COMMENTS

3. PROCLAMATIONS, AWARDS, AND PRESENTATIONS
"Urban Chicks" – Laura Derrick

4. APPROVAL OF MINUTES

- A. Regular Council Meeting – February 16, 2011
- B. Zoning Workshop – February 2, 2011

TAB 1

5. REPORTS

- A. TOWN MANAGER'S REPORT
- B. TOWN ATTORNEY'S REPORT

- C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS**
Charter High School Advisory Committee Applications (Councilmember Mixon)
 - M. Pizzaro
 - S. Keime
 - P. Burns

6. CONSENT AGENDA

ANY ITEMS SHALL BE REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION OR SEPARATE VOTE IF REQUESTED OR PULLED BY A COUNCILMEMBER OR THE TOWN MANAGER.

- A.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA TO APPOINT ADVISORY COMMITTEE MEMBERS TO THE PARKS AND RECREATION ADVISORY COMMITTEE, AND PROVIDING AN EFFECTIVE DATE. RESOLUTION. (Sochin)
 (Mr. Brian Smith’s resume is attached.) TAB 2

- B.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING THE EDUCATIONAL COMPACT ADVISORY COMMITTEE; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE. (Bell) TAB 3

- C.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, SUPPORTING AND ENDORSING THE SOUTH FLORIDA PARKS COALITION CHARTER AND THE PRINCIPLES ON WHICH IT STANDS; AND PROVIDING FOR AN EFFECTIVE DATE. (MacDougall) TAB 4

- D.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ESTABLISHING A POLICY RELATING TO THE ADDITION OF ITEMS TO THE TOWN COUNCIL MEETING AGENDA, AND PROVIDING FOR AN EFFECTIVE DATE. (MacDougall) TAB 5

7. ORDINANCES FOR FIRST READING (PUBLIC HEARING NOT REQUIRED)

- A.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING REGULATIONS RELATING TO THE USE OF TOWN BUILDING FACILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE. (Bell) TAB 6

- B.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING OUTDOOR MARKET REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE. (Bell) TAB 7

8. ORDINANCES FOR FIRST READING OR RESOLUTIONS REQUIRING A PUBLIC HEARING (PUBLIC COMMENTS) THE PRESIDING OFFICER SHALL HAVE THE DISCRETION TO LIMIT THE LENGTH OF PUBLIC COMMENTS IN THE INTEREST OF TIME IN ORDER TO ALLOW ALL PERSONS WHO WISH TO SPEAK AN OPPORTUNITY TO DO SO.

9. ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED)

A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 06-06 RELATING TO THE URBAN CENTER DISTRICT; PERMITTING ENTERTAINMENT CENTER USES WITHIN THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE, AND PROVIDING FOR AN EFFECTIVE DATE. (MacDougall)

TAB 8

B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE ANNUAL UPDATE TO THE CAPITAL IMPROVEMENTS ELEMENT WITHIN THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE ADOPTION OF THE ANNUAL UPDATE TO THE MIAMI-DADE COUNTY PUBLIC SCHOOLS FACILITIES WORK PROGRAM; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 9

C. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CODE ENFORCEMENT PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE, AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 10

10. PUBLIC COMMENTS

THE PRESIDING OFFICER SHALL HAVE THE DISCRETION TO LIMIT THE LENGTH OF PUBLIC COMMENTS IN THE INTEREST OF TIME IN ORDER TO ALLOW ALL PERSONS WHO WISH TO SPEAK AN OPPORTUNITY TO DO SO.

11. MAYOR AND COUNCIL COMMENTS

12. OTHER BUSINESS

13. ADJOURNMENT

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

MARIBEL PIZARRO, MS

Education

- **DePaul University**, Chicago, IL JUN 2009
Master of Science in International Public Service Management
- **Florida International University**, Miami, FL DEC 2003
Bachelor of Arts in Sociology and Anthropology

Certification

State of Florida Department of Education
Professional Educator's Certificate

Social Science, Grades 6-12: 955185

Employment History

- Adult Educational Instructor
Miami Springs Senior High, Miami, FL JAN 2011 to Present
Instructor of Adult Education Students
- Temporary Faculty, American Government, Economics, and Advanced Placement Human Geography
Ronald W. Reagan/Doral Senior High School, Doral, FL SEP 2010 to Present
3100 Instructor of Seniors and Advanced Placement students, Amnesty International Sponsor, and African American History Faculty Advocate
- Administrative Director - Contractual
Alonzo Mourning Charities, Inc., Miami, FL JUN 2010 to SEP 2010
- Temporary Faculty, Civics
North Dade Middle School, Miami, FL JAN 2009 to JUN 2010
3100 Instructor of seventh grade students
- Interim Part-time Program Director
Heroes Unite, North Miami, FL OCT 2009 to FEB 2010
- Faculty, Humanities and Reading, and Recruiter
Perspectives Charter Schools High School of Technology DEC 2007 to JUN 2009
Chicago, IL
Instructor of ninth and tenth grade students, Recruiter/Admissions, Student Government Sponsor, Humanities Curriculum Council, History Tutor
- Faculty, American History and Intensive Reading, and Recruiter
Cutler Ridge Middle School, Miami, FL AUG 2004 to AUG 2007
Instructor of sixth, seventh, and eighth grade students, Team Leader, Recruiter/Admissions, Student Government Sponsor, Test Prep Tutor, Curriculum Council, Educational Excellence School Advisory Committee (EESAC)

International Experience

- *Cross-Sector Analysis* DEC 2007
DePaul Institute of Science and Technology, Angamaly, India
- *International Political Economy* JUN 2008
DePaul University, Beijing, China

Skills

Intermediate Spanish skills (conversational and literacy); Microsoft Office: Outlook, Word, Excel, Power Point, and Publisher; SPSS software (data analysis); iWeb, iWorks: Pages, Keynote, and Numbers; Quicken

MARIBEL PIZARRO, MS

Professional Skills

- Curriculum Planning
 - Increased reading levels on average by two grade levels--using Differentiated Instruction and Project Based Learning through unique grade level curriculum development
 - Motivated student through coordination efforts with Team teachers to orchestrate engaging enrichment activities that assisted students in learning a rigorous curriculum, using data provided by Standardized Testing (FCAT & ACT), State Standards (Florida and Illinois), and College Readiness Standards
 - Created a school culture well equipped for the scholastic improvement of low-socioeconomic communities through the evaluation and creation of school wide strategic plans based from assessing and evaluating scholastic data, school involvement, and parental support
- Management and Training
 - Increased participant enrollment through the facilitation of training workshops on Grant writing for the *Grant Foundation Center*
 - Increased office moral through the creation of effective new employee training manuals on general office procedure, accounts receivable, and filing
 - Increased the efficiency and participation in Professional Development workshops regarding Differentiated Instruction, Student Motivation, and Classroom Management
 - Increased productivity through effective training and management of student and parent volunteers
- Program Coordination and Development
 - Increased student and teacher civic engagement through planning, coordinating, and executing school-wide events, such as the United Way, Election Convention, Inaugural Ceremonies, Rallies, Toy and Canned Food Drives, and Field Days
 - Increased student motivation to learn through planning, coordinating, and executing in, and out of county, field trips to Miami-Dade County Metro Zoo, Dade County Youth Fair, Epcot Center in Orlando, Chicago Transit Authority, Harold Washington Library in Chicago, and Chinatown, Chicago.
 - Increased student empowerment through planning, coordinating, and executing social and fundraising events school-wide, such as Homecoming, Winter Ball, Feast of Thanks, Spring Dance, and College & Career Day
 - Increased overall morale through supportive fundraising and grant writing, which supported college tours, trophy case, and school-wide recreational activities
- Fundraising
 - Through annual student recruitment and admissions, approximately \$45,000 was produced by encouraging school engagement, youth empowerment, and enrollment retention
 - Raised approximately \$40,000 from annual foundational grants
 - Raised, annually, on average \$10,000 through student event fundraising, in-kind donations, and general classroom project grants
 - Saved organizations, annually, approximately \$5000 on professional development fees on general program, or curriculum, support by providing in-house training and support to colleagues and through effective volunteer and employee training and management
 - Increased quarterly timely insurance payments by 25% through effective time management, posting and communication

19800 SW 87 Avenue
Cutler Bay, FL 33157
February 25, 2011

Town of Cutler Bay
Cutler Bay Town Center
10720 Caribbean Blvd.
Suite 101
Cutler Bay, FL 33189

To Whom It May Concern:

I would like to serve my community of Cutler Bay as a member of the Charter School Committee.

I have attended several of the committee meetings while not being a member. And, honestly, I think I am needed there. I am your target audience, and I do not believe that presently that point-of-view is being represented.

Let me explain briefly what I have to offer that I am sure you will not find in any other candidate. I have nine children, including two currently in high school and two more I am personally concerned about having viable, quality educational options for. Our story parallels that of Miami-Southridge High. My oldest child attended Southridge. The others have not. They attended or attend five other high schools. That gives me personal experience hard to find, yet here I am ready to serve.

When the committee wonders why parents are seeking other options, I can speak because I know. When the committee wants to speak with the parents of upcoming or current high schoolers, I will be there. I will bring my friends. I will talk with my neighbors. I am a known community organizer and an experienced leader especially within the educational community.

Thank you for considering my application. I am available to speak further.

Most sincerely,

Stephanie Keime

Stephanie Keime

19800 SW 87 Avenue

Cutler Bay, FL 33157

keime@bellsouth.net

305-252-7561 / 305-772-0183

Mother of 9

Resident of now Cutler Bay for 22 years

Degree, Early Childhood Education

Better Funding for Florida Learning

Co-Founder. Organized lobbying efforts for increased funding for education in Florida. Built awareness of substandard per capita state funding. Received wide-spread media attention through video and local events. Preserved local programs.

Parent Teacher Association

Miami-Dade County Council Officer and Executive Board Member. Duties included conflict resolution, training, oversight for 45 school-site organizations.

President: Whispering Pines Elementary, Perrine Elementary, Centennial Middle.

Executive board member and committee chair numerous times at many schools.

Volunteer of the Year Outstanding Service Award.

Educational Excellence School Advisory Council (EESAC)

Parent Representative: Whispering Pines Elementary, Perrine Elementary, Mays Middle, Centennial Middle, Southwood Middle, Coral Reef Senior, New World School of the Arts.

Battle of the Bands

Organizer. Offered local students the opportunity to perform in a large public venue and compete for recording time and cash.

The Church of Jesus Christ of Latter-Day Saints

Primary Children's Organization: President.

Relief Society Women's Organization: President.

Scouting

Boy Scouts of America: District Advancement Chair, Troop and Pack Committee Chair, Den Leader. Philmont Training, National Camp School.

Silver Beaver, District Award of Merit, On My Honor awards.

Girl Scouts of the USA: Leader.

Petra Rife Burns

8601 SW 184 Lane
Cutler Bay, Florida 33157

Miami-Dade County Public Schools – Centennial Middle School

<i>Instructional:</i>	Mathematics / Inclusion Mathematics Grades 6 – 8	2000 – Present
<i>Instructional:</i>	Special Education Mathematics Grade 8	
<i>Instructional:</i>	Television Production	
<i>Leadership:</i>	Mathematics Department Chair Person	2006 – Present
<i>Leadership:</i>	Math Coach	2008 – 2010
<i>Support:</i>	School Treasurer	1997 - 2000
<i>Support:</i>	Substitute Teacher	1994 - 1996

Certifications:

Mathematics Grades 6 -9
Technology Education Grades 6 – 12
Varying Exceptionalities Grades K – 12

Awards & Recognition:

Talent Transfer Initiative Recipient– US Department of Education	2010
Inclusion Teacher of the Year – Miami-Dade County Public Schools	2005
Teacher of the Year – Centennial Middle School	2004

Corporate Experience:

Bank of North America, V.P. / Senior Credit Officer 1991 – 1994
Ft. Lauderdale, Florida

Responsibilities included: supervision of staff of Commercial Loan Credit Analysts, review of credit analysis reports for commercial loan approvals, presentation of credit analysis of commercial loans to Commercial Loan Committee, under writer for loans \$1,000,000 and greater, assist State Auditors in review of commercial loan files

AmeriFirst Federal Savings and Loan, AVP Commercial Loan Officer 1988 – 1991
Miami, Florida

Responsibilities included: restructuring and management of \$45,000,000 loan portfolio, analysis of corporate financial statements of commercial loans, established and instructed Analysis of Corporate Financial Statements training for the Commercial Loan Officer training program

Barnett Banks

AVP Commercial Loan Officer /Commercial Credit Analyst, Palm Beach County	1987 - 1988
Commercial Credit Manager – Barnett Bank of Martin County	1986 - 1987
Commercial Credit Manager – Barnett Bank of Lee County	1985 - 1986
Credit Analyst / Loan Officer – Barnett Bank of Lake County	1984 - 1985
Completed Commercial Loan Officer Training Program (BB of Central Fl, Winter Park)	1983 - 1984

Education:

Masters of Varying Exceptionalities, Florida International University	2003
Bachelor of Science in Finance, The Florida State University	1993

TAB 1

**TOWN OF CUTLER BAY TOWN COUNCIL REGULAR MEETING
MINUTES**

Wednesday, February 16, 2011, 7:00 p.m.

South Dade Regional Library

10750 Southwest 211 Street

Cutler Bay, Florida 33189

Members Present:

Mayor Edward P. MacDougall

Councilmember Peggy R. Bell

Councilmember Mary Ann Mixon

Councilmember Ernest N. Sochin

Councilmember Sue Ellen Loyzelle

Also Present:

Town Manager Steven Alexander

Town Attorney Mitchell Bierman

Town Clerk Esther B. Coulson

1. CALL TO ORDER, ROLL CALL, and PLEDGE OF ALLEGIANCE

The mayor called the meeting to order at 7:07 p.m.; requested that Ms. Coulson call the roll and with a quorum present, he led in the Pledge of Allegiance to the flag.

ADDITIONS, DELETIONS AND DEFERRALS

At the mayor's request, Ms. Coulson announced the following:

Supplemental Agenda Items

Item 5.A. Property Assessment Clean Energy (PACE) program,

Item 8, Certificate of Re-Occupancy proposed ordinance,

Withdrawals

Item 5.C.iv.6) Travel, Vice Mayor Sochin to the Florida League of Cities' (FLC) Legislative Action Days, and

Item 10 Capital Improvements Element proposed ordinance

2. PUBLIC COMMENTS

Dr. Patricia Fulton, Charter High School Advisory Committee Member, encouraged the council to consider the need for charter schools.

Mr. Arthur "Art" Nanni, Town of Cutler Bay resident, addressed his experience as a real estate agent on the common criteria used by potential homebuyers with families who seek quality local schools and education before moving to the area. He recognized the impacts quality local schools have had on home economic value; the students, and the community and emphasized the need for the council, staff and citizens to invest their time and effort in utilizing resources towards education. He suggested sending the message back to the Charter High School Advisory Committee to work on implementing a charter school within six months.

Ms. Louise Lockwood, Town of Cutler Bay resident, announced that the Eastridge Retirement Village will be celebrating its 50th Anniversary on April 30, 2011.

Ms. Lockwood referred to the recent article that appeared in The Miami Herald regarding the issuance of police-style badges for local elected officials and staff who are not police officers and anticipated that it is not the case in the town.

Mr. "A. J." Meyer, Town of Cutler Bay resident, introduced himself to the council and addressed his plan to become engaged.

