

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

Wednesday, April 11, 2007

7:00 PM

Cutler Ridge Park
10100 SW 200th Street
Cutler Bay, Florida 33157

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

II. INVOCATION

III. PROCLAMATIONS, AWARDS, PRESENTATIONS

IV. APPROVAL OF MINUTES

A. March 21, 2007 (Regular Council Meeting)

TAB 1

V. ADDITIONS, DELETIONS, AND DEFERRALS

VI. TOWN MANAGER'S REPORT

VII. TOWN ATTORNEY'S REPORT

VIII. BOARD AND COMMITTEE REPORTS

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

A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING AN AMOUNT FOR THE PERMIT FEE FOR THE STORAGE OF A

TAB 2

SECOND BOAT PURSUANT TO ORDINANCE 07-___; AND PROVIDING AN EFFECTIVE DATE.

- B. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ESTABLISHING PUBLIC PARTICIPATION PROCEDURES FOR CREATION OF THE COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 3

- C. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE TOWN COUNCIL AGENDA FORMAT; PROVIDING FOR AGENDA ITEMS REQUESTED BY THE TOWN COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 4

RESOLUTIONS FOR DISCUSSION

- 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**

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

- XII. **PUBLIC HEARINGS**

- A. **RESOLUTIONS**

- B. **ORDINANCES**

- 1. **FIRST READING**

- 2. **SECOND READING**

- a. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33, "ZONING," ARTICLE I, "IN GENERAL," SECTION 33-20(E), "BOAT STORAGE," OF THE TOWN CODE OF ORDINANCES, BY AMENDING THE LENGTH, WIDTH, AND HEIGHT OF BOATS THAT MAY BE PERMITTED TO BE STORED WITHIN CERTAIN ZONING DISTRICTS WITHIN THE TOWN; PROVIDING FOR THE STORAGE OF TWO BOATS WITHIN CERTAIN ZONING DISTRICTS WITHIN THE TOWN; PROVIDING FOR PERMITS; PROVIDING FOR SEVERABILITY;

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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, GRANTING ADMINISTRATIVE AUTHORITY TO THE TOWN MANAGER TO SET SERVICE OR USER CHARGES FOR MUNICIPAL SERVICES PURSUANT TO SECTION 4.3 ENTITLED "ORDINANCES" OF THE TOWN CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 6

- c. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 06-12 BY DELETING THE TOWN COUNCIL AGENDA FORMAT; PROVIDING FOR THE TOWN COUNCIL AGENDA FORMAT TO BE ADOPTED BY A RESOLUTION OF THE TOWN COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

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- d. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE TOWN CODE BY AMENDING ORDINANCE 06-27 RELATED TO OCCUPATIONAL LICENSES TO CONFORM WITH RECENT REVISIONS TO FLORIDA STATUTE CHAPTER 205 BY CHANGING THE TERM OCCUPATIONAL LICENSE TO LOCAL BUSINESS TAX RECEIPT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 8

- e. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33 "ZONING" SECTION 33-20. "ACCESSORY BUILDINGS; UTILITY SHEDS; SWIMMING POOLS; FALLOUT SHELTERS; BOAT STORAGE" OF THE TOWN CODE OF ORDINANCES TO PROVIDE THAT SWIMMING POOLS SHALL BE COUNTED FOR PURPOSES OF LOT COVERAGE; AND PROVIDING FOR AN EFFECTIVE DATE.

TAB 9

XIII. PUBLIC COMMENTS

XIV. MAYOR AND COUNCIL MEMBER COMMENTS

XV. OTHER BUSINESS

XVI. NEXT MEETING ANNOUNCEMENT AND ADJOURNMENT

- A. Regular Town Council Meeting
Wednesday, May 16, 2007, 7:00 P.M.
Cutler Ridge Park

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, March 21, 2007

7:00 PM

Cutler Ridge Park

10100 Southwest 200th Street

Cutler Bay, Florida 33157

I. CALL TO ORDER/ROLL CALL OF MEMBERS: The meeting was called to order by the mayor at 8:05 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: None at this time.

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

IV. APPROVAL OF MINUTES:

- A.** Councilmember Meerbott made a motion approving the minutes of the meeting of February 21, 2007. The motion was seconded by Vice Mayor 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:

Town Staff requested that Item B from the Consent Agenda and Item 2a from Ordinances Second Reading be deferred to the April 11th Council Meeting.

Councilmember Meerbott made a motion to defer Item B from the Consent Agenda and 2a from Ordinances Second Reading to April 11th Council Meeting. The motion was seconded by Councilmember Bell and was approved by a 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 informed council that the services of Media Relations Group were officially acquired as the Town's public relations organization. The Manager introduced two representatives of Media Relations Group, Heather Leslie and Alicia Gonzalez, whom in turn presented to Council a framed edition of the Miami Herald Neighbor's front page cover story on the Town's First Annual Founder's Day. The Manager went on to discuss that the Town has three new hurricane shelter pick-up sites which include, Cutler Ridge Park, Centennial Middle School and Franjo Park. He spoke about a second annual charity event that Peterson's Harley-Davidson is hosting and extending an invitation to the Councilmembers for reserving a table. The Town Manager reported that he had been in Tallahassee representing not only the Town, but the Municipalities in Miami-Dade County, on the issue of Property Taxes. He had the opportunity to speak to the Speaker of the House in reference to how municipalities may be affected by any changes to Property Taxes. He mentioned that there were questions on park bonds and he assured Council that those funds are available once the Town has control over the parks. He also reminded Councilmembers that Dade Days is quickly approaching.

VII. TOWN ATTORNEY'S REPORT:

The Town Attorney discussed that one of the resolutions being presented in the consent agenda referencing support for North Miami's efforts to require Florida Power & Light to comply with the Public Service Commission implementing a three year trimming cycle, was requested by Councilmember Sochin. He added that this could be beneficial for all communities in South Florida should North Miami's grievances be granted. The Town Attorney mentioned that he was asked to request an opinion of the Attorney General in reference to Ex Parte communications, which would be read once the ordinance came up for discussion later in the agenda.

VIII. BOARD AND COMMITTEE REPORTS:

Councilmember Sochin announced that the month of June would be the launch of the test run for WiFi within Cutler Bay. He also mentioned that the WiFi Committee has not met because he would like to wait on the outcome of the new Miami-Dade County WiFi initiative.

Vice Mayor MacDougall informed that the Senior Transportation committee will be presenting a report at the next Council meeting.

