MEMORANDUM

TO: The Honorable Mayor and City Commission

FROM: Jane A. Hines, CMC, City Clerk

DATE: 12/20/2012

RE: Summary Minutes for the November 15, 2012 City Commission Meeting

RECOMMENDATION:

Attached for your consideration are the Summary Minutes for the November 15, 2012 Regular City Commission Meeting.

REASONS:

N/A

ATTACHMENTS:

• Summary Minutes
SUMMARY MINUTES
Regular City Commission Meeting
Thursday, November 15, 2012, 6:30 p.m.
City of Sunny Isles Beach, Florida

ATTENTION ALL LOBBYISTS: CITY LAW REQUIRES YOUR REGISTRATION PRIOR TO ENGAGING IN LOBBYING ACTIVITIES BEFORE CITY STAFF, BOARDS, COMMITTEES OR THE CITY COMMISSION. PLEASE CONTACT THE CITY CLERK FOR FORMS AND ADDITIONAL INFORMATION.

AGENDA

1. CALL TO ORDER / ROLL CALL OF MEMBERS
The meeting was called to order by Mayor Edelcup at 6:30 p.m. with the following officials present:

Mayor Norman S. Edelcup
Vice Mayor Lewis J. Thaler
Commissioner Isaac Aelion
Commissioner Jeanette Gatto
Commissioner George “Bud” Scholl
City Manager Christopher J. Russo
City Attorney Hans Ottinot
Finance Director Minal Shah
City Clerk Jane A. Hines, CMC
Deputy City Attorney Fernando Amuchástegui

2. PLEDGE OF ALLEGIANCE / INVOCATION
Action: Vice Mayor Thaler led the Pledge of Allegiance to the flag, and City Historian Richard C. Schulman gave the invocation.

Mayor Edelcup gave opening remarks of decorum noting that this is the last Commission Meeting for Vice Mayor Thaler as he is retiring after nine (9) years of service, and on behalf of the Commission he wished him well and thanked him for a job well done.

3. APPROVAL OF MINUTES
3A. Regular City Commission Meeting – October 18, 2012.
Action: Commissioner Scholl moved and Vice Mayor Thaler seconded a motion to approve the above mentioned Summary Minutes. The motion was approved by a voice vote of 5-0 in favor.

4. ORDER OF BUSINESS (Additions/Deletions/Amendments)
4A. Request to Hear Items: Additional Information: Item 10C. Hold Harmless Agreement re: TDRs 17141 Collins Ave; Item 12B. Floor Plan re: Chabad Request; Revised: Item 10D. TDRs Reso. 290-330 Sunny Isles Blvd; Add-On: Item 10O. Change Order #7 Shoreline re: Pier.
Action: Mayor Edelcup noted the above changes to the agenda.

Commissioner Aelion moved and Commissioner Scholl seconded a motion to approve the above changes to the agenda. The motion was approved by a voice vote of 5-0 in favor.
5. **SPECIAL PRESENTATIONS**

5A. Presentation regarding the City of **Hengchun, Taiwan** as a Possible Sister City to Sunny Isles Beach, and Introduction of **Pedro Cheng, Owner and Publisher of the Asia Connect Magazine**.

**Action:** Mayor Edelcup introduced the City’s International Ambassador to Asia Fang Oliver who gave a presentation on Hengchun, Taiwan as a possible Sister City to Sunny Isles Beach. She announced that on October 8, 2012, Mayor Yeh, Mingshun of Hengchun, Taiwan accepted the City’s proposal to become a Sister City. She has been working on this for the past 18 months, and thanked the Commission and her husband Keith Oliver for all of their support. She said Hengchun means “Eternal Spring”, and she gave facts about the City: population 31,000; white beach and mountains; 7 million visitors a year, and that is with the airport being 3.5 hours away, and they are over 5,000 years old. They are very impressed with the City of Sunny Isles Beach in how far it has come in just a few years from motel row to a modern beautiful City. On November 1, 2012, Taiwan became one of the few countries in Asia to have a Visa waiver, the people in Taiwan do not need a Visa to visit the United States for 90 days. She noted that there are no direct passenger flights from Hong Kong to Miami, and she asked everyone here to use their influence to get direct flights from Asia to Miami. Mayor Edelcup thanked Ambassador Oliver and commended her on a terrific job in bringing the Sister City program here and said hopefully next year we will be able to move forward in consummating the relationship with our new Sister City. Ambassador Oliver presented the Commission with a book on Hengchun, commemorative stamps, a letter from Mayor Yeh, Mingshun/translation, and a poster of the Dragon Race held in October 2012.

*[City Clerk’s Note: Item 10A was heard before Item 6A.]* Mayor Edelcup said he would like to move Item 10A up and hear it now which is accepting Election results, and the swearing in of the new Commissioners.

Commissioner Scholl moved and Vice Mayor Thaler seconded a **motion to take the agenda out of order and hear Item 10A. The motion was approved by a voice vote of 5-0 in favor.**

6. **ZONING: ZONING HEARINGS ARE QUASI-JUDICIAL PUBLIC HEARINGS.**

6A. Request of **Unique for the Property Located at 17141 Collins Avenue**, for the Following: (Hearing #Z2012-14)

The Applicant is requesting approval of a site plan for a 42-story, 64-unit condominium building with 222,245 square feet of floor area ratio (FAR). The Applicant is also requesting Transfer of Development Rights (TDRs) in the amount of 51,287 square feet of floor area and 20 dwelling units from private TDR Bank account. The Applicant is seeking a waiver for the required beach access easement for public safety reasons, and approval of the use of mural and graphics on temporary construction fencing.

1. Pursuant to Section 265-18 of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting a site plan approval for a 42-story building with 64 condominium units.
2. Pursuant to Section 265-23 of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting to approve the utilization of private TDRs in the amount of 51,287 square feet of development rights and 20 dwelling units.

3. Pursuant to Section 265-35(D)(8) of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting a waiver of the required beach access easement for public safety reasons.

4. Pursuant to Section 265-63.3 (G) of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting the use of graphics and murals on temporary construction fencing.

Protests 2  Waivers 0  Ex Parte 4

Action: [City Clerk’s Note: Two Protest Letters were received from Boris Tarlo, Ocean 4 Board President.] Mayor Edelcup gave opening remarks on zoning procedures/decorum. City Clerk Hines read a disclaimer for the Zoning hearing, and administered the oath to witnesses. Ex Parte communications disclosures were made by: Vice Mayor Thaler who had met with the President of the Ocean Four Association this afternoon; Commissioner Aelion disclosed that he had meetings with staff and board members of Ocean Four; Commissioner Scholl disclosed that he responded to several emails from Ocean Four; and Commissioner Gatto disclosed that she responded to a phone call and an email from Ocean Four.

City Planner Claudia Hasbun reported that originally this was the DaVinci Project approved in 2005 which had a greater number of units than the current proposal. She noted that there are no variances being requested as part of this application. At this time staff finds the application is generally consistent with the Land Development Regulations and the Comprehensive Plan. Staff also finds that the beach access waiver is appropriate due to the fact that there are existing beach access points adjacent to this property both to the south and to the north, and the creation of a new beach access at mid block would be a safety hazard. Staff finds that use of graphics and murals on temporary construction fencing is warranted. Staff also finds that the applicant is in compliance with the art and public places requirements through architectural embellishments at the building and at the site. If directed by the City Commission, staff will create a private TDR bank account in favor of Palermo Beach LLC. At this time staff has no objections with the Applicant’s request.

Public Speakers: Cliff Schulman, Esq.; Kobi Karp; Carlos Gimenez; Boris Tarlo; Lilia Rosenstein; Nicholas Rosenstein

Cliff Schulman, Esq. representing Unique for the property located at 17141 Collins Avenue, said that the Unique project is one of those 100-foot lots where the beach at the back end of the property narrows, while most of the beachfront in Sunny Isles Beach is about 400 feet of depth, this property is only 350 feet of depth. He compared this proposed project against the DaVinci project. They were permitted to build 88 units on this site but have chosen to build 64 units, with their height at 560 feet, however the FAA limit is 649 feet. Their bonuses come out to about $2.3 Million that would be payable to the City. In asking for the waiver, they want to express their thanks to the City by way of mitigation, and so they have volunteered to also make a gift to the Trust Fund of the Norman S. Edelcup School of $50,000 to be made within the next 15 days after approval. They have also agreed to make an additional mitigation payment to the City over a three-year period of $700,000 for a total of $750,000.
Kobi Karp, Architect, presented 3D Models and renderings, and handed out small scale exhibits to the Commission and the City Clerk. He noted that this is an as-of-right design meaning it meets all the criteria, all the setbacks, height, and less density. Along the beach they were able to bring the building down to the fence, and they came up with a unique treatment and an artistic and creative design. It creates a large setback from the beach and from the street. They will also have a sculpture on the front of the property. The project is essentially two units per floor, and has 12-foot ceilings. He described the pedestal, and they have about 135 parking spaces and so they created a robotic parking system that parks the car automatically. This helps to minimize the pedestal and creates the relationship that they are looking for in relation to the beach and to the street.

Cliff Schulman said that they have met with their neighbors this past Tuesday, including Jade Ocean and Ocean Four, and it is their understanding that Jade Ocean is fine with the Project. He then read a letter from Jade Ocean into the record. He said they have not been able to satisfy some of the requests from Ocean Four which included changing their architectural design. The plans have been ready for review since September 7, 2012, and Claudia Hasbun had made those plans available to Ocean Four on September 11, 2012.