Mr. David Feinberg, Town of Cutler Bay resident, referred to his recent attendance to the Concerned Citizens of Cutler Bay meeting; relayed discussions recognizing numerous military veterans that reside in the town, and suggested that the town and concerned citizens consider discussing the costs, design, feasibility, and a proposed location, to erect a veterans' monument to commemorate the veterans and expressed preference for the proposed circle before roadway improvements are made on Caribbean Boulevard.

Ms. Sandra Nanni, Town of Cutler Bay resident, recognized the experience and knowledge of Councilmember Loyzelle and the resources she has available as a grant writer and fundraiser which the town could utilize.

Ms. Nanni addressed the dire need to utilize grant programs and explained that she currently serves on the Miami-Dade County (MDC) Child Abuse Prevention Planning Board who is currently reviewing data on child allegations and juvenile delinquency arrests. She reported that the town and surrounding communities are ranked number two in the county with the highest number of child abuse, sexual abuse, child neglect allegations, and juvenile arrests; expressed concerns on the impacts to the town, and noted how quality of life can be improved when utilizing related resources from a grant program.

Ms. Dianna Philipp, Town of Cutler Bay resident, recognized the number of interested participants present at this evening's meeting, by the show of rising from their seats, who support charter schools.

In response to the mayor's inquiry, Mr. Meyer confirmed in the affirmative his interest to volunteer.

3. PROCLAMATIONS, AWARDS, AND PRESENTATIONS

A. Tomasina Beatriz Erickson

On behalf of the council, Councilmember Bell read into the record a proclamation to be presented to Tomasina Beatriz Erickson, 100 year-old resident at Pinewood Villas. Her birthday was celebrated on Friday, January 14, 2011.

The council officially honored Ms. Erickson, on reaching her 100th birthday; expressed heartfelt congratulations to her on achieving her dream, and extended well wishes for more dreams to come. (The proclamation will be given to Ms. Erickson at a later date.)

B. Ronald Clyde Linfors

On behalf of the council, Councilmember Loyzelle read into the record a proclamation recognizing Ronald Clyde Linfors, a senior attending Coral Reef High School, on achieving the prestigious Eagle Scout Award from Boy Scout Troup 314 of the South Florida Council.

Mr. Linfors accepted the proclamation with gratitude and the council commended him for his accomplishments.

4. APPROVAL OF MINUTES

A motion was made by Vice Mayor Sochin and seconded by Councilmember Loyzelle that the council approve the following minutes as submitted:

- A. Committee of the Whole Workshop Minutes – January 18, 2011**
- B. Regular Council Meeting Minutes – January 19, 2011**
- C. Note for the Record Special Council Meeting Minutes – December 6, 2010**
Previously approved at the January 19, 2011 regular council meeting with the direction to the town clerk to provide corrections.

The mayor called for a roll call vote with the council members voting as follows:

Vice Mayor Sochin	Yes
Councilmember Loyzelle	Yes
Councilmember Mixon	Yes
Councilmember Bell	No
Mayor MacDougall	Yes

The mayor declared the motion carried on a four to one (4-1) vote.

5. REPORTS

A. TOWN MANAGER’S REPORT

Fifth Annual Founders Day Celebration

Mr. Alexander announced that the fifth Annual Founders Day celebration will be held on Saturday, February 19, 2011 from 11:00 a.m. to 3:00 p.m. at Cutler Ridge Park.

- **RPQ #10-04 – Caribbean Boulevard Design and Engineering Services**

Mr. Alexander reported that 16 proposals were received by town staff, currently under review by the Miami-Dade County (MDC) Small Business Development Department staff for compliance with the goals and the town's joint participation agreement with MDC on Caribbean Boulevard (Coral Sea Road to Southwest 87 Avenue) Roadway Improvement Project, and addressed the procurement procedures involved after the anticipated completion on the review of selected firms by the county.

- **JPA – Old Cutler Road**

Mr. Alexander referred to his discussions held with county staff earlier this day and the efforts to expedite the Old Cutler Road Joint Participating Agreement (JPA) with MDC to be placed on the county commission agenda for consideration.

- **Sewer Main – Caribbean Boulevard**

Mr. Alexander reported on the status of the sewer main on Caribbean Boulevard at the Florida Turnpike's (FTPK) bridge which is 95 percent complete.

Recognizing the Florida governor's budget which includes \$250,000 for stormwater improvements earmarked for the Town of Cutler Bay, Mr. Alexander noted the long legislative process involved to keep the funds in the budget.

- **FP&L Street Lights Installation – Southwest 216 Street/Old Cutler Road**

Mr. Alexander referred to the Southwest 216 Street and Old Cutler Road roadway project improvements; town staff's continued monitoring of same and its contacts with the MDC public works staff, and the anticipated date of completion on street lights installation by the Florida Power and Light Company (FP&L) to be no later than March 15, 2011.

- **Floodplain Management**

Mr. Alexander reported on the increase in the number of telephone inquiries from homeowners who received notices from the Federal Emergency Management Agency (FEMA) affected by the new flood insurance map changes. He announced that town staff is available to provide information on the reduction in the homeowners' insurance.

SUPPLEMENTAL AGENDA ITEM

- **RFP #10-05 - PACE Program Third Party Administrator Services**

Mr. Alexander reviewed his memorandum dated February 14, 2011 regarding the Property Assessment Clean Energy (PACE) Program, a copy of which is filed with the supplemental papers to the minutes of this meeting.

After much discussion and **on motion of Approved the selection committee's recommendation to select Ygrene Energy Fund Inc. as the sole responsive bidder on Request for Proposals #10-05 to provide third party administrator services to the Green Corridor District for a Property Assessment Clean Energy (PACE) Program and accepted the request to provide an agreement for consideration at the next meeting.**

B. TOWN ATTORNEY'S REPORT - Seminar

Mr. Bierman announced that Weiss, Serota, Helfman, Pastoriza, Cole, & Boniske, P.L. will be holding a *Money and Ethics Seminar* on February 25, 2011 from 9:00 a.m. to 3:30 p.m. at the Sheraton Fort Lauderdale Airport Hotel in the City of Dania Beach.

C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS

. Parks and Recreation Subcommittee - The Farmer's Market

Earlier in the meeting, Councilmember Bell recognized the Parks and Recreation Subcommittee's efforts in initiating The Farmer's Market which opened on Sunday, February 13, 2011 on the corner of Southwest 87 Avenue and Old Cutler Road.

Later in the meeting, and on behalf of the council, the mayor congratulated Councilmember Bell for implementing The Farmer's Market and voiced his support towards same within the confines of governmental regulations.

After discussion on the request to permit entertainment use and food, Mr. Alexander reported that staff is currently researching the current issues on the subject site.

The mayor recommended that the town manager work with the town attorney and provide more information to the council.

. CNU

Vice Mayor Sochin referred to the recent trip to the Congress for the New Urbanism (CNU) Florida 6th Annual Statewide Meeting at Seaside, Florida acknowledged that the Town of Cutler Bay does not have a town center, and recognized the increase in population in the future and the need to plan for such growth.

. FLC Fast-Federal Fly-in to Washington, D.C.

Vice Mayor Sochin announced his recent attendance at the Florida League of Cities' Fast-Federal Fly-in to Washington D.C. He reported on the impending budget cuts, the impacts to the Town of Cutler Bay due to its population size of under 50,000, and its ineligibility to receive direct funding

for Community Development Block Grants (CDBG). He recognized a neighboring municipality with a slightly more population eligible to receive grant funding which is aiding towards its development.

Town of Cutler Bay Home Fire

Vice Mayor Sochin recognized the presence of Ms. Ninoksa Martinez who approached him on behalf of Sixto Oquendo who was displaced from his home in the Town of Cutler Bay due to the recent fire and addressed the manner of accepting donations by the town.

After extensive discussion, the council agreed to obtain direction from Mr. Alexander on the town's charitable fundraising efforts. He addressed his plan to explore same with the town attorney and recommended proceeding further with the charitable event at Founders Day to receive contributions dedicated as an initial effort for the fire victims.

SMDCAC Tour

Vice Mayor Sochin referred to the recent tour of the South Miami-Dade County Arts Center; reported on its magnificence, and anticipated the official opening date to be summer 2011.

PSBA

Councilmember Loyzelle pointed out the recent Perrine Baseball-Softball Association (PSBA) annual parade and commended those who worked hard at the event.

i. 2011 Council Meeting Dates

The council discussed at length changing the March 2011 regular council meeting date.

A motion was made by Councilmember Bell and seconded by Councilmember Mixon that the town council change its regular March 16, 2011 meeting to the March 23, 2011 date.

After further discussion, **the mayor called for a roll call vote on the motion with the council members voting as follows:**

Councilmember Bell	Yes
Councilmember Loyzelle	No
Councilmember Mixon	Yes
Vice Mayor Sochin	No
Mayor MacDougall	No

The mayor declared the motion failed to carry. (The regular meeting schedule for 2011 would remain as the third Wednesdays of each month.)

Upon Councilmember Loyzelle's request and by unanimous consent, the council took Consent Agenda Item 6.C. out of order on this evening's agenda.

6. CONSENT AGENDA

C. Parks and Recreation Advisory Committee Appointments

At the mayor's request, Ms. Coulson read into the record the title of the proposed resolution, the substance of which is as follows:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA TO APPOINT ADVISORY COMMITTEE MEMBERS TO THE PARKS AND RECREATION ADVISORY COMMITTEE, AND PROVIDING FOR AN EFFECTIVE DATE. (Loyzelle)

(The résumés of Messrs. Kevin Christian and Roberto Torres are attached.)

Messrs. Torres and Christian were introduced to the town council and gave their background and experience.

On motion of Vice Mayor Sochin, seconded by Councilmember Mixon and unanimously carried, the town council adopted Resolution 11-12 as previously cited.

By unanimous consent, the mayor took the following items out of order on this evening's agenda.

5. REPORTS

C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS

i. Request to Advertise – Charter High School Advisory Committee Vacancy
After discussion, the council agreed with the mayor's suggestion to provide names of interested persons wishing to serve on the Charter High School Advisory Committee to the town clerk who would forward same to Councilmember Mixon.

i. 2011 Council Meeting Dates
A motion was made by Councilmember Mixon and seconded by Councilmember Loyzelle that the council approve the 2011 Council Meeting schedule.

The mayor called for a roll call vote on the motion with the councilmembers voting as follows:

Vice Mayor Sochin	Yes
Councilmember Bell	No

Councilmember Loyzelle	Yes
Councilmember Mixon	Yes
Mayor MacDougall	Yes

The mayor declared the motion carried on a four to one (4-1) vote.

iii. Council Travel:

After discussion and on motion of Vice Mayor Sochin, seconded by Councilmember Loyzelle and unanimously carried, the town council approved the travel requests under items 1), 2), 3), 5); withdrew from consideration at Councilmember Bell’s request item 4) as the workshop is free, and withdrew from consideration at Vice Mayor Sochin’s request item 6):

- 1) Mayor P. MacDougall, Vice Mayor Ernest N. Sochin, Councilmembers Peggy Bell and Mary Ann Mixon to the Orlando, Florida area (location to be announced) on October 28 and 29, 2011 for the Florida League of Cities (FLC) and John Scott Dailey Florida Institute of Government (FIOG) Advanced Institute for Elected Municipal Officials (IEMO);
- 2) Councilmember Mary Ann Mixon to the June 12, 2011 IEMO in Fort Lauderdale to complete the final session of “How to Comply with Open Records and Open Meetings Laws” (approved at the December 6, 2010 Regular Council Meeting);
- 3) Councilmember Sue Ellen Loyzelle to the IEMO on June 10 through 12, 2011 for newly elected officials and those with less than one-year term in office;
- 4) Councilmember Peggy Bell to the April 8, 2011 FLC’s Culture Builds Florida Communities 2011 Regional Workshop Series in Fort Lauderdale (no action was taken as the workshop is free);
- 5) Vice Mayor Ernest N. Sochin and Councilmember Sue Ellen Loyzelle to the April 6 and 7, 2011 FLC’s Miami-Dade County Days in Tallahassee, and
- 6) Vice Mayor Ernest N. Sochin to the FLC’s Legislative Action Days on March 21 and 22, 2011 in Tallahassee (withdrawn).

6. CONSENT AGENDA

On motion of Councilmember Bell, seconded by Vice Mayor Sochin and unanimously carried, the town council approved the following consent agenda items with the exception of Item F which was pulled at the mayor’s request:

- A. **Charter High School Advisory Committee Member Reappointments**
Resolution 11-10 of the Mayor and Town Council of the Town of Cutler Bay, Florida to appoint advisory committee members to the Charter High School Advisory Committee, and providing for an effective date.
- B. **Charter High School Advisory Committee at-Large Member Reappointment**
Resolution 11-11 of the Mayor and Town Council of the Town of Cutler Bay, Florida to reappoint an at-large committee member to the Charter High School Advisory Committee, and providing for an effective date.
- D. **Economic Development Council and Chamber South**
Resolution 11-13 of the Mayor and Town Council of the Town of Cutler Bay, Florida designating one (1) member of the town council to be the town's representative to the Economic Development Council and a council liaison to Chamber South; providing for a term of appointment, and providing for an effective date. (Sochin/Bell)
- E. **Public Notice by Advertising**
Resolution 11-14 of the Mayor and Town Council of the Town of Cutler Bay, Florida, relating to effective public notice; urging the Florida legislature to modify the Florida Statutes to allow for effective public notice by advertising by means other than newspapers, and providing for an effective date.
- F. **Lakes By-The-Bay Park**
The council considered its action on this evening's agenda to adopt a proposed resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, approving an interlocal agreement between Miami-Dade County and the Town of Cutler Bay regarding the Building Better Communities General Obligation Bond Program for Lakes By-The-Bay Park; authorizing the town manager to take any and all steps necessary to effectuate the intent of this resolution, and providing for an effective date.

At the mayor's request, Mr. Alexander gave a brief overview of the subject item.

After discussion and **on motion of Vice Mayor Sochin, seconded by Councilmember Mixon and unanimously carried, the council adopted Resolution 11-15 as previously cited.**

5. REPORTS

C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS

- i. **Report – Charter High School Advisory Committee**
Ms. Rosa Alvarez, Charter High School Advisory Committee Chairperson, gave a report on the committee's previous actions and the current status

on implementing a charter high school. She gave comparisons of other jurisdictions, outlined the different charter schools, and described the application process on managing same.

Vice Mayor Sochin gave an update on the status of the advisory committee and anticipated receiving its recommendation on the selection of a paid consultant to help guide the committee in the right direction.

After much discussion, the mayor requested that the committee make a commitment to a timeframe on the creation of a charter high school and provide a periodical progress report to the council.

QUASI-JUDICIAL PUBLIC HEARING

By unanimous consent, the mayor opened the public hearing.

7. Development Order Amendment – Lakes-By-The Bay South Commons Development

The town council considered its action on this evening's agenda to adopt a proposed resolution – the substance of which is as follows -- amending the development order for the Lakes by-the-Bay South Commons Development.

After Mr. Bierman outlined the quasi-judicial proceedings for this evening's meeting, the witnesses who intended to testify were sworn in by Ms. Coulson.

The mayor requested that Ms. Coulson read the following title and called for interested parties to be heard:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE DEVELOPMENT ORDER FOR THE LAKES BY-THE BAY SOUTH COMMONS DEVELOPMENT GENERALLY LCOATED NORTH OF SOUTHWEST 232 STREET, SOUTH OF SOUTHWEST 216 STREET, EAST OF OLD CUTLER ROAD, AND WEST OF SOUTHWEST 87 AVENUE; DELETING A DEVELOPMENT ORDER ROADWAY CONDITION, AND PROVIDING FOR AN EFFECTIVE DATE.

