

TOWN OF CUTLER BAY

Mayor Paul S. Vrooman
Vice Mayor Edward P. MacDougall
Councilmember Timothy J. Meerbott
Councilmember Ernest N. Sochin
Councilmember Peggy R. Bell

Town Manager Steven J. Alexander
Interim Town Attorney Mitchell Bierman
Interim Town Attorney Chad Friedman
Town Clerk Erika Gonzalez-Santamaria

In accordance with the American with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter or hearing impaired to participate in this proceeding should contact the Town Clerk at (305) 234-4262 for assistance no later than four (4) days prior to the meeting.

TOWN COUNCIL MEETING AGENDA

Tuesday, September 19, 2006

7:00 PM

South Dade Regional Library
10750 SW 211 Street, 2nd Floor
Cutler Bay, Florida 33189

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

II. INVOCATION

III. PROCLAMATIONS, AWARDS, PRESENTATIONS

A. Swearing-In Ceremony – Vice Mayor Edward P. MacDougall

IV. APPROVAL OF MINUTES

A. September 6, 2006

V. ADDITIONS, DELETIONS, AND DEFERRALS

A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL, AMENDING CHAPTER 24 OF THE MIAMI-DADE COUNTY CODE AS MADE APPLICABLE TO THE TOWN BY SECTION 8-3 OF THE TOWN CHARTER, ENTITLED "ENVIRONMENTAL PROTECTION" ARTICLE VI, "IN GENERAL," DIVISION 1, "GENERAL PROVISIONS", SECTION 24-49 "PERMITS FOR TREE REMOVAL AND RELOCATION, IMPROPERLY ISSUED PERMITS, VIOLATION OF PERMIT CONDITIONS, EXEMPTIONS FROM TREE REMOVAL PERMITS; MORTGAGE EXEMPTION FROM LIABILITY", BY PROVIDING FOR ADDITIONAL PROTECTIONS FOR TREES WITHIN THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 1

TAB 2

VI. TOWN MANAGER'S REPORT

VII. TOWN ATTORNEY'S REPORT

VIII. BOARD AND COMMITTEE REPORTS

A. Town Logo Committee – Selection of Town Logo

IX. CONSENT AGENDA (ANY ITEM SHALL BE REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION OR SEPARATE VOTE IF REQUESTED BY A COUNCILMEMBER)

X. QUASI-JUDICIAL CONSENT AGENDA (ANY ITEM MAY BE REMOVED FROM THE CONSENT AGENDA IF REQUESTED BY A MEMBER OF THE TOWN COUNCIL, THE TOWN STAFF, THE APPLICANT, OR ANY AFFECTED PARTY)

XI. QUASI-JUDICIAL HEARINGS

XII. PUBLIC HEARINGS

A. RESOLUTIONS

1. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING THE PARKS AND RECREATION ADVISORY COMMITTEE; PROVIDING FOR AN APPOINTMENT PROCEDURE FOR MEMBERS OF THE PARKS AND RECREATION ADVISORY COMMITTEE; PROVIDING FOR DISSOLUTION OF THE COMMITTEE; PROVIDING FOR AN EFFECTIVE DATE. (NOT A PUBLIC HEARING)



B. ORDINANCES

1. FIRST READING

2. SECOND READING

- a. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING REGULATIONS RELATED TO TEMPORARY STORAGE UNITS; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR REQUIREMENTS FOR PLACEMENT OF TEMPORARY STORAGE UNITS; PROVIDING FOR PLACEMENT OF TEMPORARY STORAGE UNITS IN OTHER ZONING



DISTRICTS; PROVIDING FOR SEVERABILITY;
PROVIDING FOR INCLUSION IN THE CODE;
PROVIDING FOR CONFLICTS AND PROVIDING FOR
AN EFFECTIVE DATE.

- b. AN ORDINANCE OF THE MAYOR AND TOWN
COUNCIL OF THE TOWN OF CUTLER BAY,
FLORIDA, AMENDING REGULATIONS RELATED TO
ROADSIDE SALES BY AMENDING SECTIONS 33-243,
33-251.1, 33-253.5 AND 33-256.4 EACH ENTITLED
"PROHIBITED USES"; PROVIDING FOR
SEVERABILITY; PROVIDING FOR INCLUSION IN THE
CODE; PROVIDING FOR CONFLICTS AND
PROVIDING FOR AN EFFECTIVE DATE.