IX. CONSENT AGENDA:

- A. A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING SELECTION OF KIMLEY-HORN AND ASSOCIATES, INCORPORATED AS THE HIGHEST RANKED FIRM FOR THE DEVELOPMENT OF THE TOWN'S STORMWATER MASTER PLAN; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE A PROJECT AGREEMENT AND IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.**

- C.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA ADOPTING THE AMENDED INTERIM BUDGET FOR THE GENERAL FUND OF THE TOWN FOR THE PARTIAL FISCAL YEAR WHICH BEGAN NOVEMBER 2, 2005 AND ENDED ON SEPTEMBER 30, 2006 PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.
- D.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, URGING THE FLORIDA LEGISLATURE TO ABOLISH THE PROHIBITION AGAINST ADOPTION BY HOMOSEXUALS IN THE STATE OF FLORIDA.
- E.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING AN AGREEMENT WITH VALLEYCREST LANDSCAPE MAINTENANCE FOR THE COMPREHENSIVE LANDSCAPE/GROUNDS MAINTENANCE OF THE TOWN'S PARKS; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AN AGREEMENT AND IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.
- F.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, IN SUPPORT OF NORTH MIAMI'S PETITION TO REQUIRE FLORIDA POWER & LIGHT TO COMPLY WITH THE PUBLIC SERVICE COMMISSION ORDER IMPLEMENTING A 3 YEAR LATERAL TRIM CYCLE; AND PROVIDING AN EFFECTIVE DATE.
- G.** A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS (RFP) FOR TOWN ATTORNEY SERVICES; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Bell pulled Item G and Councilmember Meerbott pulled Item D from the Consent Agenda for discussion.

Councilmember Bell made a motion to approve the Consent Agenda as amended. The motion was seconded by Councilmember Meerbott and Resolutions 07-10 and 07-15 was adopted by unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

The Mayor proceeded to discuss Item D. After some discussion, Councilmember Sochin made a motion to approve the Resolution. The motion was seconded by Councilmember Bell and Resolution 07-12 was approved by a 3-2 voice vote. The vote was as follows: Councilmembers Bell, Sochin, and Mayor Vrooman voting Yes; Councilmember Meerbott and Vice Mayor MacDougall voting No.

The Town Manager briefly discussed Item G. Councilmember Meerbott made a motion to approve the Resolution. The motion was seconded Councilmember Bell and Resolution 07-15 was approved by unanimous 5-0 voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

RESOLUTIONS FOR DISCUSSION

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

XI. QUASI-JUDICIAL HEARINGS: None at this time.

XII. PUBLIC HEARINGS:

A. RESOLUTIONS: None at this time.

B. ORDINANCES:

1. FIRST READING: The clerk read the following ordinance, on first reading, by title:

- a.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE TOWN CODE BY AMENDING ORDINANCE 06-27 RELATED TO OCCUPATIONAL LICENSES TO CONFORM WITH RECENT REVISIONS TO FLORIDA STATUTE CHAPTER 205 BY CHANGING THE TERM OCCUPATIONAL LICENSE TO LOCAL BUSINESS TAX RECEIPT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

The Town Attorney gave a brief report on the ordinance to the Council.

There was no public hearing at this time.

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

This ordinance will be on second reading April 11, 2007.

- b.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 06-12 BY DELETING THE TOWN COUNCIL AGENDA FORMAT; PROVIDING FOR THE TOWN COUNCIL AGENDA FORMAT TO BE

ADOPTED BY A RESOLUTION OF THE TOWN COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

The Town Attorney gave a brief report on the ordinance to the Council.

There was no public hearing at this time.

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

This ordinance will be on second reading April 11, 2007.

- c. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING ADMINISTRATIVE AUTHORITY TO THE TOWN MANAGER TO SET SERVICE OR USER CHARGES FOR MUNICIPAL SERVICES PURSUANT TO SECTION 4.3 ENTITLED "ORDINANCES" OF THE TOWN CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The Town Manager and Mr. Alan Ricke, Parks and Recreation Director, briefly reported on the ordinance to the Council.

There was no public hearing at this time.

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

This ordinance will be on second reading April 11, 2007.

- d. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33 "ZONING" SECTION 33-20. "ACCESSORY BUILDINGS; UTILITY SHEDS; SWIMMING POOLS; FALLOUT SHELTERS; BOAT STORAGE" OF THE TOWN CODE OF ORDINANCES TO PROVIDE THAT SWIMMING POOLS SHALL BE COUNTED FOR PURPOSES OF LOT COVERAGE; AND PROVIDING FOR AN EFFECTIVE DATE.

The Local Planning Agency submitted a recommendation for adoption of the ordinance.

Don O'Donniley, the Planning Director, gave a brief report on the ordinance to the Council.

There was no public hearing at this time.

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

This ordinance will be on second reading April 11, 2007.

- e. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33 "ZONING" OF THE TOWN CODE OF ORDINANCES RELATED TO PARKING; PROVIDING THAT OFF-STREET PARKING SHALL BE PERMITTED ONLY ON SURFACED PARKING AREAS; PROVIDING FOR THE MAXIMUM AREA PERMITTED FOR OFF-STREET PARKING AREAS WITHIN CERTAIN ZONING DISTRICTS; PROVIDING FOR SURFACED PARKING AREA MATERIALS FOR OFF-STREET PARKING; CREATING SECTION 33-132.1 "PARKING IN SWALE AREAS IN RESIDENTIAL ZONING DISTRICTS" PROVIDING FOR RESTRICTIONS AND REGULATIONS FOR PARKING IN THE SWALE AREAS WITHIN RESIDENTIAL ZONING DISTRICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The Local Planning Agency submitted a recommendation for adoption of the ordinance.

Don O'Donniley, the Planning Director, gave a brief report on the ordinance to the Council.

There was no public hearing at this time.

Councilmember Bell made a motion to adopt the ordinance on first reading. The motion was seconded by Councilmember Sochin and adopted by 3-2 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, and Mayor Vrooman voting Yes; Councilmember Meerbott and Vice Mayor MacDougall voting No.

This ordinance will be on second reading April 11, 2007.

2. SECOND READING: The clerk read the following ordinance, on second reading, by title:

- b.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING NONRESIDENTIAL DESIGN STANDARDS AND REGULATIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR NONCONFORMING STRUCTURES; AND PROVIDING FOR AN EFFECTIVE DATE.

Don O'Donniley, the Planning Director, and the Town Manager provided information on the ordinance.

The mayor opened the public hearing. Perry Adair, 121 Alahambra Plaza, addressed Council.

Vice Mayor MacDougall made a motion adopting the ordinance on second reading. The motion was seconded by Councilmember Bell and Ordinance 07-07 was approved by a unanimous 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

- c.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, IMPLEMENTING THE PROVISIONS OF SECTION 286.0115, FLORIDA STATUTES, TO ESTABLISH A PROCEDURE GOVERNING EX PARTE COMMUNICATIONS WITH LOCAL PUBLIC OFFICIALS CONCERNING QUASI-JUDICIAL MATTERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

The Town Attorney gave a brief review of the ordinance.

The mayor opened the public hearing. Barbara Condon, 19641 Holiday Road and Alfie Sergio, 9261 Caribbean Boulevard, addressed Council.

Councilmember Sochin made a motion adopting the ordinance on second reading. The motion was seconded by Vice Mayor MacDougall and Ordinance 07-08 was approved by a 4-1 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, and Vice Mayor MacDougall voting Yes; Mayor Vrooman voting No.

- d.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CODE ENFORCEMENT PROCEDURES; CREATING ENHANCED PENALTIES FOR VIOLATIONS OF THE SIGN ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Staff provided information on the ordinance.

The mayor opened the public hearing. There were no speakers at this time.