There being no comments from the public and **by unanimous consent, the mayor closed the public hearing.**

After discussion, and **on motion of Councilmember Bell, seconded by Vice Mayor Sochin, and unanimously carried, the council adopted Resolution 11-15 as previously cited.**

END OF QUASI JUDICIAL PUBLIC HEARING

By unanimous consent, the council considered the following item out of order on this evening's agenda.

**9. ORDINANCES FOR FIRST READING OR RESOLUTIONS REQUIRING A PUBLIC HEARING
Urban Center District Ordinance – Entertainment Center Uses**

The town council considered its action on this evening's agenda to enact a proposed ordinance at first reading to amend Ordinance 06-06 relating to the Urban Center District -- the substance of which is as follows -- the mayor requested that Ms. Coulson read the following title, and called for interested parties to be heard:

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 06-06 RELATING TO THE URBAN CENTER DISTRICT; PERMITTING ENTERTAINMENT CENTER USES WITHIN THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE, AND PROVIDING FOR AN EFFECTIVE DATE.
(MacDougall)

Mr. Glenn Fefferman, applicant, Jump-A-Roos, LLC, announced the company's mission statement and recognized their destination location in promoting families in the town for indoor entertainment at Southland Mall and the surrounding communities.

Mr. Gregory "Gregg" Fefferman, applicant, described the features and benefits of how Jump-A-Roos can complement the community.

In response to the mayor's inquiry, Mr. Bierman addressed the inclusion of a conditional use clause in the proposed ordinance.

After discussion, Mr. Joe Jimenez, attorney from Stearns, Weaver, Miller, Weissler, Alhadeff & Sitterson representing the applicant, concurred with the request to include the conditional use clause and additionally asked for the second clause in Section 2. to be changed to include a free standing property as an enclosed business with a possible direct entrance.

By unanimous consent, the mayor closed the public hearing.

In disagreeing with Mr. Jimenez' request, **a motion was made by Vice Mayor Sochin, seconded by Councilmember Bell and unanimously carried, the council approved the previously cited proposed ordinance at first reading with the direction to the town attorney to include a conditional use clause for consideration at the March 16, 2011 meeting.**

END OF PUBLIC HEARING

SUPPLEMENTAL AGENDA ITEM

8. ORDINANCES FOR FIRST READING (PUBLIC HEARING NOT REQUIRED)

Certificate of Use Ordinance – Residential Properties

Ms. Coulson read the title of the following proposed ordinance requiring a certificate of use to be obtained for residential properties, and called for interested parties to be heard:

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 33-8 OF THE CODE OF THE TOWN OF CUTLER BAY, FLORIDA, REQUIRING A CERTIFICATE OF USE BE OBTAINED FOR RESIDENTIAL PROPERTIES THAT ARE BEING RESOLD WITHIN THE TOWN; REQUIRING CERTIFICATION OF COMPLIANCE WITH APPLICABLE BUILDING CODES AND ZONING CODES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Alexander addressed the problem of suspected illegal construction and remodeling activities within residential properties without complying with proper code permit requirements from the town and the ability to allow staff's inspection of same.

The mayor called for interested persons to be heard:

Messrs. Arthur Nanny and Steve Zarzecki, Town of Cutler Bay residents, appeared in opposition to the subject proposed ordinance and Mr. Zarzecki suggested that the council postpone the issue to next month until a decision is made as to what can be done.

Following extensive discussion, **a motion was made by Vice Mayor Sochin and seconded by Councilmember Mixon that the council postpone its action on the proposed ordinance as previously cited to thirty (30) days for staff to provide more information.**

After discussion, the mayor recommended that the council members communicate with the town attorney on the subject matter and addressed the possibility of holding a workshop on same.

The mayor called for a vote on the motion and declared it carried unanimously.

PUBLIC HEARING

10. ORDINANCES FOR SECOND READING

Capital Improvement Element Ordinance – Annual Update to Comprehensive Plan

The proposed Capital Improvement Element Ordinance (CIE), as detailed below, was withdrawn at staff's request.

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE ANNUAL UPDATE TO THE CAPITAL

IMPROVEMENTS ELEMENT WITHIN THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE ADOPTION OF THE ANNUAL UPDATE TO THE MIAMI-DADE COUNTY PUBLIC SCHOOLS FACILITIES WORK PROGRAM; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

END OF PUBLIC HEARING

11. PUBLIC COMMENTS

Mr. Arthur Nanni, commended the council and the staff for their continued negotiations relating to Old Cutler Road and anticipated that the council resolve the proposed ordinance requiring a certificate of use.

Later in the meeting, Mr. David Siegal, Southland Mall Executive Director, agreed to utilize a section at the mall to install a drop box and solicit assistance to the fire victim.

12. MAYOR AND COUNCIL COMMENTS

CNU

Councilmember Bell recognized that the consultants who recently participated at the CNU who resides in the Kendall community. It was requested that they appear before the council and give an overview of their plans and provide a cost-effective method in approaching smart growth as referenced earlier in the meeting under council announcements made by the vice mayor. Councilmember Bell requested that staff initiate the effort.

Jackson South Community Hospital

Councilmember Loyzelle reported on her recent attendance at the grand opening of the new medical tower at Jackson South Community Hospital. It was encouraged that the councilmembers visit the newly opened facility.

Council Assignments

The Mayor identified the councilmembers' following talents, involvements, and achievements:

Vice Mayor Sochin	Communications
Councilmember Bell	Parks
Councilmember Loyzelle	Grants
Councilmember Mixon	Environmental Issues

The mayor suggested that the councilmembers contact the town attorney and discuss with the town manager how they wish to proceed in this regard.

EDC

It was recognized that the vice mayor has been appointed earlier in this evening's meeting to serve as the town's representative on the EDC (Consent Agenda Item 6.D). The mayor recognized that Village of Pinecrest

Councilmember Joseph “Joe” Corradino -- Coradino Group and EDC Chair -- was present earlier at this evening’s meeting.

The mayor reported that the EDC is currently offering workshops, working to help municipalities become involved by participating in aiding businesses to utilize vacant office and commercial spaces and reduce the number of fees involved.

· **Urban Chicks**

The mayor referred to a constituent’s previous conversation with him about urban eggs; her study which was subsequently conducted and presented to him, and the dissemination of said information, at his request, to the council. The mayor addressed his plan to invite her give a presentation before the council at its March 16, 2011 meeting.

· **iTunes/iPad**

The mayor announced the effort to go green by reducing paper and assist the town clerk’s office in limiting same. The mayor addressed the plan to meet with an iTunes/Apple Store representative for training.

· **Mayors’ Jump - US Army Parachute Team – “Golden Knights”**

An announcement was made that Vice Mayor Sochin and the mayor will be jumping approximately 12,000 feet from a plane at Homestead Air Reserve Base on February 26, 2011 with the United States Army Parachute Team “Golden Knights”. Councilmember Mixon volunteered to participate.

13. OTHER BUSINESS

There was no other business to come before the council at this time.

14. ADJOURNMENT

There being no further business to come before the council, and on motion made, seconded and unanimously carried, the meeting adjourned at 10:45 p.m.

The minutes were approved at the March 16, 2011 Regular Council Meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, Mayor

TOWN OF CUTLER BAY TOWN COUNCIL ZONING WORKSHOP MEETING MINUTES

Wednesday, February 2, 2011, 7:00 p.m.
Cutler Ridge Park
Southwest 200 Street
Cutler Bay, Florida 33189

COUNCIL MEMBERS PRESENT:

Mayor Edward P. MacDougall
Councilmember Peggy Bell
Councilmember Mary Ann L. Mixon
Councilmember Ernest N. Sochin
Councilmember Sue Ellen Loyzelle

ALSO PRESENT:

Town Attorney Chad Friedman
Town Clerk Esther B. Coulson

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

The mayor called the workshop meeting to order at 7:30 p.m.; requested that Ms. Coulson call the roll and with a quorum present, he led in the Pledge of Allegiance to the Flag.

Mr. Friedman outlined the procedures for this evening's workshop on the proposed development before it is considered by the council during the public hearing process.

SECOND SESSION - ZONING APPLICATION

Applicant: Chase Bank - Location: 18415 South Dixie Highway

Mr. Graham Penn, attorney for the applicant, introduced the representatives present at this evening's meeting and gave an overview of the subject property.

After Mr. David Bell reviewed the plan, the council expressed concerns on the applicant's explanation to not have the building registered as Leadership in Energy and Environmental Design (LEED) certified.

After the council discussed the size, design and location of the signs, the applicant agreed to review the application and make modifications before appearing before the council at a future meeting.

MAYOR AND COUNCIL COMMENTS

2011 CBBA Membership Renewal

After discussion and **upon the suggestion of Councilmember Bell, the council, by unanimous consent, agreed that the town purchase a corporate membership for 2011 with the Cutler Bay Business Association.** (The rates for a membership of six, \$250 and an individual member, \$100 and attending luncheon meetings would be \$10 instead of \$20 which would include any guest; namely, the town manager and department directors.)

- **Erin O'Donnell, Assistant to the Town Clerk**
On behalf of the council, the Mayor recognized Ms. Erin O'Donnell's recent marriage and the council extended their best wishes to her and her husband Brendan.
- **Chevy Tahoe – Town Vehicle**
Upon the Mayor's suggestion and **by unanimous consent, the town council directed the town clerk to notify the town manager to ensure that the Chevy Tahoe, one of the town's vehicles, be available for councilmembers to utilize as needed in accordance to the town vehicle policy for employees.**
- **iPad**
In keeping with the town's green initiative and in order to reduce the amount and the number of hours spent in generating paper, the Mayor suggested the possible conversion, in the future, of the council's meeting agenda onto the iPad.

OTHER BUSINESS

ADJOURNMENT

There being no further business to come before the council at this time, the meeting adjourned at 9:31 p.m.

The workshop minutes were approved at the, 2011 Regular Council Meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, Mayor

TAB 2

RESOLUTION 11

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA TO APPOINT ADVISORY COMMITTEE MEMBERS TO THE PARKS AND RECREATION ADVISORY COMMITTEE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 19, 2006, the Town of Cutler Bay (the “Council”) Town Council adopted Resolution 06-97 creating the Parks and Recreation Advisory Committee (the “Committee”) with regard to the usage of the parks and recreational facilities within the town; and

WHEREAS, on September 23, 2009, the council adopted Resolution 09-74 expanding the duties of the committee to include town community events and cultural programs and appointed members to the committee; and

WHEREAS, on July 21, 2010, the council enacted Ordinance 10-08 establishing general regulations and procedures governing the operation and selection of all existing, established and future boards; and

WHEREAS, the terms of the advisory committee members expired due to the previous councilmember’s expired term; and

WHEREAS, Ernest Sochin was appointed as Vice Mayor on December 6, 2010 and has the right to appoint committee member Mr. Brian Smith to a vacant seat; and

WHEREAS, the town finds that this resolution will promote the health, safety and welfare of the town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. **Appointment of Advisory Committee Members.** The council shall appoint advisory committee member Mr. Brian Smith to the Parks and Recreation Advisory Committee.

Section 3. **Effective Date.** This resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this 16th day of March, 2011.

Edward P. MacDougall, Mayor

Attest:

Esther B. Coulson
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____

Vice Mayor Ernest N. Sochin _____

Councilmember Peggy R. Bell _____

Councilmember Mary Ann Mixon _____

Councilmember Sue Ellen Loyzelle _____

Resumé submitted for appointment to Cutler Bay Parks Committee.

Brian Smith
(Wife Mary)

Address: 18745 SW 84 Court
Cutler Bay Florida

E-mail: brian.smith18745@comcast.net

Phone 305-235-8860
Cell : 305-283-3520

History

25 Years employed with Fire Rescue, City of Hallandale
Plans to retire end of March 2011

6 year affiliation with Fairchild Gardens specializing in native plants etc.

Responsible for clean-up and replanting on the property adjoining Pinewood Villas.

This was a volunteer effort in which Brian organized scout troops, students, church groups as well as local citizens to participate with no reward other than the beautification of a neglected area

Resident of Cutler Bay since 1972

TAB 3

RESOLUTION 11-_____

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL
OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING
THE EDUCATIONAL COMPACT ADVISORY
COMMITTEE; PROVIDING FOR TRANSMITTAL; AND
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Town of Cutler Bay (the “Town”) would like to partner with the Miami-Dade County Public Schools (the “District”) to bring together each organization’s collective resources for the benefits of the students and residents within the Town; and

WHEREAS, to accomplish this goal, the Town Council desires to explore a possible educational compact with the District; and

WHEREAS, the Town Council also desires to create a committee in order to assist the Town in preparing such a compact with the District; and

WHEREAS, the Town Council finds that this Resolution is in the best interest and welfare of the residents of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN
COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Educational Compact Advisory Committee Created. The Town Council hereby creates a citizen committee, to be known as the Educational Compact Advisory Committee to study, advise, prepare and make recommendations to the Town Council regarding a proposed educational compact with the District. The Committee shall prepare a final report in accordance with Ordinance 10-08, which shall include a draft compact. Councilmember Bell is hereby appointed Council liaison to the Committee and shall report to the Council as to the Committee’s activities on a regular basis. The Council liaison shall not be considered a member of the Committee.

Section 3. Composition of Committee. The Committee shall consist of five (5) citizens of the Town. Each member of the Town Council shall appoint one person to the Committee. Committee qualifications shall be in accordance with Ordinance 10-08.

Section 4. Dissolution of Committee. The Committee shall dissolve upon delivery of the Committee’s final report to the Town Council.

Section 5. Transmittal. The Town Clerk is hereby authorized to transmit this Resolution to the District Superintendent and the Vice Chair of the School Board Dr. Lawrence S. Feldman.

Section 6. **Effective Date.** This resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this _____ day of _____, 2011.

EDWARD P. MACDOUGALL, Mayor

Attest:

ESTHER LEWIN-COULSON
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____

Vice Mayor Ernest N. Sochin _____

Councilmember Peggy R. Bell _____

Councilmember Mary Ann Mixon _____

Councilmember Sue Ellen Loyzelle _____

TAB 4

RESOLUTION NO.

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, SUPPORTING AND ENDORSING THE SOUTH FLORIDA PARKS COALITION CHARTER AND THE PRINCIPLES ON WHICH IT STANDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, parks, open spaces and preserves are vital to the quality of life of all residents of Miami-Dade County; and

WHEREAS, the Town of Cutler Bay is committed to the fundamental and abiding values of equity, recreation opportunity and environmental stewardship; and

WHEREAS, the South Florida Parks Coalition is comprised of park and recreational professionals from all city, county and state and federal jurisdictions; and

WHEREAS, the South Florida Parks Coalition is dedicated to building a model park system that will promote a greener, healthier, and more livable South Florida community; and

WHEREAS, The South Florida Park Coalition is created to foster a seamless, connected, and sustainable parks system for the South Florida community; and

WHEREAS, The South Florida Parks Coalition will meet, collaborate, coordinate and share knowledge and professional expertise regarding park, recreation and conservation open spaces; and

WHEREAS, the town council finds that this resolution is in the best interest and welfare of the residents of the town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. South Florida Parks Coalition. The Town Council hereby endorses the Charter of the South Florida Parks Coalition, attached and included by reference, and fully supports the principles on which it stands.

Section 3. Effective Date. That this Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this _____ day of _____, 2011.

