



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 (REVISED)

Wednesday, May 18, 2011, 7:00 p.m.

South Dade Regional Library
10750 SW 211th Street
Cutler Bay, Florida 33189

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

ADDITIONS, DELETIONS AND DEFERRALS

- Item 4., Approval of Draft Minutes, Attached
- Item 8., Water Shortage Watch, Addendum to Staff's Report
- Item 10, Proposed Garage Sales Ordinance, Amendment

2. PUBLIC COMMENTS

3. PROCLAMATIONS, AWARDS, AND PRESENTATIONS

- A. Proclamation- Kyle Senzig, Eagle Scout Awardee
- B. Proclamation- Take Stock In Children (TSIC)
- C. Presentation- Elizabeth Garris, Opposition of Chickens

4. APPROVAL OF MINUTES

- A. April 14, 2011- Special Council Meeting
- B. April 20, 2011- Council Meeting
- C. April 20, 2011- Local Planning Agency (LPA)

TAB 1

5. REPORTS

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

C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS

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, AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS (RFP) FOR THE OPERATION OF A MUNICIPAL CHARTER SCHOOL WITHIN THE TOWN; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AND ENTER INTO A PROFESSIONAL SERVICES AGREEMENT FOR THE PREPARATION OF A CHARTER SCHOOL APPLICATION AND FEASIBILITY STUDY; AUTHORIZING THE TOWN MANAGER TO PREPARE AND SUBMIT A MUNICIPAL CHARTER APPLICATION TO THE APPROPRIATE AGENCIES; AMENDING RESOLUTION 10-65 RELATING TO THE FISCAL YEAR 2010/2011 BUDGET IN ORDER TO ALLOCATE \$160,000 IN ORDER TO EFFECTUATE THE INTENT AND PURPOSE OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 2

B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING A REVISED INTERLOCAL AGREEMENT BETWEEN THE TOWN AND OTHER MUNICIPALITIES RELATING TO THE GREEN CORRIDOR PROPERTY ASSESSMENT CLEAN ENERGY (PACE) DISTRICT; AUTHORIZING THE TOWN MANAGER TO TAKE ANY AND ALL STEPS NECESSARY TO EXECUTE THE NECESSARY DOCUMENTS TO CARRY OUT THE INTENT AND PURPOSE OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 3

C. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE TOWN MANAGER TO TAKE ANY AND ALL STEPS NECESSARY TO OBTAIN FEE SIMPLE TITLE TO THE PRIVATE LINEAR PARK GENERALLY LOCATED NORTH OF S.W. 223RD TERRACE, SOUTH OF S.W. 216TH STREET, EAST OF S.W. 97TH AVENUE, AND WEST OF S.W. 95 PLACE AS FURTHER SHOWN ON EXHIBIT "A;" AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 4

D. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO PROFESSIONAL SERVICES; APPROVING THE QUALIFIED FIRM TO PROVIDE DESIGN AND ENGINEERING SERVICES TO THE TOWN FOR CARIBBEAN BOULEVARD ROADWAY IMPROVEMENTS; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AN AGREEMENT WITH CORZO CASTELLA CARBALLO THOMPSON SALMAN (C3TS) INC.; AND PROVIDING AN EFFECTIVE DATE.

TAB 5

E. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING AN AMENDMENT TO THE LANDSCAPE MAINTENANCE AGREEMENT WITH GROUNDKEEPERS, INC. FOR ADDITIONAL SCOPE OF SERVICES WITHIN TOWN DESIGNATED RIGHT-OF-WAYS AND CUL-DE-SACS FOR AN ANNUAL AMOUNT OF \$23,292.00; AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AMENDMENT TO THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 6

F. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF AN INVITATION TO BID (ITB) FOR THE TOWN CENTER SOUTH PARKING LOT IMPROVEMENTS; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 7

7. QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)

ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL BE SWORN-IN PRIOR TO GIVING TESTIMONY AND MAY BE SUBJECT TO CROSS EXAMINATION. ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL STATE THEIR NAME AND ADDRESS FOR THE RECORD.

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

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING THE WATER CONSERVATION AND EMERGENCY WATER RESTRICTION ENFORCEMENT REGULATIONS; PROVIDING FOR PENALTIES; PROVIDING FOR ORDINANCES IN CONFLICT, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

TAB 8

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 FIRST READING OR RESOLUTIONS REQUIRING A PUBLIC HEARING

10. ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED)

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-19 RELATING TO GARAGE SALES; PROVIDING FOR REGULATIONS RELATING TO NONPROFIT ORGANIZATION GARAGE SALES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE. (Mixon)

TAB 9

END OF PUBLIC HEARING

11. 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.

12. MAYOR AND COUNCIL COMMENTS

13. OTHER BUSINESS

14. 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.

TOWN OF CUTLER BAY TOWN COUNCIL SPECIAL MEETING

Thursday, April 14, 2011, 4:00 p.m.

Town Hall

10720 Caribbean Boulevard, Suite 105

Cutler Bay, FL 33189

MEMBERS Mayor Edward P. MacDougall
PRESENT: Councilmember Peggy Bell
Councilmember Mary Ann Mixon
Councilmember Sue Ellen Loyzelle

Vice Mayor Ernest Sochin participated in the meeting by telephonic conference.

ALSO PRESENT: Steve Alexander, Town Administrator
Mitch Bierman, Town Attorney
Esther Coulson, Town Clerk
Erin O'Donnell, Assistant to the Town Clerk

1. CALL TO ORDER

The mayor called the meeting to order at 4:09 p.m. and with a quorum present, he requested that Ms. Coulson call the roll.