Councilmember Bell made a motion adopting the ordinance on second reading. The motion was seconded by Councilmember Sochin and Ordinance 07-09 was approved by a 4-0 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes; Councilmember Meerbott was not present at the time of the vote.

XIII. PUBLIC COMMENTS: The following individuals spoke: Joy Cooper, 9665 Nassau Drive, Louise Lockwood, 9071 Ridgeland Drive, Tom Condon, 19641 Holiday Road, Arthur Nanni, 18843 Southwest 92 Avenue, Jim Shiver, 20020 Southwest 105 Avenue, Ed Wolmers, 9370 Dominican Drive.

XIV. MAYOR AND COUNCIL MEMBER COMMENTS:

Councilmember Meerbott explained that the swale and front yard parking issue may have an economic impact on residents and requested that the Council exercise flexibility on the issue. He also addressed the boat storage issue and commented on public questions and concerns.

Councilmember Sochin made a motion to extend the Council meeting beyond 11:00 PM. The motion was seconded by Vice Mayor MacDougall. All members voted unanimously in favor of the motion.

Councilmember Bell also discussed the swale and front yard parking ordinance. She suggested that Town Staff could separate the swale parking and front yard parking into two different ordinances. She mentioned that there should be a Town Events Committee which would be able to suggest and prepare various Town Events throughout the year with the collaboration of the Parks Director. She requested that staff prepare a format of how that committee should be set up. Member Bell was also present at the Cutler Ridge Middle School 8th grade mock employer interview which helps 8th grade graduates prepare for their bright future.

Councilmember Sochin discussed the boat ordinance and mentioned that during the strategic planning workshop there was no mention of the concerns on boat issues in the community. He also requested that Town Staff should look into placing a one year building moratorium within the city to conduct various studies on the impact of traffic within the community or when a new family moves into Cutler Bay how are our schools, roads, water etc. are affected. He also thanked Code Enforcement Officers for their ongoing efforts and response.

Vice Mayor MacDougall assured the residents that the boat ordinance and the swale and front yard parking ordinance will go under certain revisions by the time it is next heard. He asked the Planning Director to specify where real estate signs may be placed on properties. He also inquired whether a permit is needed for a garage sale and where garage sale signs can be placed on the property.

Mayor Vrooman briefed the Council on the CRA and that their still has been no action. He stated that the Town is six months into the fiscal year and the chartered positions, such as the Town

Manager and Town Clerk will go under a performance review. The Mayor reported that the State of the Town is anticipated by the end of this fiscal year.

XV. OTHER BUSINESS: None at this time.

XVI. NEXT MEETING ANNOUNCEMENT AND ADJOURNMENT:

The next council meeting will be held on April 11, 2007, at Cutler Ridge Park.

The meeting was officially adjourned at 11:15 P.M.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Council on
this 11th day of April, 2007.*

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

RESOLUTION NO. 07-_____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING AN AMOUNT FOR THE PERMIT FEE FOR THE STORAGE OF A SECOND BOAT PURSUANT TO ORDINANCE 07-___; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Town of Cutler Bay (“Town”) Ordinance 07-___requires a property owner to obtain a permit for storage of a second boat; and

WHEREAS, The ordinance provides that the amount of the permit fee for storage of the second boat shall be established by resolution and the Town wishes to set such fee.

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. Permit Fee for Storage of a Second Boat Established. The permit fee for storage of a second boat shall be \$50 per year.

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

PASSED and ADOPTED this ___day of _____, 2007.

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

Moved by:
Seconded by:

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. 07-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ESTABLISHING PUBLIC PARTICIPATION PROCEDURES FOR CREATION OF THE COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the intent of the Florida Legislature as well as the Town Council of the Town of Cutler Bay (the “Town”) that the public participate in the comprehensive planning process to the fullest extent possible; and

WHEREAS, the adoption of procedures for public participation in the comprehensive planning process will assist in the broad dissemination of proposals for the goals, objectives, and policies within the Comprehensive Plan; and

WHEREAS, the Town Council finds such procedures to be in the best interest of the residents of the Town.

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

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

Section 2. Public Participation Procedures for Creation of the Comprehensive Plan. The following public participation procedures for creation of the Comprehensive Plan shall be established as follows:

(a) *Dissemination of proposals.* The planning department is directed to make available for public inspection at town hall proposals for the creation of the Comprehensive Plan.

(b) *Opportunity for written comments.* Notification that written comments may be filed with the planning department regarding proposals for the creation of the Comprehensive Plan shall be provided in the appropriate advertised public notices for public hearings and workshops.

(c) *Provisions for open discussions.*

(1) The public shall be encouraged to express their views regarding the creation of the Comprehensive Plan during public workshops and the required public hearing process. The planning department shall prepare responses, to the extent practicable, to the issues raised by public comments made during public workshops and hearings.

(2) The planning department shall establish and maintain central files for public comments submitted and received during the comprehensive planning process.

(d) *Provisions for public workshops and public hearings.*

(1) Public participation will be further encouraged by convening one or more public workshops to promote open public discussion during the early stages of developing the Comprehensive Plan.

(2) Workshops will be conducted by the planning department, or as otherwise provided herein, with assistance provided, as necessary, by other appropriate town departments.

(3) Summaries of workshop proceedings shall be presented to the town council as part of the comprehensive planning process.

(4) Public participation will be further encouraged during the public hearings that are necessary for the adoption the Comprehensive Plan.

(e) *Communications programs and information services.*

(1) The town will provide information related to the creation of the Comprehensive Plan through the town's website as well as posted notices located outside of town hall, which will provide a means of communication between the town and all interested parties. The planning department shall maintain an updated mailing list, which shall include units of local government, governmental agencies, special districts, community groups, civic associations, the media, and general public. If requested in writing, the planning department will transmit to these entities notices of public hearings and workshops. Interested persons may request to be included in the mailing list of their interest by contacting the planning department. The mailing lists shall be maintained for the duration of the creation of the Comprehensive Plan.

(2) During the preparation of Comprehensive Plan, the planning department shall periodically contact the media for discussions regarding the processes involved, including progress at that particular time, anticipated public hearings, workshops, completion date(s), etc.

Section 3. **Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this _____ day of _____, 2007.

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

Moved by:
Seconded by:

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 4

RESOLUTION NO. 07-____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE TOWN COUNCIL AGENDA FORMAT; PROVIDING FOR AGENDA ITEMS REQUESTED BY THE TOWN COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay (the “Town”) desires to adopt a revised Town Council agenda format; and

WHEREAS, it is the intent of the Town Council that items placed on the Town Council agenda at the request of a member of the Town Council shall indicate which member made the request; and

WHEREAS, the Town Council finds such changes to be in the best interest of the residents of the Town.