EDWARD P. MACDOUGALL, Mayor

Attest:

ESTHER LEWIN-COULSON
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall	_____
Vice Mayor Ernest N. Sochin	_____
Councilmember Peggy R. Bell	_____
Councilmember Mary Ann Mixon	_____
Councilmember Sue Ellen Loyzelle	_____

SOUTH FLORIDA PARK COALITION

A COALITION OF CITY, COUNTY, STATE AND FEDERAL PARKS IN MIAMI-
DADE COUNTY

CHARTER

Preamble:

The South Florida Park Coalition is created to foster a seamless, connected, and sustainable parks system for the South Florida community. The Coalition will meet, collaborate, share knowledge and professional expertise regarding park, recreation and conservation open spaces.

Our work is rooted in the fundamental values of recreation opportunity and environmental stewardship. It is dedicated to building a model park system that will promote a greener, healthier, and more livable South Florida community.

We believe that a model park system consists of parks and public spaces, recreation facilities, greenways, blueways, great streets and conservation lands.

We believe that a sustainable, model Park System must be planned and created with an eye to its impact on the neighborhood, city, county and region as a whole. It must be effective, efficient, fair and balanced. It must work with other public and private agencies; and it must enhance the health, safety, happiness and well-being of all residents and visitors to South Florida, now and in the future.

We believe that a model park system is integral to social, environmental and economic sustainability; it must become a vital part of everyday human experience; it must be connected spiritually and physically; and it must provide accessibility for people of all means and abilities. The model Park System must raise the quality of life for the region and inspire generations of people to care for and contribute to their communities.

Based on the beliefs of equity, access, beauty, seamlessness, sustainability and multiple benefits,

We assert that the Model Park System shall:

- Ensure an accessible, diverse and balanced system of passive and active recreation opportunities that promote safety, security and healthy lifestyles.

- Ensure the preservation, protection and enhancement of ecological resources to sustain and preserve biodiversity and the environmental health of the region.
- Ensure the preservation, protection and enhancement of cultural resources to sustain landscapes and their historical and heritage features.
- Ensure that park, recreation and conservation open spaces guide the shape of urban form.
- Ensure that there is no net loss of park, recreation or conservation lands and mandate replacement of land of equal value, context and significance.
- Ensure community stewardship of park, recreation, and conservation open spaces by fostering educational and recreational programming, civic art, volunteerism and support of philanthropic and grassroots organizations.
- Ensure the continual enhancement of economic development and quality of life in the region by partnering and collaborating with the business community.
- Ensure the equitable distribution of park, recreation and conservation open spaces for all communities in the region.
- Ensure and support responsible growth to conserve environmental and cultural resources, promote economic investment, and support neighborhood stability, while reclaiming marginal and abandoned areas.
- Ensure the support and development of an interconnected framework of transportation alternatives such as transit, pedestrian, bicycle and waterway systems that link parks, recreation and conservation open spaces to each other and to communities.
- Ensure high standards of design excellence, innovation and beauty to support economic, social and environmental sustainability of the region.

TAB 5

RESOLUTION

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ESTABLISHING A POLICY RELATING TO THE ADDITION OF ITEMS TO THE TOWN COUNCIL MEETING AGENDA, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of Cutler Bay desires to establish procedures for introducing or submitting items to the town council meeting agenda once the agenda has been published by the town clerk; and

WHEREAS, by requiring that no items be added to a town council agenda within forty-eight (48) hours of the meeting this will allow the public and the town council adequate time to review items on the agenda; and

WHEREAS, the town council finds that this resolution is in the best interest of the residents and will promote the health, safety and welfare of the town; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. **Ordinances and Resolutions.** The town council hereby adopts a policy that no resolutions or ordinances shall be added to a town council agenda within forty-eight (48) hours of a town council meeting. However, during a town council meeting, the agenda may be modified to include additional resolutions or ordinances if approved by majority vote of the town council.

Section 3. **Effective Date.** This resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this 16th day of March, 2011.

Edward P. MacDougall, Mayor

Attest:

Esther B. Coulson
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By: Councilmember Bell
Seconded By: Vice Mayor Sochin

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____
Vice Mayor Ernest N. Sochin _____
Councilmember Peggy R. Bell _____
Councilmember Mary Ann Mixon _____
Councilmember Sue Ellen Loyzelle _____

TAB 6

ORDINANCE NO. 11- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING REGULATIONS RELATING TO THE USE OF TOWN BUILDING FACILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) would like to make available to the public the use of rooms within town building facilities for recreational, cultural, civic, and educational events and activities; and

WHEREAS, in order to ensure that the town’s building facilities are used in an appropriate manner, the town council desires to adopt regulations relating to the use of town facilities; and

WHEREAS, the town Council finds that this ordinance is in the best interest and welfare of the residents of the town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS¹:

Section 1. Findings. The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this ordinance.

Section 2. Use of Town Building Facilities. The town council hereby adopts the following ordinance:

- A. Use of Town Building Facilities. Individuals, groups, and organizations may use a town building facility for recreational, cultural, civic, and educational events and activities, subject to the issuance of a permit and compliance with the rules and regulations contained in the town code of ordinances. However, town building facilities shall not be used for political campaign related events and activities.
- B. Duration of Use. The use of a town building facility is restricted to the date and time listed in the permit, and the individual, group or organization using the facility. The town may issue an annual permit to an individual, group, or organization if there is an ongoing and regular use of a facility.
- C. Care of Town Building Facility.
 - 1. *Set Up and Clean Up.*

¹ Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

The individual, group, or organization using the town building facility shall be responsible for setting up for the permitted event or activity and cleaning up the facility at the conclusion of the event or activity, including, but not limited to, removing all materials, garbage, and debris from the facility. No materials may be stored within the facility, without the express written permission of the town.

2. *Damage to Town Building Facility.*

The individual, group, or organization using the town facility shall assume all liability for damage to or theft of town property, facilities, or equipment or property or equipment of the individual, group, or organization resulting from its use. No town building facility may be structurally altered or otherwise modified without the advance, written approval of the town.

3. *Cleaning or Damage Deposit.*

For certain events or activities or the use of certain building facilities, the town may require the individual, group, or organization to post a deposit with the town at the time of submission of a permit application to cover any cleaning or damage expenses. The cleaning and damage deposit will be refunded if the town building facility is not damaged and is left in an orderly condition.

D. Application for Use of Town Facilities. An application for a permit to use a town building facility shall be submitted to the town manager or designee not less than thirty (30) days prior to the proposed use. The following information and documentation shall be included with the application:

1. *Event Information.*

The applicant shall provide the following information relating to the event: (a) name of the individuals, groups, and organizations using the facility; (b) facility requested; (c) contact information, including address, phone, and email; (d) description/purpose of the event; (e) agenda for event; (f) date and time of the event; and (g) projected attendance.

2. *Permit fee.*

The town may charge a permit fee in an amount calculated to reimburse the town for the use of town personnel, equipment, and property in connection with the applicant's proposed use of the town building facility.

3. *Certificate of Insurance.*

The town may require an applicant to provide proof of insurance in an amount and in a form approved by the town and to submit a certificate of insurance with the application.

4. *Indemnification and hold harmless*

The application shall include a signed indemnification and hold harmless agreement, in a form provided by the town, providing that the applicant agrees to indemnify, defend, and hold the town, its officers, employees and agents, harmless from any loss, damage, expense, claim and cost of every nature and kind whatsoever, including attorney's fees, arising out of or in connection with the applicant's use of the town's building facility, during or in conjunction with the activity or event described in the permit.

- E. Renewal of Permit. Renewal of a permit to use a town building facility shall be contingent on the satisfactory care of town facilities, property, and equipment, and strict observance of all rules and regulations governing the use of town building facilities.
- F. Violation of this Ordinance. A violation of the provisions of this ordinance shall result in the revocation of the permit and a code enforcement violation enforced pursuant to the town's code enforcement procedures.

Section 3. Severability. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

Section 4. Conflict. All sections or parts of sections of the code of ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this ordinance are repealed to the extent of such conflict.

Section 5. Effective Date. This ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____, 2011.

PASSED AND ADOPTED on second reading this ___ day of _____, 2011.

EDWARD P. MACDOUGALL, Mayor

Attest:

ESTHER B. COULSON
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____
Vice Mayor Ernest N. Sochin _____
Councilmember Peggy R. Bell _____
Councilmember Mary Ann Mixon _____
Councilmember Sue Ellen Loyzelle _____

TAB 7

ORDINANCE NO. 11-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING OUTDOOR MARKET REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, outdoor markets within the Town of Cutler Bay (the “Town”) allow residents to obtain locally grown, healthy, and affordable foods or other goods; and

WHEREAS, such markets help support local business as well as the local economy; and

WHEREAS, the town council finds it necessary to encourage outdoor markets, but also provide reasonable regulations in order to protect the residents of the town; and

WHEREAS, the town council, sitting as the Local Planning Agency, has reviewed this ordinance and recommends approval; and

WHEREAS, the town council finds that this ordinance is in the best interest and welfare of the residents of the town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS¹:

Section 1. Findings. The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this ordinance.

Section 2. Outdoor Market Regulations. The town council hereby adopts outdoor market regulations as follows:

1. **Outdoor market.** An “outdoor market” shall mean an open air market where food and handmade products from natural materials are sold, and animal rides are offered.
2. **Minimum lot size.** The minimum lot size for an outdoor market shall be two and one-half (2½) acres.
3. **Application and Approval.** An application, on a form provided by the town, shall be filed by the property owner or authorized agent prior to an outdoor market occurring within the town. Upon the filing of a complete application, including the applicable permit fee, town staff shall review the application for consistency with the requirements of this ordinance. After review, the town manager or designee may approve, approve with conditions, or deny the application.

¹ Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

4. Market Manager. Each outdoor market shall have a designated market manager who is in charge of running the market and enforcing all applicable health and safety regulations. The market manager shall provide his or her address, telephone number(s), and email address to the town prior to the event occurring.
5. Hours of Operation, Days, and Set Up Time.
 - a. Hours of Operation. An outdoor market may be operated within the town between the hours of 9:00 a.m. and 3:00 p.m.
 - b. Days. An outdoor market on a property shall occur only on a Saturday or Sunday but not on both days.
 - c. Set Up Time. An outdoor market shall be set up a maximum of two (2) hours prior to the event occurring.
6. Site Plan. A site plan shall be submitted, which depicts, at a minimum, the location of vendors, ingress and egress, parking, and setbacks.
7. Tables and Tents. All uncooked food, goods, or products shall be located on tables and under prefabricated tents. Tents shall be a maximum of ten (10) feet x ten (10) feet, unless otherwise approved by the town.
8. Setbacks. An outdoor market, including, but not limited to, vendors, tents, tables, and chairs shall have a minimum setback from the property line as follows: (a) Front: twenty (20) feet; (b) Side: ten (10) feet if side street, twenty (20) feet if adjacent to residential; and (c) Rear: twenty (20) feet.
9. Off-Street Parking. The minimum off-street parking requirements for an Outdoor Market shall be as follows: (a) 1 parking space per stall for customer parking; (b) 1 oversized space for truck/trailer parking per stall; and (c) 1 parking space for every 250 square feet of eating or seating or other areas used for additional activities. On-street parking shall be prohibited.
10. Music. Music may be permitted if the music is not capable of being heard beyond the outdoor market's property line.
11. Cooked food. An outdoor market may include cooked food upon the applicant demonstrating approval by all applicable county and state agencies, which may include, but are not limited to, the county health and fire department as well as the Florida Department of Business and Profession Regulation.
12. Pony rides. Pony rides may be permitted if located in a designated area, with a fence to contain the rides so that they are not going into or around the areas where food is served or consumed. The fenced areas should not be near the parking or driving areas.

Prohibitions. The following shall be prohibited at outdoor markets:

- a. alcoholic beverages (consumed or sold);
 - b. bandstand or stage;
 - c. animals or livestock, except for ponies used for pony rides; and
 - d. games, mechanical rides, or other amusement devices.
13. Clean Up. The market manager shall be responsible for the clean up of the outdoor market. The outdoor market shall be completely cleaned up within two (2) hours after the closing of the market, which includes, but is not limited to, the removal of all trash, tents, tables, and vendors.
14. Indemnification and Hold Harmless. If the outdoor market is to be held on town-owned or leased property, the person or entity organizing the outdoor market shall agree to enter into an indemnification and hold harmless agreement with the town in a form acceptable to the town attorney.
15. Enforcement. A violation of the provisions of this ordinance or any condition of approval shall result in the revocation of the permit and a code enforcement violation enforced pursuant to the town's code enforcement procedures.

Section 3. Sunset. The provisions of this ordinance shall sunset on December 31, 2011.

Section 4. Severability. If any section, clause, sentence, or phrase of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this ordinance.

Section 5. Conflict. All sections or parts of sections of the code of ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this ordinance are repealed to the extent of such conflict.

Section 6. Effective Date. This ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____, 2011.

PASSED AND ADOPTED on second reading this ___ day of _____, 2011.

EDWARD P. MACDOUGALL, Mayor

Attest:

ESTHER B. COULSON
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____
Vice Mayor Ernest N. Sochin _____
Councilmember Peggy R. Bell _____
Councilmember Mary Ann Mixon _____
Councilmember Sue Ellen Loyzelle _____

TAB 8

ORDINANCE NO.

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 06-06 RELATING TO THE URBAN CENTER DISTRICT; PERMITTING ENTERTAINMENT CENTER USES WITHIN THE DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 6, 2006, the Town Council of the Town of Cutler Bay (“the Council”) enacted Ordinance 06-06 creating the Urban Center District (the “District”) within the Town; and

WHEREAS, currently entertainment center uses are not allowed within the District; and

WHEREAS, the Town Council desires to permit such uses within the District; and

WHEREAS, the Town Council, sitting in its capacity as the Local Planning Agency, has reviewed the proposed Ordinance and recommends approval; and

WHEREAS, the Town Council finds these changes to be in the best interest and welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS:

Section 1. **Findings.** The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. **Ordinance 06-06.** The Town Council hereby amends Ordinance 06-06 as follows:

Section 2. **Uses.** The following uses are permitted within the UCD:

A. Permitted Uses. Except as provided herein, all permitted, conditionally permitted, and temporary uses within the UCD shall comply with Section 33-284.83 of the County Code. An entertainment center use may be permitted if: (1) the use is no larger than 20,000 square feet; and (2) the use is internal to an enclosed mall and has no external access to and from the parking lot. In addition to all uses permitted in the Industrial District (ID) under Section 33-284.83 of the County Code, all uses permitted in the Mixed-Use Corridor (MC) shall be permitted within the Industrial District (ID).

Section 3. **Severability.** If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 4. Conflict. All Sections or parts of sections of the code of ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this ordinance are repealed to the extent of such conflict.

Section 5. Effective Date. This ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____, 2011.

PASSED AND ADOPTED on second reading this ___ day of _____, 2011.

EDWARD P. MACDOUGALL, Mayor

Attest:

ESTHER B. COULSON
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____

Vice Mayor Ernest N. Sochin _____

Councilmember Peggy R. Bell _____

Councilmember Mary Ann Mixon _____

TAB 9



Office of the Town Manager

Steven J. Alexander
Town Manager

MEMORANDUM

To: Mayor and Town Council

From: Steven Alexander

Date: November 8, 2010

Re: Growth Management Plan Amendment / Capital Improvement Element

Section 163.3177 of the Florida Statutes requires local governments to update the Capital Improvements Schedule of the Growth Management Plan (GMP) on an annual basis. The attached amendment has been updated (starting on page 11) to reflect planned and programmed project revisions for the five year period beginning 2010 through 2014. The amendment updates project lists from the 2009 schedule in strikethrough and underline formatting to reflect current funding levels, sources, and construction timetables.