The mayor led in the Pledge of Allegiance to the Flag.

On motion of Councilmember Mixon, seconded by Councilmember Bell and unanimously carried, the council permitted Vice Mayor Ernest Sochin to participate in this evening's proceedings by telephonic conference.

The mayor announced that the purpose of holding this day's meeting is that there is a vacancy in the candidacy at the end of the qualifying period April 8, 2011; due to the additional qualifying period which began on April 12 at noon and will close no later than noon on April 25, 2011, and a need to take any action that may be necessary to reschedule the election on June 28, 2011 for Councilmember Seat 2 office.

Mr. Bierman reviewed his memorandum dated April 12, 2011 relating to The Charter Provisions Regarding Elections and Qualifying; a copy of which is filed with the supplemental papers to the minutes of this meeting.

2. PUBLIC COMMENTS

There were no public comments at this time.

By unanimous consent, the council took item 4 out of order on this evening's agenda.

4. RESOLUTION – Election to Fill Remaining Term

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, authorizing that an election be held to fill the remaining term of the Councilmember Seat 2 position; providing for notification to the supervisor of elections, and providing for an effective date.

Mr. Bierman read into the record the clarification language under Section 2., as follows:

The town council hereby authorizes the setting of a special election to be held on Tuesday, June 28, 2011. In the event a run-off election is necessary, the council hereby authorizes the run-off election to be set for July 12, 2011 in order to fill the remaining term of office for the Councilmember Seat 2 position.

A motion was made by Councilmember Mixon and seconded by Vice Mayor Sochin that the council adopt Resolution 11-21 previously cited as amended.

After extensive deliberations, **the mayor called for a roll call vote on the motion with the members voting as follows:**

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

3. EMERGENCY ORDINANCE – 2011 Municipal Election

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

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, REENACTING EMERGENCY ORDINANCE 11-04 WHICH ESTABLISHED THE CANDIDATE QUALIFYING PERIOD FOR THE 2011 MUNICIPAL ELECTION FOR THE VICE MAYOR AND COUNCIL SEAT 2 POSITIONS, AND PROVIDING FOR AN EFFECTIVE DATE.

On motion of Vice Mayor Sochin, seconded by Councilmember Mixon and unanimously carried, the council approved the enactment of the previously cited proposed ordinance.

5. OTHER BUSINESS

Ms. Coulson referred to an email received earlier this day from the Village of Palmetto Bay requesting dates for a joint meeting among municipalities; namely, the City of South Miami, Villages of Pinecrest and Palmetto Bay and the Town of Cutler Bay regarding the Florida Power and Light Company (FP&L) and underground cables; a copy of which is filed with the supplemental papers to the minutes of this meeting.

The mayor addressed the need to be supportive to and work together with the neighboring municipalities; mentioned his plan to meet with the respective mayors at their request, and asked for the council's position in this regard.

Discussion was held regarding the burying of FP&L's transmission powerlines, installation of poles, and the storage of nuclear rods at Turkey Point FP&L Nuclear Plant.

After the mayor confirmed that a resolution on the council's intent is the only document requested, Mr. Alexander requested a copy and addressed his plan to brief the council members on the status of the subject issue.

The mayor mentioned his plan to discuss the subject matter with Mayor Cindy Lerner, Village of Pinecrest; recognized that more studies need to be conducted, and acknowledged the councilmembers' support of the surrounding municipalities.

6. ADJOURNMENT

There being no further business to come before the council, the meeting adjourned at 5:18 p.m.

The minutes were approved at the May 18, 2011 Regular Council Meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, Mayor

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

Wednesday, April 20, 2011, 7:00 p.m.
South Dade Regional Library
10750 Southwest 211 Street
Cutler Bay, Florida 33189

Members Present:

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

Also Present:

Town Manager Steven Alexander
Town Attorney Mitch Bierman
Town Clerk Esther B. Coulson

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

The mayor called the meeting to order at 7:04 p.m.; requested that Ms. Coulson call the roll, and with a quorum present.

ADDITIONS, DELETIONS AND DEFERRALS

At the mayor's request, Ms. Coulson noted the following changes on this evening's agenda:

- Item 4.B., amendment to the draft March 14, 2011 Council Workshop Meeting minutes;
- Item 4.D., amendment to the draft March 16, 2011 Regular Council Meeting minutes;
- Item 6.E., amendment to the proposed community-wide garage sale resolution;
- Item 6.L., addendum reflecting the correct information on the proposed janitorial maintenance services resolution, and
- Item 6.N., amendment to proposed civility resolution.

2. PUBLIC COMMENTS

Ms. Barbara Condon, Town of Cutler Bay resident, questioned the civility ordinance.

Mr. Steve Zarzecki, Town of Cutler Bay resident, commended Ms. Coulson as a citizen-friendly staff and thanked the council for selecting her.

Ms. Louise Lockwood, Town of Cutler Bay resident, questioned the status of the Old Cutler Road redevelopment and Southwest 87 Avenue project and requested the council's review of same. (A copy of Ms. Lockwood's questions was submitted for the record and filed with the supplemental papers to the minutes of this meeting.)

Later in the meeting, the mayor explained that staff would provide more information on the Old Cutler Road redevelopment and Southwest 87 Avenue Project Roadway Improvement Program at a future meeting.

Mr. Mark D. O'Heron, Town of Cutler Bay resident, extended congratulations to the mayor and the council on their election.

3. PROCLAMATIONS, AWARDS, AND PRESENTATIONS

A. Troop 457 Eagle Scout Commendations

Troop 457 Eagle Scout commendations will be presented separately at another event.