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

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

Section 2. Town Council Agenda Format. The Town Council agenda format is hereby adopted as follows:

TOWN COUNCIL MEETING AGENDA

- 1. CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE, MOMENT OF SILENCE**
- 2. PROCLAMATIONS, AWARDS, PRESENTATIONS**
- 3. APPROVAL OF MINUTES**
- 4. REPORTS**
 - A. TOWN MANAGER’S REPORT**
 - B. TOWN ATTORNEY’S REPORT**
 - C. BOARD AND COMMITTEE REPORTS**
- 5. CONSENT AGENDA**

ANY ITEMS SHALL BE REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION OR SEPARATE VOTE IF REQUESTED OR “PULLED” BY A COUNCIL MEMBER OR THE TOWN MANAGER. VOICE VOTE AS TO ENTIRE CONSENT AGENDA

6. **QUASI JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)**
ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL BE SWORN-IN PRIOR TO GIVING TESTIMONY AND MAY BE SUBJECT TO CROSS EXAMINATION. ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL STATE THEIR NAME AND ADDRESS FOR THE RECORD.
7. **ORDINANCES FOR FIRST READING (NO PUBLIC HEARING REQUIRED)**
8. **ORDINANCES FOR FIRST READING (PUBLIC HEARING REQUIRED)**
9. **ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED)**
10. **PUBLIC COMMENTS**
THE PRESIDING OFFICER SHALL HAVE THE DISCRETION TO LIMIT THE LENGTH OF PUBLIC COMMENTS IN THE INTEREST OF TIME IN ORDER TO ALLOW ALL PERSONS WHO WISH TO SPEAK AN OPPORTUNITY TO DO SO.
11. **MAYOR AND COUNCIL COMMENTS**
12. **OTHER BUSINESS**
13. **ADJOURNMENT**

Section 3. **Agenda Items Requested by the Town Council.** Items placed on the Town Council agenda at the request of a member of the Town Council shall indicate which member made the request.

Section 4. **Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this _____ day of _____, 2007.

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

Moved by:
Seconded by:

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

ORDINANCE NO. 07- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33, "ZONING," ARTICLE I, "IN GENERAL," SECTION 33-20(E), "BOAT STORAGE," OF THE TOWN CODE OF ORDINANCES, BY AMENDING THE LENGTH, WIDTH, AND HEIGHT OF BOATS THAT MAY BE PERMITTED TO BE STORED WITHIN CERTAIN ZONING DISTRICTS WITHIN THE TOWN; PROVIDING FOR THE STORAGE OF TWO BOATS WITHIN CERTAIN ZONING DISTRICTS WITHIN THE TOWN; PROVIDING FOR PERMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, currently one boat is permitted to be stored on property within certain zoning districts within the Town of Cutler Bay (the "Town"); and

WHEREAS, it is the intent of the Town Council to permit two (2) boats to be stored on property within certain zoning districts within the Town; and

WHEREAS, it is further the intent of the Town Council to modify the length, width, and height of boats that are permitted to be stored within certain zoning districts within the Town; and

WHEREAS, requiring a permit for a second boat will assist the Town in monitoring the amount of boats stored on property within the Town; and

WHEREAS, the Town finds that these changes are consistent with the Miami-Dade County's Comprehensive Development Master Plan, which now functions as the Town's Comprehensive Plan.

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

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

¹Additions to existing text are indicated by underline; deletions are indicated by ~~striketrough~~. Additions between first and second reading are indicated by double underlined and deletions are indicated by ~~double striketrough~~.

Section 2. Amendment to Boat Storage Regulations. The boat storage regulations contained in Chapter 33, "Zoning," Article I, "In General," Section 33-20(e) "Boat storage" are hereby amended as follows:

* * *

(e) *Boat storage.* Boats of less than thirty-three (33) feet in length, ~~not more than one hundred and two (102) inches~~ nine and a half (9.5) feet in width and thirteen (13) feet six (6) inches in height, may be stored or temporarily parked in the RU, EU, AU and GU Zoning Districts subject to the following conditions:

(1) The place of storage shall be to the rear of the front building line. Where the boat storage area is located between the residence and a side street property line, the boat shall be visually buffered by a six-foot wood privacy fence, masonry wall, trees or shrubs maintained to a height of six feet. The front building line referred to shall be that portion furthest from the street.

(2) No more than ~~one (1)~~ two (2) boats may be stored or parked on any one (1) premise. A permit shall be required to be filed with the planning director prior to the storage or parking of a second boat within the Town. The planning director shall take into consideration lot size and configuration as well as accessory uses, buildings, or other structures located on the property when determining whether to issue a permit for a second boat. The second boat shall be no larger than seventeen (17) feet in length, not more than eight and a half (8.5) feet in width, and six (6) feet in height. The property owner shall submit the boat's title or registration with the permit application. A permit fee for a second boat shall be established by resolution of the town council.

(3) Boats and place of storage or temporary parking shall be kept in a clean, neat and presentable condition.

(4) No major repairs or overhaul work shall be made or performed on the premises.

(5) The boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.

(6) The temporary parking of a boat in front of the front building line or in front of the side street building line for no more than 2 hours in any 24-hour period, while the boat is hitched to an operable motor vehicle with a valid permanent license tag, for the purposes of loading and unloading equipment and supplies shall be permitted, but under no circumstances shall a boat be parked in the public right-of-way, including the swale area of a right-of-way.

(7) For purposes of this section, the height of a boat shall be measured from the ground to the highest point of the boat including all extruding equipment.

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

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

PASSED on first reading this 21st day of February, 2007

PASSED AND ADOPTED on second reading this _____ day of _____, 2007.

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

Moved By:
Seconded By:

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 6



Office of the Town Manager

Steven J. Alexander
Town Manager

M E M O R A N D U M

To: Honorable Mayor & Town Council

From: Steven J. Alexander, Town Manager

Date: April 6, 2007

Re: **GRANTING ADMINISTRATIVE AUTHORITY TO THE TOWN MANAGER TO SET SERVICE AND USER CHARGES FOR MUNICIPAL SERVICES**

REQUEST

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING ADMINISTRATIVE AUTHORITY TO THE TOWN MANAGER TO SET SERVICE OR USER CHARGES FOR MUNICIPAL SERVICES PURSUANT TO SECTION 4.3 ENTITLED "ORDINANCES" OF THE TOWN CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

In accordance with Section 8.4 of the Town Charter concerning taxes and fees, all fees imposed within the Town by Miami-Dade County have continued in effect as if they had been assessed by the Town. In addition, Section 8.1 of the Town Charter entitled "Temporary Nature of Article" provides that each section of Article 8 shall become ineffective at such time as the implementation of such section has been accomplished.

Pursuant to Section 4.3. (A) (5) of the Town Charter an ordinance is required to "set service or user charges for municipal services or grant administrative authority to set such charges." These municipal charges include, but are not limited to, all fees established for participation in recreational programs and for use of park and recreation facilities. Subsequent to the adoption of this ordinance, an administrative fee schedule will be established for municipal services within the Town.

The first fee schedule that Town staff intends to establish relates to parks and recreational programs, activities, and facility rentals. The Parks and Recreation Department has conducted an assessment of the fees currently in place. Notably, most of the proposed fees that will be provided for on the parks and recreation fee schedule will remain the same as the County's fees. However, the Town will be assessing several new fees that are not currently in place, as well as a few fee increases.