The amendment also includes a revision to the Educational Facilities Element Policy EDU-2F to adopt the September, 2010 version of the Miami-Dade County Public Schools District Facilities Work Program. This modification is shown on the bottom of page 15 of the amendment.

The primary purpose of the CIE update is to stay abreast of the facility needs of the community and to ensure that the deficiencies as well as the improvements identified in the other elements of the GMP are programmed and corrected accordingly over time. The Town's Growth Management Plan was determined by the State to be fully in compliance on October 28, 2008.

RECOMMENDATION:

Staff recommends adoption of the amendment to the Capital Improvement Element of the Town of Cutler Bay Growth Management Plan in compliance with State requirements to update the capital improvement schedule on an annual basis.



ORDINANCE NO. 10-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE ANNUAL UPDATE TO THE CAPITAL IMPROVEMENTS ELEMENT WITHIN THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE ADOPTION OF THE ANNUAL UPDATE TO THE MIAMI-DADE COUNTY PUBLIC SCHOOLS FACILITIES WORK PROGRAM; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, local governments are annually required to update the Capital Improvements Element contained in their comprehensive plans in order to ensure that the required level of service standard for the public facilities listed in Section 163.3180, Florida Statutes are achieved and maintained over the planning period, and

WHEREAS, the Town of Cutler Bay (the "Town") Town Council, sitting in its capacity as the Local Planning Agency, has recommended approval of the proposed amendments to the Capital Improvements Element and Miami-Dade County Public School Facilities Work Program within the Town's Comprehensive Plan ("Comprehensive Plan"), and

WHEREAS, the Town Council finds that this ordinance is consistent with the Comprehensive Plan; and

WHEREAS, the Town Council hereby finds that adoption of this ordinance is in the best interest and welfare of the residents of the town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA:

Section 1. Recitals Adopted. The recitals set forth above are true and correct and incorporated herein by this reference.

Section 2. Adoption of the Capital Improvements Element and Miami-Dade County Public Schools Facilities Work Program Update. The Town Council hereby adopts the annual update to the Capital Improvements Element and Miami-Dade County Public School Facilities Work Program, which is attached to this ordinance as Exhibit "A."

Section 3. Conflicts. All ordinances or code provisions in conflict herewith are hereby repealed.

Section 4. Severability. The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any

reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Effective Date. This ordinance shall be effective immediately upon passage by the Town Council on second reading, except that the effective date of these plan amendments approved by this ordinance shall be the date a final order is issued by the Department of Community Affairs or Administration Council finding the plan amendments in compliance in accordance with Section 163.3184, Florida Statutes, whichever occurs earlier. The Department of Community Affairs notice of intent to find the plan amendments in compliance shall be deemed to be a final order if no timely petition challenging the plan amendments is filed.

PASSED on first reading this 14th day of November, 2010.

PASSED and ADOPTED on second reading this ____ day of _____, 2011.

EDWARD P. MACDOUGALL, Mayor

Attest:

ESTHER B. COULSON
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Mary Ann Mixon _____

Councilmember Ernest N. Sochin _____

**Town of Cutler Bay
Capital Improvement Element Amendment**

November 9, 2010

Introduction

The following amendment application consists of proposed revisions to the Capital Improvements Element for the Town of Cutler Bay. The Town was incorporated in November 2005 and adopted its first Growth Management Plan in April 2008. The plan was determined by the State to be fully in compliance on October 28, 2008. This is the second update to the Capital Improvements Element since the plan was adopted.

This amendment consists of updates to the data and analysis required by Florida law and revisions to the Capital Improvement Schedule. The data and analysis consists of the public facilities capacity analysis and revenue and expenditure projections. The amendment includes copies of the current Capital Improvement Schedule with strikethrough formatting to indicate the table is being updated with new information.

This amendment also consists of a revision to Educational Facilities Element Policy EDU-2F to adopt the most recent version of the Miami-Dade County Public Schools 5-Year District Facilities Work Program.

Public Facilities Capacity Analysis

Ensuring the availability of services and infrastructure to serve the existing and future population and land uses is an important function of the Growth Management Plan. The Growth Management Plan establishes levels of service for key facilities and infrastructure, including roadways, mass transit, potable water, sanitary sewer, drainage, and parks and recreation. The Capital Improvements Schedule identifies planned and programmed capital improvements that will be implemented by the Town and other agencies in order to meet or exceed the Level of Service standards, or otherwise implement the Growth Management Plan. In order to be financially feasible, revenues adequate to fund the projects identified as “funded” on the Capital Improvements Schedule must be demonstrated.

The following analysis of facility capacity demonstrates that the proposed capital improvements will maintain the LOS standards of the Town.

Potable Water

LOS Standard – The Town’s Level of Service Standard for potable water is as follows:

Regional Treatment – System shall operate with a rated capacity that is no less than 2% above maximum daily flow for the preceding year.

User LOS – Maintain capacity to produce and deliver 155 gallons per capita per day (gpd).

Water Quality – Meet all County, State and federal primary potable water standards.

Countywide storage – Storage capacity for finished water shall equal no less than 15% of Countywide average daily demand.

With the exception of a few enclaves that remain on private wells, the Town is provided with potable water services through the Miami-Dade Water and Sewer Department (WASD). The Town shall coordinate with WASD on an ongoing basis in the delivery of potable services within its boundaries, and with the South Florida Water Management District in the management of the regional water supply.

The Alexander Orr Water Treatment Plant serves the Town of Cutler Bay. This plant has a capacity of 172 million gallons per day, which will increase to 205 million gallons per day by 2020 as a result of programmed improvements. Tables INF-2 and INF-3 in the support component of the Infrastructure Element provides potable water supply and demand analysis through 2020 for demand and 2030 for supply. This analysis indicates that the Town will meet its Level of Service standard for potable water through the planning period. The Town has not programmed any capital improvements related to water facilities.

Sanitary Sewer

LOS Standard – 100 gallons per capita per day (gpd).

With the exception of a few enclaves that remain on septic tanks, the Town is provided with sanitary sewer services through the Miami-Dade Water and Sewer Department (WASD). The Town shall coordinate with WASD on an ongoing basis in the delivery of sewer services within its boundaries.

The Town is located in WASD’s South Sewer Service District. The South Sewer District Plant has a design flow capacity of 112 million gallons per day. By 2010 the plant’s capacity will increase to 131 million gallons per day as a result of programmed improvements. Table INF-5 in the support component of the

Infrastructure Element documents the Town's existing and projected wastewater demand through the planning period. As demonstrated, the Town will meet its Level of Service standard for sanitary sewer service through the planning period. The Town has not programmed any capital improvements related to sanitary sewer facilities.

Drainage

LOS Standard – The Town's Level of Service Standard for stormwater drainage is as follows:

Quality - The drainage and performance standards established in Chapter 62-25, 25.015, F.A.C., as amended with treatment of the first inch of rainfall to meet water quality standards required by Chapter 62-302, 862-302.500, F.A.C., as amended.

Quantity – Post-development runoff should not exceed the pre-development runoff for a 25-year storm event, up to and including an event with 24-hour duration. In addition, the Standard requires onsite treatment of the first inch of rainfall or the first half-inch of runoff, whichever is greater.

Most of the Town is located within Zone AE, the 100-year floodplain. The purchase of flood insurance is mandatory in these areas. The Town also includes areas within Zone X and Zone X-500. Zone X corresponds to areas outside of the 100 year floodplain, areas where 100 year sheetflow flooding at a depth of one foot or less may occur, or areas protected from 100 year floods by levees. Zone X-500 corresponds to the 500 year floodplain.

Stormwater drainage has been an ongoing challenge in the Town, particularly the areas of marl and muck soils east of Old Cutler Road. In 2007, the Town completed a Stormwater Master Plan and in 2008 assumed stormwater drainage responsibilities from the County. The Stormwater Master Plan includes a detailed inventory of the stormwater system and projected deficiencies, and a program to correct these deficiencies.

The Town has recently completed two new stormwater drainage improvement projects financed in fiscal year 2009/10. The Caribbean Boulevard stormwater drainage project received funding through the County PTP Funds as part of an overall upgrade to this roadway. The Saga Bay and Bel Aire neighborhoods received funding from FDEP in addition to being funded by the stormwater utility fee which was transferred from Miami-Dade County to the Town.

Solid Waste

LOS Standard – A collection capacity of 9.9 lbs. per capita per day, and disposal capacity sufficient to accommodate waste flows committed to the system through long-term interlocal agreements and contracts and non-committed solid waste flows for a period of five years.

The Town of Cutler Bay is provided with collection and disposal service through the Miami-Dade County Department of Solid Waste Management. The Town's solid waste is disposed of at the South Dade Landfill, which is located south of the Town Limits, or is processed through the Resources Recovery facility. As noted in the Infrastructure Element support component, the County's collection and disposal capacity will be sufficient to meet the Town's Level of Service Standard through 2015. The County has programmed \$75.83 million in capital solid waste disposal projects to address existing and projected demand, and to further expand capacity. The Town therefore does not anticipate any problems in meeting its solid waste Level of Service standard through the planning period and beyond. The Town has not programmed any capital improvement projects related to solid waste facilities.

Transportation

Level of Service Standard – The Town’s adopted Level of Service standard for roadways is as follows:

- LOS D for principal arterial, collector, and local roads without available transit;
- LOS E for minor arterials without local transit;
- LOS E for roads within ½ mile of transit service with 20 minute headway;
- 120 % of capacity where extraordinary transit service (commuter rail or bus service) is available;
- LOS D for limited and controlled access Florida Interstate Highway System roads;
- LOS E on limited access facilities where exclusive through lanes exist;
- LOS E on controlled access facilities with exclusive through lanes or that are parallel to exclusive transit.

The Town’s existing and programmed transportation system, including existing and projected Levels of Service and programmed improvements, is described in the adopted and support components of the Transportation Element. Due to the fact that the Town is substantially built out, there is little opportunity for the construction of new roadways or expansion of existing roadways except local roads in developing areas. Transit and non-motorized transportation options need to be maximized in order to reduce congestion of the roadway system, particularly given the challenges presented by continued population growth. The Growth Management Plan’s emphasis on mixed-use and transit-oriented development patterns, as envisioned by the Future Land Use Map and districts, is intended to reflect this focus and promote viable multi-modal transportation options.

The Capital Improvement Schedule includes funding from other agencies for numerous local transportation projects such as improvements to various intersections and new traffic circles on Old Cutler Road. Additionally, there is funding programmed for regional projects such as two new park-and-ride facilities along the busway (at SW 112 Avenue and at SW 200th Street), the South Dade Greenway bike path, pedestrian underpasses, and additional lanes to the Homestead Extension to the Florida Turnpike (HEFT).

While the Town’s capital improvements budget includes projects that are funded by other agencies, including Federal stimulus grants. The Town has recently completed it’s first Transportation Master Plan in order to provide a detailed analysis of the current traffic conditions and specific projects to address the failing roadways. Projects from the Transportation Master Plan are included in this update of the Capital Improvement Element. The projects include upgrades to various roadways, adding lanes and funding to start a Town operated trolley. The following transportation capacity analysis describes other potential improvements that are recommended for the Town to reach and maintain adopted LOS standards.

Transportation Capacity Analysis

Roadway	Limits	Facility Type	LOS Standard			Potential Improvement	Comments
			2007	2015	2030		
SW 184 St	Franjo Rd to SW 92 Ave	2L	D	D	E	Traffic Operations and Safety including traffic signal phasing / timing, intersection improvements and transit improvements.	Widening of roadway is not recommended and will create significant negative impact to the residential community. Improvement will concentrate on Traffic Operations and transit improvements as part of Transportation Master plan. This is a County facility.
	SW 92 Ave to SW 87 Ave	2L	D	D	E		
Caribbean Blvd	SW 117 Ave to SW 110 Ave	2LD	F	F	F	Traffic Operations and Safety including traffic signal phasing / timing, intersection improvements and transit improvements.	Widening of roadway is not recommended and will create significant negative impact to the residential community. Improvement will concentrate on Traffic Operations and transit improvements as part of Transportation Master plan. This is a County Facility.
	SW 110 Ave to US-1	4LD	F	F	F		
	US-1 to Fla TKP	4LD	< C	D	F		
	Fla TKP to SW 97 Ave	2L	F	F	F		
	SW 97 Ave to Marlin Rd	2L	D	D	E	- Further analyses to determine feasibility of intersection operational and safety improvements. - Perform studies to determine feasibility of Enhancement / Beautification project recommendations.	
SW 211 St	SW 112 Ave to SR 821	6LD	D	D	F	Traffic Operations and Safety including traffic signal phasing / timing, intersection improvements and transit improvements.	Widening of roadway is not recommended and will create significant negative impact to the residential community. Improvement will concentrate on Traffic Operations and transit improvements as part of Transportation Master plan. This is a County facility.
SW 216 St	SR 821 to Old Cutler Rd	4LD	D	D	F	Traffic Operations and Safety including traffic signal phasing / timing, intersection improvements and transit improvements.	Widening of roadway is not recommended and will create significant negative impact to the residential community. Improvement will concentrate on Traffic Operations and transit improvements as part of Transportation Master plan. This is a County facility.
	Old Cutler Rd to SW 87 Ave	4LD	D	D	F		
Old Cutler Rd	SW 216 St to SW 97 Ave	2L	F	F	F	Traffic Operations and Safety including traffic signal phasing / timing, intersection improvements and transit improvements.	Designated as a Historical roadway which prohibits roadway widening. This is a County facility.
	SW 97 Ave to Marlin Rd.	2L	F	F	F		
	Marlin Rd to SW 87 Ave	2L	F	F	F	Traffic Operations and Safety including traffic signal phasing / timing, intersection improvements and transit improvements.	

	SW 87 Ave to SW 184 St	2L	F	F	F	- Two-Lane Roundabout at SW 87 Ave. - Replace and install pavement markings and traffic signs as appropriate.	
	SW 184 St to SW 77 Ave	2L	F	F	F	Replace and install pavement markings and traffic signs as appropriate and traffic operations improvements.	
SW 97 Ave	Franjo Rd to SW 184 St	2L	F	F	F	Traffic Operations and Safety including traffic signal phasing / timing and intersection improvements.	Widening of roadway is not recommended and will create significant negative impact to the residential community. Improvement will concentrate on Traffic Operations and transit improvements as part of Transportation Master plan. This is a County facility.
	SW 184 St to SW 174 St	2L	E	F	F		
Marlin Rd	Old Cutler Rd. to Caribbean Blvd	2L	D	E	E	- Traffic Operations and Safety including traffic signal phasing / timing and intersection improvements. - Perform studies to determine feasibility of Enhancement / Beautification project recommendations. - Transit improvements.	Widening of roadway is not recommended and will create significant negative impact to the residential community. Improvement will concentrate on Traffic Operations and transit improvements as part of Transportation Master plan. This is a County facility.
	Caribbean Blvd to SW 97 Ave	2L	F	F	F		
	US-1 to SW 107 Ave	4LD	F	F	F		
Franjo Rd.	Old Cutler Rd. to Caribbean Blvd	2L	E	F	F	- Traffic Operations and Safety including traffic signal phasing / timing and intersection improvements. - Perform studies to determine feasibility of Enhancement / Beautification project recommendations. - Transit improvements.	Widening of roadway is not recommended and will create significant negative impact to the residential community. Improvement will concentrate on Traffic Operations and transit improvements as part of Transportation Master plan. This is a County facility.
	Caribbean Blvd to SW 97 Ave	2L	F	F	F		
SW 87 Ave	SW 216 St to Old Cutler Rd.	2L	D	E	D	Work with the MPO to pursue the following: - Traffic Operations and Safety including traffic signal phasing / timing and intersection improvements. - Perform studies to determine feasibility of Enhancement / Beautification project recommendations.	This is a County facility.
	Old Cutler Rd to Caribbean Blvd	2L	D	F	D		
	Caribbean Blvd to SW 184 St	2L	E	F	D		
	SW 184 St to SW 174 St	2LD	F	F	E		
US-1	Caribbean Blvd to Marlin Rd.	6LD	E	E	E	Work with the MPO and FDOT to develop incentives to increase usage of the Bus-Lane and consideration of other multimodal projects including providing park-n-ride lots, among others. In the interim, request FDOT to conduct the necessary studies to determine potential traffic operations improvements.	This is a State facility.
	Marlin Rd to SW 184 St	6LD	D	E	E		

Recreation and Open Space

LOS Standard – 1.2 acres of active public parks, 0.9 acres of private open space, 0.9 acres of conservation open space per 1,000 residents.

