1515 NW 167 Street, Building 5 Suite 200
Miami Gardens, Florida 33169

City of Miami Gardens
Agenda Cover Memo

Council Meeting Date:	*January 28, 2009*		**Item Type:**	**Resolution**	**Ordinance**		**Other**	
					x			
Fiscal Impact:	Yes	No	**Ordinance Reading:**		**1st Reading**		**2nd Reading**	
							X	
	x		**Public Hearing:**		**Yes**	**No**	**Yes**	**No**
							X	
Funding Source:	General Fund		**Advertising Requirement:**		**Yes**		**No**	
							X	
Contract/P.O. Required:	Yes	No	**RFP/RFQ/Bid #:**					
		X						
Sponsor Name	Councilman Andre' Williams		**Department:**		Planning and Zoning			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, CREATING AN ORDINANCE ENTITLED "CERTIFICATE OF RE-OCCUPANCY"; PROVIDING FOR AN APPLICATION PROCESS; PROVIDING FOR REGULATIONS; PROVIDING FOR PENALTIES; PROVIDING FOR AN AMNESTY PERIOD; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

Background

As previously noted, due to the City's aging housing stock, many property owners have over time, modified their structure. In several instances, these modifications were done without appropriate permits and resulted in the housing unit being out of compliance with current zoning and building requirements. Over time as these units were sold, the new owners inherited conditions for which they were not responsible or aware. The purpose of this ordinance is to ensure that housing units are primarily in compliance with current zoning requirements, specifically as it pertains to use.

The intent of this legislation is to insure that new homeowners in Miami Gardens will know that they are purchasing a home free from any major *zoning* violations, which ultimately would become that property owner's responsibility to correct. The proposed legislation would also provide an avenue for the City to uncover and

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correct unlawful violations of the zoning code, which often involves illegal dwelling units that can become a nuisance to the surrounding community.

The proposed effective date of this Ordinance is October 1, 2009**.** By establishing this delayed effective date, the City will have an opportunity to prepare property owners for its implementation. Preparations will include:

1. **Publicity and Community Outreach Campaign**
    - Brochure Handout/Mailer similar to Sign Code Brochure. Estimate 4-5,000 copies.
    - Contact with Realtors, Title Companies, Lawyers, Banks, and related businesses, Miami Gardens and surrounding area
    - Advertisements in Herald
    - Public Meetings

2. **Establishment of Administrative Procedures**
    The re-occupancy process involves the creation of a new permit type in the Eden permitting system and the creation of policies and procedures for the inspection and administration of the program.

Current Situation

The attached ordinance was approved on 1st reading at the January 14, 2009 meeting of the City Council. Regarding fiscal impact of this program, a revised analysis/comparison chart of other municipalities is provided below. An estimate for the City of Miami Gardens is included in the chart. This estimate is based on established programs in the cities of North Miami and Hialeah, as they are the most comparable in terms of total number of housing units. The estimated fee for this program is $115.00 for the initial re-occupancy certification application.

As it relates to the expected cost of the program, Staff provides two long term options:

Option # 1 (High)

- Salaries-$129,870 (includes fringes)
    - 1 Building Inspector @ $73,000
    - 1 administrative clerk @ $26,900
- Operating expenses- $30,000
    - 1 vehicle (inclusive of maintenance & fuel)
    - Office space/equipment

Total for Option # 1: **$159,870**

Option # 2 (Low)

- Salaries-$89,570 (includes fringes)
    - 1 Code officer @$42,000
    - 1 administrative clerk @ $26,900

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- Operating expenses-$30,000
    - 1 vehicle (inclusive of maintenance & fuel)
    - Office space/equipment

Total for Option # 2: **$119,570**

While the above mentioned options consider the long term operating costs of this program, it is possible to entertain a limited staffing level during program start-up. Given today's changing real estate environment, it is difficult to estimate the volume of home sales which would result in re-occupancy applications/inspections. Additionally, due to budget constraints within the Development Services Fund, concern was raised regarding incurring administrative costs for a program that may not be self-supporting. Therefore, it is proposed that the City utilize existing staff for program start-up and then determine if there is a need for additional staff based on volume. Staff would need to monitor sales volume to insure that sufficient resources are available to meet program demand.

The attached ordinance requests Council approval on 2nd

t reading, to implement the re-occupancy certificate program. If adopted, a fee resolution will be drafted for Council's consideration prior to implementing this program.

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Comparison Table - January 2008

Jurisdiction	Fee Schedule	Process Time (Days)	Number of Staff	Positions/Salary	Total Housing Units: Per 2000 Census	Annual Applications History	2008 App's	Estimated Annual Revenue (2008 X min. fee)
Miami Gardens	$115.00	-	2	Code officer/$42,000 Clerk/$26,900	30,988	-	765**	$ 87,975.00
North Miami	SF $75.00/ $300.00; Apt (4 units) $150.00/$600.00; Each Addn'l - $7.50/$20.00	10/2 expedited	2	Inspector/$52,000 Clerk/$22,500	22,281	2004-2005: 2100	932	$ 69,900.00
Hialeah	$50.00/$100.00	30/10 expedited	2	Inspector/$55,000 Building Code Clerk/$25,500	72,142	2005: 1352 2006:1386 2007: 446	545	$ 27,250.00
Biscayne Park	$75.00/$100.00	30 / 1-2 expedited	2	Code Inspector/$19/hr Clerk/$28,000	1,341	2005-2006: 2000	35	$ 2,625.00
El Portal	$70.60	2-3	1	Building Inspector/$50,700	878	2006-2007: 52	38	$ 2,682.80
Miami Shores	$60.60	7	2	Inspector/ $56,500-$62,000	3,836	2005-2006: 34	42	$ 2,545.20

** Estimate based on North Miami & Hialeah's 2008 applications: an average of total applications divided by total housing units X total number of housing units in Miami Gardens.