Office of the Town Manager

In addition, as a part of the parks and recreation fee schedule, we intend to implement fee reduction guidelines so that all Town residents may have access to all programs and activities. Many municipalities, as well as Miami-Dade County, allow low-income residents to participate in recreation programs at a reduced rate. In keeping with standard practices, Town staff anticipates establishing fee reduction guidelines that provide for a 25%, 50%, or 100% fee reduction depending on household size and household income levels. The fee reduction guidelines are based on the 2006-2007 Federal Poverty Guidelines that are used for free and reduced lunch programs at most public schools. As required by Miami-Dade County, the Town's fee schedule and reduction guidelines would also apply to program participants who do not reside within the Town. The proposed fee schedule and recommended fee reduction guidelines that will be established administratively are attached for your review.

This ordinance was approved on first reading on March 21, 2007.

RECOMMENDATION

We recommend that the attached ordinance be adopted granting administrative authority to the Town Manager to set service or user charges for municipal services.

Town of Cutler Bay			
Parks and Recreation Department			
Fee Schedule			
	Description	Current Fee	Proposed Fee
01	After School Program - Daily	\$7.00	\$7.00
02	After School Program - Weekly	\$20	\$20
03	Camp - Daily	\$16	\$16
04	Camp - Weekly	\$50	\$50
05	Camp - Weekly 2nd Child	\$45	\$45
06	Pool Admission (Adult)	\$2.00	\$2.00
07	Pool Admission (Child)	\$1.50	\$1.50
08	Pool Admission (Sr. Citizen)	\$1.25	\$1.25
09	Pool - D.C.P.S (hourly)	\$20	\$20
10	Pool - Rentals per hour (min. 3 hrs.)	\$75	\$75
11	Pool - Scuba Diving (hourly)	\$40	\$40
12	Pool - Swim Meets (hourly)	\$50	\$50
13	Pool - Swim Team practice (hourly)	\$20	\$20
14	Pool - Water Polo games (hourly)	\$50	\$50
15	Pool - Water Polo practice (hourly)	\$20	\$20
16	Program Registration	\$10	\$10
17	Rental - Building 3 hr. minimum*	\$90	\$120
18	Rental - Building ea. Add'l. hour*	\$40	\$50
19	Rental - Outside Picnic Area (hourly)	N/A	\$25
20	Rental - Security/Clean-up deposit	\$65	\$100
21	Rental Cancellation Fee (w/in 30 days of rental)	N/A	\$25
22	Rental - Football/Soccer Field (w/ lights) hourly	N/A	\$50
23	Rental - Football/Soccer Field (w/o lights) hourly	N/A	\$35
24	Rental - Pavillion (hourly)	N/A	\$30
25	Rental - Softball Field (w/ lights) hourly	N/A	\$35
26	Rental - Softball Field (w/o lights) hourly	N/A	\$25
27	Swim Lesson - Group (10 lessons)	\$50	\$50
28	Swim Lesson - Private	\$120	\$120
29	Swim Lesson - Semi Private (10 lessons)	\$60	\$60
30	Swim Lesson - Lifeguard Certification	\$100	\$125
31	Teacher's Workday Program	\$16	\$16
32	Teacher's Workday Program (current ASP participant)	N/A	\$10
33	Transportation (ASP) - Weekly	\$10	\$15

ORDINANCE NO. 07-_____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, GRANTING ADMINISTRATIVE AUTHORITY TO THE TOWN MANAGER TO SET SERVICE OR USER CHARGES FOR MUNICIPAL SERVICES PURSUANT TO SECTION 4.3 ENTITLED “ORDINANCES” OF THE TOWN CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 8.4 of the Town Charter entitled “Taxes and Fees” stipulates that all taxes and fees imposed by Miami-Dade County shall continue at the same rate as if those taxes and fees had been adopted and assessed by the Town; and

WHEREAS, Section 8.1 of the Town Charter entitled “Temporary Nature of Article” provides that each section of Article 8 shall become ineffective at such time as the implementation of such section has been accomplished; and

WHEREAS, Section 4.3 of the Town Charter entitled “Ordinances” provides that the Town Council, by ordinance, may grant administrative authority to set service or user charges for municipal services; and

WHEREAS, granting such administrative authority to the Town Manager is in the best interest and welfare of the residents of the Town.

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

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

Section 2. Granting of Administrative Authority. Pursuant to Section 4.3 entitled “Ordinances” of the Town Charter the Town Manager is hereby granted administrative authority to set service or user charges for municipal services.

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

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

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

PASSED on first reading this 21st day of March, 2007.

PASSED AND ADOPTED on second reading this _____ day of _____, 2007.

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

Moved by:
Seconded by:

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 7

ORDINANCE NO. 07- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 06-12 BY DELETING THE TOWN COUNCIL AGENDA FORMAT; PROVIDING FOR THE TOWN COUNCIL AGENDA FORMAT TO BE ADOPTED BY A RESOLUTION OF THE TOWN COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Cutler Bay (the “Town”) adopted Ordinance 06-12, which provided in part the procedures and agenda format for Town Council meetings; and

WHEREAS, the Town Council desires to adopt the Town Council agenda format by resolution instead of by ordinance; and

WHEREAS, as such, it is the intent of the Town Council to repeal the agenda format set forth in Section 1 (E) of Ordinance 06-12 and to establish such format by resolution of the Town Council; and

WHEREAS, public notice was provided in accordance with law; and

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

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

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

Section 2. Amendment to Section 1 of Ordinance 06-12. Section 1 of Ordinance 06-12 shall be amended as follows:

Section 1. Agenda Format and Council Meeting Procedures.

(A) *Agenda.* The town council agenda shall be set by the town manager and prepared by the town clerk.

(E) *Agenda Format.* The format of the council meeting agenda shall be established by a resolution of the town council. ~~is hereby established as follows:~~

- I. ~~CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE~~
- II. ~~INVOCATION~~
- III. ~~PROCLAMATIONS, AWARDS, PRESENTATIONS~~
- IV. ~~APPROVAL OF MINUTES~~
- V. ~~ADDITIONS, DELETIONS, AND DEFERRALS~~
- VI. ~~TOWN MANAGER'S REPORT~~
- VII. ~~TOWN ATTORNEY'S REPORT~~
- VIII. ~~BOARD AND COMMITTEE REPORTS~~
- 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~~
 - B. ~~ORDINANCES~~
 - 1. ~~FIRST READING~~
 - 2. ~~SECOND READING~~
- XIII. ~~PUBLIC COMMENTS~~
- XIV. ~~MAYOR AND COUNCIL MEMBER COMMENTS~~
- XV. ~~OTHER BUSINESS~~
- XVI. ~~NEXT MEETING ANNOUNCEMENT AND ADJOURNMENT~~

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

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

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

PASSED on first reading this 21st day of March, 2007.

PASSED AND ADOPTED on second reading this _____ day of _____, 2007.

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

Moved by:

Seconded by:

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 _____



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 Alexander
Town Attorney Mitchell Bierman
Town Clerk Erika Gonzalez-Santamaria

This meeting is open to the public. In accordance with the Americans 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 days prior to the meeting.