Parks provide numerous social, recreational, educational, environmental, and health benefits, and are an important component of quality of life. The Town of Cutler Bay is committed to providing recreation and open space to current and future residents through the development, operation and maintenance of its park system, and coordination with other agencies.

The Town currently owns and operates a total of 33 acres of parkland in one community park, two neighborhood parks, two single-purpose parks and two mini-parks. The locations and a more detailed description of these parks are included in the support component of the Recreation and Open Space Element and Exhibit ROS-1. Moreover, Lakes-by-the-Bay Park, a 92-acre park that will be located in the Town's boundaries, is programmed to open this year. The Town recently took over 49.3 acres of this park which consist of 24.7 acres of active recreation space and 24.6 of passive recreation space/lake/preservation area.

Based on the 2010 population of approximately 41,000, the Town requires 49 acres of active public parks to meet its Level of Service Standard. Based on the recently acquisition of Lakes by the Bay parkland, the Town will exceed the LOS for active parks. Based on the projected 2020 population of 60,000, the Town will require 72 acres of parks.

As noted in the Recreation and Open Space Element support component, there is currently an inventory of 390 acres of private recreation and open space that is considered in measuring the Level-of-Service Standard for private recreation and open space. Based on its 2010 population, the Town requires 37 acres to meet the Level of Service Standard for private recreation and open space. The Town therefore has a surplus of 353 acres of private recreation and open space. Finally, as noted in the Recreation and Open Space Element support component, there is currently an inventory of 1,663 acres of conservation open space that is considered in measuring the Level of Service Standard for conservation open space. Based on its 2010 population, the Town requires 37 acres to meet the Level of Service Standard for conservation open space. The Town therefore has a surplus of 1,626 acres of conservation open space. The Town will require 54 acres of private recreation and open space and conservation lands to meet its Level of Service Standard in 2020. Therefore, the Town does not anticipate any problem in meeting this Standard during the current planning period.

To further the Town's goal of providing quality active public parks for the residents, the Town has programmed numerous projects in the current fiscal year's budget. These projects include improvements to existing parks such as upgrading ball fields, installing new landscaping, installing ADA compliant facilities and improvements to walkways and various park amenities for Bel Aire, Sage Lake and Saga Bay Parks. The Town is not budgeted money for land acquisition to purchase additional park land this fiscal year due to the recent acquisition of Lakes by the Bay park.

Public Schools

Level of Service Standard – Beginning January 1, 2008, 100 % utilization of Florida Inventory of School Houses (FISH) capacity with relocatable classrooms. Public schools that achieve 100 % of FISH capacity without relocatable classrooms should no longer utilize relocatable classrooms except as an operational solution.

Cutler Bay Growth Management Plan includes an Educational Facilities Element, including a Level of Service Standard, to address school planning requirements. As demonstrated in the support component of the Educational Facilities Element, the Town anticipates that it will meet its Level of Service Standard for public schools through the planning period. The Town has not programmed any capital improvement projects related to public school facilities since none have been programmed in the Miami-Dade County Public Schools Facilities Work Program, dated September 2010.

Sources of Revenue and Forecast of Expenditures

The Capital Improvement Budget represents the expenditures that the Town will incur in the current fiscal year. Projects may be one year or more likely are multi-year projects that are part of the multi-year Capital Improvement Plan. The Town's Capital Improvement Plan serves the dual role of a planning document for future year expenditures and a component of the Growth Management Plan.

The Town receives revenue to fund the Capital Improvement Budget from numerous sources. In addition to funding from other agencies, the Town receives funding for Capital Projects through grants, impact fees, the Town's general fund and utility fees.

The FY 10/11 proposed budget includes a transfer from the Special Revenue Fund of \$989,000, Federal and State grants and County Carryover funds, and \$120,000 of local option gas taxes to the Capital Projects Fund to fund park and transportation capital projects.

The Capital Improvement projects funded through the Town's Capital Improvement Budget include three categories, 1) Park Improvements; 2) Transportation/Roadway Improvements; and 3) Contingency Reserves

Park Improvements

Sources of funding for park improvements include Quality Neighborhood Improvement Program, Safe Neighborhood Parks Program, State Grants, Town General Fund and Park Impact Fees.

Transportation/Roadway Improvements

Various projects are accounted for using Special Revenue Funds. These projects are funded from revenues that require specific uses. The Town has budgeted several revenue sources under this category in FY 2010/11 and has been awarded several grants that are accounted for in these type funds. Special Revenue Funds are established in this fiscal year budget for transportation/roadway improvements and transit services, both are funded in substantial part by grants. The FY 2010/11 budget reflects \$418,000 of transportation and transit projects being funded by the Federal Stimulus legislation with a contribution by the Town just under \$400,000. The budget also reflects approximately \$7 million being funded by Miami-Dade County primarily for improvements to Caribbean Blvd and Old Cutler Road, including the traffic circles.

Contingency Reserves

The Town has set aside reserves from the general fund to finance future projects in the event that State grants or other funds are not sufficient for the various projects. The FY 2010/11 budget provides \$3,800,000 in Contingency Reserves.

The following table illustrates the forecasted revenues through FY 13/14. The forecast is based on the expectation that tax revenue and impact fees will remain relatively flat for the near term due to the general downturn in the economy which has affected local property values and is slowing the pace of new development. The projections have stayed relatively consistent with the exception of the revenue related to park improvements. While the Town intends to apply for State grant funds to supplement impact fee revenues, the future projections do not include grant funding sources. The Town anticipates revenue from the County to fund improvements at Lakes by the Bay Park in FY 11/12. Table CI-3 of the Capital

Improvement Element is updated as part of this analysis and illustrates the Town's forecasted expenditures through FY 13/14.

**Summary of Revenues
FY 10/11 through FY 14/15**

	FY 10/11	FY 11/12	FY 12/13	FY 13/14	FY 14/15
Park Improvements	\$7,583,000	\$1,060,000	\$450,000	\$0	\$0
Transportation/Roadway Improvements	\$7,595,000	\$10,410,000	\$0	\$0	\$0

Detailed Revenue Source

Park Improvements	
Interest earned	\$9,000
State 1839A	\$200,000
Safe Neighborhood Parks Bond Program	\$742,500
County Park Impact Fees	\$3,357,500
Park Impact Fees	\$250,000
County GOB Funds	\$4,500,000
Total	\$9,059,000

Detailed Revenue Source

Transportation/Roadway Projects	
Transfer from Special Revenue Fund	\$379,000
Federal Stimulus (Transit)	\$418,028
County Funding	\$17,658,000
Total	\$18,455,028

Capital Improvement Schedule

The following tables include the current Capital Improvement Schedule (Tables CI-3, and CI-4) with strikethrough formatting and the updated tables with underline to indicate that these tables are being replaced with updated information.

Table CI-3 Cutler Bay Departments Capital Improvement Plan (Committed and Planned Sources) FY 09/10 <u>10/11</u> through 13/14 <u>14/15</u>										
Dept.	Project Name	Description	Funding Source	Previous Years Funding	Fiscal Year					Total
					09/10 <u>10/11</u>	10/11 <u>11/12</u>	11/12 <u>12/13</u>	12/13 <u>13/14</u>	13/14 <u>14/15</u>	
Parks and Recreation Department	Cutler Ridge Park and Pool ²	Parking lot Improvements, new athletic field, pool improvements	SN, QNIP	\$330 <u>\$172</u>	\$172					\$172
	Park Property Acquisition ^{1(R)}	Appraisals, legal fees, land acquisition	State 1839A,	\$424 <u>\$0</u>	\$200					\$200 <u>\$0</u>
	Bel Aire Park ²	Re-sod & relighting or sports field, irrigation, bleachers, fencing	SN, Park Impact Fees	\$269 <u>\$220</u>	\$359 <u>\$138</u>					\$359 <u>\$358</u>
	Saga Lake Park ²	New baseball & soccer fields, walkways, shade trees & landscape, pavilion, vita course	Park Impact Fees, SN	\$148 <u>\$35</u>	\$226 <u>\$191</u>					\$226
	Saga Bay Park ²	New lighted tennis courts, new playground equipment, ADA improvements, Parking lot, restrooms & vita course	FRDAP State 1839A, General Fund	\$470 <u>\$139</u>	\$387 <u>\$331</u>					\$387 <u>\$470</u>
	Lakes by the Bay Park ^{1(R)}	Park Master Plan Improvements	Park Impact Fees, County, SN	\$826	\$6,914	\$860	\$1,000 <u>\$250</u>			\$1,000 <u>\$8,850</u>
	Other Park Projects ²	Various	Special Reserve		<u>\$9</u>					<u>\$9</u>
	Cutler Bay Wetlands ^{1(R)}	Observation platforms, walkways, parking	Park Impact Fees, FCT			<u>\$200</u>	<u>\$200</u>			<u>\$400</u>

Note: Amount in Thousands

SN: Safe Neighborhood Parks Bond Program

QNIP: Quality Neighborhood Improvements Program

FRDAP: Florida Recreation Development Assistance Program

FCT: Florida Communities Trust Grant Program

^{1(R)}: Project will contribute to achieving the LOS standard for Recreation and Open Space

²: Project will otherwise further the achievement of the Growth Management Plan and its goals, objectives and policies

Table CI-3 (Cont.)
 Cutler Bay Departments
 Capital Improvement Plan (Committed and Planned Sources)
 FY 09/10 10/11 through 13/14 14/15

Dept.	Project Name	Description	Funding Source	Previous Years Funding	Fiscal Years					Total
					09/10 10/11	10/11 11/12	11/12 12/13	12/13 13/14	13/14 14/15	
Public Works Department	208 th Street Improvements	Median improvements & traffic calming	Local option gas tax	\$392	\$683					\$683 \$392
	FHWA Road Resurfacing Project	Transportation Improvement	Federal Stimulus (ARRA)	\$941	\$941					\$941
	Purchase of Circulator Bus/Trolley ¹⁽⁷⁾	Transit Improvements	Federal Stimulus (ARRA)		\$418					\$418
	Old Cutler Roadway Improvement Project (JPA) ¹⁽⁷⁾	Traffic Circles (SW 87 Ave & SW 97 Ave), drainage Improvements, bike path improvements, lighting installation, sidewalk installation, and roadway resurfacing.	Miami-Dade County PTP funds	\$450	\$450 \$4,481	\$4,200 \$2,874	\$2,874			\$7,524 \$7,805
	Caribbean Blvd Roadway Improvement Project (JPA) ¹⁽⁷⁾	Drainage Improvements, lighting installation, and roadway resurfacing	Miami-Dade County PTP funds		\$2,696	\$7,536				\$10,232
	Cutler Ridge Elementary ¹⁽⁷⁾	Improvements to Storm Drainage System	FDEP & Town Stormwater Utility Fund	\$140 \$400						\$400
	Saga Bay Neighborhood ¹⁽⁷⁾	Improvements to Storm Drainage System	FDEP & Town Stormwater Utility Fund	\$500	\$500					\$500
	Bel-Aire Neighborhood ¹⁽⁷⁾	Improvements to Storm Drainage System	SFWMD & Town Stormwater Utility Fund	\$386	\$386					\$386
	Town-wide Sidewalk Improvements ²	Sidewalk Replacement and Install ADA Ramps	Second local option gas tax	\$400						\$400

Note: Amount in Thousands

FDEP: Florida Department of Environmental Protection

SFWMD: South Florida Water Management District

¹⁽⁷⁾: Project will contribute to achieving the LOS standard for Stormwater Drainage

¹⁽⁷⁾: Project will contribute to achieving the LOS standard for Transportation

²: Project will otherwise further the achievement of the Growth Management Plan and its goals, objectives and policies

Table CI-4
Other Agencies
Capital Improvement Plan (Committed and Planned Sources)
FY 09/10 10/11 through 13/14 14/15

Agency	Proj. No.	Project Name	Description	Funding Source	Activity/Phase	Previous Years Fund-ing	Fiscal Year					Total
							09/10 10/11	10/11 11/12	11/12 12/13	12/13 13/14	13/14 14/15	
PTP	000442	Caribbean from Coral Sea to SW 87 Ave ^{1(T)}	Widen Roadway, 2 to 3 lanes	PTP	PE, CST	\$1,000	\$1,000 \$5,000	\$5,000 \$5,190	\$5,190			\$11,186 \$11,190
		Old Cutler Road ^{1(T)}	Bike Path Construction								\$30	\$30
		Caribbean Blvd @ C-1N Canal ^{1(D)}	Drainage Improvements	SU			\$200	\$180	\$1,030			
FDOT	4060961	HEFT ^{1(T)}	Add lanes & reconstruct between SW 216 St to Eureka Dr	PE	PE, Const	\$268,500						\$268,500
	4251401	US-1 at Caribbean Blvd ^{1(T)}	Intersection Improvements	DS	PE	\$18	\$18					\$18
MPO	2512651	South Dade Greenway Bike Path ^{1(T)}	Black Creek Canal	SE	PE, Const	\$510 \$120	\$120 \$780					\$900
	4183331	Black Creek & Biscayne Trail Bridges ^{1(T)}	Pedestrian Underpass	SE		\$450 \$550	\$450					\$1,000 \$450
Miami Dade County Parks & Recreation Dept.	63	Lakes by the Bay Park ^{1(R)}	New Park (92 acres of active park)	BBCBP	Planning	\$160		\$1,250	\$2,250		\$10	\$3,510
MD County WASD		Alexander Orr Water Treatment Plant ^{1(W)}	Expansion			\$4,430 \$10,250	\$10,250 \$22,290	\$22,290 \$33,160	\$33,160 \$5,610	\$5,610 \$1,200		\$72,510
MD County Waste Management		South Dade Landfill ^{1(SW)}	Cell 5 Construction			\$1,110 \$570	\$570 \$3,750	\$3,750 \$7,490	\$7,490			\$11,810
		South Dade Landfill ^{1(SW)}	Cell 3 Closure			\$11,680 \$1,860	\$1,860 \$190	\$190				\$2,050
		South Dade Landfill ²	Ground Water Remediation			\$490 \$150	\$150 \$50	\$50 \$30	\$30 \$20	\$20 \$10	\$10	\$260

Note: Amount in Thousands

CM: Congestion Management

DS: State Primary Highways

LF: Local Funds

PE: Preliminary Engineering

CST: Construction

DIH: State In-House Project Support

SE: Surface Transportation Enhancements

PTPBP: People's Transportation Plan Bond Program

SN: Safe Neighborhood Parks Bond Program

QNIP: Quality Neighborhood Improvements Program

BBCBP: Building Better Communities Bond Program

SU: Stormwater Utility

^{1(T)}: Project will contribute to achieving the LOS standard for Transportation

^{1(R)}: Project will contribute to achieving the LOS standard for Recreation and Open Space

^{1(W)}: Project will contribute to achieving the LOS standard for Potable Water

^{1(D)}: Project will contribute to achieving the LOS standard for Stormwater Drainage

^{1(SW)}: Project will contribute to achieving the LOS standard for Solid Waste Management

²: Project will otherwise further the achievement of the Growth Management Plan and its goals, objectives and policies

Text Amendment

The following Educational Facilities policy EDU-2F is amended as follows:

EDU-2F: The Miami-Dade County Public School Facilities Work Program dated September ~~2009~~ 2010, will be evaluated on an annual basis to ensure that the level of service standards will continue to be achieved and maintained throughout the planning period.