B. MD Police Department Life-Saving Awards

On behalf of the town council, the mayor read into the record a proclamation recognizing the Miami-Dade County Police Department for their outstanding performance of duty and officially commended the individuals as recipients of the Bronze Medal of Valor in helping, serving and protecting the town's citizens.

Officers Josemyne Ayala-Gotav and Ruben Moya, accompanied with Captain Laura Wood, accepted the proclamation with gratitude.

C. Proclamation - *National Public Works Week* – May 15 through May 21, 2011

On behalf of the town council the mayor read into the record a proclamation proclaiming the week of May 15 through May 21, 2011 as "*National Public Works Week*". The mayor commended staff on the manner in which complaints have been resolved and addressed the importance of recognizing the administrative staff's efforts and contributions they made within the community.

Mr. Ralph Casals, Public Works Department Director, accepted the proclamation with appreciation.

D. Proclamation - East Ridge 50th Year Anniversary

On behalf of the town council, Councilmember Loyzelle read into the record a proclamation recognizing April 30, 2011 as East Ridge's 50th Year Anniversary in preserving a rich history and provision of continued quality of services over the years.

Ms. Louise Lockwood, resident, accepted the proclamation on behalf of the residents and staff with thanks.

The mayor announced that the East Ridge Retirement Village community will be celebrating its event on April 30, 2011.

E. Introduction – Community Development Department Director

On behalf of the council, the mayor introduced Mr. Julian Perez as the new Community Development Department Director for the Town of Cutler Bay.

The council welcomed Mr. Perez.

F. Petra Burns, Centennial Math Department

At the Mayor's request, Ms. Petra Burns, Town of Cutler Bay resident and Math Coach at Centennial Middle School, announced that the school has officially been approved by the Attendance Boundary Committee (ABC) as a Maritime and Science Technology Magnet Program commencing in 2012.

The mayor gave special recognition to Ms. Yamilla Carballo, principal and Mr. Marshall Ruffo, Marine Skills, Science, Honors Earth, Space Science, and Honors Biology teacher, who were institutional with the magnet program.

4. APPROVAL OF MINUTES

The council considered its action on this evening's agenda to approve the minutes as shown below:

- A.** Joint Council Meeting – March 8, 2011 (as corrected);
- B.** Council Workshop Meeting – March 14, 2011 (as amended);
- C.** Regular Council Meeting – March 16, 2011 (as amended);
- D.** Joint Council Bay Point Tour Meeting – March 22, 2011 (as submitted), and
- E.** Special Meeting – March 30, 2011 (as submitted).

After discussion and **on motion of Vice Mayor Sochin, seconded by Councilmember Mixon and unanimously carried, the town council approved the previously cited minutes.**

5. REPORTS

A. TOWN MANAGER'S REPORT

· **Fifth Annual all Kids Included Family Arts Festival**

Mr. Alexander announced that the 5th Annual All Kids Included Family Arts Festival will be taking place on Saturday, April 23, 2011 from 10:00 a.m. to 5:00 p.m. at the South Dade Cultural Arts Center (SDCAC).

Later in the meeting, Mr. Alexander explained that flyers depicting future events at SDCAC will be available at its kiosks, future town council meetings, and town hall.

· **Check Registry**

Mr. Alexander addressed staff's attempts in developing the software program for the check registry and explained that more information on the cost of implementing a project description would be available by next month.

- **Town Hall Office Leases**

Mr. Alexander gave a report on the recent 7,300 square foot lease on the fifth floor at town hall.

- **Town Hall Construction**

Mr. Alexander anticipated that administrative staff and the police department at town hall will be relocated on the second floor by the second week of May 2011 and demolition is expected to begin within a month to make room for the new town council chambers.

- **Town Center Building LEED Sign**

Mr. Alexander explained that the Leadership in Energy and Environmental Design (LEED) green sign for the town hall will be erected on the building, completed by the week of April 25, 2011, and fully operational in two weeks.

- **Lakes by-the-Bay South Commons Development – Agreement**

Mr. Alexander referred to the council's adoption of a resolution amending the development order for the Lakes by-the-Bay South Commons Development at its February 16, 2011 meeting; pointed out a letter agreement with Lennar Homes, LCC netting the town approximately \$600,000 worth of projects (including a traffic circle on Southwest 216 Street and Southwest 97 Avenue and drainage along Southwest 97 Avenue), and addressed the plan to execute the letter of agreement by April 21, 2011.

- **Old Cutler Road Project Status Report**

Mr. Alexander referred to Ms. Lockwood's concerns, addressed earlier in the meeting, regarding the Old Cutler Road redevelopment and Southwest 87 Avenue project; gave an overview on the redesigned project and revised timeframe, and anticipated, based on Miami-Dade County (MDC) Commission's approval of the enhancements, that roadway construction would begin around December 2011 or January 2012.

- **Municipal Distribution of PTP Funds**

Mr. Alexander reported on the attorney's review of proposed Senate Bill 1180, Charter County and Regional Transportation System that the lobbyist is working on relating to the Municipal Distribution of People's Transportation Plan (PTP) funds which requires the county to fund three new municipalities; namely, Cities of Doral, Miami Gardens, and the Town of Cutler Bay from Miami-Dade County's (MDC's) 80 percent portion. He anticipated a quick resolution to the subject issue after the county's new mayor is retained.

- **Southwest 216 Street Light Project**

Mr. Alexander reported that the street light project on Southwest 216 Street for the Lakes by-the-Bay is moving forward.

- **Bus Benches and Shelters Transfer**

Mr. Alexander noted that the MDC's transfer of bus benches and shelters have moved out of the MDC Transportation Committee and will be considered on the MDC Commission Agenda at a future meeting.

