

City of Fort Lauderdale

City Hall
100 N. Andrews Avenue
Fort Lauderdale, FL 33301
www.fortlauderdale.gov



Meeting Minutes - APPROVED

Tuesday, March 4, 2014

6:00 PM

City Commission Chambers

City Commission Regular Meeting

FORT LAUDERDALE CITY COMMISSION

JOHN P. "JACK" SEILER Mayor - Commissioner
BRUCE G. ROBERTS Vice Mayor - Commissioner - District I
DEAN J. TRANTALIS Commissioner - District II
BOBBY B. DuBOSE Commissioner - District III
ROMNEY ROGERS Commissioner - District IV

LEE R. FELDMAN, City Manager
JOHN HERBST, City Auditor
JONDA K. JOSEPH, City Clerk
CYNTHIA A. EVERETT, City Attorney

Meeting was called to order at 6:08 p.m. by Mayor Seiler.

ATTENDANCE ROLL CALL

Present: 5 - Mayor John P. "Jack" Seiler, Vice-Mayor Bruce G. Roberts, Commissioner Dean J. Trantalis, Commissioner Bobby B. DuBose and Commissioner Romney Rogers

Also Present: City Manager, Lee R. Feldman; City Auditor, John Herbst; City Clerk, Jonda K. Joseph; City Attorney, Cynthia A. Everett; Sergeant At Arms Sergeant Tim McCarthy

Vote Roll Call Order for this Meeting

Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

Invocation

Pastor Dwayne Black, The Second Presbyterian Church of Fort Lauderdale

Pledge of Allegiance

Led by Alfreda Coward

Approval of MINUTES and Agenda

14-0350 APPROVAL OF MINUTES for January 7, 2014 Conference meeting, January 22, 2014 Regular meeting and January 29, 2014 Workshop on Homelessness

Motion made by Vice-Mayor Roberts and seconded by Commissioner Trantalis to approve the noted minutes.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PRESENTATIONS

PRES-1 14-0341 RECOGNITION OF BATTALION CHIEF TIMOTHY BLANK, LIEUTENANT IN U.S. NAVAL RESERVE FOR HIS SERVICE IN AFGHANISTAN

Vice-Mayor Roberts presented the proclamation to Battalion Chief Timothy Blank for his service as a lieutenant in the U.S. Naval Reserve in Afghanistan. Fire-Rescue Chief Robert Hoecherl commended Blank for his service. Blank thanked the Commission, chief and his family. Mayor Seiler announced that Blank was selected to serve as one of the City employee grand marshals at Saturday's St. Patrick's Day Parade.

PRES-2 14-0339 RECOGNITION OF ADOPT-A-STREET PROGRAM VOLUNTEER GROUP LEADERS - WORKING TO KEEP FORT LAUDERDALE BEAUTIFUL

Ryan Henderson of the Neighbor Support Division presented certificates of recognition to members of the Adopt-A-Street Program Volunteer Group. Among those recognized were A. Philip Randolph Institute, Gentle Warriors; Chris Liptak, Four Points Yacht and Ship Brokerage Inc.; Delta Air Lines Inc.; Delta Sigma Theta Sorority Inc.; Dillard High School Class of 1959; Fort Lauderdale Kiwanis Club; Fort Lauderdale Rotary Club; International Free and Accepted Modern Masons Inc. and Order of the Eastern Star; Johnson Family & Neighbors; Realtor Kevin Hildreth; Megafend; Omicron Epsilon Pi Sorority Inc.; South Middle River Civic Association; and The Twelve Step House Inc.

PRES-3 14-0336 COMMUNITY APPEARANCE BOARD WOW AWARD FOR DISTRICT II

Commissioner Trantalis presented the WOW Award to Lori Douvris and KJ Hathaway for beautification efforts at their home in Poinsettia Heights.

PRES-4 14-0340 THE MAYOR AND CITY COMMISSION WILL ACCEPT A CHECK IN THE AMOUNT OF \$5,900 FROM THE PROPERTY OWNERS OF LAS OLAS, INC. FOR THE FORT LAUDERDALE POLICE MOUNTED UNIT

Police Chief Frank Adderley and Sergeant Hugo Fontalvo accepted a check of \$5,900 for the Fort Lauderdale Police Mounted Unit from Genia Ellis of the Downtown Development Authority on behalf of citizens and businesses in Fort Lauderdale. Chief Adderley thanked the donors, and Sergeant Fontalvo provided a brief status update on the mounted unit.