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Proposed Action:

Councilman Andre Williams recommends approval of the Re-Occupancy Ordinance that creates a program requiring the issuance of a Certificate of Re-Occupancy in the City of Miami Gardens.

Attachment:

None

ORDINANCE No. 2008-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, CREATING AN ORDINANCE ENTITLED "CERTIFICATE OF RE-OCCUPANCY"; PROVIDING FOR AN APPLICATION PROCESS; PROVIDING FOR REGULATIONS; PROVIDING FOR PENALTIES; PROVIDING FOR AN AMNESTY PERIOD; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, it is incumbent upon the City to ensure that properties are constructed in accordance with the City's Zoning regulations, and

WHEREAS, it has been brought to the City's attention that, on several occasions, properties that are not in compliance with the City's Zoning regulations have been transferred to new owners without their knowledge, and

WHEREAS, the City of Miami Gardens, along with other cities across the Nation, is experiencing a high foreclosure rate and at some point these homes will be transferred to new owners, and

WHEREAS, the purpose of this Ordinance is to ensure that prior to residential properties being transferred, the City is able to confirm that the properties meet the current City zoning requirements, and

WHEREAS, the stated purpose and intent of this Ordinance is compliance with Zoning regulations, provided however, the City recognizes that compliance with such Zoning regulations may also cause the need to comply with other City Codes, including but not limited to Building Code and life safety requirements, and

WHEREAS, staff intends to undertake an educational component prior to enforcing this Ordinance, to make the public aware of the existence of the Ordinance and its requirements,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. CREATION OF ORDINANCE: There is hereby created in the City of Miami Gardens an Ordinance entitled "Certificate of Re-Occupancy" as follows:

Section 1. Purpose

The Purpose of this Ordinance is to ensure that prior to a residential property being conveyed to a new ownership, that the City is able to confirm that the property meets the current City zoning requirements; that the premises are being used solely for residential purposes; and that the premises have not been unlawfully altered, in violation of the City's Zoning Codes.

Section 2. Certificate of Re-Occupancy Required

Prior to the purchase, sale, conveyance and transfer of title to any single-family, condominium, duplex, triplex townhouse dwelling unit, or apartment complex consisting of four (4) or more units, a certificate of re-occupancy must be obtained. This section shall not apply in instances where property has been transferred by virtue of a certificate of title issued after a foreclosure sale. However, prior to any reoccupancy of such foreclosed property, a certificate of reoccupancy shall be obtained. The certificate of re-occupancy, if issued, shall state that the city has inspected the dwelling and determined that the dwelling complies with the residential occupancy regulations of the zoning district in which the property wherein the dwelling unit is located and does not contain any uncorrected building violations.

Section 3. Application

1. It shall be unlawful for any person, firm or corporation to, sell convey, or transfer any single-family, condominium, duplex, triplex or townhouse dwelling unit, or apartment complex consisting of four (4) or more units owned by such person, firm or corporation, which property has been sold, transferred or conveyed to such person, firm or corporation after the effective date of this ordinance unless a certificate of re-occupancy has been issued by the director of the Development Services Department or his/her designee. The certificate of re-occupancy, if issued, shall state that a city inspector has inspected the dwelling and has determined that the dwelling meets the residential occupancy regulations of the zoning district in which the dwelling unit is located.

2. It shall be unlawful for any person, firm or corporation to transfer or convey a single family, condominium, duplex, triplex, or townhouse dwelling unit, or apartment complex consisting of four (4) or more units owned by such person, firm or corporation, without first disclosing by written notice to the buyer, grantee or transferee the fact that a certificate of re-occupancy is required in accordance with this Ordinance. Such notice shall be issued on a form to be provided by the City.

3. Application for a certificate of re-occupancy shall be made by the seller or owner or the designated agent, upon a form provided by the city and the payment of an inspection fee to be determined by a separate resolution of the City Council. Said fees shall be paid by the applicant. If dwelling must be inspected within fifteen (15) business days of receipt of the application, an expedited inspection may be requested. There shall also be a fee for expedited inspections, which shall be established by a separate resolution of the City Council.

4. Upon receipt of the application and fee, a city inspector shall inspect the dwelling within thirty (30) days and, if such dwelling is found to be in conformance with the provisions of paragraph 1(a) above, a certificate of re-occupancy shall be issued. If the dwelling is not in conformance with such provisions, the director or the director's designee shall indicate by itemized list corrective action and the certificate of re-occupancy shall be withheld unless and until such provisions are complied with, to the reasonable satisfaction of the director or the director's designee.

5. In the event of acts of God, terrorism or other force majeure acts, the dates outlined herein shall be extended and the City shall be relieved of any responsibility as a result thereof.