Carlos Gimenez, Esq. of the law firm of Becker-Poliakoff representing Ocean Four said the first time their clients heard of this was through public notice. The first time they met with the developer was two days ago, and the first time they saw the plans was less than a week ago. They have not had time to digest this project, and they are requesting a 30-day deferral. Mayor Edelcup asked him to go ahead with his presentation and once heard, they will decide whether or not to move forward. Neil Schiller, Esq. of Becker-Poliakoff passed out a power point presentation and he briefly went through it. They feel the project violates the maximum building width code and two sections of the City’s minimum setbacks. They have concerns about how the project is going to be built, since they are so close. They also have concerns about the architectural design, the parking, and what this project will do to their property as far as wind patterns and shade. He said they are not against the project, they just want to see it deferred for thirty (30) days to give them time to review it. He is concerned if the robotic system breaks down, where are they going to put those cars? He is also requesting a wind and shadow study. Mr. Gimenez said that the developers have worked on this project a long time and they should have knocked on their door a long time ago and they didn’t, they met with them this week. Boris Tarlo, President of the Ocean Four Condo Association, said they are not against the project but they didn’t have the opportunity to review the project, and so they are asking for a 30-day deferral.

Cliff Schulman said on September 11, 2012, Claudia Hasbun responded to the Manager of Ocean Four and told her that the plans had been filed and were available for review as a public record. On the alleged violations with the Code, the ones that interpret the Code is the City Attorney and the City staff, and they said that we complied with the City Code. There has been no testimony entered that they do not meet the City Code. At the beginning of their meeting on Tuesday, Mr. Schiller was very polite and said that they don’t want of their clients anything else that any other developer in Sunny Isles Beach hasn’t done. He doesn’t want to treat us any differently, except, give us a shadow study, a wind tunnel study, don’t make wind on my pool, make the building shorter, don’t make it look like a rectangle, form an
architectural commission and pay them their loss of equity. Their units start at $3 Million for 3,100 square feet. What this project will do is add value to both of its neighbors and the entire City by basically increasing the price per square foot over units that exist today because they are larger units. All in all, what is the prejudice to them, they are paying interest of $200,000 a month on those properties, and every day is basically equity out of their pocket.

Mayor Edelcup asked the City Attorney and City Planner if proper notice was given, if there are any violations, and if there are any variances being requested or is this a waiver of a setback. City Attorney Ottinot responded that yes proper notice was given, individual notice was required to be issued at least 10 days prior to this hearing to the property owners that are within 300 feet of the proposed project and those notices went out in addition to the newspaper notice. In addition, today staff got its first request to meet representatives from Ocean Four without an appointment, they met with them. Carlos Gimenez is the attorney of record and was on the phone, and not all of these issues were raised. City Attorney Ottinot disagreed that there were any Code violations, they reviewed this project for at least two months. They had indicated to the Applicant that they have to comply with the City Code.

City Planner Claudia Hasbun said in regards to the building width, the envelope of the building is measured from exterior wall to exterior wall, and the extension of five feet on each side, there are no balconies, it is just an architectural embellishment of the building.

Mayor Edelcup said he thinks we had an issue before with another building that were not enclosed balconies, we had the same issue at that point and we came to the conclusion that it was not an encroachment. Ms. Hasbun said correct, and the embellishment comes from the 9th floor, from 95 feet in height, that is the initial point of base embellishment up to the 41st floor. In regards to the setback, the pedestal of the building is nine (9) feet tall, and our Code calls for the first six (6) feet to be at the property line, and they chose not to go to the property line because it is extending another three (3) additional feet and they are providing four (4) feet and six (6) inches on each side, north and south. Mayor Edelcup said that the beach access is not a variance but a waiver request, and Ms. Hasbun said the beach access is not a variance, it is that beach waiver as is in our Code. City Attorney Ottinot said not only was this plan reviewed by Ms. Hasbun but it was also reviewed by Alex David who also works for the City as a consultant. All of us concur that there was no Code violation based on plans submitted. Alex David of the Bell David Planning Group said that he concurs with what City Planner Hasbun just said.

Commissioner Aelion said every time a new project site plan is presented to the Commission similar issues arise of the inconvenient element attached to the erection of such a structure. All the architecture is different on the beach, there is no architecture continuity of these structures, they are all different. As far as the protrusion of the art work on each side, it is something that really starts at a certain height like 95 feet. The art work on similar buildings on the south side that have had such protrusions, and even the Acqualina has balconies which allowed for the long distance which are much more obtrusive than an architectural structure. However, he is concerned with the egress and ingress of large vehicles like a garbage truck, and he asked Kobi Karp if he made allowances for them. Mr. Karp said yes, they met with staff, the Fire Department, and Waste Management and it is all sorted out. Commissioner Aelion asked about the art structure in the front of the building, is the engineering made in
such a way to allow for high winds with sustained forces because it is basically by itself without reinforcement. Mr. Karp said it is structurally reinforced and meets the new Code. Commissioner Aelion asked him about the issue of parking, including robotic parking, valet limited parking, and no self parking in these buildings. The concern of breakdowns has already been addressed by several engineers from Europe and locally, and apparently it is the census that this robotic system is in place should not create a concern in the function of the whole parking structure. The Commission throughout the years has followed a master plan and is continuing to that end to beautify Sunny Isles Beach in the same way we have done in the last 12-13 years. As far as the shades and the inconvenience on the beach, every building on the beach has the same exposure as a function of daytime and how much sun is observed. Basically it is a continuity of the existing model that is on the side of Collins.

Commissioner Scholl said his issue is form over substance, the last project that Kobi brought us a month or two ago, he was upset because the developer walks in and delivers the Commission a controversy which he didn’t like because that building asked for a lot of variances. He was upset over the fact that the developer didn’t proactively reach out to the adjacent property owner and settle that controversy before they brought it to the Commission, and then all of a sudden we are in that hot seat and we have to settle that controversy. He kind of feels that same way tonight, variances or no variances, as a developer you have a responsibility to be proactive and reach out to your neighbors and not on the Tuesday before a Commission meeting. By now he would like to believe that when folks come before the Commission that they reach out and try to solve these problems ahead of time. If you walked in and said we have been working with them for two months and we can’t get past these issues, then he would say you have the as-of-right, you tried, you did your best, we are going to approve the building. That is a problem for him, and he is inclined to want to defer the building to give the residents a chance to sit down and go over this project.

Commissioner Gatto said that this project has no variances, no violations, and the plans were available on September 11, 2012. Mr. Schiller said they did get the plans early in September but these are not the plans that are before you today. Those plans had 3 or 4 variances, the building was at 630 feet, and this building before you today is substantially different from the plans that were submitted in early September. To suggest that they didn’t avail themselves to a public record is not 100% accurate. They got the plans for the building that is in front of you tonight on Monday from the developer, and the public records from the City Clerk were not given to them until yesterday.

Commissioner Gatto asked if it was basically the same concept, and City Planner Hasbun said the process calls for the Applicant to come in and apply, and we have our first set of reviews. When we saw the first set of plans with that amount of variances and issues we went back to them and asked them to try and come in with no variances to the Commission. That is what they did, and the plans eventually evolved over time. Mayor Edelcup asked when the final set of plans came in which they reviewed, and Ms. Hasbun said October 29, 2012. Architect Kobi Karp said just to be clear on this, the project is a variance-free project and they worked diligently with staff and they have met with the neighbors, and it has been properly advertised as a variance-free project. He said the comments that were made by the lawyers are not correct, the building is as-of-right, we are taking great care and diligence and we have been working for months on this.
Commissioner Scholl said he agrees that it is as-of-right but he just thinks procedurally you have got to deal with your neighbors, he is not saying you have to agree with them, just to give them their due. Kobi Karp said he is just listening to what the lawyers are saying, if you are able to reduce your height, or reduce your density, or reduce your FAR, they are basically asking for a completely different project. We have been working with your staff diligently, the comments being said right now are completely false about the setbacks, it was advertised and they could have taken a look at it. He said he lives in Ocean Four and there is the DaVinci that was there, and so it is not something new. It is a project that was submitted to the City Planner two or three months ago and has been in discussion. Mr. Gimenez said the plans were made available to them this week, all they are asking for is a simple deferral for 30 days. Commissioner Gatto asked if the structure changed that drastically, and Mr. Gimenez said that is irrelevant because they have not met with the developer. He further said they requested a meeting with them October 29, 2012 and there have been delays until two days prior to the hearing.

Mr. Schulman said that Mr. Schiller can’t blame them for delaying the meeting, it was a problem of getting two boards together. His people were available the following day, he will not have it insinuated that they intentionally tried to delay it. The plans that have been available for two and half months were a taller building, with more units, and six variances. He could have walked over to City Hall at any point in time and gotten the revised plans, he could have called the City Planner and gotten a copy of the DRC Report which is public record. The final report came out a week ago but there were interim reports. He thinks they have a responsibility too since they are the ones that emailed the City on September 11, 2012 and said what is going on, and were told to come on over. Mr. Gimenez said he didn’t have time to discuss anything.

Vice Mayor Thaler said that this morning he had a meeting with them, there were three (3) items that were laid on the table and he arranged a meeting with the City Attorney and he personally sat and went through those three items with him. Then we had a meeting with the Board President and Vice President and only those three items were brought up, and they had to do with the variances that were supposed to be there, and in his mind they were cleared up. He has only one problem that has not been brought up yet, and that is what do we do with all the cars in the parking if there is a breakdown, and where do they go? Mr. Karp said that they have met with the Building Department, and what happens is that it is basically a delay system, it is all connected with electricity and to a backup generator with its own power. Therefore, if the power goes off in the City you can take your cars out and continue to operate. It is a very sophisticated system, and it is requested that we give not only the vendor and supply but also the operator and they have already gone ahead and done that. They have already been accepted by the Fire Department, they have been installed repeatedly already in Miami-Dade and Broward Counties. The project has a smaller footprint, a smaller pedestal, gets all the parking within a conditioned space, is protected from the elements, and it is just a much more superior system.