TOWN COUNCIL MEETING AGENDA

Wednesday, March 21, 2007

7:00 PM

Cutler Ridge Park

10100 Southwest 200th Street

Cutler Bay, Florida 33157

1. **CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE, MOMENT OF SILENCE**
2. **PROCLAMATIONS, AWARDS, PRESENTATIONS**
3. **APPROVAL OF MINUTES**
4. **REPORTS**
 - A. TOWN MANAGER'S REPORT
 - B. TOWN ATTORNEY'S REPORT
 - C. BOARD AND COMMITTEE REPORTS
5. **CONSENT AGENDA**

ANY ITEMS SHALL BE REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION OR SEPARATE VOTE IF REQUESTED OR PULLED BY A COUNCIL MEMBER OR THE TOWN MANAGER.
6. **QUASI JUDICIAL HEARINGS (PUBLIC HEARING REQUIRED)**

ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL BE SWORN-IN PRIOR TO GIVING TESTIMONY AND MAY BE SUBJECT TO CROSS EXAMINATION. ALL PERSONS ADDRESSING THE TOWN COUNCIL SHALL STATE THEIR NAME AND ADDRESS FOR THE RECORD.
7. **ORDINANCES FOR FIRST READING (PUBLIC HEARING NOT REQUIRED)**

8. **ORDINANCES FOR FIRST READING (PUBLIC HEARING REQUIRED)**
9. **ORDINANCES FOR SECOND READING (PUBLIC HEARING REQUIRED)**
10. **PUBLIC COMMENTS**
THE PRESIDING OFFICER SHALL HAVE THE DISCRETION TO LIMIT THE LENGTH OF PUBLIC COMMENTS IN THE INTEREST OF TIME IN ORDER TO ALLOW ALL PERSONS WHO WISH TO SPEAK AN OPPORTUNITY TO DO SO.
11. **MAYOR AND COUNCIL COMMENTS**
12. **OTHER BUSINESS**
13. **ADJOURNMENT**

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

TAB 8

ORDINANCE NO. 07-_____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE TOWN CODE BY AMENDING ORDINANCE 06-27 RELATED TO OCCUPATIONAL LICENSES TO CONFORM WITH RECENT REVISIONS TO FLORIDA STATUTE CHAPTER 205 BY CHANGING THE TERM OCCUPATIONAL LICENSE TO LOCAL BUSINESS TAX RECEIPT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay, Florida (the “Town”) has become aware that the Florida Legislature amended Fla. Stat. Chapter 205 by changing the term “occupational license” to “local business tax receipt”; and

WHEREAS, this change was necessitated in order to prevent unscrupulous persons from misrepresenting that their occupational licenses constitute proof of competency to perform certain services; and

WHEREAS, the Town finds it would be prudent to amend Ordinance 06-27 to reflect the state law’s changes.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:¹

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

Section 2. Amendment of Town Ordinance 06-27. Town Ordinance 06-27 shall be amended as follows.

Occupational Licenses Local Business Tax Receipt.

Sec. 1. Tax imposed.

(a) Every person, as defined in F.S. § 205.022(3), engaged in or managing any business, profession or occupation in the Town is required to have a Town ~~license~~ receipt and shall, on or before each October 1, before engaging in or managing any business, profession or occupation, register with the Town their name, profession or occupation, and their place of business. If October 1 falls on a weekend or holiday, the ~~license~~ receipt shall be

^{1/} Proposed additions to existing Town Code text are indicated by underline; proposed deletions from existing Town Code text are indicated by ~~strikethrough~~.

obtained on or before the first business day following October 1. No person shall engage in or manage any such business, profession or occupation without first obtaining the required local business tax receipt ~~occupational license~~. The Town Manager or his designee shall develop administrative procedures relating to the issuance of ~~business licenses~~ local business tax receipts and designate the department responsible for implementing the procedures and issuing the appropriate ~~licenses~~ receipts.

(b) This ~~occupational license tax~~ local business tax receipt requirement shall apply to:

(1) Any person who maintains a permanent business location or branch office within the Town for the privilege of engaging in or managing any business within the Town.

(2) Any person who maintains a permanent business location or branch office within the Town for the privilege of engaging in or managing any profession or occupation within the Town.

(3) Any person who utilizes their home for uses as outlined in subsection (b)(1) or (2) of this section for authorized business activities.

(4) Any person who does not qualify under the provisions of subsection (b)(1) or (2) of this section and who transacts any business or engages in any occupation or profession in interstate commerce where such ~~license~~ local business tax is not prohibited by section 8 of article I of the United States Constitution.

(c) A person shall be required to pay a ~~license~~ local business tax to the Town as outlined in the schedule contained in this article. A ~~license~~ local business tax shall be required for each type of business performed at the applicant's location that requires a separate ~~license~~ local business tax as outlined in the schedule contained in this article.

Sec. 2. Term of license receipt; half year license receipt; transfer of license receipt.

(a) ~~Licenses~~ Receipts issued under this article shall expire on September 30 of each year. No ~~license receipt~~ shall be issued for more than one year. For each ~~license receipt~~ obtained between October 1 and April 1, the full tax for one year shall be paid, and for each ~~license receipt~~ obtained between April 1 and September 30, one-half the full tax for one year shall be paid.

(b) Any ~~license receipt~~ may be transferred with the approval of the Town Manager or his designee when there is a bona fide sale and transfer of the business and the property used and employed therein as stock in trade, and not otherwise. Such transfer shall be made within 30 days after such bona fide sale has taken place. If the provisions of this section are not strictly and completely complied with in every respect, the ~~license receipt~~ pertaining to the business shall be null and void and of no further effect. Such transfer shall take effect upon payment of a transfer fee of \$3.00 and after presentation of evidence of both the sale and of the original ~~license receipt~~.

(c) Upon written request and presentation of the original ~~license receipt~~, any ~~license receipt~~ may be transferred from one location to another location upon payment of a transfer fee of \$3.00 and upon verification that such use is permitted by the zoning district regulations at the new location.

Sec. 3. Affidavit of applicant for license local business tax receipt; annual filing of information.

(a) No ~~license receipt~~ shall be issued or granted under this article to any applicant to engage in the business of selling merchandise at retail or wholesale or the practice or

pursuit of any profession or occupation coming within any of the categories set forth in this article except upon written application filed with the Town. The applicant shall execute an affidavit before an officer or employee of the Town authorized to administer oaths, which shall set forth the following:

- (1) The applicant's name, address and telephone number.
 - (2) The particular location in the Town wherein the applicant proposes to engage in the business for which the license receipt is sought.
 - (3) The date proposed to commence business.
 - (4) A statement as to whether the fee is based on area, capacity, average value of stock carried, number of persons or things employed or engaged, quantity, valuation, or other contingency.
 - (5) The names and addresses of corporate officers.
- (b) The affidavit shall be filed with the Town.
 - (c) On an annual basis, prior to renewal, the Town will send out a questionnaire and will require all licensees receipt holders to fill in the appropriate information in order for the Town to update its files and determine the correct amount to charge as a license fee local business tax.

Sec. 4. Prerequisites for granting license receipt; certificate of use required; invalid licenses receipts.