Section 4. Restriction on inspection

Information gained or conditions observed in the course of any inspection conducted pursuant to the authority of this ordinance shall not be utilized by the code enforcement officers of the city as the basis for bringing code enforcement violation proceedings other than as to the residential occupancy regulations of the zoning district in which the dwelling unit is located, and the safety violations directly addressed by the inspection made under this ordinance, as applicable. This shall not preclude other enforcement actions brought upon the basis of information gained or violations observed by other lawful means.

Section 5. Exemption

A certificate of re-occupancy shall not be required for the original transfer or conveyance of a newly constructed single family, duplex, triplex dwelling unit, or apartment complex to any firm, corporation, or individual, or to any transfer that represents the first transaction since the issuance of the original certificate of occupancy.

Section 6. Limitation of Liability

The issuance of a certificate of re-occupancy does not constitute any representation or warranty as to the condition of the dwelling or other structures on said premises described herein (or any aspect of such condition), and interested persons are advised and encouraged to make their own inspection of the premises in order to determine the condition thereof. The issuance of a certificate of re-occupancy does not prevent the City from making future findings that violations exist that were not found in the any previous inspection(s).

Section 7. Payment of Outstanding Lien Amounts

No re-occupancy certificate shall be issued for any property unless the property is in compliance with any outstanding warning notices or notices of violation issued by the City and until the owner of the property has satisfied any and all City of Miami Gardens liens against the property.

Section 8. City Manager Authority

In the event of a pending real estate transaction, the City Manager shall enter into stipulated settlement agreements for the issuance of conditional certificates of re-occupancy. Such conditional certificates shall provide for a reasonable time for compliance with any outstanding zoning or building code issues and for a fine in the event of noncompliance. Conditional certificates of re-occupancy shall not be issued where life-safety violations exist on the property. The fee for a conditional certificate of re-occupancy shall be established by separate resolution. The property owner to whom the property is transferred must agree to be bound by the terms of this ordinance and in the event the requisite remedial action does not occur within the timeframe stipulated in the conditional certificate, agrees to be subject to the penalties outlined in Paragraph 10 below.

Section 9. Warning Notices

Prior to the imposition of any lien or penalty for the failure to obtain a reoccupancy certificate, a warning notice shall be issued to the violator(s) requiring compliance within a reasonable period of time. In the event, the requisite inspection does not occur within the time set by the City, a notice of violation shall be issued.

Section 10. Penalties

Any person convicted of a violation of this section shall be punished by a fine not to exceed Five Hundred Dollars ($500.00), or by imprisonment not to exceed sixty (60) days, or both, in the discretion of the County Court. In addition, any property for which an application for re-occupancy inspection and certificate is not filed prior to the sale of said property shall be subject to a fine equivalent to the expedited application fee, payable at the time the late application is filed.

Section 11. Amnesty Period

The provisions of this Ordinance take effect until October 1, 2009. Prior to that date, City staff will undertake steps to educate City residents about the Ordinance and its implementation. Commencing October 1, 2009, all affected persons or entities must comply with its provisions.

SECTION 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by

any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 14TH DAY OF JANUARY, 2009.

PASSED ON SECOND READING ON THE _____ DAY OF _____, 2008.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE _____ DAY OF _____, 2008.

_____
SHIRLEY GIBSON, MAYOR

ATTEST:

_____

RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: COUNCILMAN ANDRÉ WILLIAMS

MOVED BY:_____

VOTE: _____

Mayor Shirley Gibson	___(Yes)	___(No)
Vice Mayor Barbara Watson	___(Yes)	___(No)
Councilman Melvin L. Bratton	___(Yes)	___(No)
Councilman Aaron Campbell	___(Yes)	___(No)
Councilman Oliver Gilbert, III	___(Yes)	___(No)
Councilwoman Sharon Pritchett	___(Yes)	___(No)
Councilman André Williams	___(Yes)	___(No)

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City of Miami Gardens
Agenda Cover Memo

Council Meeting Date:	*(Enter Date)* ***Jan. 28, 2009***		**Item Type:** *(Enter X in box)*	**Resolution**	**Ordinance**		**Other**	
					Yes			
Fiscal Impact: *(Enter X in box)*	Yes	No	**Ordinance Reading:** *(Enter X in box)*		**1st Reading**		**2nd Reading**	
							x	
	x		**Public Hearing:** *(Enter X in box)*		**Yes**	**No**	**Yes**	**No**
					x			
Funding Source: **User funds**	*(Enter Fund & Dept)* Ex: General Fund-Police		**Advertising Requirement:** *(Enter X in box)*		**Yes**		**No**	
					x			
Contract/P.O. Required: *(Enter X in box)*	Yes	No	**RFP/RFQ/Bid #:**		***n/a***			
		x						
Sponsor Name	**Danny Crew**		**Department:**		***City Manager***			

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AUTHORIZING THE BORROWING OF TWO MILLION DOLLARS ($2,000,000); AUTHORIZING THE ISSUANCE OF CITY OF MIAMI GARDENS, FLORIDA EQUIPMENT ACQUISITION REVENUE BONDS NOT TO EXCEED TWO MILLION DOLLARS ($2,000,000); PROVIDING FOR A SUPPLEMENTAL RESOLUTION SETTING FORTH THE DETAILS OF SAID BONDS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

As part of the FY-09 budget, it was indicated that the City would be buying certain major capital equipment for various City Departments including Stormwater, Police, Public Works and Parks. This bond issue will provide the necessary funding. It is a five-year issue. Funds to repay are included in the operating budget of each department that will get new vehicles.