Vice Mayor Thaler asked where are the 134 cars going to go if there is a breakdown, and Mr. Karp said inside the garage. He said they all come in and if there is a breakdown they are able to be driven out. There is an opening and you can drive them out and they are connected to a backup generator. Vice Mayor Thaler said in some areas he agrees with Commissioner Scholl
in terms of trying to get the builders and the lawyers together with enough time to work these things out, not to have to get them involved in it. He doesn’t see where there was any major damage done, the changes were out there since October. Commissioner Aelion said he met with the Board and management of Ocean Four about four (4) weeks ago, and with that there were concerns with the variances and height but all have been addressed.

Mayor Edelcup said essentially what we have here is a project that is basically an as-of-right project, we also have nothing in our ordinances or resolutions that requires the City to require consenting parties to meet. He thinks they had the foresight to recognize that these kinds of issues would come up and lawyers on either side position themselves to the best advantage to their clients. It is not the City’s responsibility or duty to impose itself in the middle of their positioning; both of them are professional and they know what they are doing and they represent their clients. At the same time all we have to do is to make sure that we have adhered to our requirements of our ordinances and that is usually covered by the proper notification process. Once we have assured ourselves that the notification process is there and our staff is available to answer questions on either side, and as we have heard back and forth here today that this project is not a brand new project. It has been around for a while and has evolved probably to the betterment of the City because it did have variances before and now it doesn’t. It could have been taller before, it is not taller now, the old DaVinci site had a bigger footprint, this one has a smaller footprint. He really doesn’t think the City should impose moratoriums or deferrals because lawyers on either side choose either to get together or not get together, and so he would be inclined to not defer this project.

Commissioner Aelion moved and Vice Mayor Thaler seconded a motion for approval, subject to staff conditions. Resolution No. 12-Z-132 was adopted by a roll call vote of 4-1 [Commissioner Scholl opposed] in favor.

Vote:  
Commissioner Aelion    yes
Commissioner Gatto    yes
Commissioner Scholl    no
Vice Mayor Thaler    yes
Mayor Edelcup    yes

[City Clerk’s Note: The Commission took a 10-minute recess after this item.]

6B. Request of St. Tropez on the Bay: Phases II & III, for the Property Located at 290-330 Sunny Isles Boulevard & 16690 Collins Avenue, for the Following: (Hearing #Z2012-09)

The Applicant is requesting approval for a site plan modification for 16690 Collins Avenue and, a site plan for 290-330 Sunny Isles Boulevard. The Applicant is requesting a Transfer of Development Rights (TDRs) in the amount of 94,680 square feet of development rights and 45 units from the TDR Bank account of the City of Sunny Isles Beach. The Applicant is also seeking approval of a variance of the front pedestal to tower setback in the site plan modification. Further, the Applicant is requesting approval of a mural and graphics for a temporary construction fence.

1. Pursuant to Section 265-18 of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting a site plan modification approval for an eight (8)
story office building with 55,749 square feet, previously approved for a residential tower under Resolution No. 06-Z-101, adopted on July 20, 2006.

2. Pursuant to Section 265-15 of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting a variance to permit a pedestal to tower front setback to be 20'-0", where a minimum of 25'-0" is allowed in accordance with Section 265-38 (Summary Chart B) of the Land Development Regulations.

3. Pursuant to Section 265-18 of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting site plan approval for two residential towers which contained a combined 329 units and with a total of 637,887 FAR square feet.

4. Pursuant to Section 265-23 of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting to approve the utilization of TDRs from the TDR Bank of the City in the amount of 94,680 square feet of development rights and 45 dwelling units for the two residential towers.

5. Pursuant to Section 265-63.3 (G) of the City of Sunny Isles Beach Land Development Regulations, the Applicant is requesting the use of graphics and murals on a temporary construction fence.

(Deferred from 8/21/12 and 10/18/12)

Protests __2__ Waivers __0__ Ex Parte __0__

Action: [City Clerk’s Note: Protest Letters were received from Raanan Katz and Dr. Reza Nejad.] Mayor Edelcup gave opening remarks on zoning procedures/decorum. City Clerk Hines read a disclaimer for the Zoning hearing, and administered the oath to witnesses. City Planner Claudia Hasbun reported noting that this application was deferred at the August 21, 2012 and October 18, 2012 Commission meetings, and the application has been re-noticed. Phase I is already existing, Towers 1, 2, and 3. Phase II is the proposed residential Towers 4 and 5, and Phase III is the proposed office building. At this time staff finds that the setback variance requested for Phase III, the Office Building, may be justified due to the depth of the lot and the proposed usage of the structure and has no objections with the Applicant’s variance request. Staff also finds the use of murals and graphics on temporary construction fencing is warranted. Staff finds that the application is generally consistent with the City’s Comprehensive Plan and the Land Development Regulations, and has no objections to the site plan application providing that all the conditions in the report are satisfied. Also if the Commission approves the site plan, staff has no objections to the TDRs assignment provided that all the conditions for the site plan are satisfied. The City and the Applicant have agreed on $20 per square feet of TDRs, the TDR purchase amount is $1,893,600.00 and the Applicant shall provide the City with a deposit of $189,360 to be deposited within three (3) days after this application is approved.

Public Speakers: Cliff Schulman, Esq.; Eduardo Castilheira; John Higgins; Marianna Talalaevsky; Joseph Milton

Cliff Schulman, Esq. representing St. Tropez on the Bay: Phases II & III, for the Property Located at 290-330 Sunny Isles Boulevard & 16690 Collins Avenue. He said they are very pleased and proud on behalf of Joseph Milton to be working on both sides of the gateway to
the City, and that is Gateway Park and the Parking Garage. Also, finishing up St. Tropez and making it a truly impressive entrance into the City. He said they have a 600-foot baywalk at the back of St. Tropez 3 Towers, and this new project will extend it to 1,200 feet with four entry points for the public to access that baywalk with signage saying that it is open to the public. He also noted that they went to the Shoreline Review Committee of Miami-Dade County and they unanimously approved this project.

Eduardo Castiñeira, Architect President/CEO of Axioma3Architects, presented renderings and 3D models of the proposed project with a total of about 1,300 linear feet of construction. After research they found that it will be the largest façade in all of South Florida and probably all of Florida. It presents an incredible challenge to an architect to make it a project with a uniform continuity and expression and at the same time they don’t want to be repetitive and cookie cut the whole project. There is retail promenade space at the ground level with several levels of parking. It is not a project that has units in that area that could have balconies; that would call for architectural elements. In St. Tropez I the project is built and most would agree it is a project that makes a statement. The vision has been from day one to create something with the sophistication of the architectural language that they introduced.

Architect Castiñeira said Phase II of the project are Towers 4 & 5 with a similar style paying close attention to not just repeat elements over and over again and they are focusing on introducing new architectural elements and details in that part of the building so it will have its own flavor. There will be 530 linear feet of construction and so there are a lot of opportunities there. On the other end is Phase III of the project which is the corner, a much smaller lot. It is only 162 linear feet of construction but that is probably one of the most important lots in the City because it is a corner lot and it is at the intersection of Collins Avenue and 163rd Street. Definitely there we are looking at the possibilities of the pedestrian to have a terminating element and the focus corner marked architectural. They have treated that with an office building that basically has its own character. He handed out a booklet that captures all it all beginning with the corner lot and working its way west. In working with staff they had a fantastic dialogue of concerns, and they have looked at recommendations and tweaked elements, etc. At the end of the day we are talking about a lot that is rather small, it is incredibly complex to build on and has limitations and challenges. It is a lot that has three (3) good sides, traveling on Collins Avenue you will look at the north and south façade, and St. Tropez east which is the main façade toward this building. That raises one question right off the bat, where do we put the core, the elevator shaft, the stairs, the ramp for the vehicles? They didn’t want to do it on Sunny Isles Boulevard because that would eliminate the possibility of having store fronts and a retail area. They didn’t want to do it on Collins Avenue because it is not going to be a very attractive elevation, and we didn’t want to do it on the façade toward the waterways because that is again part of the boardwalk experience and part of that whole view from Collins Avenue heading north. And so there was only one area where they could do it which was back to back with the Phase I project. In situations like this, there is always a sacrifice, and this is a sacrifice that was very meticulously thought through for the betterment of the project, benefiting his client, the development, and also the City. In continuation of the retail and baywalk experience they have continued the retail space on Sunny Isles Boulevard, it is not interrupted with any vehicle entrances or exits.

Architect Castiñeira said the Collins Avenue elevation is an elevation that had to solve a lot of problems. It had to solve the problems of service for the retail, every retail component in
every building needs a back of the house service area. It also has to serve the entrance and exits for the vehicles to the building, and it also had to serve as a staging area for the Fire Department. It will have the cobblestone treatment and be an attractive space. It is a space for loading vehicles to come up to get away from the traffic and back into the building for loading and unloading and so it became the staging area. It also becomes somewhat of a stacking lane for people who are going to come into the building and create a relief for the traffic that wants to continue on Collins Avenue. And so that area became very crucial in solving these problems. One of the things about the ramp is that it has to work within a certain distance, a certain inclination, and a pull into the ramps. This is not a project that has a hydraulic system for cars. They had to architecturally solve it in a sense that worked with City Code, and ease up people coming in and out into the building to upper level parking. For that reason is the five-foot variance that they are requiring. They have made great efforts in trying not to have any variances but when he adds his dimension for parking, the turning radius, the ramp, and again the turning radius for the upper floor, this column has to fall right there. He cannot take one foot less because it would not work. The baywalk would have been eliminated without the variance. He needs to place the row of columns there in order to have the ramp system. One of the important things in the process was having the presentation and the dialogue with the Shoreline Committee and staff. Because in this area, which is the narrowest point in the whole project in regard to the baywalk, you will see on the other project where it winds up and becomes a lot more comfortable. They were really struggling on how to make it attractive and the Shoreline Committee came up with some ideas and suggestions that we immediately took advantage of. We did this by creating indentations in the buildings for benches and not allowing the bench to be as part of the walk giving the baywalk a clean walking surface.

