NORTH MIAMI
FLORIDA
776 N.E. 125 Street, North Miami, Florida 33161

Council Report

To: The Honorable Mayor and City Council

From: Bonnie Clearwater, Executive Director
Museum of Contemporary Art

Date: May 28, 2013

Subject **AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI ENTITLED "ADMINISTRATION", SPECIFICALLY AT ARTICLE III, DIVISION 2 ENTITLED "BOARD OF TRUSTEES OF THE NORTH MIAMI MUSEUM OF CONTEMPORARY ART (MOCA)", BY AMENDING SECTION 2-61 ENTITLED "ORGANIZATION; TERM OF OFFICE", TO ALLOW THE MOCA BOARD OF TRUSTEES TO DETERMINE THE MAXIMUM NUMBER OF MEMBERS SERVING ON THE BOARD, IN LIEU OF THE CURRENT MAXIMUM OF THIRTY (30) BOARD MEMBERS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

RECOMMENDATION

The Museum's Board is requesting the Mayor and Council adopt an ordinance amending Chapter 2, Section 2-61 to allow the Museum's Board of Trustees to determine the maximum number of Board members to serve.

BACKGROUND

On April 15, 2013 the Museum's Board of Trustees voted to request this change in the ordinance. Presently the number of Board members must range between eleven (11) and thirty (30). To increase support and representation the Board wishes to elect additional members to serve the interests of MOCA. Rather than seek a set number of

positions to increase the size, the Board believes it would be more efficient to allow flexibility in the maximum number to be elected. They request the Council approve this change to allow them to determine the maximum number needed.

Attachment(s)

- Ordinance
- Minutes of the April 15, 2013 meeting of the Museum Board

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI ENTITLED "ADMINISTRATION", SPECIFICALLY AT ARTICLE III, DIVISION 2, ENTITLED "BOARD OF TRUSTEES OF THE NORTH MIAMI MUSEUM OF CONTEMPORARY ART (MOCA)", BY AMENDING SECTION 2-61, ENTITLED "ORGANIZATION; TERM OF OFFICE", TO ALLOW THE MOCA BOARD OF TRUSTEES TO DETERMINE THE MAXIMUM NUMBER OF MEMBERS SERVING ON THE BOARD, IN LIEU OF THE CURRENT MAXIMUM OF THIRTY (30) BOARD MEMBERS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, Chapter 2 of the Code of Ordinances ("Code") of the City of North Miami ("City"), establishes the Board of Trustees ("Board") of the North Miami Museum of Contemporary Art ("MOCA"), and further delineates the Board's authority and duties; and

WHEREAS, the Board is responsible for the overall operation, administration, function and activities of MOCA; and

WHEREAS, Section 2-61 of the Code provides for a minimum of eleven (11) Board members, a maximum of thirty (30) Board members, and one (1) ex-officio Board member selected from the City staff; and

WHEREAS, on April 15, 2013, the Board voted in favor of amending Section 2-61 of the Code to allow the Board the authority to set the maximum number of members to the Board, in lieu of the current maximum of thirty (30) Board members, to broaden support and representation; and

WHEREAS, to ensure for the proper operation, administration and overview of MOCA, the Director of MOCA respectfully requests that the Mayor and City Council approve the proposed amendment to the Code, authorizing the Board to set its own maximum number of members serving the Board.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Amendment to City of North Miami Code. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 2 of the Code of Ordinances of the City of North Miami entitled "Administration", specifically at Article III, Division 2, entitled "Board of Trustees of the North Miami Museum of Contemporary Art (MOCA)", by amending Section 2-61, entitled "Organization; Term of Office", to allow the MOCA Board of Trustees to determine the maximum number of members serving on the board, in lieu of the current maximum of thirty (30) board members, as follows:

CHAPTER 2. ADMINISTRATION

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ARTICLE III. BOARDS, COMMITTEES, COMMISSIONS

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DIVISION 2. BOARD OF TRUSTEES OF THE NORTH MIAMI MUSEUM OF CONTEMPORARY ART (MOCA)

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Sec. 2-61. Organization; term of office.

(a) There is established a board of trustees of the North Miami Museum of Contemporary Art (MOCA) which shall consist of a minimum of eleven (11) members and a maximum ~~of thirty (30)~~ number of members as determined by the board of trustees, and one (1) ex officio member from the staff of the city. The city staff member shall be designated by the city council.

(b) The board of trustees' nominating committee may present one (1) name as a nominee for each available seat on the board to the board for selection, to fill vacancies from time to time.

(c) The term of office for the board of trustees shall be as follows:

(1) All members serving on the board as of the effective date hereof (October 25, 1994) shall continue to serve until their term expires. Appointments shall be made to fill any expired term for a term of four (4) years.

(2) In the event of the removal or resignation of a member of the board of trustees, the nominating committee of the board shall recommend one (1) name for the position to the board of trustees for selection by majority vote for the remainder of the unexpired term.

(3) Any member may be removed by a majority of the city council for cause. The board of trustees shall be given the opportunity to express their agreement or disagreement, before such removal vote occurs. Any member may be removed by a majority vote of

the board of trustees without cause.

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Section 2. **Conflicts.** All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

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. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

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

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2013.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2013.

_____
ANDRE D. PIERRE, ESQ.
MAYOR

ATTEST:

_____
MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: MOCA BOARD OF TRUSTEES

Moved by: _____

Seconded by: _____

Vote:

Mayor Andre D. Pierre, Esq.	_____ (Yes)_____ (No)
Vice Mayor Marie Erlande Steril	_____ (Yes)_____ (No)
Councilperson Michael R. Blynn, Esq.	_____ (Yes)_____ (No)
Councilperson Scott Galvin	_____ (Yes)_____ (No)
Councilperson Jean R. Marcellus	_____ (Yes)_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.

MUSEUM OF CONTEMPORARY ART
770 NE 125 Street North Miami, FL 33161 | 305 893 6211 | www.mocanomi.org

From the minutes of the April 15, 2013 meeting of the MOCA Board of Directors:

Resolution to the North Miami Code:
Ray Ellen Yarkin moved to propose a resolution to Sec. 2-61 (a) of the North Miami Code to increase the maximum number of members of the Board of Directors. The proposed resolution is as follows:
"The maximum number of members shall be as determined by the Board of Trustees."

Cindi Nash seconded. Board approved the resolution.