- **School Flashing Lights**

Mr. Alexander reported that the county's public works staff informed him that Cutler Ridge Middle School has been placed on the list for school flashing lights. He indicated that town staff will continue to monitor the progress.

Due to lack of time, the mayor requested that Mr. Alexander provide the remainder of his report to the council in writing.

3. PROCLAMATIONS, AWARDS, AND PRESENTATIONS

G. Special Recognition

On behalf of the council, the vice mayor recognized Ms. Ninoksa Martinez and her daughter, Alexandra Martinez, who won a trophy for "Ms. Photogenic Award".

The council extended its congratulations to Alexandra.

5. REPORTS

B. TOWN ATTORNEY'S REPORT

- **Executive Session – April 27, 2011 – 4:00 p.m.**

Mr. Bierman requested that the town council hold an executive session on Pride Homes of Lakes by-the-Bay Parcel F, LLC et. al. v. the Town of Cutler Bay (Case No. 10-12637 CA (04)), 11th Judicial Circuit, Miami-Dade, Florida.

Mr. Bierman explained that the executive session would be held to discuss settlement negotiations or strategies relating to litigation expenditures. He indicated that reasonable public notice on the time and date and names of the persons attending the closed-session would be provided by the town clerk who arranged for it to be held on Wednesday, April 27, 2011. He stated that the town's attorneys would be discussing the case with the council and Mr. Michael T. Burke, the attorney previously assigned by the Miami-Dade County League of Cities.

· **High School Students Essay Contest**

Mr. Bierman announced that the law firm, Weiss, Serota, Helfman, Pastoriza, Cole, & Boniske, P.L., celebrated on Friday, April 15, 2011 its 20th year anniversary. He explained that the law firm has grown with various municipalities it represents and said firm is sponsoring an essay contest open to high school senior students at each municipality including those who reside in the Town of Cutler Bay.

Mr. Bierman reviewed the flyer entitled “Tell Us Why Cutler Bay is Special . . . And”; to be distributed to high schools from April 27 to May 25, 2011. He requested the council’s permission that the student, who receives the \$1,000 prize, read the essay at a future council meeting and for the town clerk to post the flyer on the town’s website and the town hall notice board. (A copy of said flyer is filed with the supplemental papers to the minutes of this meeting.)

By unanimous consent, the council approved the town attorney’s requests as previously cited.

C. BOARD/COMMITTEE REPORTS AND COUNCIL ANNOUNCEMENTS

· **Charter High School Committee Report**

Ms. Rosi Alvarez, Charter High School Committee Chair, reviewed the committee’s progress report; relayed its recommendation to initially review the former Bay Point School site as a possible charter school facility, and addressed the charter school application submission process and the retaining of a management company or consultant. (A copy of the progress report is filed with the supplemental papers to the minutes of this meeting.)

After discussion, and **by unanimous consent, the council accepted the committee’s progress report.**

Following further discussion, the council commended the committee on its report.

The mayor requested that the committee work with the liaison to expedite the procedures involved to retain a management company or consultant and pursue an eligible charter school with the direction to the town attorney to draft a resolution to be considered by the council at a future meeting.

· **Parks and Recreation Advisory Committee Report**

Councilmember Bell referred to the Parks and Recreation Advisory Committee’s previous meeting and discussions held on a bird sanctuary at Cutler Bay Wetlands.

Educational Compact Advisory Committee Applications

The council considered the following Educational Compact Advisory Committee applicants' resumes:

- Maribel Pizarro
- Petra Burns
- David Biegen (nominated by Councilmember Bell)
- Stephanie Keime (nominated by Vice Mayor Sochin)
- Gilda L. Chang
- Cristine O'Hara (nominated by Councilmember Loyzelle)

With the exception of Ms. Chang who was not present at this evening's meeting, the above-named applicants came before the council and described their background and experience.

After discussion and **by unanimous consent, the council approved Mayor Edward P. MacDougall's request to nominate Ms. Maribel Pizarro and Councilmember Mary Ann Mixon's request to nominate Ms. Petra Burns to the Educational Compact Advisory Committee.**

Following further discussion and **by unanimous consent, the council accepted the nominations to appoint Mses. Maribel Pizarro, Petra Burns, Stephanie Keime, Cristine O'Hara, and Mr. David Biegen to the Educational Compact Advisory Committee.**

6. CONSENT AGENDA

Upon the mayor's suggestion and **by unanimous consent, the town council took Item 6.I. out of order on this evening's agenda.**

I. Educational Compact Advisory Committee

On motion of Councilmember Mixon, seconded by Councilmember Bell and unanimously carried, the council adopted, as amended, Resolution 11-29 of the Mayor and Town Council of the Town of Cutler Bay, Florida to appoint advisory committee members; included the appointments of Ms. Petra Burns (nominated by the mayor) and Maribel Pizarro (nominated by Councilmember Mixon) to serve on the Educational Compact Advisory Committee, and providing for an effective date, and approved as corrected Exhibit "A" to read *Stephanie Keime*.

The council welcomed the appointed members to the advisory committee.

By unanimous consent, the council agreed to pull from consideration on this evening's agenda Items D., F., and G., by Councilmember Mixon and Item B. by Councilmember Loyzelle.