Architect Castilheira said they tried to put all the mechanical systems internal so that the back of the building doesn’t have a lot of blank walls and grilles, and things of that nature for mechanical systems. It has open visual spaces from lobbies, parking areas, and drop off areas. One can have a view of the water of the baywalk and have a visual connection for a person within the building looking out and also people experiencing the baywalk being able to look into the gallery spaces in the glass areas of the building. They also introduced that throughout the whole project.

Ed Castilheira said in the tower portion of the project there are 530 linear feet of the construction, and the baywalk starts in the office building and then continues with the existing baywalk in the St. Tropez Phase I project. We will have a lot of the similar characters and elements and architectural treatment, marine materials, and things of that nature. You will notice all around this edge, you have a club room, a library, a lobby, another sister lobby, etc. It is all glass to look out onto the baywalk, and you can see everything from the baywalk into the glass. That is one of the things that the Shoreline Committee really commended them on. There are a couple of things slightly different than Phase I, you have a similar turn around in the area for valet but here they took the lobbies and pushed them towards the water. There is a water element in between the lobbies that is a reflecting pool. Parking spaces on the ground floor for quick in and out type of services and all of that is going to alleviate vehicular stacking, etc. This part of the site has its own challenges and that is that the physical dimension that he has of the west end of the site, when he comes to the east side of the site, there is 50 feet less of actual width because of the mangrove system, and the site actually
curves in. And so this is a very limited type of space when he lays out the core, and with the parking it really creates a very tight situation. Working with Shoreline and staff recommendations, Joe Milton agreed to do some mangrove mitigation and not limit the baywalk but give it a wider type of space all along the edge, and carved into the building trellis to give it even more space. So we achieved all the minimum requirements of the baywalk by several feet making it quite comfortable. Throughout the building there are areas that are going to have visual connections visually connecting the building from 163rd Street to the water. One of the recommendations was to create a walk along the west end that will be a physical connection between 163rd Street and the water. Again, the City has plans to turn this property into a future park (i.e. Gateway Park) so that is definitely something that is going to benefit both the development and also the City in the future.

Architect Castañeda said in terms of elevations, there are a couple of things that are very important that we looked at in this project from the previous St. Tropez project. In that project, the distance between the towers are roughly 70 feet and 66 feet, and we were able to have a distance of 128 almost 130 feet between these two buildings. The reason for that was to create a good visual line from other neighboring buildings in the area. We also wanted to do a much more slender building, and again, the theory about visual impact when a building becomes slender and taller it is less of a visual impact then when a building is shorter and fatter. And so this façade is the one that goes over the causeway and we have treated it in a much more slender architectural element. This façade will be facing the causeway so it becomes almost like a façade in its own merit to the project as it is about three stories high. Therefore, at that point we are high enough so that the visual impact of this building is lessened by the fact that you are in an elevated point of the causeway. We looked at all of those things, in the elements of the distribution of height in the project, and we felt that the project steps up into a much more linear and iconic type building at the west end making a lot of sense.

Architect Castañeda showed renderings of the project which shows a building that continues to be in that realm of a modern language, rather clean, rather simple, with the waving of the balconies having the sort of wave type of symbolism. The building is trying to capture its simplicity in a much more simple and elegant way than other things that have been done. We are also capturing the entrances in a very similar fashion to the St. Tropez project with similar elements and some of them will continue to elaborate to make sure that we have different detailing. On the corner building there is an interesting architectural expression that we are thinking about which is again a continuous façade that has to end at some point. It does end at the corner and so we have an element here that marks that entry. It is an ideal place for having a bank or things of that nature, and so it calls for concerns of an investigation of possible tenants in that space. At the same time when we turn the corner, now we are on a street (i.e. Collins) that has a lot of modern buildings, and so there is where we are playing a bit of an architectural language which is when you turn the corner, the Collins façade sort of terminates with this element similar to the one that turns on 163rd. However, at that point this becomes much more of an iconic modern type. The idea was with all of these elements that need to be open, we have to do something that is much more in tune with modern language which is the carving and fragmentation of space. With the canopy, metal paneling, and the lighting, it will give that sort of streamlined modern look that is much more in tune with an office building, a high-end hotel, etc. We have elements of glass walls for a lot of visuals from the offices, and
we have elements on the corner where we have floating balconies. This becomes quite interesting because it picks up the character of the ocean and a space where you can physically walk out there and have a view of the ocean. The combination of the two towers in this building we feel is going to become a really interesting element to complete the project and to mark the corner of these two important streets.

Claudia Hasbun noted for the record that they worked with the architect as well and at the entrance of the baywalk on Collins Avenue we are requiring them to have a grand entrance to the baywalk with a minimum of ten (10) feet. Along the entire baywalk, there are no obstructions and no planters, and it will be an open area for pedestrians.

Vice Mayor Thaler asked on Collins Avenue how wide is the opening to get the cars into the lot and out of the lot. Architect Castiñeira responded by saying the actual driveway is 24 feet, they have additional space that is required by the Fire Department of about 40 feet for the staging area. They are going to treat it with a cobblestone finish so that there will be no physical markings between entry and the fire area and so it will just look like one entry. It is going to serve all the different functions which are the fire lane, a stacking lane for any cars coming in, a turning radius, and room for a slightly bigger truck to stop at the fire lane and not block any of the traffic on Collins. They can get down and buzz whoever they need to buzz and the doors open in the service area and they are able to back in. It is something that they looked at from a very practical point of view, and they addressed all these things that need to function in the building, including how are they going to solve it, keeping in mind that we want to keep this as clear as possible of backups, stacking, etc. We want to make sure that Collins Avenue has a steady flow of traffic and we don’t create a situation where we are going to block anyone. Vice Mayor Thaler said this is why he asked the question because that is a backup corner anyway because of the traffic light and people are making a right turn and he doesn’t want to have any cause to have additional backup in that area. Architect Castiñeira said the width of the sidewalk has not been interrupted and so the fire lane is not over the sidewalk, it is beyond the sidewalk. Again, we kept whatever is outside the property line and the City sidewalk is clear.

Commissioner Scholl asked if along 163rd Street they were staying with the same theme as the old building. Years ago when we were planning this and we were doing the Town Center, he was hoping that we got one developer, and Joe Milton was probably in that meeting. Commissioner Scholl said so we have the consistency in the façade and he noticed it is pretty consistent all the way down. Architect Castiñeira said yes, they are staying with the color theme and bricks as they have in the existing St. Tropez. They are also staying with a lot of the details of the grids for parking as they like the fact that a lot of people don’t even notice that there are four levels of parking at St. Tropez, and so they have kept a lot of the language similar. The height and proportions are carried through so that they don’t vary from one project to the other. The new elements which you don’t see in St. Tropez are the corner and that majestic colonnade off of the causeway. Although they do have some square columns in St. Tropez, they are choosing that with a water feature. Mayor Edelcup opened the hearing to the public.

Commissioner Aelion said he was extremely impressed with both facades. The concern of the ingress and egress of the parking area, including what is the inside space from the entrance of
Collins Avenue to the inside, is whether there is enough space to absorb the bottleneck area there. Architect Castilheira said there are two things about bottlenecks: 1) in order to prevent bottlenecks you have to give a very comfortable ramp system and turning radius system, etc., the minute you limit that then you create a bottleneck; and 2) what we have done here is create something that is typical in a ramp system. The distance from where the ramp begins to this point you can fit four (4) cars there, in this area you can probably fit another three (3) cars now we have seven (7) cars of stacking which alleviates backup from delivery trucks. We also have a couple of parking spaces in the front for quick in and out deliveries such as UPS. Delivery for the office and retail happens in the purple area, there is a roll up door here that allows trucks to come in and back into the delivery area. These elements will eliminate all the bottlenecks.

Mayor Edelcup said in that particular site we want to make sure we don’t allow delivery trucks to park on the street along Collins Avenue. City Attorney Ottinot said one thing we can do is to put that as a condition of this approval. Commissioner Scholl said he doesn’t hear a lot of lawyers and opposition because you addressed it with your neighbors. Commissioner Gatto asked about the variance, and Architect Castilheira used the visual tower for the 5-foot setback variance on the north façade, and that was the only variance. Vice Mayor Thaler asked where the walk through is in case there is an emergency on the baywalk. He inquired how they would get to Collins Avenue, and Architect Castilheira said this area is open, so this area is vehicular and also pedestrian on both sides. Additionally, there are walkways over the reflecting pool that would literally allow somebody to walk from 163rd through the building and all the way to the baywalk. One area is the loading zone area for one of the towers that also allows vehicular entrance and also pedestrian entrance that ultimately connects to the baywalk.

Mayor Edelcup asked if the baywalk meets handicapped requirements, and Architect Castilheira said yes, they meet all handicapped criteria as well as illumination required by Code. City Attorney Ottinot said he wanted to clarify the record that with regards to the entrance through the build-in that is the pedestrian access to the baywalk, that will be part of the easement agreement also. Cliff Schulman said that was correct. Commissioner Aelion said the trucks that are going to be coming in and out during the erection of the office building, that is a small area, and inquired whether they allowed for them to be inside the lot. Joe Milton said during the construction phase, all construction requirements will be regulated by law and we will meet all those requirements. If for any reason there has to be a single day that we need to stage on the street, we need to ask permission from the Building Department, get permits, and get permits from the Police. Mayor Edelcup said the law can sometimes be very liberal, we wouldn’t want to see construction trucks there where by law they can be there for an extended period of time blocking Collins Avenue, the bus lane, and the turning lane. Joe Milton said the first phase of St. Tropez development is already built, and so nothing that you have not seen already are you going to see in the future. You have water mains that need to be built out by North Miami Beach on both sides of the street which is a requirement by North Miami Beach. That happened on the St. Tropez First Phase, and so what you will be seeing is the same kind of conditions that were existing when St. Tropez was first built.