- (a) A certificate of use shall be required prior to the issuance of any new occupational license local business tax receipt. The fee for such certificate of use is \$35.00.
- (b) No license receipt shall be granted under this article until there has been full compliance with section 4 and 5(a), and no license receipt which may have been granted without full and complete compliance with the provisions of this article shall be a protection to the applicant in any civil or criminal proceeding.

Sec. 5. Violations; penalties.

- (a) Any person convicted of violating this article, or of making a fraudulent return, shall be punished as provided by subsection (e) of this section, in the discretion of the court, and in addition such person shall be penalized a sum equal to 25 percent of any license fee local business tax avoided or evaded by and through the medium of such fraudulent return.
- (b) Each and every day of selling or disposing of merchandise or engaging in a business or profession without making the affidavit and/or without compliance in full with all of the provisions of this article shall constitute a separate and distinct violation of this article.
- (c) No person shall engage in or manage any business, profession or occupation without first obtaining from the Town a license receipt for each separate location in the Town and paying the amount set forth in this article. Any person engaging in or managing any business, occupation or profession mentioned in this article between October 1 and November 1 of each year without first having complied with the provisions of this article and paying the amount of license local business tax as provided for in this article shall be declared delinquent. Those licenses receipts not renewed when due and payable and considered delinquent shall be subject to a delinquency penalty of ten percent for the month of October, plus an additional five percent penalty for each month of delinquency

thereafter until paid. However, the total delinquency penalty shall not exceed 25 percent of the ~~occupational license fee~~ local business tax for the delinquent establishment.

(d) A ~~license~~ receipt shall be required to cover each and every business advertised by sign, newspaper, magazine or otherwise. Such advertisement shall be considered evidence of conducting the business advertised and shall be a sufficient predicate for conviction by the court or other enforcement authority. Such ~~license~~ receipt shall be issued to cover each and every location of such business, and the assessment and amount of such ~~license~~ local business taxes are classified and fixed per annum unless otherwise specified.

(e) Any person who violates any provision of this article shall, upon conviction, be punished by a fine not to exceed ~~\$500.00~~ \$250.00 ~~or imprisonment in the County jail not to exceed 60 days, or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate violation.~~ This article shall be subject to enforcement under the Local Government Code Enforcement Act, F.S. Ch. 162. Enforcement may also be by suit for declaratory, injunctive or other appropriate relief in a court of competent jurisdiction.

Sec. 6. Grounds for denial of ~~license~~ a local business tax receipt.

After interview or investigation, the Town shall not grant or issue a ~~license~~ receipt under this article to an applicant when the Town has reasonable and probable grounds to believe that:

- (1) Information provided by the applicant is false.
- (2) Within the past three years the applicant committed any act which if done by any person ~~licensed~~ holding a receipt to do business within the Town would constitute grounds for the revocation of the ~~license~~ receipt.

Sec. 7. Appeal of denial of ~~license~~ receipt.

Any person whose application for a ~~license~~ receipt under this article has been rejected shall have a right to appeal the decision of the Town ~~licensing~~ local business tax official to the Town Manager by appropriate written petition.

Sec. 8. Revocation of ~~license~~ receipt.

(a) Notwithstanding any other section in this article to the contrary, the privilege of doing business within the Town allowed by the issuance of an ~~an occupational license~~ local business tax receipt will be subject to a summary administrative revocation by one written 30-day notice of revocation issued to the ~~license~~ receipt applicant by the official designated by the Town Manager, if it is determined that one or more of the following conditions exist:

- (1) Repeated violations of this Code.
- (2) Misrepresentations in the application or affidavit.
- (3) Use of the business location for illegal or unsafe activities.
- (4) Use of the business location for activities not contemplated in the application.
- (5) Misrepresentations made to the Town during the application and investigation process.
- (6) Use of the business not in compliance with the conditions of the ~~license~~ receipt.
- (7) Lack of refuse collection or utility services.

(b) Such revocation may be appealed to the Town Manager within ten days of notice of revocation.

(c) Such revocation of ~~license receipt~~ will be deemed to relate back to the original time of issuance of such ~~license receipt~~ as if the ~~license receipt~~ had been originally denied at the time of application. Such revocation will be effective immediately. In addition to the grounds listed in subsection (a) of this section, the Town Commission or Town Manager at any time may revoke a ~~license receipt~~, upon providing written notice and hearing, for violation of any ordinance of the Town or law of the State or County or for any other good and sufficient reason in the interests of health, safety and welfare.

(d) Nothing in this section shall affect the liability of any person or business as required by section 18-35.

Sec. 9. Display of ~~license receipt~~.

All persons to whom ~~licenses receipts~~ are issued pursuant to this article shall cause the ~~license receipt~~ to be displayed at all times in a prominent place in their business establishments. Failure to display the ~~license receipt~~ in such a manner shall constitute a violation of this article.

Sec. 10. Unclassified business categories.

If application is made for an ~~occupational license~~ local business tax receipt not specifically enumerated in the tax schedule, the Town Manager or his designee shall have the authority to determine the most nearly similar category that shall apply to the applicant.

Sec. 11. Home ~~occupation licenses~~ use business tax receipts.

(a) *Generally.* For purposes of this section, the term "home occupation" shall mean a business or occupation conducted for limited business activities. In any instance where a residential unit is used to conduct a home business consistent with this section, a home ~~use license~~ use business tax receipt shall be required. No home use business ~~license tax receipt~~ issued pursuant to this article shall be transferable, assignable or otherwise alienable.

(b) *Permitted activities.* The following limited business activities are permitted subject to a home use ~~license~~ business tax receipt being issued:

- (1) Post and receive correspondence of a business nature.
- (2) Initiate and receive business communications by telephone or fax.

(c) *Conditions.* The issuance of a home use business ~~license tax receipt~~ shall be subject to the following provisions:

- (1) Home occupations conducted within the Town shall be clearly incidental and secondary to the use of the residence for residential purposes, and shall not change the character thereof.
- (2) No person other than members of the family residing in the premises shall be engaged in such occupation or business.
- (3) No residence shall be used for the conduct of any business or activity which requires manufacturing, assembly or construction or which by its nature or character may disrupt, disturb or adversely alter, change or modify the nature or character of the neighborhood or the quality of life therein.

- (4) No home occupation shall generate or attract vehicular or pedestrian traffic to a residence.
- (5) No sign or other advertising of the residential location shall be permitted.
- (6) No storage of materials or products shall be permitted.
- (7) Products shall not be offered for sale on the premises.
- (8) No commercial vehicles shall be kept on the premises or parked overnight on the premises unless otherwise permitted by this section.
- (9) No evidence of the occupation shall be visible or audible from the exterior of the dwelling unit.
- (10) In no event shall a barbershop, beauty parlor, tearoom, tourist home, animal hospital, nursing home, retail store, dancing or band instrument instruction, or clairvoyant be allowed as a home occupation.

Sec. 12. Tax schedule.

For the purposes of this article, inventory shall mean the average selling value of annual inventory owned by the business, exclusive of excise tax. The amounts assessed for ~~Occupational License~~ Local Business Taxes shall be fixed by resolution.