On motion of Vice Mayor Sochin, seconded by Councilmember Bell and unanimously carried, the council took the following actions:

- A. adopted Resolution 11-22 of the Mayor and Town Council of the Town of Cutler Bay, Florida, recognizing April 22, 2011 as *Earth Day*, and providing for an effective date (Mixon);
- E. adopted Resolution 11-25 of the Mayor and Town Council of the Town of Cutler Bay, Florida establishing the 2011 community-wide garage sale dates pursuant to Ordinance 10-02, and providing for an effective date (Bell);
- H. adopted Resolution 11-28 of the Mayor and Town Council of the Town of Cutler Bay, Florida to appoint an advisory committee member to the Parks and Recreation Advisory Committee, and providing for an effective date (Sochin);
- J. adopted Resolution 11-30 of the Mayor and Town Council of the Town of Cutler Bay, Florida, designating the month of April 2011 as *Water Conservation Month*, and providing for an effective date;
- K. adopted Resolution 11-31 of the Mayor and Town Council of the Town of Cutler Bay, Florida, relating to the Cutler Bay Town Center Building located at 10720 Caribbean Boulevard; approving the results of a Request For Qualifications (RFQ) 11-01, awarding the top five (5) pre-qualified general contractors as shown on Exhibit "A" to perform work at the Cutler Bay Town Center Building Complex; authorizing the town manager to establish the general contractors top five (5) pre-qualified list, and providing for an effective date;
- L. adopted Resolution 11-32 of the Mayor and Town Council of the Town of Cutler Bay, Florida, selecting American Facility Services, Inc. to provide janitorial maintenance services at the Cutler Bay Town Center building located at 10720 Caribbean Boulevard; authorizing the town manager to negotiate and execute an agreement with janitorial maintenance services, and providing for an effective date, and
- M. adopted Resolution 11-33 of the Mayor and Town Council of the Town of Cutler Bay, Florida, selecting Oracle Elevator Company to provide elevator maintenance services at the Cutler Bay Town Center Building located at 10720 Caribbean Boulevard; authorizing the town manager to negotiate and enter into an agreement with Oracle Elevator Company, and providing for an effective date, and
- N. withdrew from consideration the adoption of a resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, re-emphasizing the council's

commitment to maintain civility in the conduct of the public's business at Councilmember Bell's request (Bell).

B. "Buy America" Policy

The council considered its action to adopt the proposed resolution, the title of which is as follows:

A resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, adopting a "Buy America" policy for the purchase of town supplies, materials, and equipment; providing for authorization, and providing for an effective date. (Mixon)

Following much discussion and **on motion of Vice Mayor Sochin, seconded by Councilmember Loyzelle and unanimously carried, the council postponed its adoption of the previously cited resolution to one month for more information.**

C. ARRA Energy and Climate Commission Grant Award

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

A resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, accepting a federal American Recovery and Reinvestment Act (ARRA) stimulus, a Florida Energy and Climate Commission Grant Award, to make town hall more energy efficient; providing for utilization of the grant funds to purchase and install interior and exterior lighting with energy efficient light fixtures; to purchase an electric vehicle charging station, and to create community awareness on green practices; approving the grant agreement and authorizing the town manager to execute grant agreement No. ARS135 among the town, State of Florida, Executive Office of the Governor, and the Florida Energy and Climate Commission, and providing for an effective date. (Mixon)

A motion was made by Councilmember Mixon and seconded by Councilmember Bell that the council adopt Resolution 11-23 as previously cited.

After Mr. Alexander gave a report on the status of the subject issue, **the mayor called for a roll call vote on the motion and declared it carried unanimously.**

D. Check Registry Monthly Report

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

A resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida requesting the town manager to post a monthly report of the town's check registry; requesting that this information be provided in the future on a monthly basis, and providing an effective date. (MacDougall)

Subsequent to further discussion and **on motion of Vice Mayor Sochin, seconded by Councilmember Mixon and unanimously carried, the council adopted Resolution 11-24 as previously cited.**

F. Charter School Committee Name Change to Education Advisory Committee

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

The council adopt a resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, amending Resolution 07-41 by changing the name of the Charter School Committee to the Education Advisory Committee; further amending Resolution 07-41 by expanding the jurisdiction of the committee; amending Resolution 11-18 relating to the Education Advisory Committee's role with the Educational Compact Advisory Committee and providing for an effective date. (Sochin)

A motion was made by Councilmember Mixon and seconded by Councilmember Loyzelle that the council adopt the proposed resolution as previously cited.

Following extensive deliberations, **an amendment to the motion was made by Councilmember Bell and seconded by Councilmember Loyzelle that the council adopt Resolution 11-26 as previously cited deleting the language under Section 3., Section 2., relating to the Educational Compact Advisory Committee.**

After discussion, **the mayor called for a roll call vote on the amendment to the motion with the councilmembers voting as follows:**

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

The mayor declared the amendment to the motion on Resolution 11-26 as previously cited carried on a four to one (4-1) vote.

A motion was made by Councilmember Mixon and seconded by Councilmember Loyzelle that the council adopt Resolution 11-26 as amended.

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

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

G. Bay Point School – Municipal Charter School Potential Site

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

A resolution of the Mayor and Town Council of the Town of Cutler Bay, Florida, identifying property located at 22025 Southwest 87 Avenue (aka Bay Point School) as a potential site for a municipal charter school, and providing for an effective date. (Sochin)

After discussion and **on motion of Vice Mayor Sochin, seconded by Councilmember Bell and unanimously carried, the council adopted Resolution 11-27 as previously cited.**

7. QUASI-JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)

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

Later in the meeting, Mr. Bierman announced a housekeeping change that the agenda, as printed, reflected that the first two readings of the following ordinances required a public hearing in compliance with the law is incorrect.