XIII. PUBLIC COMMENTS

XIV. MAYOR AND COUNCIL MEMBER COMMENTS

XV. OTHER BUSINESS

XVI. NEXT MEETING ANNOUNCEMENT AND ADJOURNMENT

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

TAB 1

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

Wednesday, September 6, 2006

7:00 PM

South Dade Regional Library
10750 SW 211 Street, 2nd Floor
Cutler Bay, Florida 33189

I. CALL TO ORDER/ROLL CALL OF MEMBERS: The meeting was called to order by the mayor at 7:10 PM. Present were the following:

Councilmember Peggy R. Bell
Councilmember Timothy J. Meerbott
Councilmember Ernest N. Sochin
Vice Mayor Edward P. MacDougall
Mayor Paul S. Vrooman

Town Manager Steven J. Alexander
Interim Town Attorney Mitchell Bierman
Interim Town Attorney Chad Friedman
Town Clerk Erika Gonzalez-Santamaria

Mayor Vrooman led the pledge of allegiance.

II. INVOCATION: Mayor Vrooman asked all to join him in a moment of silence.

III. PROCLAMATIONS, AWARDS, PRESENTATIONS: None at this time.

IV. APPROVAL OF MINUTES:

- A. Vice Mayor MacDougall made a motion approving the minutes of the meeting of August 16, 2006. The motion was seconded by Councilmember Sochin and adopted by a unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

V. ADDITIONS, DELETIONS, AND DEFFERALS:

- A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A CONSULTING AGREEMENT WITH ALL HANDS CONSULTANTS FOR SERVICES OF ESTABLISHING A NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS); PROVIDING FOR A DETERMINATION OF IMPRACTIBILITY AS TO COMPETITIVE BIDDING AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Meerbott made a motion deferring the resolution for date certain, September 19, 2006. The motion was seconded by Councilmember Bell and adopted by a unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

- B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA AUTHORIZING THAT A RUNOFF ELECTION BE HELD IF NECESSARY TO FILL THE REMAINING TERM OF OFFICE OF THE VICE-MAYOR AND DESIGNATING A DATE THEREFORE; AUTHORIZING THE TOWN CLERK TO NOTIFY THE SUPERVISOR OF ELECTIONS OF THE ELECTION DATE AND PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember Meerbott made a motion deleting the resolution. The motion was seconded by Councilmember Bell and adopted by unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

VI. TOWN MANAGER'S REPORT:

The Town Manager advised that the agenda consists of purchases that need to be made with the operating budget for fiscal year 2005-2006. He also informed Council that the Town Hall building permits are still underway. The manager also advised that our Town Police Department is involved in the SARA project, which is to help community clean-up, the most recent clean-up in the area, was around Tony Roma's restaurant. The manager also provided information of various crime breakdowns by the Police Department within the Town.

VII. TOWN ATTORNEY'S REPORT:

The Town Attorney congratulated the Vice Mayor on his successful election to the office of Vice Mayor.

VIII. BOARD AND COMMITTEE REPORTS: None at this time.

IX. CONSENT AGENDA:

- A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS); AND PROVIDING FOR AN EFFECTIVE DATE.**
- B. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO CONTRACTS; WAIVING COMPETITIVE BIDDING AND AUTHORIZING THE TOWN MANAGER TO ENTER A CONTRACT WITH VERIZON WIRELESS FOR SMARTPHONE EQUIPMENT AND RATE PLAN**

FOR WIRELESS DATA SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.

- C. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO THE PURCHASE OF POLICE BICYCLES INCLUDING EQUIPMENT, AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT FOR A COST NOT TO EXCEED \$5,000; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.
- D. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, WAIVING COMPETITIVE BIDDING; APPROVING THE PURCHASE OF PRINTERS/FAXES FOR THE POLICE DEPARTMENT TOWN OFFICES, AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE MANAGER TO EXECUTE ANY REQUIRED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.
- E. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, WAIVING COMPETITIVE BIDDING; APPROVING THE PURCHASE OF AN EMERGENCY GENERATOR FOR TOWN HALL, AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE MANAGER TO EXECUTE ANY REQUIRED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.
- F. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, WAIVING COMPETITIVE BIDDING; APPROVING THE PURCHASE OF EMERGENCY AIR CONDITIONING UNITS FOR TOWN HALL, AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE MANAGER TO EXECUTE ANY REQUIRED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.
- G. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING A CONSULTING AGREEMENT WITH THE GOVERNMENT SERVICES GROUP, INC. FOR CAPITAL DEVELOPMENT AND INFRASTRUCTURE ASSESSMENT SERVICES; PROVIDING FOR A DETERMINATION OF IMPRACTICALITY AS TO COMPETITIVE BIDDING AND PROVIDING FOR AN EFFECTIVE DATE.
- H. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, WAIVING COMPETITIVE BIDDING; APPROVING THE PURCHASE FROM KUSTOM SIGNALS, INC. AS THE SOLE SOURCE VENDOR OF A SPEED MONITORING