TAB 10



Office of the Town Clerk

Esther B. Coulson, CMC
Town Clerk

MEMORANDUM

TO: Honorable Town of Cutler Bay Council

COPY: Steve Alexander, Town Manager
Mitch Bierman and Chad Friedman, Town Attorneys

DATE: March 9, 2011

FROM: Esther Coulson, Town Clerk

SUBJECT: March 16, 2011 Second Reading - Code Enforcement Proposed Ordinance

The above-captioned proposed ordinance was considered at the January 19, 2011 regular meeting Item 7 during first reading. Please note that pages three and nine attached show the respective changes as ~~strike throughs~~ reflected in red and double-underscores in green.





Steven J. Alexander
Town Manager

MEMORANDUM

To: Mayor and Town Council

From: Steven Alexander

Date: December 21, 2010

Re: Amendment to Ordinance 07-09 Establishing a Lien Reduction Process and Updating Code Enforcement Procedures

BACKGROUND

On March 21st 2007, Town Council passed Ordinance 07-09 which established local code enforcement procedures for the Town. Prior to this date the Town conducted code enforcement following the language contained in the Miami-Dade County Code made applicable to the Town by Section 8.3 of the Town Charter. Ordinance 07-09 established that violation of any Town ordinance constitutes a civil offense, punishable by civil penalty and the ordinance further created a Special Master position to hear cases and requests for appeals. Criteria and procedures for code enforcement activities, civil penalties, rights of violators, payment of fines, scheduling and conduct of hearings, and recovery of unpaid penalties and liens were also incorporated.

ANALYSIS

The attached ordinance has amendments that clarify and update existing code language. The main intent of the amendment is to incorporate a lien reduction process for properties which have significant lien amounts accrued and are the subject of a potential ownership transfer. Section 7(f)-(o) is added, establishing a process for reduction of lein authorization. The process includes specific guidelines for reaching a reasonable and equitable amount, ranging from 25% to 95% of the recorded lien, and provides that the reduction is not less than the administrative costs incurred by the Town.





The term “administrative costs” has been expanded to specify the various types of expenses incurred by the Town are considered administrative costs. The amendment also provides authority for a reduction below civil penalty guidelines where there is a demonstrated financial hardship. The amendment also clarifies pertains the treatment of “uncorrectable violations”, which are single prohibited acts rather than ongoing conditions or circumstances, by treating each instance as separate violations which has become an issue of recurring issues.

RECOMMENDATION

Approval of the ordinance amendment.



ORDINANCE NO.11-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CODE ENFORCEMENT PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor and Town Council of the Town of Cutler Bay (the “Town”) finds it is in the best interest of the Town to amend the code enforcement procedures adopted in Town Ordinance 07-09; and

WHEREAS, Section 162.03(2), Florida Statutes, authorizes the Town to adopt an alternate method of code enforcement.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above Recitals are true and correct and are incorporated herein by this reference.

Section 2. Code Enforcement Procedures Adopted. The Code is amended as follows:

Sec. 1. Civil offenses and penalties; Special Magistrate.

The violation of any Town ordinance shall constitute a civil offense punishable by civil penalty in the amount prescribed ~~in this Section 10 and as modified by Section 4 of this chapter.~~ Accordingly, there is hereby created and established a code enforcement position to be filled by a Special Magistrate to enforce the Town code of ordinances.

Sec. 2. Qualifications of the Special Magistrate and removal; organization.

(a) The Special Magistrate shall possess an outstanding reputation for civic pride, interest, integrity, responsibility, and business or professional ability. The Special Magistrate shall be a member of the Florida Bar in good standing or a retired judge of one of the courts of the State of Florida. The appointment of the Special Magistrate shall be made by the Town Manager on the basis of experience or interest in code enforcement. The Special Magistrate shall be appointed for a term of two (2) years. The Special Magistrate may be reappointed at the discretion of the Town Manager. There shall be no limit on the number of reappointments that may be given to any Special Magistrate; provided, however, that a determination as to removal or reappointment must be made at the end of each of his or her two-year terms. The Town Manager shall have authority to remove the Special Magistrate with or without cause. Appointments to fill any vacancy shall be for the remainder of the unexpired term.

(b) The Town Attorney's Office shall, when so requested by the Town Manager, represent the Town in the prosecution of a violation. If an appeal hearing is held pursuant to Section 8, the Town Attorney's Office shall, if requested by the Town Manager, represent the Town at such proceedings.

Sec. 3. Enforcement procedures.

(a) For the purposes of this chapter, a "Code Compliance Officer" is defined to be any agent or employee of the Town whose duty is to assure the enforcement of and compliance with the Code of the Town.

(b) Code Compliance Officers shall have the authority to initiate enforcement proceedings as provided below. ~~Ne~~ The Special Magistrate shall not have the power to initiate such proceedings.

(c) For the purposes of this chapter, "violators" shall be deemed to be those persons or entities legally responsible for the violation of the ordinances.

(d) A Code Compliance Officer who finds a violation of ~~those ordinances of this Code~~ shall determine a reasonable time period within which the violator must correct the violation. This determination shall be based on considerations of fairness; practicality; ease of correction; ability to correct; severity of violation; nature, extent and probability of danger or damage to the public; and other relevant factors relating to the reasonableness of the time period prescribed. A time for correction need not be specified if the violation is deemed to be an uncorrectable violation or a repeat violation.

(e) A Code Compliance Officer who finds such a violation shall issue a civil violation notice to the violator. Service shall be effected by delivering the civil violation notice to the violator or his agent, or by leaving the civil violation notice at the violator's usual place of abode with any person residing therein who is fifteen (15) years of age or older and informing that person of its contents. If such service cannot be effected, the civil violation notice may be sent by certified mail, return receipt requested, or by posting of the civil violation notice in a conspicuous place on the premises or real property upon which the violation has been observed or by mailing to or posting the civil violation notice at the property owner's mailing address as listed in the tax records of the County. Such posting of the civil violation shall be deemed proper service; and the time for compliance; stated in the notice; shall commence with the date such notice is posted.

(f) The civil violation notice shall include but not be limited to the following:

- (1) Date of issuance.
- (2) Name of Code Compliance Officer~~and division or department~~ issuing the notice.
- (3) Name and address of the violator.
- (4) ~~Section~~Number of the Code Section that has been violated.
- (5) Brief description of the nature of the violation, including location, date, and time of violation.
- (6) Amount of the civil penalty for which the violator may be liable.
- (7) Instructions and due date for paying the civil fine or filing for an administrative hearing before a Special Magistrate to appeal the civil fine.
- (8) Time within which the violation must be corrected, if applicable.

(9) Notice that each day of continued violation after the time period for correction has run shall be deemed a continuing violation subject to additional penalty in the same amount, without the need for additional notices of violation.

~~(10) Notice that the filing of a request for an administrative hearing will toll the accrual of continuing violation penalties.~~

~~(11) Notice that failure to request an administrative hearing within twenty (20) days, or within the specified time period listed for a violation of a specific Section of the Code, after service of the civil violation notice shall constitute a waiver of the violator's right to an administrative hearing before the Special Magistrate, and that such waiver shall constitute an admission of violation.~~

~~(12) Notice that the violator may be liable for the reasonable costs of the administrative hearing should he be found guilty of the violation.~~

~~(13) Notice that the violator may be liable for the Town's administrative costs and expenses incurred as a result of investigation, enforcement, testing or monitoring incurred by the Town in its prosecution of violations, including, but not limited to, any staff time, Special Magistrate's time, and attorney's fees for the inspection, investigation, prosecution, testing, or monitoring of a code violation should the violator be found guilty of the violation.~~

(g) A Code Compliance Officer is authorized to record in the public record the civil violation notice or a notice of violation which is based upon the civil violation notice. The recording of the civil violation or a notice of violation under this section shall not act as or be a lien on the property and shall not act as a notice of a lien on the property but shall merely act as public notice of the existence of the violation.

Sec. 4. Civil penalties and related terms construed.

(a) Penalties for violations of the ordinances to be enforced by this chapter shall be in the amount prescribed in the schedule of civil penalties in Section 10, unless otherwise provided in this Code or by other law.

(b) An "uncorrectable violation" is a violation which cannot be remedied after the violation has been committed because the violation constitutes a single prohibited act rather than an ongoing condition or circumstance. Each ~~reoccurrence of an~~ uncorrectable violation shall constitute a separate violation and shall subject the violator to an additional penalty, including repeat violation penalties, as applicable, in the same amount as that prescribed for the original violation. ~~If, however, a violator has been once found guilty of an uncorrectable violation, and causes the same uncorrectable violation to occur a second time, each reoccurrence of the uncorrectable violation by such violator shall constitute a "repeat violation" as provided in Section 4(d).~~ Continuing violation penalties cannot be imposed ~~by the Special Magistrate~~ for uncorrectable violations, however, the maximum fine for an uncorrectable violation shall be \$5000.

(c) "Continuing violations" are those violations which remain uncorrected beyond the reasonable time period for correction contained in either the civil violation notice or the ~~final~~ order of the Special Magistrate, whichever is applicable. For each day of continued violation after the time for correction has run, an additional penalty in the same amount as that prescribed for the original violation shall be added.

(d) A "repeat violation" is a recurring violation of an ordinance by a violator who has previously been found guilty or who has admitted guilt of the same violation within

the last five (5) years. In the case of correctable violations, a repeat violation can occur only after correction of the previous violation has been made. For the first repeat violation, the amount of the civil penalty shall be double the amount of penalty prescribed for the original violation ~~by Section 10~~. The amount of civil penalty due for each subsequent repeat violation shall be double the amount of penalty due for the first day of the immediately preceding violation, to a maximum initial civil penalty of four times the original penalty for the second and subsequent repeat violations. A repeat violation shall accrue civil penalties from the date of the civil violation notice and continuing violation penalties in the same amount until the violation is corrected.

~~(e) — A repeat violation which remains uncorrected beyond the time prescribed for correction in the civil violation notice shall be treated as a continuing violation, and the additional penalty for each day of continued violation shall be equal to the doubled amount due for the first day of the repeat violation.~~

~~(f)(e) Continuing violation penalties shall accrue from the date of deadline for correction given in the civil violation notice until the violation is corrected or correction is made and payment of the fine is received if a request for administrative hearing is not timely filed. If the named violator requests an administrative hearing on a correctable violation and loses his appeal is found in violation, the Special Magistrate shall determine a reasonable time period within which correction of the violation must be made, based on the considerations set forth in Section 3(d). If correction is not made within the period set by the Special Magistrate, continuing violation penalties shall accrue begin after the time for correction has run. No continuing violation penalties shall accrue during the time period from the date of the civil violation notice until the date of the administrative hearing, if the named violator timely requests an administrative hearing to appeal the decision of the Code Compliance Officer. The time period for correction may run retroactive to the deadline in the civil violation notice. Continuing violation penalties cannot be imposed by the Special Magistrate for uncorrectable violations.~~

~~(g)(f) Continuing violation penalties shall automatically accrue after the deadline imposed in the original civil violation notice, or by the Special Magistrate. If said deadline is prospective, the Code Compliance Officer may file be assessed by the Special Magistrate upon the filing of an Affidavit of Non-Compliance and Notice of Right to Request a Hearing by the Code Compliance Officer. The violator may request an administrative hearing before the Special Magistrate, which hearing shall be strictly limited to whether the violator complied with the prior order of the Special Magistrate and the amount of the continuing violation penalties based upon the length of time the violation continued to exist. Upon the filing of the Affidavit of Non-Compliance, the Code Compliance Officer shall send a copy of the Affidavit of Non-Compliance and Notice of Right to Request a Hearing to the violator by first class mail, at the last known address of the violator. Said affidavit shall include, but not be limited, to the following:~~

- ~~(1) The d~~ Date of issuance.
- ~~(2) Department or division~~ Name of the Code Compliance Officer issuing the original affidavit.
- (3) Section number of Code that has been violated.
- (4) Amount of continuing penalty to be assessed by the Special Magistrate.
- (5) Notice of right to request an administrative hearing and instructions on how to file for the administrative hearing.

(6) Notice that failure to request an administrative hearing within twenty (20) days after the receipt of the Affidavit of Non-Compliance shall constitute a waiver of the violator's right to the administrative hearing.

(7) Notice that the administrative hearing is strictly limited to whether the violator complied with the prior order of the Special Magistrate and the amount of the continuing penalty based solely upon the length of time the violation continued to exist ~~but in no case in excess of the maximum set forth in the Code.~~

(8) Notice that the violator shall be liable for the ~~reasonable~~ costs of the administrative hearing if the violator is unsuccessful at the hearing.

(g) “Administrative costs” shall mean the costs and expenses incurred by the Town in its prosecution of violations, including, but not limited to, any staff time, Special Magistrate’s time, and attorney’s fees for the inspection, investigation, prosecution, testing, or monitoring of a code violation.

(h) Civil penalties assessed pursuant to this chapter are due and payable to the Town on the last day of the period allowed for the filing of an appeal from the Special Magistrate's decision, or, if proper appeal is made, when the appeal has been finally decided adversely to the named violator.

Sec. 5. Rights of violators; payment of fine; right to appeal; failure to pay and correct, or to appeal.

(a) A violator who has been served with a civil violation notice or Affidavit of Non-Compliance shall elect either to:

(1) Pay the civil penalty in the manner indicated on the notice, and correct the violation within the time specified on the notice (if applicable); or

(2) Request an administrative hearing before a Special Magistrate to appeal the decision of the Code Compliance Officer which resulted in the issuance of the civil violation notice or Affidavit of Non-Compliance.

(b) Appeal by administrative hearing of the notice of violation shall be accomplished by filing a request in writing to the address indicated on the notice, within the time limit stipulated in the specified Code Section which is enforced pursuant to the provisions of this chapter, or no later than twenty (20) calendar days after the service of the notice, whichever is earlier.

(c) If the named violator after notice fails to pay the civil penalty and correct the violation within the time specified (if applicable), or fails to timely request an administrative hearing before a Special Magistrate, the Special Magistrate shall be informed of such failure by the filing of an Affidavit of Default ~~report from~~ by the Code Compliance Officer. If the named violator pays the civil penalty for a correctable violation but does not correct that violation within the time specified, each day that the violation continues beyond such specified time shall constitute a continuing violation. Failure of the named violator to appeal the decision of the Code Compliance Officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the Special Master. A waiver of the right to administrative hearing shall be treated as an admission of the violation and penalties and administrative costs may be assessed accordingly.

Sec. 6. Scheduling and conduct of hearing.

(a) Upon receipt of a named violator's timely request for an administrative hearing, the Special Magistrate shall set the matter down for hearing on the next regularly scheduled hearing date or as soon thereafter as possible or as mandated in the specified Code Section which is enforced pursuant to this chapter.