A. Garage Sales – NPO

The council considered its action to adopt an ordinance, the substance of which is as follows and called for interested participants to be heard:

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-19 RELATING TO GARAGE SALES; PROVIDING FOR REGULATIONS RELATING TO NONPROFIT ORGANIZATION GARAGE SALES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE. (Mixon)

Mr. Bill Mickeljohn, Town of Cutler Bay resident, referred to a previous presentation addressing how much money would be lost towards charter schools.

He gave reasons why the Educational Compact Advisory Committee ought to be separate from the Charter High School Committee (now known as the Education Advisory Committee).

At the mayor's request, Ms. Coulson read into the record the previously cited proposed ordinance,

A motion was made by Councilmember Mixon and seconded by Vice Mayor Sochin that the council approve the aforementioned proposed ordinance.

After much discussion and as requested by Councilmember Loyzelle, Mr. Bierman accepted the amendment to change the title under Subsection 2., I. of Ordinance 07-09 to read "Garage Sales" for the second reading.

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

B. Town Advisory Boards

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

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 10-08 RELATING TO TOWN ADVISORY BOARDS, AND PROVIDING FOR AN EFFECTIVE DATE. (MacDougall)

A motion was made by Vice Mayor Sochin and seconded by Councilmember Mixon that the council approve the enactment of the proposed ordinance.

Following extensive deliberations, **the mayor called for a roll call vote on the motion with the members voting as follows:**

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

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

PUBLIC COMMENTS

9. ORDINANCES FOR FIRST READING OR RESOLUTIONS REQUIRING A PUBLIC HEARING

There were no ordinances for first reading or resolutions requiring a public hearing before the council.

PUBLIC HEARING

By unanimous consent, the mayor opened the public hearing.

10. ORDINANCES FOR SECOND READING

Ordinance 11-03

At the mayor's request, Ms. Coulson read into the record a proposed ordinance, the title of which is as follows and called for interested participants to be heard:

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)

Ms. Louise Lockwood, Town of Cutler Bay Resident, pointed out her travels on Southwest 87 Avenue and expressed concerns with the safety of children when she observed them playing around and tampering with the rent portable toilets.

By unanimous consent, the mayor closed the public hearing.

A motion was made by Vice Mayor Sochin and seconded by Councilmember Bell that the council enact Ordinance 11-03 to become effective as provided by law.

After discussion was held on the removal of the portable toilets during the week, Mr. Alexander confirmed that staff will work with the property owner to resolve the parking issues on the property located on Old Cutler Road to become compliant with the code.

After much discussion, **the mayor called for a roll call vote on the motion and declared it carried unanimously.**

END OF PUBLIC HEARING

11. PUBLIC COMMENTS

Town of Cutler Bay Resident Mr. Steve Zarzecki expressed his disappointment on not having the opportunity to be heard under Item 8.B., on the failed ordinance relating to the town's advisory boards.

Mr. Zarzecki referred to Item 6.N., withdrawn resolution on the civility in the conduct of the public's business; pointed out the town council's actions at its October 18, 2006 regular meeting adopting Strategic Plan Resolution 06-103 which identified the council's operating principles and core values shown on pages five and six from the Town's 2006-2011 Strategic Plan -- the same issues as depicted on said resolution proffered earlier by Councilmember Bell -- and recognized that said resolution was also endorsed by the Miami-Dade County League of Cities (MDCLC) to which he thanked Councilmember Bell for bringing forward.

12. MAYOR AND COUNCIL COMMENTS

- **Miami-Dade County Days**
Councilmember Loyzelle gave a report on her attendance at the Miami-Dade County Days in Tallahassee earlier this month regarding issues concerning the town.
- **YMCA 95th Year Celebration**
Councilmember Loyzelle announced that on May 5, 2011 at 9:30 a.m., the YMCA of Greater Miami will be celebrating its 95th anniversary and holding a groundbreaking ceremony event for the new South Dade YMCA Family Center expansion. She invited everyone to the event and explained that the new YMCA will be built to serve the community.
- **Baynanza Biscayne Bay Cleanup 2011**
Councilmember Nixon recognized that Baynanza Biscayne Beach Cleanup's 29th anniversary was held on Saturday, April 16, 2011 and gave statistical reports on the number of volunteers involved and the volume of trash collected.
- **Taste of the Bay**
Councilmember Nixon invited everyone to attend the *Taste of the Bay* event to be held on Sunday, May 15, 2011 at Palmetto Bay Village Center.
- **Cracked Sidewalks**
Councilmember Bell commended the Mr. Alexander and staff on the timely response received due to a recent complaint regarding cracked sidewalks.
- **Saga Bay Park**
Vice Mayor Sochin announced the town's celebrations of the Saga Bay Park Dedication that was held on Saturday, April 16, 2011.
- **Town Committees**
Earlier in the meeting, the mayor stressed the importance of the advisory committees' focus on their missions.

The mayor requested that Ms. Coulson provide information on the specific tasks given to the town's advisory committees.

Earth Day Pledge

Councilmember Mixon referred to adopted Resolution 11-28 recognizing April 22, 2011 as *Earth Day* and cited the pledge entitled "Once a Day for Cutler Bay". She indicated that the community ought to affirm that every day is Earth Day and be responsible for keeping the environment clean. Councilmember Mixon requested that the pledge be placed on the town's website.

Due to lack of time, the mayor suggested postponing the request to a future meeting.

12. OTHER BUSINESS

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

13. ADJOURNMENT

On motion made by Vice Mayor Sochin, seconded Councilmember Loyzelle and unanimously carried, the meeting adjourned at 10:58 p.m.