Recommendation:

RECOMMENDATION: That City Council adopt the 2009 Equipment Bond Ordinance on second reading.

Attachment:

No attachments

ITEM I-2) ORDINANCE
SECOND READING/PUBLIC HEARING
$2 Million Equipment Acquisition Bond

ORDINANCE NO. 2009-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AUTHORIZING THE BORROWING OF TWO MILLION DOLLARS ($2,000,000); AUTHORIZING THE ISSUANCE OF CITY OF MIAMI GARDENS, FLORIDA EQUIPMENT ACQUISITION REVENUE BONDS NOT TO EXCEED TWO MILLION DOLLARS ($2,000,000); PROVIDING FOR A SUPPLEMENTAL RESOLUTION SETTING FORTH THE DETAILS OF SAID BONDS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City desires to authorize the borrowing of Two Million Dollars ($2,000,000), and to authorize the issuance of bonds not exceeding Two Million Dollars ($2,000,000) for the purpose of financing or reimbursing a portion of the costs of purchasing vehicles, equipment and machinery for various City departments, and paying costs of issuance of the bonds, and

WHEREAS, pursuant to Section 4.3 of the City's Charter, an ordinance must be adopted in order to authorize the borrowing of money, and

WHEREAS, the Council desires that the bonds be secured by the communication services tax and the local government half-cent sales tax, as further specified by subsequent resolution of the Council,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. AUTHORIZATION: In accordance with the provisions of the Charter of the City of Miami Gardens, Florida and Chapter 166, Florida Statutes, the City Council of the City of Miami Gardens hereby authorizes the borrowing of Two Million Dollars ($2,000,000). The City Council further authorizes Equipment Acquisition Revenue Bonds (the "Bonds") of the City, to be issued in an aggregate principal amount not to exceed Two Million Dollars ($2,000,000), in one or more series, for the purpose of financing or reimbursing a portion of the costs of purchasing vehicles, equipment and machinery for various City departments, and paying costs of issuance of the Bonds. The Bonds shall be designated "City of Miami Gardens, Florida Equipment Acquisition Revenue Bonds, Series 2009" or such other designation as may be approved by supplemental resolution, shall be dated such date, shall be in such denominations, shall be stated to mature in such year or years not later than six (6) years from their date of issuance, shall bear interest from their

dated date at a rate or rates not exceeding the maximum rate permitted by law at the time of issuance of the Bonds, shall be subject to redemption at the option of the City at such times and prices, and shall have such other details, all as shall hereafter be determined by the Council by supplemental resolution.. The Bonds shall be secured by a pledge of and lien on the communication services tax and the local government half-cent sales tax, on a parity with the City's outstanding $4,700,000 Equipment Acquisition Revenue Bonds, Series 2008, $14,400,000 Land Acquisition and Improvement Revenue Bonds, Series 2007, $2,500,000 Capital Improvement Revenue Bonds, Series 2005, and $7,500,000 Land Acquisition Revenue Bonds, Series 2005, as further specified by supplemental resolution of the Council. The supplemental resolution may be adopted, and the Bonds may be issued, at any time after the effective date of this Ordinance.

SECTION 3. AUTHORIZATION: The City Manager and the City Finance Director are each hereby authorized to negotiate with banks and other financial institutions for the purchase of the Bonds and with respect to the terms of the Bonds. The City Attorney and Bond Counsel to the City are hereby authorized to draft documents and to do all other things necessary to accomplish the issuance and sale of the Bonds.

SECTION 4. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 5. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. EFFECTIVE DATE: This Ordinance will become effective immediately upon its final passage.

PASSED ON FIRST READING THE 14th DAY OF January, 2009.

PASSED ON SECOND READING THE _____ DAY OF _____, 2009.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE _____ DAY OF _____, 2009.

_____

SHIRLEY GIBSON, MAYOR

ATTEST:

_____

RONETTA TAYLOR, MMC, CITY CLERK

{M1771518_1}

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____

CITY ATTORNEY

Prepared by ADORNO & YOSS LLP, Bond Counsel

SPONSORED BY: DANNY O. CREW, CITY MANAGER

MOVED BY:
SECONDED BY:

VOTE:

Mayor Shirley Gibson	___(Yes)	___(No)
Vice Mayor Barbara Watson	___(Yes)	___(No)
Councilman Melvin L. Bratton	___(Yes)	___(No)
Councilman Aaron Campbell, Jr.	___(Yes)	___(No)
Councilman Oliver Gilbert III	___(Yes)	___(No)
Councilwoman Sharon Pritchett	___(Yes)	___(No)
Councilman Andre L. Williams	___(Yes)	___(No)

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City of Miami Gardens
Agenda Cover Memo

Council Meeting Date:	*Jan. 28, 2009*		**Item Type:** *(Enter X in box)*	**Resolution**	**Ordinance**	**Other**	
					Yes		
Fiscal Impact: *(Enter X in box)*	Yes	No	**Ordinance Reading:** *(Enter X in box)*		**1st Reading**	**2nd Reading**	
						x	
	x		**Public Hearing:** *(Enter X in box)*		**Yes** / **No**	**Yes**	**No**
						X	
Funding Source: **User funds**	General Fund- Non Departmental		**Advertising Requirement:** *(Enter X in box)*		**Yes**	**No**	
					x		
Contract/P.O. Required: *(Enter X in box)*	Yes	No	**RFP/RFQ/Bid #:**		*n/a*		
		x					
Sponsor Name	**Danny Crew, City Manager**		**Department:**		***City Manager***		