PRES-5 14-0354 THE MAYOR AND CITY COMMISSION WILL ACCEPT A CHECK IN THE AMOUNT OF \$30,000 FROM THE UNITED WAY - PARTNERSHIP WITH THE CITY ON THE FORT LAUDERDALE CHRONIC HOMELESS HOUSING COLLABORATIVE INITIATIVE

DEFERRED TO MARCH 18, 2014

PRES-6 14-0355 PROCLAMATION DECLARING MARCH, 2014 AS COLORECTAL CANCER AWARENESS MONTH IN THE CITY OF FORT LAUDERDALE

Commissioner Rogers presented the proclamation to Michael McCarthy of the Colon Cancer Alliance. McCarthy thanked the Commission and presented lapel pins.

CONSENT AGENDA

Mayor Seiler announced the procedure for consent items.

Motion made by Commissioner Trantalis and seconded by Commissioner DuBose that Consent Agenda Items M-9, CR-3 and CR-5 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda items be approved as recommended.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

- M-1 14-0259** EVENT AGREEMENTS: Klutch Customs Autofest Car Show, Wilson Takeover at Sports Authority, Over the Edge for Gilda's and Art, Jazz in Victoria Park, Right Way Ministries and ModWeekend 2014.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

- M-2 14-0260** EVENT AGREEMENTS AND RELATED ROAD CLOSINGS: St. Patrick's Day Celebration, St. Patrick's Day Festival, Triton Expo, Fort Lauderdale Corporate Run, Las Olas Sunday Market, St. Patty's Parade Weekend, Farmer's Market at Broward Health Medical Center and St. Patrick's Day Weekend.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

- M-3 14-0330** RIVERBEND MARKET PLACE - JOINDER AND CONSENT TO DECLARATION OF RESTRICTIVE COVENANTS for benefit of Broward County regarding associated Broward County Comprehensive Plan amendment

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

- M-4 14-0272** GRANT ACCEPTANCE - 2011 URBAN AREA SECURITY INITIATIVE - \$62,940.17 from United States Department of Homeland Security, Florida Division of Emergency Management through City of Miami - video x-ray system for Police Department

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

- M-5 14-0257** DONATION TO ONIKUSU JUDO CLUB - \$30,000 from State Law Enforcement Trust Fund

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

- M-6 14-0226** TASK ORDER 18 - \$18,070 - EXECUTIVE AIRPORT GOPHER TORTOISE AND BURROWING OWL PERMITTING AND RELOCATION - Miller, Legg & Associates, Inc.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

- M-7 14-0233** WORK ORDER 7 - \$170,425.75 - PAVEMENT OVERLAY ON STREETS AND PARKING LOT AT LAUDERDALE MEMORIAL PARK - Annual Asphaltic Concrete Pavement Contract with Weekley Asphalt Paving, Inc. - plus \$14,074.25 for administration and engineering fees - contingent upon approval of consolidated budget amendment

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

- M-8 14-0258** WORK ORDERS: 1 - \$24,740, 2 - \$22,230, 3 - \$20,624, 4 - \$20,374 AND 6 - \$120,430 under the Annual Sewer Repair Contract with Lanzo Lining Services, Inc. - thirty-one locations at various locations

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

- M-9 14-0318** REQUEST FOR DESIGNATED BICYCLE LANES TO BE INCLUDED AS PART OF SUNRISE BOULEVARD RESTORATION PROJECT -authorizing submission of letter signed by Mayor to Secretary of Florida Department of Transportation

Art Seitz, 1905 North Atlantic Boulevard, opposed the item. Fort Lauderdale is one of the most dangerous places in the world for pedestrians and bicyclists and Sunrise Boulevard is one of the most dangerous in the city. It is dangerous to ride a bicycle from Gateway Theater to Sears & Roebuck. Wider sidewalks and pathways are needed. The book *Walkable Communities* suggests parallel routes or shadow routes. He referenced the 2013 Neighbor Survey results, in which residents reported that walkability was the No. 2 concern. People want to ride bikes and will ride bikes if conditions are safe.

There was no one else wishing to speak.