Section 3. Comprehensive Amendment. The Miami Dade County Code, as made applicable to the Town pursuant to the provisions of Section 8.3 of the Town Charter, and all other ordinances adopted by the Town, are hereby amended to substitute the term “local business tax receipt” in the place of the term “occupational license”, the term “holding/holder of a receipt” in the place of the term “licensed”, the term “receipt holder” for the term “licensee” and the term “receipt” or “business tax receipt” for the term “license”, as appropriate.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. 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 6. Conflicts. Any and all Ordinances or parts of Ordinances including Miami-Dade County Code sections made applicable to the Town by Charter Section 8-3 in conflict herewith are hereby repealed.

Section 7. Effective Date. This Ordinance shall be effective retroactively from and after January 1, 2007.

PASSED on first reading this 21st day of March, 2007.

PASSED AND ADOPTED on second reading this _____ day of _____, 2007.

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

Moved by:
Seconded by:

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 9



MEMORANDUM

To: Steven Alexander, Town Manager

From: Don O'Donniley, AICP, Planning Director

Date: April 5, 2007

Re: Revisions to Section 33-20 (c) pertaining to swimming pools

As Town staff continues to review Chapter 33 of the Town Code, staff realizes that there are a number of relatively minor revisions that will make the Code more user friendly for the residents of the Town and more in keeping with the direction of the Town with respect to lifestyle. This proposal is a step towards implementing Goal 9.1 of the Strategic Plan; which calls for the town to become "a model" in terms of addressing drainage.

REQUEST

That the Town Code be amended as outlined in the accompanying ordinance.

The following is a summary of the proposed changes to the Town Code:

- That Section 33-20. "Accessory buildings; utility sheds; swimming pools; fallout shelters; boat storage.", be amended to remove, as a factor, the presence or absence of a screen enclosure in determining whether or not to count the pool and pool deck as part of lot coverage and drainage calculations. Instead, all pools and pool decks, whether attached to or detached from the principal building, would be calculated to determine if sufficient area remains in the rear yard to provide for drainage and water runoff.



BACKGROUND AND ANALYSIS

Background

Currently, the referenced section of the Code provides that if a pool is within a screen enclosure which is attached to a principal building then it is considered an accessory building for purposes of lot coverage. But if the pool, whether screened or unscreened, is detached from the principal building it is considered an accessory use and therefore is not calculated as part of lot coverage.

Additionally, when pools and their associated decking are not calculated as part of lot coverage they are also not being calculated for drainage and water runoff purposes. In low lying areas with many pools this could increase the chances of localized flooding.

Analysis

This original provision of the Dade County Zoning Code, as written in 1957, which now acts as the Town Code provides for an inconsistent definition of lot coverage. This is because whether or not a swimming pool is calculated as part of the lot coverage is dependent on whether or not a screen, within which it may be enclosed, is attached or detached from the principal building. The presence or absence of screening has nothing to do with drainage.

It is staff's finding that all pools and decks should be considered as part of lot coverage.

This ordinance was passed on first reading on March 21, 2007.

RECOMMENDATION

Approval of the proposed revisions so as to adequately take into account drainage impacts of pools and decks.

ORDINANCE NO. 07- ____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33 “ZONING” SECTION 33-20. “ACCESSORY BUILDINGS; UTILITY SHEDS; SWIMMING POOLS; FALLOUT SHELTERS; BOAT STORAGE” OF THE TOWN CODE OF ORDINANCES TO PROVIDE THAT SWIMMING POOLS SHALL BE COUNTED FOR PURPOSES OF LOT COVERAGE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) Code of Ordinances (the “Town Code”) distinguishes between swimming pools that are detached or attached to the principal building for purposes of lot coverage; and

WHEREAS, the connection is distinguished in some cases only by the connection of the screened enclosure of the pool and the house; and

WHEREAS, rainwater is a critical element in recharging the aquifer and the creation of new impervious surfaces could exacerbate flooding within areas of the Town; and

WHEREAS, Town staff recommends amending the Town Code to provide that all swimming pools, regardless of whether or not such pools are attached to the principal building, shall be counted for purposes of lot coverage; and

WHEREAS, public notice was provided in accordance with law; and

WHEREAS, the Town finds that these changes are consistent with the Miami-Dade County’s Comprehensive Development Master Plan, which now functions as the Town’s Comprehensive Plan; and

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

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

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

Section 2. Amendment to Chapter 33 of the Town Code. Article I “In General” of Chapter 33 “Zoning” of the Town Code of Ordinances shall be amended as follows:

Sec. 33-20. Accessory buildings; utility sheds; swimming pools; fallout shelters; boat storage.

(c) *Swimming pools.* Swimming pools in all districts shall be constructed no closer than five (5) feet to any building foundation, unless both the design and construction are approved by the ~~Director~~ town building official as safe and will not possibly result in a weakening of or damage to the building foundation. In no event shall said pools be closer than eighteen (18) inches to any wall or any enclosure. ~~Screen enclosures, enclosing swimming pools or other approved uses, where attached to the principal building, shall be permitted no closer to the front property line than the principal building; and if so attached, such enclosures shall not be considered as a part of such residence or building, but shall be considered as an accessory building for purposes of lot coverage only.~~ Swimming pools, whether or not enclosed within screen enclosures, ~~that are not attached to the principal building, and other permitted detached screen enclosures,~~ shall be considered as accessory ~~uses~~ buildings for purposes of lot coverage. A pool deck, as a percent of lot coverage, shall be based on the permeability factor of the material used for said deck. Such uses shall be permitted no closer to the front property line than the principal building and shall be setback at least seventy-five (75) feet from the front property line. In addition to the above and foregoing, the following setbacks shall apply:

(1) Minimum setback distances for swimming pools in any RU Districts shall be ten (10) feet from any interior side property line, twenty (20) feet from a side street property line, and seven and one-half (7 1/2) feet from a rear property line, except that where the pool is accessory to other than one-or two-family residential use, the minimum setback distance from a side street property line shall be five (5) feet greater than required for the principal building.

(2) Screen enclosures enclosing swimming pools or other approved uses in all RU Districts shall be setback a minimum distance of seven and one-half (7 1/2) feet from any interior side property line, fifteen (15) feet from any side street property line and six (6) feet from the rear property line, except that the minimum setback distance from a side street property line for a screen enclosure accessory to other than one- or two-family residential use, shall be the same as required for the principal building.

(3) Minimum setback distances for swimming pools in EU-M and EU-S Districts shall be twenty (20) feet from any interior side property line, thirty (30) feet from any side street property line and seven and one-half (7 1/2) feet from a rear property line.

(4) Screen enclosures enclosing swimming pools or other approved uses in EU-M and EU-S Districts shall be setback a minimum distance of fifteen (15) feet from any interior side property line, twenty-five (25) feet from any side street property line and six (6) feet from a rear property line.

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

Section 4. Conflict. All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

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

PASSED on first reading this 21st day of March, 2007.

PASSED AND ADOPTED on second reading this _____ day of _____, 2007.

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

Moved by:
Seconded by:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____

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