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AUTHORIZING THE BORROWING OF SEVEN MILLION THREE HUNDRED THOUSAND DOLLARS ($7,300,000); AUTHORIZING THE ISSUANCE OF CITY OF MIAMI GARDENS, FLORIDA TAXABLE LAND ACQUISITION REVENUE BONDS NOT TO EXCEED SEVEN MILLION THREE HUNDRED THOUSAND DOLLARS ($7,300,000); PROVIDING FOR A SUPPLEMENTAL RESOLUTION SETTING FORTH THE DETAILS OF SAID BONDS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

The City has a broad responsibility under the law to provide for a viable local economy through adoption of relevant policies, regulations, and economic development activities and recognizes the economic and social value of businesses based in Miami Gardens in playing a significant role in the health and welfare of the residents of the City through employment, tax payments and community involvement.

Warren Henry Acquisitions LLC (the "Company") has been a business leader in the Miami Gardens area for 40 years and is one of the largest City-based employers and recently purchased a vacant, 15 acre site near the Golden Glades Interchange within the enterprise zone in the City and announced a major relocation and expansion of their dealerships to this site. As a result of the national economic and banking crises, the Company were been notified by the lender for the project that financing was being withdrawn and that the Company needed to secure alternative financing for the property or face the loss of its equity in the property.

ITEM I-3) ORDINANCE
SECOND READING/PUBLIC HEARING
$7.3 Million Land Acquisition Bond

1515 NW 167 Street, Building 5 Suite 200
Miami Gardens, Florida 33169

As part of its economic development activities and in order to foster economic growth in the enterprise zone, staff has proposed a plan to purchase said property from the Company and lease the property back to the Company for a two year period with the option to purchase it back from the City within that period in order to provide the Company with sufficient time to acquire alternative financing and complete the project. Warren Henry has agreed to pay all costs associated with the borrowing. If for some reason, Warren Henry cannot secure permanent financing, after two years, the City would own the property. The City would be buying the property for approximately $7.2 million. Current appraised value is $10.8 million.

Recommendation:

RECOMMENDATION: That City Council adopt the 2009 Land Acquisition Bond Ordinance on second reading.

Attachment:

City Manager's December 10th Memorandum to City Council.

ORDINANCE NO. 2009-___

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA AUTHORIZING THE BORROWING OF SEVEN MILLION THREE HUNDRED THOUSAND DOLLARS ($7,300,000); AUTHORIZING THE ISSUANCE OF CITY OF MIAMI GARDENS, FLORIDA TAXABLE LAND ACQUISITION REVENUE BONDS NOT TO EXCEED SEVEN MILLION THREE HUNDRED THOUSAND DOLLARS ($7,300,000); PROVIDING FOR A SUPPLEMENTAL RESOLUTION SETTING FORTH THE DETAILS OF SAID BONDS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, as part of its economic development activities and in order to foster economic growth in the enterprise zone, the City desires to purchase the property described on Exhibit "A" attached hereto from Warren Henry Acquisitions LLC (the "Company")

WHEREAS, the City desires to authorize the borrowing of Seven Million Three Hundred Thousand Dollars ($7,300,000), and to authorize the issuance of bonds not exceeding Seven Million Three Hundred Thousand Dollars ($7,300,000) for the purpose of financing the costs of purchasing the property, and paying costs of issuance of the bonds, and

WHEREAS, pursuant to Section 4.3 of the City's Charter, an ordinance must be adopted in order to authorize the borrowing of money, and

WHEREAS, the Council desires that the bonds be secured by the public service tax, as further specified by subsequent resolution of the Council,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. AUTHORIZATION: In accordance with the provisions of the Charter of the City of Miami Gardens, Florida and Chapter 166, Florida Statutes, the City Council of the City of Miami Gardens hereby authorizes the borrowing of Seven Million Three Hundred Thousand Dollars ($7,300,000). The City Council further authorizes Taxable Land Acquisition Revenue Bonds (the "Bonds") of the City, to be issued in an aggregate principal amount not to exceed Seven Million Three Hundred Thousand Dollars ($7,300,000), in one or more series, for the purpose of financing the costs of purchasing the property identified above, and paying costs of issuance of the Bonds. The Bonds shall be designated "City of Miami Gardens, Florida Taxable Land Acquisition Revenue Bonds, Series 2009" or such other designation as may be approved by supplemental

resolution, shall be dated such date, shall be in such denominations, shall be stated to mature in such year or years not later than five (5) years from their date of issuance, shall bear interest at a taxable rate from their dated date at a rate or rates not exceeding the maximum rate permitted by law at the time of issuance of the Bonds, shall be subject to redemption at the option of the City at such times and prices, and shall have such other details, all as shall hereafter be determined by the Council by supplemental resolution.. The Bonds shall be secured by a pledge of the public service tax, as further specified by supplemental resolution of the Council. The supplemental resolution may be adopted, and the Bonds may be issued, at any time after the effective date of this Ordinance.