AWARENESS RADAR TRAILER AND RADAR DEVICES; AUTHORIZING TOWN OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE PURCHASE, AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE ANY REQUIRED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

- I. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO PROCUREMENT; PROVIDING FOR A DETERMINATION OF IMPRACTICALITY AS TO COMPETITIVE BIDDING AND AUTHORIZING THE TOWN MANAGER TO PROCURE ADDITIONAL LARGE CAPACITY COLOR COPIERS, WITH SERVICE AND SUPPLY BY LEASE OR PURCHASE AT A REASONABLE COST TO BE DETERMINED BY THE MANAGER; PROVIDING AN EFFECTIVE DATE.
- J. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO OFFICE TECHNOLOGY EQUIPMENT, AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT TO PROCURE DOCUMENT IMAGING SYSTEM AND SERVICES THROUGH MCCi; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.
- K. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, WAIVING COMPETITIVE BIDDING; APPROVING THE PURCHASE OF A BALLISTIC ENTRY SHIELD WITH LIGHT FROM FIRST CHOICE ARMOR AS THE SOLE SOURCE VENDOR; AUTHORIZING TOWN OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE PURCHASE, AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE ANY REQUIRED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.
- L. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, WAIVING COMPETITIVE BIDDING; RELATING TO OFFICE FURNITURE; AUTHORIZING THE TOWN MANAGER TO ENTER INTO A LEASE/PURCHASE AGREEMENT FOR THE POLICE/ADMINISTRATIVE OFFICES FROM J.C. WHITE QUALITY OFFICE FURNITURE, AND ITS FINANCE PARTNER FOR A COST NOT TO EXCEED \$100,000; PROVIDING AN EFFECTIVE DATE.
- M. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO

CONTRACTS; WAIVING COMPETITIVE BIDDING PURSUANT TO SECTION 3.10 OF THE TOWN CHARTER TO THE EXTENT APPLICABLE, AND AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AUDIT SERVICES ENGAGEMENT AGREEMENT WITH RACHLIN, COHEN & HOLTZ, LLP IN SUBSTANTIALLY THE FORM OF THE COMPETITIVELY BID AUDIT AGREEMENT BETWEEN RACHLIN, COHEN & HOLTZ AND THE VILLAGE OF PALMETTO BAY; PROVIDING AN EFFECTIVE DATE.

- N. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, WAIVING COMPETITIVE BIDDING; APPROVING THE PURCHASE OF DIGITAL CAMERAS FOR THE POLICE DEPARTMENT, AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE MANAGER TO EXECUTE ANY REQUIRED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Bell and Councilmember Sochin advised that Items D, F, and G be pulled from the Consent Agenda for further discussion.

Councilmember Meerbott made a motion to approve the Consent Agenda as amended. The motion was seconded by Vice Mayor MacDougall. Resolutions 06-77, 06-78, 06-80, 06-83-06-90 were adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Councilmember Meerbott made a motion to approve the amended resolution in Item C. The amendment to the resolution states:

- To procure police bikes and equipment in an amount not to exceed \$5,000.

The motion was seconded by Councilmember Sochin and Resolution 06-79 was adopted by a unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Councilmember Meerbott made a motion to approve Items E and F. The motion was seconded by Councilmember Bell and Resolution 06-81 and 06-82 was approved by a 4-1 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Vice Mayor MacDougall and Mayor Vrooman voting Yes; Councilmember Sochin voting No.

X. QUASI-JUDICIAL CONSENT AGENDA PUBLIC HEARING: None at this time.

XI. QUASI-JUDICIAL HEARINGS: The following quasi-judicial hearing was held by Council.

All witnesses giving testimony were sworn-in by the clerk.

The clerk read the following resolution, by title:

- A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING AN UNUSUAL USE FOR OUTDOOR SEATING FOR THE R.J. GATORS RESTAURANT, WHICH IS WITHIN THE SHOPPING CENTER LOCATED AT 18415 SOUTH DIXIE HIGHWAY; AND PROVIDING FOR AN EFFECTIVE DATE.

Alex David, representing the Town's planning department, introduced the resolution and based on his memorandum on August 30, 2006, recommended approval of the request.

Mr. Graham Penn, 200 South Biscayne Boulevard, representing the applicant, addressed the Council.