Commissioner Aelion said the concern is that you are not looking at the situation like St. Tropez where you have an inlet, a setback, and an area where you can have standing trucks.
Here the whole corner is a sidewalk and the building and that is it, and so the concern is that when you are erecting both sites what is going to happen? Architect Castifica said as part of the design thinking process, in the rendering he pointed out the edge where we are asking for the variance because of the parking, there are double columns there. One of the first things they talked about with the team was where do we put the crane, how do we build this building. This part of the building is done in two pieces so this will come in at the end of the project, that will be the staging area, the other area will be the crane location, and that other area will be for trucks deliveries. All that sort of construction activity will happen in this area until all of this is built, and then at the very end the other will be built. There we have an expansion joint, and you have the two constructions coming together.

City Planner Hasbun said in relationship to the sidewalk, we have an existing pattern in the sidewalk along Sunny Isles Boulevard and we want to make sure that is included as a condition that the pavers continue in front of Sunny Isles Boulevard to Collins Avenue.

Mayor Edelcup clarified the two additional conditions: 1) during construction no trucks are to be parked alongside Collins Avenue or Sunny Isles Boulevard; and 2) the sidewalk pavers along Collins Avenue and Sunny Isles Boulevard must match those installed as part of the City’s Streetscape Improvements Project.

Commissioner Aelion moved and Commissioner Scholl seconded a motion for approval, subject to staff conditions, as amended. Resolution No. 12-Z-133 was adopted by a roll call vote of 5-0 in favor.

Vote:
- Commissioner Aelion: yes
- Commissioner Gatto: yes
- Commissioner Scholl: yes
- Vice Mayor Thaler: yes
- Mayor Edelcup: yes

[City Clerk’s Note: The related Item 10D was heard after this item, and before Item 7A.]

7. ORDINANCES FOR FIRST READING

7A. An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida Amending Chapter 265, Article V, of the City Code Entitled “Development Review Procedures” to Require Re-Noticing of Zoning Applications Where Deferral Request Exceeds Thirty (30) Days; Providing for Repealer; Providing for Severability; Providing for Inclusion in the Code; Providing for an Effective Date.

Action: City Clerk Hines read the title, and City Attorney Ottinot reported that this Ordinance was drafted at the direction of the Commission.

Public Speakers: None

Commissioner Scholl moved and Commissioner Aelion seconded a motion to approve the proposed ordinance on first reading. The motion was approved by a roll call vote of 5-0 in favor. Second reading, public hearing will be held on Thursday, December 20, 2012, at 6:30 p.m.
Vote: Commissioner Aelion yes
        Commissioner Gatto yes
        Commissioner Scholl yes
        Vice Mayor Thaler yes
        Mayor Edelcup yes

7B. An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, Amending Chapter 235 of the City Code Entitled “Stormwater Management” to Amend the Stormwater Utility Fees Pursuant to the Consumer Price Index; Providing for Repealer; Providing for Severability; Providing for Inclusion in the Code; Providing for an Effective Date.

Action: City Clerk Hines read the title, and Finance Director Shah reported that staff is recommending implementing an annual escalation fee increase for the stormwater which currently is at $4 an ERU per month. She said they are requesting that it be based on CPI which calculates to be 2% which would provide for an eight (8) cent increase per month, an annual increase of ninety-six (96) cents to our residents.

Public Speakers: None

Vice Mayor Thaler moved and Commissioner Gatto seconded a motion to approve the proposed ordinance on first reading. The motion was approved by a roll call vote of 5-0 in favor. Second reading, public hearing will be held on Thursday, December 20, 2012, at 6:30 p.m.

Vote: Commissioner Aelion yes
        Commissioner Gatto yes
        Commissioner Scholl yes
        Vice Mayor Thaler yes
        Mayor Edelcup yes

8. PUBLIC HEARINGS (Other than Ordinances for Second Reading)

    None

9. ORDINANCES FOR SECOND READING (Public Hearings)

9A. An Ordinance of the City Commission of the City of Sunny Isles Beach, Florida, Amending Chapter 218 of the Code of Ordinances of the City of Sunny Isles Beach to Clarify That Newly Constructed Sales Centers for Development Projects Require Approval of the City Commission; Providing for Repealer; Providing for Severability; Providing for Inclusion in the Code; Providing for an Effective Date.

(First Reading 10/18/12)

Action: City Clerk Hines read the title, and City Attorney Ottinot reported.

Public Speakers: None

Vice Mayor Thaler moved and Commissioner Gatto seconded a motion to adopt the
ordinance on second reading. Ordinance No. 2012-394 was adopted by a roll call vote of 5-0 in favor.

Vote:  
- Commissioner Aelion: yes
- Commissioner Gatto: yes
- Commissioner Scholl: yes
- Vice Mayor Thaler: yes
- Mayor Edelcup: yes

10. RESOLUTIONS

10A. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Accepting the Results of the General Election Which Was Held on Tuesday, November 6, 2012, Declaring George “Bud” Scholl to be Elected as Commissioner, Seat 3; Declaring Jennifer Levin as Commissioner, Seat 1, Who was Automatically Elected Having No Opponents; Discharging the Canvassing Board for Run-Off Election; Providing for an Effective Date.

Action: [City Clerk’s Note: Heard after Item 5A.] City Clerk Hines read the title, and noted that the Resolution will be amended once we receive the final results from the Elections Department. City Clerk Hines then administered the Oath of Office to the newly elected officials.

Public Speakers: none

Commissioner Aelion moved and Vice Mayor Thaler seconded a motion to approve this resolution, as amended. Resolution No. 2012-1987 was adopted by a voice vote of 5-0 in favor.

Commissioner Elect Jennifer Levin announced that she is allowed to donate the remainder of her campaign contributions to a charitable organization, and she presented a check in the amount of $1,643.98 to Bob Welsh, President of the Sunny Isles Beach K-8 Community School Fund to be used for the Norman S. Edelcup K-8 School.

Vice Mayor Thaler announced that we also have a gift that Chief Fred Maas has given to the Sunny Isles Beach School Trust tonight in honor of Vice Mayor Thaler’s wife Madi. They recently held a walk for cancer in Sunny Isles Beach, and he thanked Chief Maas and Tracy.

[City Clerk’s Note: Item 6A was heard after this item.]

10B. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Declaring Isaac Aelion as Vice Mayor, Effective on December 6, 2012; Providing for an Effective Date.

Action: City Clerk Hines read the title, and Mayor Edelcup requested that the Vice Mayor be Isaac Aelion.

Public Speakers: None

Vice Mayor Thaler moved and Commissioner Gatto seconded a motion to approve the
resolution. Resolution No. 2012-1988 was adopted by a voice vote of 5-0 in favor.

10C. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Authorizing the Transfer and Assignment of Development Rights ("TDRS") in the Amount of 58,500 Square Feet of Floor Area and 30 Dwelling Units from RK Associates VIII, Inc. TDR Bank Account to Palermo Beach, LLC; Authorizing the Assignment of TDRs in the Amount of 51,287 of Floor Area and 27 Dwelling Units for the Receiving Site Located at 17141 Collins Avenue; Directing the Zoning Administrator or Designee to Transfer the TDRS From the Bank Account in Accordance with Zoning Resolution No. 12-Z-132; Authorizing the Adjustment and Modification of the TDR Bank Account; Providing the City Manager with the Authority To Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

Action: [City Clerk’s Note: An Indemnification and Hold Harmless Agreement was distributed prior to the meeting.] City Clerk Hines read the title, and City Planner Claudia Hasbun reported.

Public Speakers: None

Commissioner Aelion moved and Commissioner Scholl seconded a motion to approve the resolution. Resolution No. 2012-1989 was adopted by a voice vote of 5-0 in favor.

10D. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Authorizing the Transfer of Development Rights ("TDRs") in the Amount of 94,680 Square Feet of Floor Area and 45 Units to Towne Center Development Properties, LLC et al. for the Property Located at 290-330 Sunny Isles Boulevard from the City’s TDR Bank Account; Directing the Zoning Administrator or Designee to Transfer the TDRs from the City’s Bank Account in Accordance with Zoning Resolution No. 12-Z-133; Authorizing the Adjustment and Modification of the City’s TDR Bank; Providing the City Manager with the Authority to Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

Action: [City Clerk’s Note: This item was heard along with related Item 6B. An amended Resolution was distributed prior to the meeting.] City Clerk Hines read the title, and City Planner Claudia Hasbun reported.

Public Speakers: None

Commissioner Aelion moved and Commissioner Scholl seconded a motion to approve the resolution, as amended. Resolution No. 2012-1990 was adopted by a voice vote of 5-0 in favor.

[City Clerk’s Note: Item 7A was heard after this item, and the rest of the agenda was heard in order.]
Sponsorship of the 2013 "Relay for Life" Event; Authorizing the City Manager To Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

Action: City Clerk Hines read the title, and Mayor Edelcup reported.

Public Speakers: None

Commissioner Gatto moved and Commissioner Scholl seconded a motion to approve the resolution. Resolution No. 2012-1991 was adopted by a voice vote of 5-0 in favor.

10F. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving Entering into a Sister City Relationship with the City of Taormina, Italy; Authorizing the City Manager to Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

Action: City Clerk Hines read the title, and Cultural and Community Services Director Susan Simpson reported, noting that we will be signing an official document on Monday evening [November 19, 2012] here in the Commission Chambers at 7:00 p.m., and at 6:00 p.m. there is a reception out front. On Saturday night [November 17, 2012] beginning at 6:30 p.m. we will be having a concert and a meet and greet at the Norman S. Edelcup Sunny Isles Beach K-8 School.