SECTION 3. AUTHORIZATION: The City Manager and the City Finance Director are each hereby authorized to negotiate with banks and other financial institutions for the purchase of the Bonds and with respect to the terms of the Bonds. The City Attorney and Bond Counsel to the City are hereby authorized to draft documents, including bond documents and a purchase contract, and to do all other things necessary to accomplish the issuance and sale of the Bonds and the purchase of the property.

SECTION 4. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 5. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. EFFECTIVE DATE: This Ordinance will become effective immediately upon its final passage.

PASSED ON FIRST READING THE 14th DAY OF January, 2009.

PASSED ON SECOND READING THE _____ DAY OF _____, 2009.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE _____ DAY OF _____, 2009.

_____

SHIRLEY GIBSON, MAYOR

ATTEST:

_____

RONETTA TAYLOR, MMC, CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____

CITY ATTORNEY

Prepared by ADORNO & YOSS LLP, Bond Counsel

SPONSORED BY: DANNY O. CREW, CITY MANAGER

MOVED BY:

VOTE:

Mayor Shirley Gibson	___(Yes)	___(No)
Vice Mayor Barbara Watson	___(Yes)	___(No)
Councilman Melvin L. Bratton	___(Yes)	___(No)
Councilman Aaron Campbell, Jr.	___(Yes)	___(No)
Councilman Oliver Gilbert III	___(Yes)	___(No)
Councilwoman Sharon Pritchett	___(Yes)	___(No)
Councilman Andre L. Williams	___(Yes)	___(No)

City of .Miami Gardens

1515-200 NW 167t1 Street
Miami Gardens, Florida 33169

Mayor Shirley Gibson
Vice Mayor Barbara Watson
Councilman Melvin L. Bratton
Councilman Aaron Campbell Jr.
Councilman Andre Williams
Councilwoman Sharon Pritchett
Councilman Oliver Gilbert III

MEMORANDUM

To: Mayor and City Council

From: Dr. Danny O. Crew
City Manager

Date: December 10, 2008

Re: Economic Development Assistance – Warren Henry Automobiles, Inc.

Background

The national credit crisis has hit one of Miami Gardens' largest local employers. As you are aware, Warren Henry Automobiles (WHA) has been planning a major relocation to the 15 acre parcel adjacent to the Golden Glades WalMart for some time. They purchased the property and are currently going through the City's building approval process. Upon purchasing the property, WHA arranged bank financing for the land purchase and subsequent construction of the new facilities.

However, earlier this week, WHA was advised by their financing source (iStar Financial) that the loan was being withdrawn. This has left WHA with a serious situation that may result in the closing or relocation of the dealership out of Miami Gardens when their current lease expires in less than 2 years.

Challenging times call for innovation and non-linear approaches. When WHA approached the City for our thoughts on this situation, from a city management perspective, I was certainly concerned about the local impact of these four (4) dealerships leaving Miami Gardens: jobs, local restaurants and shops, local suppliers, tax base, inconvenience to local customers, etc.

We often hear the expression "Think Globally, Act Locally." This situation presents us with the opportunity to demonstrate our commitment to the local economy in this time of global emergency and gives us the opportunity to jump-start our local economic development mission.

The WHA situation is quite unique. WHA is a top ten Miami Gardens-based employer with over 250 employees and it is the second largest Miami-Gardens-based business. The proposed expansion would be an economic boon to the City of Miami Gardens through creation of additional jobs and through

a major increase in our tax base. It is estimated that the new facility would pay over $200,000 per year in new taxes to the City alone. In addition, the construction period would also add temporary jobs in our community just when they are needed most, and would generate several hundred thousand dollars in permit revenue to the City. On the other hand, its demise would be a blow to the local economy, our local workforce, and our efforts to maintain a vibrant Miami Gardens.

Financing Challenges

The challenge in the City helping with this problem is two-fold: Land Acquisition and Construction Financing.

- The first challenge is to secure permanent financing for the property. WHA purchased the property in December of 2007 for $9,300,000. It put in initial equity of $2,175,000 of its own money down and has a $7,125,000 mortgage on the balance. Additionally, through November 2008 WHA has invested another $800,000 into the project on soft costs associated with architects, contractors, civil engineers, land use attorneys, etc. The current mortgage on this property was to become permanently financed in conjunction with the permanent financing of the entire project. Now that the permanent financing has been withdrawn, they are facing a complete loss of the property and their equity in the property within a few months.

  The goal here is to achieve an extension of the property bridge financing until WHA can arrange for full project financing. The City can play a positive role in this by structuring financing for this portion of the challenge that will be a win-win for our residents no matter what subsequently happens on the construction challenge portion.

- Second, once the land issue is resolved. WHA needs to locate alternative construction and permanent financing for the new facilities. Based on conversations with banks and economic development officials, we have been advised that the banks are almost universally not extending credit for such projects in the private sector. WHA is in need of approximately $35 to $38 million in construction/long term financing in order to complete this project. It will take some time in order to arrange this. The City also may be able to play a role in this challenge.

  The preferred alternative would be for WHA to find financing through a conventional bank. To this end, the City has enlisted the help of the Beacon Council to try and locate lenders that might be willing to finance the project.

  A second alternative might be for the City to issue a taxable Industrial Development Bond (IDB) for the project financing (also called Private Activity Bonds). These bonds are used by many cities to encourage qualified industrial and commercial development to locate or remain within their jurisdictions.