Councilmember Meerbott made a motion to approve the resolution. The motion was seconded by Councilmember Sochin and Resolution 06-91 was approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

XII. PUBLIC HEARINGS:

A. RESOLUTIONS

1. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA CREATING A CITIZEN ADVISORY COMMITTEE FOR THE PURPOSE OF PROVIDING RECOMMENDATIONS TO THE TOWN COUNCIL ON THE IMPLEMENTATION OF A TOWN-WIDE MUNICIPAL WIRELESS INTERNET ACCESS SYSTEM, APPOINTING A COUNCIL LIAISON, AND PROVIDING FOR THE SELECTION OF COMMITTEE MEMBERS, PROVIDING FOR AUTOMATIC DISSOLUTION AND PROVIDING FOR AN EFFECTIVE DATE. (NOT A PUBLIC HEARING)

Vice Mayor MacDougall made a motion approving the amended resolution, to amend Section 3. of the resolution to state that Councilmembers may each appoint a committee member. The motion was seconded by Councilmember Bell and Resolution 06-92 was adopted by unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

2. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RATIFYING THE TERMS OF EMPLOYMENT OF THE TOWN MANAGER AND PROVIDING FOR AN EFFECTIVE DATE. (NOT A PUBLIC HEARING)

Councilmember Bell made a motion approving the resolution. The motion was seconded by Vice Mayor MacDougall and Resolution 06-93 was adopted by unanimous voice vote. The

vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

B. ORDINANCES: The clerk read the following ordinance, on first reading, by title:

1. FIRST READING

- a. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING REGULATIONS RELATED TO TEMPORARY STORAGE UNITS; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR REQUIREMENTS FOR PLACEMENT OF TEMPORARY STORAGE UNITS; PROVIDING FOR PLACEMENT OF TEMPORARY STORAGE UNITS IN OTHER ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Meerbott made a motion approving the ordinance on first reading. The motion was seconded by Councilmember Bell and approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Second Reading of the ordinance will be September 19th, 2006.

The clerk read the following ordinance, on first reading, by title:

- b. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING REGULATIONS RELATED TO ROADSIDE SALES BY AMENDING SECTIONS 33-243, 33-251.1, 33-253.5 AND 33-256.4 EACH ENTITLED "PROHIBITED USES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Meerbott made a motion approving the ordinance on first reading. The motion was seconded by Councilmember Bell and approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Second Reading of the ordinance will be September 19th, 2006.

The clerk read the following ordinance, on first reading, by title:

- c. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING REGULATIONS RELATED TO OCCUPATIONAL LICENSES; PROVIDING FOR IMPOSITION OF A TAX; PROVIDING FOR THE TERM OF THE LICENSE AND TRANSFER OF THE LICENSE; PROVIDING FOR AN AFFIDAVIT FOR THE APPLICANT AND THE ANNUAL FILING INFORMATION; PROVIDING FOR PREREQUISITES FOR GRANTING A LICENSE AND INVALID LICENSES; PROVIDING FOR VIOLATIONS AND PENALITIES; PROVIDING FOR GROUNDS FOR DENIAL OF THE LICENSE; PROVIDING FOR APPEAL OF DENIAL OF LICENSE; PROVIDING FOR REVOCATION OF LICENSE; PROVIDING FOR DISPLAY OF LICENSE; PROVIDING FOR UNCLASSIFIED BUSINESS ACTIVITIES; PROVIDING FOR HOME OCCUPATION LICENSES; PROVIDING FOR A TAX SCHEDULE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Sochin made a motion approving the ordinance on first reading. The motion was seconded by Councilmember Meerbott and approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Second Reading of the ordinance will be October 4th, 2006.

The clerk read the following ordinance, on first reading, by title:

- d. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL, AMENDING CHAPTER 24 OF THE MIAMI-DADE COUNTY CODE AS MADE APPLICABLE TO THE TOWN BY SECTION 8-3 OF THE TOWN CHARTER, ENTITLED "ENVIRONMENTAL PROTECTION" ARTICLE VI, "IN GENERAL," DIVISION 1, "GENERAL PROVISIONS", SECTION 24-49 "PERMITS FOR TREE REMOVAL AND RELOCATION, IMPROPERLY ISSUED PERMITS, VIOLATION OF PERMIT CONDITIONS, EXEMPTIONS FROM TREE REMOVAL PERMITS; MORTGAGE EXEMPTION FROM LIABILITY", BY PROVIDING FOR ADDITIONAL PROTECTIONS FOR TREES WITHIN

THE TOWN; PROVIDING FOR SEVERABILITY;
PROVIDING FOR INCLUSION IN THE CODE; AND
PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Meerbott made a motion to defer the ordinance for date certain of September 19, 2006. The motion was seconded by Councilmember Bell and approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

Second Reading of the ordinance will be September 19th, 2006.

2. SECOND READING

The clerk read the following ordinance, on second reading, by title:

- a. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, IMPLEMENTING SECTION 3.10 OF THE TOWN CHARTER, ESTABLISHING PURCHASING REGULATIONS; PROVIDING FOR REPLACEMENT OF SECTION 2-8.1 ET SEQ. OF THE MIAMI-DADE COUNTY CODE TO THE EXTENT APPLICABLE, PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The mayor opened the public hearing. There were no speakers present.