The minutes were approved at the May 18, 2011 Regular Council Meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, Mayor

**LOCAL PLANNING AGENCY MEETING
MINUTES**

Wednesday, April 20, 2011, 7:00 p.m.
South Dade Regional Library
10750 Southwest 211 Street
Cutler Bay, Florida 33189

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 Manager Steven Alexander
Town Clerk Esther B. Coulson

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

The mayor called the meeting to order at 7:00 p.m., requested that Ms. Coulson call the roll and with a quorum present, he led in the Pledge of Allegiance to the flag.

II. PUBLIC COMMENTS

The mayor announced that public comments before the local planning agency will be heard on the regular council agenda.

III. ADDITIONS, DELETIONS, AND DEFERRALS

There were no additions, deletions or deferrals to come before the local planning agency at this time.

IV. CONSENT AGENDA

Approval of Minutes – March 16, 2011 to the regular agenda

Upon the mayor's suggestion and **by unanimous consent, the local planning agency agreed to postpone the approval of its March 16, 2011 minutes to the regular council meeting.**

V. ACTION ITEMS

Proposed Ordinance – Nonprofit Organization Garage Sales

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

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF
CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-19 RELATING TO GARAGE
SALES; PROVIDING FOR REGULATIONS RELATING TO NONPROFIT
ORGANIZATION GARAGE SALES; PROVIDING FOR SEVERABILITY; PROVIDING
FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

A motion was made by Councilmember Mixon and seconded by Vice Mayor Sochin that the local planning agency recommend the enactment of the previously cited ordinance.

After discussion, **the mayor called for a roll call vote on the motion and declared it carried unanimously.**

VI. PUBLIC COMMENTS

Public comments before the local planning agency will be heard on the regular council agenda.

VII. ADJOURNMENT

On motion made, seconded and unanimously carried, the meeting adjourned at 7:03 p.m.

The minutes were approved at the May 18, 2011 Regular Council Meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, Mayor

WATER SHORTAGE WATCH BRIEFING

Keeping an Eye on Water Supply

Report for May 2, 2011

To keep the public informed about dry conditions impacting much of Central and South Florida, the South Florida Water Management District (SFWMD) is issuing the following briefing.

District-wide Conditions

Dry conditions have persisted across much of the District's 16-county region since October and resulted in a water deficit that will not end with the start of the wet season, which typically begins by the end of May. Sea-breeze cycle rains will need time to begin alleviating low water levels.

DRY SEASON RAINFALL Oct. 2, 2010 – May 2, 2011	10.27 inches
DRY SEASON RAINFALL DEFICIT Oct. 2, 2010 – May 2, 2011	7.74 inches below average
LAKE OKEECHOBEE LEVEL May 2, 2011	10.92 feet NGVD 2.68 feet below average
U.S. DROUGHT MONITOR	LATEST REPORT (map)
USGS GROUNDWATER CONDITIONS	LATEST REPORT (map)

Dry Season Rainfall by Basin (Oct. 2, 2010 – May 2, 2011)

BASIN	RAINFALL	DIFFERENCE
Upper Kissimmee	15.13 inches	3.36 inches below average
Lower Kissimmee	11.18 inches	4.85 inches below average
Lake Okeechobee	9.02 inches	6.75 inches below average
EAA East	8.77 inches	7.74 inches below average
EAA West	8.03 inches	8.71 inches below average
Water Conservation Areas 1 & 2	9.91 inches	8.95 inches below average
Water Conservation Area 3	7.97 inches	9.25 inches below average
Martin and St. Lucie Counties	10.09 inches	11.90 inches below average
Eastern Palm Beach County	9.61 inches	16.36 inches below average
Eastern Broward County	11.30 inches	10.74 inches below average
Eastern Miami-Dade County	12.13 inches	7.97 inches below average
East Caloosahatchee	9.55 inches	7.37 inches below average
Big Cypress Preserve	8.43 inches	8.28 inches below average
Southwest Coast	10.55 inches	6.48 inches below average
Click here for a map of basin locations.		

Water Shortage Orders and Conservation Measures

Water Shortage Order – Landscape Irrigation

- [Modified Phase II restrictions](#), effective March 26, limit landscape irrigation to two days per week throughout the District.
- Landscape irrigation using reclaimed water is not restricted under the order.
- Irrigation times vary by area:
 - For Broward, Glades, Hendry, Martin, Miami-Dade, Monroe, Okeechobee, Palm Beach and St. Lucie counties. Also for portions of Osceola County within the SFWMD boundaries, the Town of Windermere in Orange County and cities within Lee County except Cape Coral – [Just the Facts](#)
 - Charlotte, Highlands and Polk counties – [Just the Facts](#)
 - Toho Water Authority Service Area (Osceola County) – [Just the Facts](#)
 - The City of Cape Coral – [Just the Facts](#)
 - Collier County, including the City of Naples – [Just the Facts](#)
 - Orange County except the Town of Windermere – [Just the Facts](#)
 - Unincorporated areas of Lee County – [Just the Facts](#)

Water Shortage Order – Golf Courses

- [Modified Phase I restrictions](#), effective March 26, require a 15-percent cutback for golf course irrigation in Broward, Collier, Glades, Hendry, Lee, Martin, Miami-Dade, Monroe, Okeechobee, Palm Beach and St. Lucie counties.

Water Shortage Order – Lake Okeechobee Service Area (LOSA)

- A [water shortage order](#), effective March 26, requires a 15-percent reduction in surface water withdrawals for all agricultural, nursery and diversion and impoundment users within LOSA.
 - LOSA includes portions of Okeechobee, Glades, Hendry, Lee, Martin, Palm Beach and St. Lucie counties, and the Everglades Agricultural Area and portions of the Southern Indian Prairie Water Use Basin.