  An IDB is not like a traditional "revenue" bond that the City has issued before. Although it would be called a *"City of Miami Gardens Industrial Development Bond"* or something to that effect, the City really has no role in the bond activities, financing or outcome other than to issue it in the City's name. The City's revenue is not used to back the bond nor does the City have any obligation toward the bondholder if the company should default. The bond does not become part

of our general ledger or our outstanding debt burden. An IDB is essentially a private deal between the company seeking financing, and the market (bond buyer), that is run through the City to grant it the appropriate IRS authority.

Even with an IDB, there is no assurance that the market will buy the bonds. It depends on the corporation's financial standing and the rating the bond secures before going to market. These bonds can be sold on the open market but are usually sold through a negotiated sale.

While these approaches to economic development are new to Miami Gardens, municipalities nationwide provide economic development assistance to business and industry. Programs such as the IDB program have been around for well over 30 years.

Recommended Approach - General

All cities have at best, limited abilities to assist in economic development of their communities as our resources are not limitless. However, if the City is to ever seriously consider such assistance, this is the time and this is a prime candidate. Warren Henry Automobiles has been located in the Miami Gardens community for over 30 years. It has been a strong supporter of the City ever since incorporation. It is one of our top employers and has an important impact on the local economy.

As indicated earlier, the City can assist WHA in this endeavor in such a way as the residents will ultimately win no matter what the final outcome, as follows:

- Successful completion of the project: If the City is successful in providing a temporary bridge loan to WHA and they are able to successfully secure financing for the project, then the City will have helped save a major Miami Gardens-based business and saved over 250 jobs. In addition, the City will have enhanced our tax base by over $35 million, resulting in over $200,000 per year in property tax revenue that our residents will not have to pay.

- Project is not completed: If, even after the receipt of a new bridge loan for the property, WHA is not successful in securing permanent financing for the project, the property, and WHA's $2,175,000 in equity in that property will become the City's asset. The Council has discussed many times over the past five years of the necessity to "bank" key pieces of land so that the City can control its development future. Unfortunately, the opportunities to do this are few and far between. However, if this project is not completed and the land reverts back to the City, it will have purchased the last major tract of undeveloped land in the Golden Glades area for a bargain price. Whether the City ultimately holds this land for future development or uses it to develop a park or other municipal purpose, we will have made a sound investment in the City's future.

Obviously, the first alternative above is the desired result: That would be a win for WHA and a win for City taxpayers. However, if the second alternative were to occur, WHA would be no worse off at that time than compared to what they are facing now; and the taxpayers would still be a winner in the long run.

Outline of Phase I: Land Acquisition Activity

What follows is a simple step-by-step outline of the tasks that would have to be done to complete phase one:

1. City issues a taxable bond for $7.125 million to be sold at a negotiated rate to Wachovia Bank.

2. In a simultaneous closing:

    a. The City would use the $7 million to Pay-off existing mortgage holder (I-Star Financial).

    b. WHA would deed the property to the City.

    c. City and WHA would enter into a 24 month lease for the property at a rate equal to one percent (1%) above the City's cost of capital (Bond interest rate). This will provide the City a modest $70,000/year to cover the debt service plus a modest administrative cost recovery.

    d. If, at the end of the 24 month period or earlier, WHA receives permanent financing, WHA would repurchase the property at the original $7.125 million price.

    e. If, at the end of the 24 month period, WHA has not received its permanent financing and building permits, the lease would terminate and the City would own the land unencumbered.

Phase 2: Construction/Permanent Financing

As indicated earlier, the most pressing challenge right now is to secure a bridge loan for WHA. Once this is done, the City, Beacon Council and WHA can concentrate on finding suitable long term financing. We will have two years to accomplish this.

RECOMMENDATION

Tough times call for action, and while the City cannot do anything to fix the financial situation in Washington or on Wall Street, the City can use its resources to help lessen the impact of their negative results on Miami Gardens.

WHA is the second largest Miami-Gardens-based employer. If the City can do something to help preserve these jobs and the tax base, it should be a top priority, especially when the proposed assistance has a positive outcome for the City whether it succeeds or not.

I recommend that City Council authorize the staff to proceed with Phase I of the program as outlined above.

1515 NW 167 Street, Building 5 Suite 200
Miami Gardens, Florida 33169

City of Miami Gardens
Agenda Cover Memo

Council Meeting Date:	*January 28, 2009*		**Item Type:**	**Resolution**	**Ordinance**		**Other**	
					x			
Fiscal Impact:	Yes	No	**Ordinance Reading:**		**1st Reading**		**2nd Reading**	
							X	
		X	**Public Hearing:**		**Yes**	**No**	**Yes**	**No**
							X	
Funding Source:	General Fund		**Advertising Requirement:**		**Yes**		**No**	
							X	
Contract/P.O. Required:	Yes	No	**RFP/RFQ/Bid #:**					
		X						
Sponsor Name	Danny Crew, City Manager		**Department:**		Planning and Zoning			

Short Title:

AN ORDINANCE ADOPTING A MORATORIUM ON THE PROCESSING OF DEVELOPMENT ORDERS FOR MULTIFAMILY USES IN ALL ZONING DISTRICTS, INCLUDING BUT NOT LIMITED TO SITE PLANS, DEVELOPMENT APPLICATIONS, ZONING PERMITS AND ANY RELATED ACTIONS AND/OR APPROVALS FOR SUCH USES; PROVIDING FOR A TERM; PROVIDING FOR EXCEPTIONS; PROVIDING FOR A STUDY(S): PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

Background

At the December 3, 2008 Zoning Hearing, City Staff provided Council with a presentation of multi-family housing projects within the City. As an outcome of that presentation, the City Council has directed that City staff initiate a comprehensive planning process to study the issue of multifamily housing. An element of this process is to conduct workshops where key stakeholders could participate in the discussion that will affect future land use. Staff is proceeding with assembling all of the information requested by Council for their consideration.