Public Speakers: None

Commissioner Aelian moved and Commissioner Scholl seconded a motion to approve the resolution. Resolution No. 2012-1992 was adopted by a voice vote of 5-0 in favor.

10G. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving the Purchase of a 2013 Glaval Entourage Diesel Transit Bus and Upgrades to Two (2) Additional Buses from National Bus Sales & Leasing Inc., in a Total Amount Not to Exceed $111,000.00; Authorizing the City Manager to Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

Action: City Clerk Hines read the title, and Public Works Director Wade Sanders reported this is a new Shuttle Bus and to upgrade two new buses that we will be receiving through the American Recovery and Reinvestment Act of 2009 Program (ARRA) through Miami-Dade County. The upgrades are security cameras and automatic passenger counters.

Public Speakers: None

Mayor Edelcup asked if the color of the new shuttle buses is the new color that the Commission approved, and Mr. Sanders said yes and he noted that once we receive the buses, we will then take them back for the wrapping and colors. Vice Mayor Thaler asked if this amount includes that, and Mr. Sanders said no.

Vice Mayor Thaler moved and Commissioner Gatto seconded a motion to approve the resolution. Resolution No. 2012-1993 was adopted by a voice vote of 5-0 in favor.
10H. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving an Interlocal Agreement with the State of Florida, Office of the State Attorney for the Eleventh Judicial Circuit of Florida to Reimburse the State for the Cost of State Attorney Prosecution of Certain Criminal Violations of the Code of the City of Sunny Isles Beach for Fiscal Year 2012/2013; Authorizing the Mayor to Execute the Agreement; Authorizing the City Manager to Do All Things Necessary to Effectuate the Intent of this Resolution; Providing for an Effective Date.

**Action:** City Clerk Hines read the title, and City Attorney Ottinot reported.

**Public Speakers:** None

Commissioner Scholl moved and Vice Mayor Thaler seconded a motion to approve the resolution. Resolution No. 2012-1994 was adopted by a voice vote of 5-0 in favor.

10I. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving the First Amendment to Agreement with Kimley-Horn & Associates, Inc. to Provide Traffic Engineering Services for the Construction Phase of the 183rd Street Capital Improvement Project, in an Amount Not to Exceed $10,700.00, Attached Hereunto as Exhibit “A”; Authorizing the Mayor to Execute Said Amendment; Authorizing the City Manager to Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

**Action:** City Clerk Hines read the title, and City Engineer Helen Gray reported that this is for professional services related to the new driveway access south of 183rd Street southbound eastbound movement into the RK Plaza.

**Public Speakers:** None

Vice Mayor Thaler said he hopes this will cut down the accidents on 183rd Street and move the traffic a little further.

Vice Mayor Thaler moved and Commissioner Aelion seconded a motion to approve the resolution. Resolution No. 2012-1995 was adopted by a voice vote of 5-0 in favor.

10J. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving the First Amendment to Agreement with LIVS Associates for Design Revisions to the Arlen House Project, in an Amount Not to Exceed $45,924.00, Attached Hereunto as Exhibit “A”; Authorizing the Mayor to Execute Said First Amendment to Agreement; Authorizing the City Manager to Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

**Action:** City Clerk Hines read the title, and City Engineer Helen Gray reported that this is a redesign of that area of the Arlen House Project which is an extension of the Intracoastal Park System. In going through the plans which were largely completed in March of 2011, at that time we did not have the Intracoastal Park System project and so we don't have the wave pattern pavers, the Medjool Date Palms, and things of that nature. In reviewing the project records, the design was premised on a 30-foot wide easement on private property, and the City only acquired a 22-foot wide easement and so we have to compress those improvements and bring them closer to the roadway. In addition, the City has since adopted the 2010
Building Code which we need to be in compliance with. It will be done in two phases: first, it will be schematic drawings of sufficient detail to allow the Commission to take a look at what we are proposing before we move into full construction documents.

Public Speakers: None

Vice Mayor Thaler moved and Commissioner Scholl seconded a motion to approve the resolution. Resolution No. 2012-1996 was adopted by a voice vote of 5-0 in favor.

10K. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Qualifying and Approving the Short List of Professional Architectural & Engineering Firms to Perform Engineering, Architectural, Landscape Architectural, and Land Surveying Services for the City, in Response to RFQ No. 12-04-02; Authorizing the City Manager or His/Her Designee to Negotiate Continuing Consultant Agreements with Said Architectural and Engineering Firms, Provided Said Agreements are Approved as to Form and Legal Sufficiency by the City Attorney; Further Authorizing the City Manager to Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

Action: City Clerk Hines read the title, and City Engineer Helen Gray reported that this was an RFQ for professional services that was done last spring, and no action has been taken to date. There is no promise of any future work that would result of any of these four firms which are: Bermello Ajamil & Partners, Inc.; Calvin Giordano & Associates, Inc.; RJ Behar & Co. Inc.; and CES Consultants. The submittal was done under State Statute Chapter 287 which requires a process for projects up to $2 Million in construction costs.

Public Speakers: None

Mayor Edelcup said this is just prequalifying those firms, any particular project will still come before the Commission for approval, and Ms. Gray confirmed that is correct.

Vice Mayor Thaler moved and Commissioner Aelion seconded a motion to approve the resolution. Resolution No. 2012-1997 was adopted by a voice vote of 5-0 in favor.

10L. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving an Amendment to the Consultant Agreement with Bell David Planning Group, for Planning and Zoning Review Services, Attached Hereto as Exhibit “A”; Authorizing the Mayor to Execute Said Agreement; Providing the City Manager and the City Attorney with the Authority to Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

Action: City Clerk Hines read the title, and City Planner Claudia Hasbun reported.

Public Speakers: None

Commissioner Aelion moved and Commissioner Scholl seconded a motion to approve the resolution. Resolution No. 2012-1998 was adopted by a voice vote of 5-0 in favor.
10M. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving a Minor Site Plan Modification of the Site Plan Approved Under Resolution No. 12-Z-130, Adopted on September 20, 2012, for the Project Commonly Called 400 Sunny Isles Marina; Authorizing the City Manager to Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

**Action:** City Clerk Hines read the title, and City Planner Claudia Hasbun reported noting that under Section 265-18(l)(4) the City Manager has the discretionary authority to require City Commission review of any site plan modification whether minor or major. She reported that the applicant is requesting minor site plan modification which consists of raising the ceiling of the lobby by 1-foot affecting the overall height approved from 199 feet to 200 feet.

**Public Speakers:** None

Mayor Edelcup clarified that to his understanding this is not a minor modification that the City Manager can do. Any time the envelope of the building changes from what has been approved, it has to come before the Commission. City Attorney Ottonot said as a matter of practice, the Mayor is correct but he will clarify the City Code to make sure that is the law.

Vice Mayor Thaler said this is quite a coincidence, at his first meeting nine (9) years ago it was to establish the 200 feet, we had an argument that lasted a number of hours and the Milton family was part of it. We established the 200 feet and here it is again today at his last meeting that the 200 feet comes up again.

Vice Mayor Thaler moved and Commissioner Gatto seconded a motion for approval, subject to staff conditions. Resolution No. 12-Z-134 was adopted by a voice vote of 5-0 in favor.

10N. A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving a Parking License Agreement in Substantially the Same Form as Attached Exhibit “A” with Coastal Construction of South Florida, Inc. d/b/a Coastal Condominiums for Parking at the Public Parking Facility Located on 175 Street; Authorizing the City Manager to Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

**Action:** City Clerk Hines read the title, and City Manager Russo reported that this is the City-owned parking lot behind Walgreens. It is for use by Coastal Construction for their office in approximately half of the parking spaces in the lot. They negotiated a monthly rent of $6,000 a month which includes eight (8) parking decals for the spaces beyond the area sectioned off for their trailer. Even if those spaces are not being used, we still get revenue out of those spaces.

**Public Speakers:** None

Mayor Edelcup noted that the revenue we are receiving for this exceeds the revenue that we have been collecting for parking in that lot.

Commissioner Scholl moved and Commissioner Aelion seconded a motion to approve the resolution. Resolution No. 2012-1999 was adopted by a voice vote of 5-0 in favor.
10O. Add-On:
A Resolution of the City Commission of the City of Sunny Isles Beach, Florida, Approving Change Order No. 7 to Agreement with Shoreline Foundation, Inc. for the Newport Fishing Pier Demolition and Construction Project, in an Amount Not to Exceed $629,100.40, for Additional Costs for the Permitted Set of Design Drawings, and Payment of a New Color of Paint for Pier, in an Amount Not to Exceed $135,000.00, for a Total Amount Not to Exceed $764,100.40; Providing for an Increase in Calendar Days for the Construction Days, Attached Hereto as Exhibit “A”; Authorizing the City Manager to Do All Things Necessary to Effectuate this Resolution; Providing for an Effective Date.

Action: City Clerk Hines read the title, and City Manager Russo reported and noted that he has had meetings with Commissioner Scholl, Chris Giordano and Joel Wadsworth from Calvin Giordano to go over the final negotiations and he asked Chris Giordano to go over the specifics. Chris Giordano reported that there are actually a total of 38 change orders for various site condition changes as well as increasing the scope of work to take the building from a shell to having the ability to be a build-out building. The change orders started out at the high $800,000 number and in two months of negotiations we were able to bring it down to this number.

Public Speakers: None

Mayor Edelcup said when Commissioner Goodman was on the dais with us, we always had the problem of all of these change orders and the numbers always seemed to get away from us, and again, he doesn’t see in here a summation of where we are at in total. The total original project plus change orders 1 through 7 equals what? We need to have the documentation every time that we have a resolution because the documentation is supposed to support where we are at. He would like staff to add to the documentation for this resolution. City Attorney Ottinot said we will follow instruction. Finance Director Minal Shah said for rounding purposes the total contract to Shoreline not including the deducted change orders is about $4.6 Million.