Councilmember Meerbott made a motion to adopt the ordinance on first reading subject that Section 2. states as follows:

- Single purchases and contracts above \$25,000 cannot be broken down to amounts less than \$25,000 in order to avoid the requirement of this subsection.

The motion was seconded by Councilmember Bell and approved by unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

XIII. PUBLIC COMMENTS:

The following individuals spoke: Joy Cooper, 9365 Nassau Drive, David Harrington, 7771 Southwest 200 Terrace, Wilmer Parks, 8890 Southwest 196 Drive, Louise Lockwood, 9071 Richmond Drive, Jim Shiver, 20020 Southwest 105 Avenue, Beth Parets, 19301 Holiday Road and Alfie Sergio, 9261 Caribbean Boulevard.

XIV. MAYOR AND COUNCIL MEMBER COMMENTS:

Vice Mayor MacDougall thanked Alfie Sergio for her support. The Vice Mayor discussed that the interlocals for Schools and Parks are closely approaching. He concluded that a transit system for elderly citizens would be beneficial to circulate among the various retirement homes in the community.

XV. OTHER BUSINESS: None at this time.

XVI. NEXT MEETING ANNOUNCEMENT AND ADJOURNMENT:

The next council meeting will be held on September 19, 2006, at the South Dade Regional Library.

The meeting was officially adjourned at 10:55 P.M.

Respectfully submitted:

*Erika Gonzalez-Santamaria
Town Clerk*

*Adopted by the Town Council on
this 19th day of September, 2006*

Paul S. Vrooman, Mayor

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

TAB 2

ORDINANCE NO. 06-_____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL, AMENDING CHAPTER 24 OF THE MIAMI-DADE COUNTY CODE AS MADE APPLICABLE TO THE TOWN BY SECTION 8-3 OF THE TOWN CHARTER, ENTITLED "ENVIRONMENTAL PROTECTION" ARTICLE VI, "IN GENERAL," DIVISION 1, "GENERAL PROVISIONS", SECTION 24-49 "PERMITS FOR TREE REMOVAL AND RELOCATION, IMPROPERLY ISSUED PERMITS, VIOLATION OF PERMIT CONDITIONS, EXEMPTIONS FROM TREE REMOVAL PERMITS; MORTGAGE EXEMPTION FROM LIABILITY", BY PROVIDING FOR ADDITIONAL PROTECTIONS FOR TREES WITHIN THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") has a beautiful tree canopy; and

WHEREAS, the Town wishes to protect the trees in the Town;

WHEREAS, Section 8-3 of the Town Charter made Miami Dade County (the "County") Code Section 24-49 applicable to the Town, and the Town wishes to amend Section 24-49 to provide more stringent requirements for tree removal.

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

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

Section 2. Tree Regulations Amended. The tree regulations contained in Chapter 24, "Environmental Protection," Article VI, "In General," Division 1, "General Provisions," Section 24-49 "Permits for tree removal and relocation, improperly issued permits, violation of permit conditions, exemptions from tree removal permits; mortgagee exemption from liability" of the Miami-Dade County Code as made applicable the Town are hereby amended to read as follows:

Sec. 24-49. Permits for tree removal and relocation, improperly issued permits, violation of permit conditions, exemptions from tree removal permits; mortgagee exemption from liability.

(1) It shall be unlawful for any person, unless otherwise permitted by the terms of this article, to do tree removal work or to effectively destroy any tree, or to effectively destroy any understory in a natural forest community, or to remove any limb measuring more than three inches in diameter, without first obtaining a permit from the Town.

(2) No Town official shall issue a tree removal permit that does not comply with the provisions of this article. Any such permit shall be void.

(3) It shall be unlawful for any person to violate or not comply with any of the conditions of a tree removal permit.

(4) The following activities are exempt from tree removal permits:

(c) Removal of any dead tree.

(d) Removal of trees within State-approved plant nurseries and botanical gardens, provided said trees were planted and are growing for the display, breeding, propagation, sale or intended sale to the general public in the ordinary course of business.

(e) Removal of trees for the establishment, maintenance and operation of a bona fide grove or bona fide tree nursery, except when the proposed tree removal is to occur in a natural forest community designated under Miami-Dade County Resolution No. 1764-84 or under subsequent revisions of the natural forest community maps or when the proposed tree removal will affect specimen trees as defined herein. Any person desiring to remove trees pursuant to this provision shall obtain written approval from the Town prior to the commencement of any such activities under this exemption.