Water Shortage Order – Agricultural and Nursery Water Users in South Miami-Dade County

- A [water shortage order](#), effective March 26, places Phase I restrictions on agricultural and nursery water users within the South Dade Water Use Basin. Users will limit the times and hours of irrigation operations.

Water Shortage Order – Southern Indian Prairie Water Use Basin

- An [operational order](#), effective March 26, allows for District operation of certain bypass structures in the southern Indian Prairie Water Use Basin to implement the LOSA order.

Water Shortage Order – Permitted Water Users in Broward and Palm Beach Counties

- A [water shortage order](#), effective March 26, places Phase I restrictions on agricultural, nursery and diversion and impoundment permittees that use or divert surface and ground water in these counties.

- Withdrawals from surface waters by specified users will be reduced 15 percent.
- Agricultural and nursery operations will limit the hours of irrigation.

Other Actions

The District continues to closely monitor water levels. Links to more information about water shortage orders and warnings, current weather and water conditions and water-saving tips can be found at www.sfwmd.gov/waterwatch.

Emergency Operations

- The SFWMD's Emergency Operations Center is currently at a Level 2 activation to monitor and plan activities associated with the 2011 Water Shortage.

#

Media inquiries can be directed to:

Randy Smith

South Florida Water Management District

Office: (561) 682-2800 or Cellular: (561) 389-3386

ORDINANCE 11-07

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 07-19 RELATING TO GARAGE SALES; PROVIDING FOR REGULATIONS RELATING TO NONPROFIT ORGANIZATION GARAGE SALES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the intent of the Town Council of the Town of Cutler Bay (the “Town”) to regulate garage sales held by nonprofit organizations on nonresidential property within the town; and

WHEREAS, regulating such garage sales will permit nonprofit organizations to continue to have such sales, while minimizing the secondary impacts of such sales on the surrounding neighborhood; 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 FOLLOWS:

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

Section 2. Ordinance 07-19. The town council hereby amends Ordinance 07-19 as follows:

Section 2. Residential Garage Sales.

I. Residential Garage Sale

(A) Definition.

A “garage sale” shall mean the sale of personal property at the residential property on which the sale is occurring. The term includes lawn sale, yard sale, front yard sale, backyard sale, home sale, attic sale, rummage sale, patio sale, driveway sale, estate sale, or any similar designation.

(B) Number of sales.

Each residential homeowner or tenant may be permitted for up to four (4) garage sales per calendar year, with two (2) consecutive days of sales being defined as a garage sale.

(C) Permit required.

Prior to holding a garage sale, the homeowner or tenant shall obtain a permit from the planning department. There shall be no fee for the permit. The garage sale permit shall be prominently displayed on the premises while the sale is in progress. Applicants for garage sale permits shall provide the following information to the Town at the time of application:

- (1) Name of the person conducting the sale or owner of the property at which the sale will be located;
- (2) Location where the garage sale is to be conducted;
- (3) Dates the sale is to be held;
- (4) Dates of any past garage sales at the subject location within the past 12 months;
- (5) Nature of the personal property to be sold; and
- (6) Proof of residence.

Applications for garage sales to be located at multifamily residential buildings shall be accompanied by the written permission of the property owner or manager.

(D) Time.

It shall be unlawful for any person to conduct a garage sale other than between the hours of 7:00 a.m. and 7:00 p.m. It shall likewise be unlawful for any person to attend a garage sale, without regard to whether any goods are purchased by that person, other than between the hours of 7:00 a.m. and 7:00 p.m. A garage sale shall consist of a maximum of two (2) consecutive days and shall only take place on a Friday, Saturday, Sunday, or a national holiday.

(E) Merchandise display

Merchandise to be sold at a garage sale shall be displayed in a garage, carport, private driveway, or yard. Merchandise shall not be displayed within the public right-of-way or swale area. All items shall be removed by the end of the last day of the sale. In the event that a garage sale consists of two (2) days, all items kept overnight between the first and second day shall be covered in a water proof material.

(F) Signs.

Signs advertising garage sales shall be displayed only during the times of the sale and shall be permitted as follows:

- (1) Only (1) sign may be located on the residential property on which the sale is occurring;
- (2) Up to three (3) signs advertising a garage sale are permitted to be placed on private property, with the consent of the property owner, off-site from the location of the garage sale; and
- (3) Signs shall not be larger than 22 inches by 28 inches.

Garage sale signs shall not be permitted within the public right-of-way or swale and shall be subject to the provisions set forth in Section 2-103.15 of the Code. Signs advertising such sales must be removed within twelve (12) hours after the completion of the sale.

(G) Penalties.

Failure to comply with the provisions of this Ordinance shall subject the violator to the provisions of Chapter 8CC of the Code. In the event that a violation of the Ordinance is not provided for in Chapter 8CC of the Code, the failure to comply with the provisions in this Ordinance shall result in a fine of fifty dollars (\$50.00) for the first offense; one hundred dollars (\$100.00) for the second offense; and one hundred and fifty dollars (\$150.00) for the third offense.

II. Nonprofit Organization Garage Sales

A nonprofit organization that qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code may hold a garage sale on nonresidential property regardless if the organization owns or leases the property if: (1) all of the requirements for a residential garage sale provided above are complied with; and (2) all of proceeds from the garage sale go to the nonprofit organization holding the sale.

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 20th day of April 2011.

PASSED AND ADOPTED on second reading this 18th day of May, 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	<u>Absent</u>
Vice Mayor Ernest N. Sochin	_____
Councilmember Peggy R. Bell	_____

Councilmember Mary Ann Mixon _____

Councilmember Sue Ellen Loyzelle _____