Mayor Edelcup said he would like to instruct staff to look into the original and the current agreement with Dr. Cornfeld as to how we share costs once a particular ceiling in the original agreement may have been reached, and then report your findings back to the Commission.

Vice Mayor Thaler asked if the number includes the original paperwork and all the layouts on it, the number we were given earlier was $6.6 Million. Mayor Edelcup said we need to keep written documentation total going so that everybody understands where we are at, at any point of time.

Commissioner Scholl moved and Commissioner Gatto seconded a motion to approve the resolution, as amended. Resolution No. 2012-2000 was adopted by a voice vote of 5-0 in favor.

11. MOTIONS

None
12. DISCUSSION ITEMS

12A. A Discussion of the Collins Avenue Streetscape Interim Reconciliation Between Plan and Field Measured Quantities and Contract Costs.

*Action:* City Engineer Helen Gray reported that we are doing the Collins Avenue Streetscape Project and in going through the project's files she could not determine how this had been arrived at. Through a series of sealed measurements she discovered that there was a discrepancy between quantities. This is an interim report out of a project that is approximately $1.7 Million, and so $41,000 may not seem like much but it is something, and obviously we will present a final reconciliation before we pay the contractor. In addition to the savings of $41,000 based on field measured quantities, there were some things that were added to the contract that were done in an effort to keep the project moving along and not further delay it, which so far includes the construction of the concrete pads required for bus shelters to meet City Code.

*Public Speakers:* None

Mayor Edelcup said he commends City Engineer Gray for doing this project and alerting the Commission and the vendor before we come to the conclusion then we find out that we may have overpaid somebody and it is hard to get money back. He would rather be in the position that you put us in of knowing where we are at before we are making final payments.

City Manager Russo said as a heads up we are going back to look at the cleaning and sealing of the foot pavers throughout the entire project which was not included in this contract. It is something that will be back to the Commission. Commissioner Scholl said we have talked about cleaning numerous times, they have got to be clean. Vice Mayor Thaler said it also need to be finished/sealed. Commissioner Aelion said if it is cost prohibitive, and City Manager Russo said it will most likely be a separate item. Mayor Edelcup said the City Manager will come back to the Commission with that information.

12B. A Discussion regarding a Request from Chabad Lubavitch Russian Center, Inc. for an Easement on City-Owned Property Located at 500 Sunny Isles Boulevard.

*Action:* [City Clerk's Note: Floor Plan distributed prior to meeting.] Mayor Edelcup introduced the item.

*Public Speakers:* Neisen Kasdin, Esq.; Rabbi Alexander Kaller;

Neisen Kasdin, Esq. representing the Sunny Isles Russian Chabad Lubavitch Center, noted that Rabbi Alexander Kaller and Architect Jamie Shapiro are also here tonight. He reported that they were here a short while ago to attain approval of their new school and community center. One of the items left remaining was a question regarding an easement on City property to allow an additional means of egress and ingress on the western side of the property. We have had a number of discussions over the shape of this easement and what is required. As a result he distributed a copy of what is the proposed easement which has been minimized, because there were different iterations of it which were shown to you last time. The one that they have settled on in consultation with City staff is one that minimizes the easement on the adjacent City land.
Mr. Kasdin said the easement would be 7 feet wide by 36 feet in length for a total of 252 feet. He would request the granting of this easement to allow the construction of this means of egress and ingress. As you can also see by the elevation that it is cantilevered over the ground so that actually only a small portion even touches the ground with landscaping underneath and alongside the building. This item is for discussion with the understanding that the Commission would give direction to the City Attorney and City staff as to the terms and conditions that are acceptable to it for entering into an easement and thereafter we can just execute a document between the City.

Mayor Edelcup said he did not believe that would be possible tonight, and Mr. Kasdin said he knows but this is just direction as to the terms, not approval of the easement. Mayor Edelcup said we are having a discussion tonight, the item has to be scheduled and put on our schedule for perhaps the December meeting but we would not do anything that is not properly noticed. Mr. Kasdin said in any event the most important thing is an understanding of the terms that we have a meeting of the minds. With respect to evaluation, we have had some discussion on that as well. We look at City property as being a property of the size of 37,933 square feet including uplands and submerged lands. It was purchased for approximately $3 Million but of course property values are less today, and Mayor Edelcup asked him not to go there as property values are whatever a buyer and a seller agree to. Mr. Kasdin said okay but he would like to just put out their theory as to valuation, the value of the property today is $2 Million which is a number that was discussed between the City and the Chabad in the last few months. That yields a value of $52 per square foot with an easement of 252 feet times $52 a square foot we come to a value of $13,000, and they think it is an appropriate value. Mayor Edelcup said first of all we have got to delay this whole thing because he has a memo here from our own Engineer raising some questions as to what we can do on this property. He is willing to listen to the presentation but he can assure him that we will not be making a decision tonight because we still have some questions at staff level. City Attorney Ottinot asked City Engineer Helen Gray to address those issues, and Mr. Kasdin said that his architect and the City Engineer have discussed this.

City Engineer Helen Gray said that she did meet with both the Rabbi and then his architect with respect to this. The Architect went through some particulars and you will see that the exhibit contained in the backup originally had the bottom of those stairs landing straight on a storm drain grate, which was a fatal flaw. They did amend the drawings to show a cantilevered staircase down and while it is not optimal it is also not fatally flawed and so to that extent certainly that has mitigated the biggest concern. We talked about elevation differential between egress from the garage exiting out onto City property has to be addressed within their building. To the extent that the City may have to go in and either maintain, repair or replace portions of that storm sewer, we would want some release of liability so that we are not responsible for any inadvertent damage that might occur to their building. They have not commenced structural design so it is difficult to tell what those impacts might be. She would ask that no trees be planted within ten (10) feet of the storm drainage system, and as they go through they will be reviewing an approval process like all projects. There may be some conditions imposed by other jurisdictional agencies or the City’s Building Department that may result in some changes to what they are proposing.
Mayor Edelcup said compounding that also with the fact that we have not finalized the design of the Park itself. City Engineer Gray said that is correct, the only thing we know for sure is that we are going to finish that storm drainage system because it is the one thing that is at least 90% done. Mayor Edelcup said typically when we do the Parks they are gated and closed with a fence all the way around it. He asked Cultural and Community Services Director Susan Simpson if her plan on this one is as a Kayak Park as well and he would assume that we are fencing this one in. Ms. Simpson said the original design required fencing. Mayor Edelcup said that he cautions everybody that we should not make decisions rapidly particularly in the instance where there isn’t any construction even set at this point as to when the Chabad is going to start construction on this, and to try to rush something without a proper study internally would create some problems for ourselves as well as to how we intend to handle it if we were to grant such an easement how that would be handled within the confines of over developing this Park to be. Before we can make an intelligent decision we would have to know what it is that we are building in this Park and how this easement may or may not affect those particular plans.

Vice Mayor Thaler asked if staff has any other alternatives that can be incorporated in this or so we can get everything out on the table. City Engineer Gray said she is not an architect but she had suggested swapping that exterior terrace with the tower and that way the stairs would exit out onto the loop road for Sunny Isles Boulevard. She is sure there are some very valid reasons why the architect would not want to do that but that was pretty much discounted. The other thing they could do is shrink their building down and put the stairs on their property. Commissioner Aelion said he had asked for a total visual perimeter that includes the square footage of the west side, inclusive of the Bella Vista Bay Park so that we would have a comparative between the easement square footage compared to the whole Park, and City Engineer Gray said she would put that information together.

Mayor Edelcup said for the record, going back to when we purchased this property and Commissioner Scholl was not a Commissioner at the time but he was instrumental in negotiations and he believes we paid something like $3.3 Million for 22,000 square feet of upland, and Commissioner Scholl said yes, and about 14,000 square feet of submerged land. Mayor Edelcup said he believes we paid roughly $150 a square foot. Mr. Kasdin said that they understand of course that as with any building or structure that is approved in the City and they are only seeking approval of an easement, an area, that it would have to go through all necessary building permitting, and environmental permitting approval processes but again, all they are seeking this evening is a discussion and then direction to go forward with respect to an easement covering 252 feet. That is an area that would be taken out and be able to be used for this specific purpose. He would suspect that this is probably one of the smallest structures that have ever been approved or discussed by this Council and it is a staircase, and any of the issues that can be raised are easily dealt with in the permitting process. However, if the easement is not granted it would require them to change their plans for the building. Mayor Edelcup said no, we approved the building without that. Mr. Kasdin said he understands, but the design of the building would change because they are predating it upon being able to have that as an extra spot for egress and ingress. So it is very important to them in terms of being able to move this project forward, we are talking about a 252 square foot plot of land which would hardly do any damage or even have an impact on whatever Park or other proposal is there. Any structure that is built, however minimal, it is
just a staircase, would have to go through all required permitting processes and so they are asking for some direction be given that this is okay, after all this is largely a community facility. It is a not-for-profit organization, it provides a lot of services. And so they would request that the Commission would say yes we would like to do this, set it for a formal vote at the next Commission meeting and settle upon a mechanism for determining the value.

Mayor Edelcup instructed staff to review the proposal that has been set before us, have the staff look at that in relationship to what it is that we are actually building in that Park, it may be 200 feet, it may be 2,000 feet, it doesn’t make any difference how many feet. If it destroys something that we were trying to build in the Park, then the size is immaterial. Secondly he would instruct staff to enter into discussions with the attorneys and the architects for the Chabad to see if they can work together to come to a conclusion regarding the impact that it would have. He also instructed the City Attorney to negotiate with them a price that is fair to the City not the price that has been suggested which in his opinion is not fair. The Mayor also said to come back and recommend to the Commission through a Workshop or on a one-on-one basis to each of the five of them your conclusions. If you can reach that all in the timeframe that brings the possibility of proper notification for the December 20, 2012 Commission Meeting, then we will put it on that agenda, but all of those conditions should be met.