(f) Removal of any of the following tree species (provided the activity is not within a natural forest community, in which case a permit shall be required, but all application and permit fees shall be waived by the department):

- (i) *Melaleuca quinquenervia* (cajeput or paperbark tree).
- (ii) *Casuarina* spp. (Australian pine, beefwood).
- (iii) *Schinus terebinthifolius* (Brazilian pepper).
- (iv) *Bischofia javanica* (bishopwood).
- (v) *Ricinus communis* (castorbean).
- (vi) *Psidium guajava* (guava).
- (vii) *Albizia lebbek* (woman's tongue).
- (viii) *Acacia auriculaeformis* (earleaf acacia).
- (ix) *Schefflera actinophylla* (Queensland Umbrella Tree).
- (x) *Araucaria heterophylla* (Norfolk Island Pine).
- (xi) *Metopium toxiferum* (poison wood).
- (xii) *Adenanthera pavonina* (red sandalwood).
- (xiii) *Cupaniopsis anacardioides* (carrotwood).
- (xiv) *Dalbergia sissoo* (Indian dalbergia, sissoo).
- (xv) *Ficus microcarpa* (=R. *nitida*; =F. *retusa varnitida*) (laurel fig).
- (xvi) *Flacourtia indica* (governor's plum).
- (xvii) *Hibiscus tiliaceus* (mahoe).
- (xviii) *Leucaena leucocephala* (lead tree).
- (xix) *Mimosa pigra* (catclaw mimosa).

(xx) *Thespesia populnea* (seaside mahoe).

(g) Removal of any tree which has been destroyed or effectively destroyed by an Act of God, or by acts outside of the control of any person, individually or otherwise, who has or had a legal, beneficial or equitable interest in the real property upon which such tree is located, which acts could not have been prevented by the exercise of reasonable care by any such person, individually or otherwise, who has or had a legal, beneficial or equitable interest in the real property upon which such tree is located. Where a tree has been destroyed or effectively destroyed by acts outside of the control of a person who has or had a legal, beneficial or equitable interest in the real property upon which such tree is located, which acts could not have been prevented by the exercise of reasonable care by such person, this provision shall be construed to impose joint and several liability upon the person(s) destroying or effectively destroying such tree, and to exempt from liability for such destruction or effective destruction the person who has or had a legal, beneficial or equitable interest in the real property upon which such tree is located.

~~(h) Removing, trimming, cutting or altering of any mangrove tree or removal of any tree located upon land which is wetlands as defined in Section 24 5. Trees located upon land which is wetlands as defined in Section 24 5 and mangrove trees located anywhere in Miami Dade County shall be subject to the permitting requirements of Article IV of this chapter.~~

~~(i) Removal of tree within a bona fide fruit grove for the express purpose of converting said bona fide fruit grove to another bona fide agricultural purpose, provided however, that the owner of the real property upon which the bona fide fruit grove is planted has entered into a covenant agreement with Miami Dade County in the form approved by the Board of County Commissioners, which covenant stipulates that said property shall only be used for bona fide agricultural purposes for a period of five (5) years from the date of execution. The form for said covenant agreement shall be approved by the Board of County Commissioners by resolution concurrently with the approval of this ordinance so that all covenant agreements submitted pursuant to this provision can be executed and accepted by the director of DERM and then recorded in the Official Records of Miami Dade County without the necessity of additional public hearings. In the event that the provisions of said covenant are not complied with, the Director of DERM may commence an action in law or equity to ensure adherence with the replanting requirements contained in Section 24 49.4 of the Miami Dade County Code.~~

~~(5) Any mortgagee with respect to property upon which any violation of this tree ordinance has occurred shall not be liable for such violation unless, prior to said violation, said mortgagee has foreclosed upon said property or participated in the management or control of said property, or unless said mortgagee has effected or caused the tree ordinance violations occurring on said property.~~

~~(6) Notwithstanding the provisions of Section 24 31(7) herein, if actions or omissions constituting a violation of this article occurred at a time when the completed actions or omissions were not prohibited by law, such completed actions or omissions shall not constitute a violation of this article.~~

Section 3. Severability.

The provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional,

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

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

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

PASSED AND ADOPTED on first reading this _____ day of _____, 2006.

PASSED AND ADOPTED on second reading this _____ day of _____, 2006.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

TAB 3

RESOLUTION NO. 06-

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING THE PARKS AND RECREATION ADVISORY COMMITTEE; PROVIDING FOR AN APPOINTMENT PROCEDURE FOR MEMBERS OF THE PARKS AND RECREATION ADVISORY COMMITTEE; PROVIDING FOR DISSOLUTION OF THE COMMITTEE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") desires to have a citizen committee to advise the Town Council with regard to parks and recreational facilities within the Town, and to make recommendations to the Town concerning development and usage of such parks and recreational facilities; and

WHEREAS, Councilmember Peggy R. Bell has volunteered to serve as the Council liaison to the Parks and Recreation Advisory Committee, as she has particular interest in the development and usage of the Town parks and recreational facilities.