(b) The ~~Special Magistrate~~Code Compliance Recording Secretary shall send a notice of hearing by first class mail to the named violator at his last known address. The notice of hearing shall include but not be limited to the following:

- (1) Name of the Code Compliance Officer who issued the civil violation notice.
- (2) Factual description of alleged violation.
- (3) Date of alleged violation.
- (4) Section of the Code allegedly violated.
- (5) Place, date and time of the hearing.
- (6) Right of violator to be represented by a lawyer.
- (7) Right of violator to present witnesses and evidence.
- (8) Notice that failure of violator to attend hearing may result in civil penalties and administrative costs being assessed against him.
- (9) Notice that requests for continuances will not be considered if not received by the Special Magistrate at least ten (10) calendar days prior to the date set for hearing.

(c) The ~~Special Magistrate~~Town shall schedule all hearings on a monthly basis or as requested by the Code Compliance Officer.~~No hearing shall be set sooner than twenty (20) calendar days from the date of service of the notice of violation.~~

(d) A hearing date shall not be postponed or continued unless a request for continuance, showing good cause for such continuance, is received in writing by the Special Magistrate at least ten (10) calendar days prior to the date set for the hearing.

(e) All hearings of the Special Magistrate shall be open to the public. All testimony shall be under oath. Assuming proper notice, a hearing may proceed in the absence of the named violator.

(f) The proceedings at the hearing shall be recorded and may be transcribed at the expense of the party requesting the transcript.

(g) The Town shall provide clerical and administrative personnel as may be reasonably required by the Special Magistrate for the proper performance of his duties.

(h) Each case before a Special Magistrate shall be presented by the Town Manager or his designee.

(i) The hearing ~~need~~shall not be conducted in accordance with the formal rules relating to evidence and witnesses. Any relevant evidence shall be admitted if the Special Magistrate finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.

(j) Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him.

(k) The Special Magistrate shall make findings of fact based on evidence of record. The Special Magistrate shall make the findings of fact ~~immediately upon~~at the conclusion

of the hearing. ~~The violator or the Town shall have the option to request a reschedule of the hearing. A request to reschedule shall only be considered prior to the commencement of testimony and presentation of evidence.~~In order to make a finding upholding the Code Compliance Officer's decision, the Special Magistrate must find that a preponderance of the evidence indicates that the named violator was responsible for the violation of the relevant Section of the Code as charged ~~for purposes of in the~~ civil violation notice, or that the violation continued to exist ~~for the time period beyond the deadline for compliance in a prior order of the Special Magistrate as set out in the Affidavit of Non-Compliance, for purposes of an Affidavit of Non-Compliance.~~

(l) If the named violator is found guilty of the violation, or if the violation is found to be a continuing violation ~~pursuant to an Affidavit of Non-Compliance he, the violator shall pay the reasonable administrative costs of the administrative hearing and the costs and expenses of the Town. The costs and expenses of the Town for investigation, enforcement, testing, or monitoring shall be calculated and submitted to the Special Magistrate, to be attached to the final order for amount owed, in standard format as prescribed by departmental administrative orders of the Town Manager. All administrative costs of enforcement shall be paid within thirty (30) days of the date of the administrative hearing unless an alternate timeframe is established by the department order of the Special Magistrate awarding such costs. If the Special Magistrate finds that the violation constitutes a serious threat to the public health, safety, and welfare, the Special Magistrate may authorize the Town make all reasonable repairs which are required to bring the property into compliance and charge the violator with the reasonable cost of the repairs along with the fine imposed pursuant to this section. Making such repairs does not create a continuing obligation on the part of the Town to make further repairs or to maintain the property and does not create any liability against the Town for any damages to the property if such repairs were completed in good faith. The Town may record a notice of lien for the costs of repairs. Said lien shall be equal in dignity to tax liens.~~

(m) The fact-finding determination of the Special Magistrate for purposes of a civil violation notice shall be limited to whether the violation alleged did occur and, if so, whether the person named in the civil violation notice can be held responsible for that violation. The fact-finding determination of the Special Magistrate for purposes of an Affidavit of Non-Compliance shall be strictly limited to whether the violator complied with the prior order of the Special Magistrate and the amount of continuing violation penalties based upon length of time that the violation existed. Based upon this fact-finding determination, the Special Magistrate shall either affirm or reverse the decision of the Code Compliance Officer. If the Special Magistrate affirms the decision of the Code Compliance Officer with respect to a civil violation notice, the Special Magistrate, pursuant to Section 4(f), shall determine a reasonable time period within which correction of the violation must be made, provided however, that such time period shall be no more than thirty (30) days. If the Special Magistrate reverses the decision of the Code Compliance Officer and finds the named violator not responsible for the Code violation alleged in the civil violation notice, the named violator shall not be liable for the payment of any civil penalty, absent reversal of the Special Magistrate's findings pursuant to Section 8(a). If the decision of the Special Magistrate is to affirm, then the following elements shall be included:

- (1) Amount of civil penalty.
 - (2) Administrative costs of hearing.
 - (3) Date by which the violation must be corrected to prevent imposition of continuing violation penalties (if applicable).
- (n) The Special Magistrate shall have the power to:
- (1) Adopt procedures for the conduct of hearings.
 - (2) Subpoena alleged violators and witnesses for hearings; subpoenas may be served by the Town's Police Department or by the Code Compliance Officer or Recording Secretary staff of the Special Magistrate.
 - (3) Subpoena evidence.
 - (4) Take testimony under oath.
 - (5) Assess and order the payment of civil penalties and administrative costs as provided herein.
 - ~~(6) Reduce civil penalties as provided herein. The Special Magistrate shall be bound by the interpretations and decisions of duly authorized Town boards concerning the provisions of the codes within their respective jurisdictions. In the event such a board decides that an alleged violation of the Code is not in accordance with such board's interpretation of the Code provision on which the violation is based, the Special Magistrate shall not be empowered to proceed with the enforcement of the violation.~~
 - (7) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

Sec. 7. Recovery of unpaid civil penalties; unpaid penalty to constitute a lien; interest to be paid on liens; foreclosure; prohibition of the issuance of permits, licenses, certificates of use and occupancy, or zoning approvals to violators with unpaid civil penalties or liens; lien reduction.

(a) The Town may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties.

(b) A certified copy of an order imposing a civil penalty ~~may~~shall be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists or upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the sheriffs of this State, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. ~~After three (3) months from the filing of any such lien which remains unpaid, t~~The Town may foreclose or otherwise execute on the lien.

(c) Liens created pursuant to ~~Section 8CC-7~~this chapter may be discharged and satisfied by paying to the Town the amount specified in the ~~notice of lien order,~~ together with interest thereon from the date of the ~~filing of the lien order~~ computed at the rate of twelve (12) percent per annum, together with the administrative costs, ~~filing and recording fees and fees paid to file a satisfaction of the lien in the public records.~~ When any such lien has been discharged, the Town shall issue a satisfaction of lien in recordable form promptly cause evidence of the satisfaction and discharge of such lien to be recorded in the public records.

(d) With the exception of any development approvals needed to correct a code violation for which the applicant has been cited and Notwithstanding any provision of this Code, no Town officer, agent, employee or Board shall approve, grant or issue any operating permit, license, building permit, certificate of use and occupancy, platting action, or zoning action to any named violator with (i) uncorrected code violations, (ii) unpaid civil penalties; (iii) unpaid administrative costs of hearing; (iii) unpaid Town investigative, enforcement, testing, or monitoring costs; or (iv) unpaid liens, any or all of which are owed to Town pursuant to the provisions of the Code of the Town of Cutler Bay, Florida.

(e) No lien provided under this chapter shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on a lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party may recover interest and all costs, including attorney's fees, incurred in the foreclosure. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(f) Lien Reduction: The Violator, or the Violator's successor or assign, who has an ownership interest in the property encumbered by a lien for civil penalties(the "Applicant"), may file a request for a reduction of the continuing violation penalties before the Special Magistrate. The request may only be filed after a compliance inspection is completed during which a Code Compliance Officer finds that all violations were corrected but that the civil penalties have not yet been paid and that there are no other outstanding code violations, whether on the property to which the lien attaches or on another property belonging to the Applicant, or debts owed to the Town for which the Applicant is responsible. Upon receipt of a written request for reduction of civil penalties, and the filing of an affidavit of partial compliance by the Code Compliance Officer which sets forth that all outstanding violations of the Special Magistrate's order have been corrected, except for payment of any outstanding civil penalties, the Town shall set the matter for a penalty reduction hearing by the Special Magistrate. The Town Manager may, in his sole discretion, enter into a settlement agreement with the Applicant to pay a reduced fine that is reduced pursuant to the guidelines in this section without the need for a hearing before the Special Magistrate. No hearing shall be held (i) to reduce an initial civil penalty or an award of administrative costs, (ii) to reduce the civil penalties for an uncorrectable violation, (iii) if the Town Attorney has requested authorization to bring further enforcement action or commenced an action to obtain compliance with the order of the Special Magistrate, including, but not limited to, an action for injunctive relief, foreclosure, or money judgment, or (iv) if, for whatever reason, the civil penalties have already been paid.

(g) At the hearing, the fact-finding determination of the Special Magistrate shall be limited to evidence establishing:

- (1) Good cause for a reduction of the continuing violation penalties,
- (2) The amount of the reduction, and
- (3) Any equitable considerations raised by the Applicant or the Town relating to good cause or the amount of the reduction.

Said hearing shall not be an opportunity to appeal any finding of fact or conclusions of law set forth in any prior order of the Special Magistrate or any administrative determination of the Town.

(h) The Special Magistrate may reduce the civil penalties once the Applicant has otherwise complied with an order of the Special Magistrate based on a showing of good cause, but in no event shall the civil penalties be reduced below the administrative costs incurred by the Town nor shall any administrative costs previously awarded by the Special Magistrate, costs of repair, or assessment liens be waived or reduced.

(i) In determining good cause, and the amount of the reduction, if any, the Special Magistrate shall consider:

(1) The gravity of the violation.

(2) Any actions taken by the Violator or Applicant to correct the violation.

(3) Any previous, or other outstanding violations whether committed by the Violator or Applicant, or pertaining to the property to which the lien attaches, unless an order finding a violation is under appeal at the time of the determination.

(4) Whether the violation is irreparable or irreversible in nature.

(5) Whether the Violator or Applicant's failure to timely comply with an order of the Code Compliance Officer or the Special Magistrate is due to an inability to comply based on factors beyond the control of the Violator or Applicant.

(j) Upon a finding of good cause, the Special Magistrate has the sole discretion to grant or deny the request for a reduction of civil penalties according to the following guidelines, provided the reduction is to an amount that is not less than the administrative costs incurred by the Town:

(1) If compliance occurs within three months of the deadline for compliance provided for in the order of the Special Magistrate; a maximum reduction of 95 percent of the total civil penalties (the original civil penalty plus the continuing violation penalties);

(2) If compliance occurs more than three months but less than 12 months from the compliance deadline, a maximum reduction of 75 percent of the total civil penalties;

(3) If compliance occurs from 12 months to 18 months of the compliance deadline; a maximum of 50 percent of the total civil penalties; and

(4) If compliance occurs more than 18 months after the compliance deadline, a maximum of 25 percent of the total civil penalties.

(k) The Special Magistrate has the authority where there is a demonstrated showing of financial hardship or other good cause to reduce the civil penalties below the civil penalty reduction guidelines. The Special Magistrate shall exercise this authority with great caution and only in documented and exceptional circumstances. An Applicant alleging financial hardship has the burden of presenting evidence of inability to pay the civil penalty.

(l) If a civil penalty is reduced, the order of the Special Magistrate shall provide that, if the Applicant fails to pay the reduced civil penalty by the date ordered by the Special Magistrate, then the original amount of the total civil penalty shall be

automatically reinstated. The Special Magistrate may impose conditions on the granting of a request for reduction of the civil penalty and may allow additional hearings upon request if necessary to establish compliance with said conditions before an order reducing the civil penalty is entered.

(m) A certified copy of the order reducing the civil penalty shall not be recorded in the public records and the order shall so provide.

(n) Upon receipt of timely payment in full of the amount of the reduced civil penalties, and the recording costs, the Town shall issue to the Applicant a satisfaction of lien in recordable form.

(o) A reduction of civil penalty may only be granted once as to any violation of an order of the Special Magistrate.

Sec. 8. Appeals.

(a) The named violator or the Town may appeal a final order of the Special Magistrate ~~for all violations~~ by filing a notice of appeal in the Circuit Court in and for Miami-Dade County, Florida, within 30 days of the execution of the order to be appealed and in accordance with the procedures and within the time provided by the Florida Rules of Appellate Procedure for the review of administrative action. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Magistrate.

(b) Unless the findings of the Special Magistrate are overturned in a proceeding held pursuant to Section 8(a), all findings of the Special Magistrate shall be admissible in any proceeding to collect unpaid penalties.

(c) No party, other than the Town, may apply to the Court for relief unless such party has first exhausted the remedies provided for in this chapter and has taken all available steps provided in this chapter. It is the intention of the Town that all steps provided by this chapter shall be taken before any application is made to the Court for relief; and no application shall be made by any party other than the Town to a court for relief except from an order imposing civil penalties or continuing violation penalties issued by a Special Magistrate pursuant to this article. It is the intention of the Town that the order reducing the civil penalty or denying a reduction of the civil penalty shall not be subject to appeal or other form of judicial review.

Sec. 9. Provisions contained herein are supplemental; ~~general penalty for failure to correct violations.~~

~~(1) Nothing contained in this chapter shall prohibit the Town from enforcing its Code by any other means. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed to be prerequisites to filing suit for the enforcement of any Section of this Code.~~

~~(2) It shall be unlawful for a named violator found guilty of a code violation pursuant to Section 5(e) or Section 6 to fail to correct the violation as set forth in the uniform civil violation notice and said failure shall be a separate offense punishable as set forth in the Code of The Town of Cutler Bay, Florida.~~

Sec. 10. Schedule of civil penalties.

The following table shows the sections of this Code, as they may be amended from time to time, which may be enforced pursuant to the provisions of this chapter; and the dollar amount of civil penalty for the violation of these sections as they may be amended. The "descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the listed Code sections, except to the extent that different types of violations of the same Code section may carry different civil penalties. In the event of a code revision, the code section number shall not control and the "Description of Violation" shall be used to determine the applicable fine. For each Code section listed in the schedule of civil penalties, the entirety of that section may be enforced by the mechanism provided in this chapter, regardless of whether all activities proscribed or required within that particular section are described in the "Description of Violation" column. To determine the exact nature of any activity proscribed or required by this Code, the relevant Code section must be examined. An "uncorrectable violation" as defined in this chapter shall carry a civil penalty of up to \$5000, regardless of the amount stated below.

TABLE INSET:

<i>Code Section</i>	<i>Description of Violation</i>	<i>Civil Penalty</i>
	Maintaining any sign in violation of Town Ordinance 06-13 as subsequently amended.	\$1000
***	***	***
33-95(e)	Maintaining a fence or wall sign in a residential district	\$500
**	***	***
33-107	Exceeding maximum Class C Sign Size	\$1,000
33-107	Exceeding the maximum height for a Class C sign	\$1,000
33-107	Failure to meet setback or spacing requirements for Class C sign	\$1,000
	All sections of this Code not specifically listed in this schedule	\$500
***	***	***

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Cutler Bay Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption.

PASSED on first reading this 19th day of January, 2011.

PASSED AND ADOPTED on second reading this _____ day of _____, 2011.

EDWARD P. MACDOUGALL,
MAYOR

Attest:

Esther B. Coulson
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.A.
Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____
Vice Mayor Ernest N. Sochin _____
Council Member Mary Ann Mixon _____
Council Member Sue Ellen Loyzelle _____
Council Member Peggy R. Bell _____