Commissioner Scholl said it looks like you can mitigate the impact to the Park if you slid the staircase forward. Staff needs to look at that because you have got the landing of the staircase in the back of the terrace, and if what Ms. Simpson is saying is accurate about fencing the Park in, then ultimately you are going to take up another alleyway. If you slid the whole stairwell forward it looks like you might be able to mitigate that and keep the footprint as small as possible, and that makes everybody happy and saves more money.

12C. Add-On:
Vice Mayor Thaler thanked everybody for the nine (9) years he has had here, the courtesies that you have given to him and to the rest of the Commission have been marvelous. He is sure this Commission will go forward and take care of whatever has to be done in Sunny Isles Beach. Most of the people who have been here in that time have seen an incredible change from the beauty of the walkways to the landscaping in the center isle and of course some of the beautiful buildings that have been put up. We are all very proud of what has happened in Sunny Isles Beach, certainly he is in the nine (9) years, and he thanked everyone for letting him be a Commissioner in Sunny isles Beach.

12D. Add-On:
Mayor Edelcup said there are two things coming up in December or January. First, we have a Charter Review Commission that is called for under our City Charter every 10th year after the first five years. Each Commissioner will need to appoint one person to the Charter Review Commission in the December meeting. The person needs to be from your district. Second, in January the City Advisory Committee comes up for review and he thinks we now have 11 members to that board, each has two and he appointed the 11th person. Up until now we have never had term limits for advisory board members but in looking over the history of the advisory board he notes there are many people that have been on there for longer than Vice Mayor Thaler has been termed out here. Two things he would like to suggest: 1) amend
the Code that you can’t serve beyond eight (8) consecutive years so we can get some new faces on there, and 2) he wants that proposal prior to the nominations. Mayor Edelcup asked whether we want eleven (11) members, he would favor seven (7) members. Each commissioner could appoint one member, and then the Mayor can appoint the sixth member and maybe the Vice Mayor can appoint the seventh member. He just wanted to throw this out there to think about.

12E. Add-On:
City Manager Russo said we want to have a workshop regarding the Gateway Park Project. Mayor Edelcup asked him to poll the Commission to schedule a date after Thanksgiving.

13. CITIZENS’ FORUM: REQUESTS, PETITIONS & OTHER COMMUNICATIONS

13A. Former City Commissioner Gerry Goodman discussed the flooding on 174th Street in front of the 600 Building of Winston Towers that has been a problem for many years and it is about time that the City fix the problem. He knows that there have been negotiations with the 600 Building and that negotiations stopped, something happened and they couldn’t get along. It is the City’s duty to fix that street. It also floods on North Bay Road alongside the Gwen Margolis Park. How many times have we re-nourished the Park because it sunk, and he thinks the City should look into fixing the flooding on North Bay Road next to Gwen Margolis Park because if it is not fixed, the Park will sink again. The third item is the Center Island on 174th Street. It is the only center island in the whole City and how many times has he asked the Commission to make a plan or re-nourish it or make it beautiful. He is still getting complaints from the people at Winston Towers that center island should be made beautiful as it is done on Collins Avenue. The last item he has is the lighting on 174th Street, the lights are on the center island and the bulbs shine down on the center island and the sidewalks are dark. He brought that to the attention of the Commission many times also. Winston Towers at one time was the most populated part of Sunny Isles Beach, there are seven buildings with about 2,800 families living there.

Commissioner Gatto said she agrees with him on the lighting as it is very dark there, and the flooding but she has met with people regarding the landscaping and she can never get a sense as to what they want. She is only told what they don’t want, and so maybe they can get together and figure out what somebody’s definition of beautification is. Mr. Goodman said no, on Collins Avenue we hired a landscaper and he does the work. He doesn’t know who at Winston Towers is going to design the center island, and Commissioner Gatto said she is trying to get a feel for what their definition of beautification is, ie. flowers, palm trees. Mr. Goodman said at one time there were colorful flowers there and now there are just plain flowers, and there are many empty spaces of grass. The last thing that was done was to put in four palm trees. Mayor Edelcup said we made a decision many years ago to do away with annuals and that is why nowhere in the City will you find them except in the Parks because that was a tremendous expense in the median of Collins Avenue. We had many discussions over the years regarding annuals vs. perennials and we elected to go with perennials so that we could cut back on the maintenance. He has no objections to looking at similar treatments for Winston Towers Boulevard to accomplish the same.
Commissioner Aelion said the City went up and above to work with the 600 Building, to fix the drain problems but they insisted that they wanted something that the City could not do. They wanted the City to address issues that are private to them and to encompass it within the project and the City said no, we are going to take care of the drains, whatever the City is responsible for.

Mayor Edelcup said there is a little ground that we can achieve and he suggested that Mr. Goodman work with Commissioner Gatto. If we can reach a compromise that doesn’t burden the City for that portion of landscaping, then certainly we would feel inclined to do so. As it relates to the drainage problem, we recognize what is a serious drainage problem, we will address that but we will not step in any shoes of any condo or condo association. The problem has been, some of that has been held hostage in giving us the easement to be able to fix the street in exchange for us being burdened with paying the costs when it is more properly being associated with the condo association. And so if we have to get a litigation there then we will have to, but we know we have a responsibility to take care of drainage on the street and we will have to come to a conclusion on that. Let the City Manager handle this problem as it relates to the drainage with the people of the 600 Building, it is not for you or I to get into that. Commissioner Scholl said that is on his list but the other thing is that the landscaping and lighting are a similar problem, the way the existing landscaping is it groups around the lighting in some cases, perhaps we can tackle both problems as one. The drainage is a technical issue that we have to figure out. Vice Mayor Thaler said it has to be separated.

13B. Arlene S. Koenig discussed safety, jeopardizing equity, and additional liability to the residents of Winston Towers. She is talking specifically about Building 300, Code Enforcement and issues pertaining to her building. She had submitted to the City Manager and City Attorney a notarized statement based on a lot of issues that are safety issues and Code issues for Winston Towers 300. Last week she was in a meeting with DERM and certain issues came to light and one of the issues that are really very important is the illegal marina that is on the side of her building. She doesn’t understand how this marina was built particularly since she has a letter from DERM that was given to her written by Michael Schnitzer on July 15, 2010 confirming that Winston Towers 300 Association has no further interest in applying for a permit for a floating dock. Therefore they were requesting that DERM close the file. Her concern here is that at DERM they are investigating currently now three (3) violations and safety violations for Winston Towers 300. They are: the marina, the illegal marina, and the environmental impact on the inlet because of the manatee protection program. Second issue, a non-permitted concrete pour which extends beyond our seawall and continuously contaminates the inlet. Third issue, construction of an illegal drainage system from her garage to the inlet further polluting the waters of the inlet which by the way was brought to the attention of Winston Towers 300 by correspondence from Sunny Isles Beach. These are the three violations that DERM is investigating. How does that effect other issues here, it affects the mitigation plan for submerged land by this City by eminent domain. These issues are all tied in together that impact on the safety, the equity and the liability of Winston Towers 300 residents. We are being jeopardized over there by these particular situations. Her statement connects to this directly because there is an commonality in that statement that persists on coded, unlicensed, illegal and these words emulate from many different areas from the fire alarm to the mildew removal to even a statement on behalf of their property manager that in one of their contracts at one of their meetings he mentioned
that the word security was changed to concierge in order to avoid payment of State taxes. There have been a lot of submissions, we have made a lot of pictures to this body about these conditions. She is asking the Commission not to ignore this. It is the responsibility of this body to protect the citizens of the City.

Ms. Koenig said under the Freedom of Information Act she is going to ask for two things: 1) records and documentation of all violations and fines issued by the City to Winston Towers 300 from 2008 to the present; and 2) all documentation pertaining to the eminent domain mitigation plan for the submerged land rights adjacent to the inlet of Winston Towers 300. This is a $4 Million expenditure which she thinks can be put to better use in the City besides a bridge that jeopardizes the safety next to an unsafe building that has issues that have been emanating for 40 years. The other thing she is going to include is that she would like all documentation and correspondence pertaining to the Winston Towers 300 40-year inspection. We have a very serious set of unique problems in Winston Towers 300 that have to end now. Things have to change here for the safety and equity of their property.

Commissioner Gatto said that Ms. Koenig is not being ignored, there was a meeting internally that they had discussed based upon her notarized statement and she believes there will be a letter sent to her in response to some of her issues. Ms. Koenig said she appreciates that but she hopes it is a letter of action, a letter of telling her what this City is going to do to protect the safety of the people in Winston Towers 300. Mayor Edelcup said before that letter goes out the Commission needs to see it and discuss it so that they are not blindsided by anything. Commissioner Aelion said also to check what the City’s responsibilities are in relation to the issues that were raised tonight. City Attorney Ottinot said he would do that and in addition, he will be mitigating any cost issue. The City Clerk’s Office will call her and we will get some of the documents that you requested and let you review it and if you want copies let them know which copies you want. Mayor Edelcup said since Ms. Koenig has raised the issue, it would only be fair that the Commission be apprised of any outstanding violations that exist on the 300 Building, and what the status is of taking care of those violations and/or what steps we are taking to make sure we get a proper conclusion.

14. ADJOURNMENT

Mayor Edelcup adjourned the meeting at 10:50 p.m.

Respectfully submitted by:  

Jane A. Hines, CMC, City Clerk

Approved by the City Commission on Dec. 20, 2012

Norman S. Edelcup, Mayor