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

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

Section 2. **Creation.** The Town Council hereby creates a citizen committee, to be known as the Parks and Recreation Advisory Committee (the "Committee") to study, advise, and make recommendations to the Town Council regarding the development and usage of the Town parks and recreational facilities. Councilmember Peggy R. Bell is hereby appointed Council liaison to the Committee and shall report to the Council as to the Committee's activities on a regular basis.

The Council liaison shall not be considered a member of the Committee, nor shall the liaison have any voting power in relation to the Committee but shall have the right to participate at all meetings.

Section 3. Appointments. The Committee shall consist initially of eleven (11) citizens of the Town who shall be chosen by each Councilmember, two (2) committee members per Councilmember, from a list of persons who volunteer by advising the Town Manager or Councilmember of their interest in serving on said Committee. Additionally, the Councilmembers shall collectively select one (1) committee member at large by majority vote. The members shall serve until the Committee is dissolved.

Section 4. The Committee shall be dissolved at such time as the Council accepts its recommendations and/or advises the Committee that its services are no longer required.

Section 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED and ADOPTED this ____ day of _____, 2006.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edwards P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

TAB 4



To: Honorable Mayor and Town Council

From: Steven Alexander, Town Manager

Re: Ordinance entitled "Temporary Storage Units" Second Reading

Date: September 19, 2006

REQUEST:

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO TEMPORARY ONSITE STORAGE UNITS, PROVIDING FOR INCLUSION IN THE TOWN CODE;

BACKGROUND AND ANALYSIS:

As we progress towards being in control of our entire Town, we need to have the legal authority to address all of the issues, which affect the appearance of our community. The attached proposed ordinance is designed to enable our Code Compliance team to help keep our residential areas free of commercial or industrial appearing storage facilities. This ordinance is modeled after a similar and tested ordinance currently in effect in Pinecrest.

Fiscal Impact: None.

Recommendation: Approval at first reading and schedule the item for public hearing at second reading.

ORDINANCE NO. 06-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING REGULATIONS RELATED TO TEMPORARY STORAGE UNITS; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR REQUIREMENTS FOR PLACEMENT OF TEMPORARY STORAGE UNITS; PROVIDING FOR PLACEMENT OF TEMPORARY STORAGE UNITS IN OTHER ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") finds and determines that regulations are necessary in relation to temporary on site storage units; and

WHEREAS, the Town finds that these changes will promote the health, safety and welfare of the Town.

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

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

Section 2. Purpose and Intent. This Ordinance regulates the placement of Temporary Storage Units in order to promote the health, safety, and welfare of the residents of the Town and to preserve the aesthetic value of its neighborhoods.

Section 3. Definitions. The following definitions shall apply under this Ordinance:

- A. User shall mean the person that owns, rents, occupies, or controls the property.
- B. Supplier shall mean the company or vendor which supplies the Temporary Storage Unit to the property.
- C. Temporary Storage Unit shall mean a transportable unit designed and used primarily for temporary storage of building materials (before they are utilized for building purposes), household goods, and other such materials for use on a limited basis on a property not for government use. Such unit shall not be considered an accessory structure as provided in the Code of the Town of Cutler Bay.

Section 4. Requirements for Placement of Temporary Storage Units. The following requirements shall apply to the placement of Temporary Storage Units in the residential zones:

A. It shall be unlawful for any person or entity to place or permit the placement of Temporary Storage Units on property located within a Residential Zoning District unless the placement complies with this section of the Town Code.

B. Temporary Storage Units shall only be placed on the User's driveway or a parking area or, if vehicular access exists at the side or rear of the site, the side or rear yard. The required parking space(s) shall at all times be maintained if temporary storage units are placed in parking areas. No more than two storage units may be placed on a property at any time.

C. The Temporary Storage Unit shall be located at such property for a maximum of fourteen (14) consecutive days, including the days of delivery and removal. An extension may be granted to the User by the Town Manager, or designee, subject to conditions, for a reasonable additional time period in an amount not to exceed fourteen (14) days.

D. A Temporary Storage Unit may not be located at a residential property for more than forty-five (45) days of any calendar year.

E. The User, as well as the Supplier, shall each be independently responsible for ensuring that the Temporary Storage Unit is maintained in good condition, free from evidence of deterioration, weathering, discoloration, graffiti, rust, ripping, tearing or other holes or breaks, at all times.

F. No Temporary Storage Unit shall be used to store solid waste, construction debris, demolition debris or any illegal or hazardous material. Upon reasonable notice to the User, the Town of Cutler Bay may inspect the contents of any Temporary Storage Unit at any reasonable time to ensure that it is not being used to store said materials.