ITEM I-4) ORDINANCE
SECOND READING/PUBLIC HEARING
Moratorium on Multifamily Uses

1515 NW 167 Street, Building 5 Suite 200
Miami Gardens, Florida 33169

Current Situation

The City has recently received a number of requests to re-zone single family zoned properties to multifamily. In light of the information presented to Council, and their requests for a comprehensive study, Staff needs to have an opportunity to study this phenomenon to ensure that the City does not become over proliferated with multifamily uses. As a result, the City Manager is requesting that the City Council issue a twelve (12) month moratorium on the processing of development orders for multifamily uses in the all zoning districts, including but not limited to site plans, development applications, permits and any related actions and/or approvals for such uses within the districts to determine whether these uses should be permitted in the City and if so, pursuant to what regulations.

On January 7, 2009, the City Manager issued an Administrative Zoning Moratoria, pursuant to Section 33-323, *Administrative Zoning Moratoria* of the Zoning Code. The attached ordinance was approved on 1st reading at the January 14, 2009 City Council meeting. . The approval of the attached ordinance on 2nd reading formally adopts a moratorium on processing development orders for multi-family housing projects.

Proposed Action:

Staff recommends approval of the ordinance on 2nd reading,that formally adopts a moratorium on the processing of development orders for multi-family housing projects in the City of Miami Gardens.

Attachment:

None

ORDINANCE NO. 09-

AN ORDINANCE ADOPTING A MORATORIUM ON THE PROCESSING OF DEVELOPMENT ORDERS FOR MULTIFAMILY USES IN ALL ZONING DISTRICTS, INCLUDING BUT NOT LIMITED TO SITE PLANS, DEVELOPMENT APPLICATIONS, ZONING PERMITS AND ANY RELATED ACTIONS AND/OR APPROVALS FOR SUCH USES; PROVIDING FOR A TERM; PROVIDING FOR EXCEPTIONS; PROVIDING FOR A STUDY(S): PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, recently the City has received a number of requests to rezone single family zoned properties or take other zoning related actions to permit multifamily development, and

WHERES, City staff needs to have an opportunity to study this phenomenon to ensure that the City does not become over proliferated with multifamily uses, and

WHEREAS, the City Council has directed that City staff, initiate a comprehensive planning process to study the issue of multifamily housing in the City,

WHEREAS, the City Manager is requesting that the City Council issue a twelve (12) month moratorium on the processing of development orders for multifamily uses in the all zoning districts, including but not limited to site plans, development applications, permits and any related actions and/or approvals for such uses within the district to determine whether these uses should be permitted in the City and if so, pursuant to

what regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. ESTABLISHMENT OF MORATORIUM: A moratorium on the processing and permitting of development orders for multifamily uses in all zoning districts, including but not limited to site plans, development applications, permits and any related actions and/or approvals for such uses within all zoning districts is hereby established for a period of twelve (12) months from the effective date of this ordinance. The moratorium is subject to the provisions of Section 3 herein. Except as otherwise provided herein, no department of the City shall issue any zoning permits, development orders, or undertake the review and approval of any site plans, building permits, or development plans with respect to such uses within the City, during the term of the moratorium established hereby.

SECTION 3. EXEMPTION: The moratorium established hereby shall not apply to the following:

a) Development orders relating to lawfully existing multifamily uses;

b) The approval of an application, a bonafide application for which was made six (6) months prior to the effective date hereof;

c) Building permits for multifamily uses with approved site plans

SECTION 4: STUDY: The City Manager and such other departments of the City, as the City Manager shall deem appropriate shall undertake a study of multifamily uses in all zoning districts and shall report back to the Mayor and City Council the results of any studies.

SECTION 5: CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 6. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 7. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 14th DAY OF JANUARY, 2009.

PASSED ON SECOND READING ON THE _____ DAY OF _____, 2009.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE _____ DAY OF _____, 2009.

Ordinance No. 09 -

_____
SHIRLEY GIBSON, MAYOR

ATTEST:

_____
RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA K. DICKENS, City Attorney

SPONSORED BY: DANNY O. CREW, CITY MANAGER

MOVED BY:

VOTE:

Mayor Shirley Gibson	___(Yes)	___(No)
Vice Mayor Barbara Watson	___(Yes)	___(No)
Councilman Melvin L. Bratton	___(Yes)	___(No)
Councilman Aaron Campbell	___(Yes)	___(No)
Councilman Andre' Williams	___(Yes)	___(No)
Councilwoman Sharon Pritchett	___(Yes)	___(No)
Councilman Oliver Gilbert III	___(Yes)	___(No)

Ordinance No. 09 -