G. No storage unit may be used to house humans or animals of any kind.

H. The date that the container was dropped off must be clearly posted, in a weather resistant manner, on the container.

Section 5. Placement of Temporary Storage Units in other Zoning Districts. A storage unit placed in a zoning district other than residential shall comply with the subsections C, D, E, F, and H above.

Section 6. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 7. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Cutler Bay Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 8. Conflicts. Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 9. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 6th day of Septemeber, 2006.

PASSED AND ADOPTED on second reading this _____ day of _____, 2006.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Peggy R. Bell _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

TAB 5



MEMORANDUM

To: Honorable Mayor and Town Council
From: Steven J. Alexander, Town Manager
Date: September 19, 2006
Re: Ordinance entitled "Street Vendor" Second Reading

REQUEST:

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, RELATING TO STREET VENDORS, PROVIDING FOR INCLUSION IN THE TOWN CODE;

BACKGROUND AND ANALYSIS:

As we progress towards being in control of our entire Town, we need to have the legal authority to address all of the issues, which affect the appearance of our community. The attached proposed ordinance is designed to enable our police force to help keep our streets clean, safe and efficient. This ordinance is modeled after a similar and tested ordinance currently in effect in Pinecrest.

Fiscal Impact: None.

Recommendation: Approval at first reading and schedule the item for public hearing at second reading.

ORDINANCE NO. 06-

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING REGULATIONS RELATED TO ROADSIDE SALES BY AMENDING SECTIONS 33-243, 33-251.1, 33-253.5 AND 33-256.4 EACH ENTITLED "PROHIBITED USES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") finds and determines that amendments to the regulations related to roadside sales are necessary; and

WHEREAS, the Town finds that these changes will promote the health, safety and welfare of the Town.

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

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

Section 2. Amendment to Roadside Sales Regulations Article XXIV. The roadside sale regulations contained in Chapter 33, "Zoning," Article XXIV, "BU-1 Neighborhood Business District", Section 33-243 "Prohibited Uses" are hereby amended as follows:

Section 33-243. Prohibited Uses. The sale or distribution of material, fruit, ~~or~~ merchandise or other commodities from trucks, wagons or other vehicles parked on or along public or private streets or from open stands or vacant lots shall be prohibited. Such business on private or public property shall be conducted only from within approved permanent substantial buildings.¹

Section 3. Amendment to Roadside Sales Regulations Article XXV. The roadside sale regulations contained in Chapter 33, "Zoning," Article XXIV, "BU-1A Limited Business District", Section 33-251.1 "Prohibited Uses" are hereby amended as follows:

Section 33-251.1. Prohibited Uses. The sale or distribution of material, fruit, ~~or~~ merchandise or other commodities from trucks, wagons or other vehicles parked on or along public or private streets or from open stands or vacant lots shall be prohibited. Such business on private or public property shall be conducted only from within approved permanent substantial buildings.

¹ Additions to existing text are indicated by underline; deletions are indicated by ~~strikethrough~~.

Section 4. Amendment to Roadside Sales Regulations Article XXVI. The roadside sale regulations contained in Chapter 33, "Zoning," Article XXIV, "BU-2 Special Business District", Section 33-253.5 "Prohibited Uses" are hereby amended as follows:

Section 33-253.5. Prohibited Uses. The sale or distribution of material, fruit, or merchandise or other commodities from trucks, wagons or other vehicles parked on or along public or private streets or from open stands or vacant lots shall be prohibited. Such business on private or public property shall be conducted only from within approved permanent substantial buildings.

Section 5. Amendment to Roadside Sales Regulations Article XXVII. The roadside sale regulations contained in Chapter 33, "Zoning," Article XXIVII, "BU-3 Liberal Business District", Section 33-256.4 "Prohibited Uses" are hereby amended as follows:

Section 33-256.4. Prohibited Uses. The sale or distribution of material, fruit, or merchandise or other commodities from trucks, wagons or other vehicles parked on or along public or private streets or from open stands or vacant lots shall be prohibited. Such business on private or public property shall be conducted only from within approved permanent substantial buildings.

Section 6. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 7. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Cutler Bay Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 8. Conflicts. Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 9. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 6th day of September, 2006.

PASSED AND ADOPTED on second reading this _____ day of _____, 2006.

PAUL S. VROOMAN, Mayor

Attest:

ERIKA GONZALEZ-SANTAMARIA, CMC
Town Clerk

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

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

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

Vice Mayor Edward P. MacDougall _____

Councilmember Timothy J. Meerbott _____

Councilmember Ernest N. Sochin _____

Councilmember Peggy R. Bell _____