Commissioner Trantalis expressed a concern that Sunrise Boulevard is a heavily trafficked roadway and

it is dangerous for motorists and cyclists. The City Manager advised that staff thinks it is important to make the thoroughfare as safe as possible for bicyclists. People already are riding bicycles on this roadway because it is a main artery to the beach and Federal Highway North. Staff is advocating further segregation of the lane. Commissioner Trantalis wanted to know if staff has looked into shadow paths, routes that would encourage cyclists away from heavy traffic. Mayor Seiler said he was uncertain if cyclists could cross Sunrise at the bridge because there is water on both sides. The Florida Department of Transportation (FDOT) already has installed bike lanes on the Sunrise Boulevard bridge, and encourages it as a route to and from the barrier island. The most efficient way to proceed is to capitalize on what FDOT has already done. The other bridges – at Commercial, Oakland and Las Olas boulevards – do not have bicycle lanes. The City Manager added that occasional bikers use the shadow routes more frequently. Experienced bikers who are looking for a constant flow and do not want to be impeded by stop signs and such are more inclined to use the main roads. No matter how much it is encouraged, the experienced bikers do not want to go through residential neighborhoods. Commissioner Trantalis felt the segment of most concern is between Searstown and the bridge. After U.S. 1, the character of the road changes. However, he clarified this measure does not encourage bicyclists to use this route but rather makes it safer for those who already do. Mayor Seiler agreed and added that it makes sense to have a bike lane on this section of Sunrise because all of the neighboring roads have bike lanes.

Motion made by Commissioner Trantalis and seconded by Vice-Mayor Roberts to approve the item as recommended.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

CONSENT RESOLUTION

CR-1 14-0090 CONSOLIDATED BUDGET AMENDMENT TO FISCAL YEAR 2014
BUDGET – APPROPRIATION

ADOPTED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

CR-2 14-0329 SUPPORTING HOUSE BILL 153 AND SENATE BILL 224,
AMENDING FLORIDA STATUTES TO EXTEND CURRENT
PROHIBITIONS RELATING TO TOBACCO PRODUCTS FOR
PERSONS UNDER THE AGE OF 18, TO PROHIBIT THE SALE,
GIFTING, POSSESSION OR USE OF NICOTINE DISPENSING
DEVICES, INCLUDING BUT NOT LIMITED TO, ELECTRONIC
CIGARETTES, TO AND BY PERSONS UNDER THE AGE OF 18

ADOPTED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

CR-3 14-0343 URGING STATE OF FLORIDA TO ADDRESS FLORIDA STATUTES
THAT ALLOW UNRESTRICTED AND UNREGULATED FIREARM
TARGET RANGES AND DISCHARGES IN URBAN RESIDENTIAL

NEIGHBORHOODS

Charles King, 105 North Victoria Park Road, supported the item and wanted to raise public awareness about it. This is crazy legislation that allows people to set up a gun range at their home. Legislators who support these statutes should be removed from office.

Motion made by Vice-Mayor Roberts and seconded by Commissioner Trantalis to approve the item as recommended.

ADOPTED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

CR-4 14-0348 APPOINTMENT OF NABORS GIBLIN & NICKERSON P.A. AS SPECIAL COUNSEL - defense of breach of contract and indebtedness lawsuit filed by Broward County Sheriff for E-911 Services provided during Fiscal Year 2012

ADOPTED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

CR-5 14-0310 POLICY GOVERNING REASONABLE OPPORTUNITY OF THE PUBLIC TO BE HEARD BEFORE OFFICIAL ACTION IS TAKEN

Mayor Seiler opened the floor for public comment.

Christine Timmon, 12 SE 20 Street, commented that the City of Lansing, Michigan, owes her \$45 million for stopping her freedom of speech at limited public forums. Florida's Senate Bill 50 advises that the public should have more access to a limited public forum. She referenced U.S. Constitution Amendment 1, which covers free speech under the federal statute. There are supposed to be two sign-in sheets: one for legislative matters and another for anything people want to say about their city or county. This is the way it is done by every governmental body except Broward County and Fort Lauderdale. Also, anyone in the state can have a public access television show. She could sue the City for not allowing her to have a public access show. She likes the Mayor and this Commission and their actions, such as the improvements to Sistrunk Boulevard.

Art Seitz, 1905 North Atlantic Boulevard, said meetings should be rebroadcast during the day. Elderly people cannot stay at the meetings late into the evening. The City Manager is responsible for setting the order of the agenda, and it appears that he does not want public input. The public should have an opportunity for rebuttal following the Commission's response to public comments.

Motion made by Vice-Mayor Roberts and seconded by Commissioner Trantalis to approve the item as recommended.

Commissioner Trantalis was concerned in light of recent events that occasionally members of the public are lured into a trap. Individuals who make statements may not always agree with a proponent of a development project and are taken to court when another party finds their comments threatening. There is no language in this resolution to discourage lawsuits as a result of public comments. He will vote for the

resolution because it is a first step, but he is hopeful that in the future an amendment can be added to protect citizens.

Commissioner Rogers noted that there is some confusion about this item. The policy only applies to items that are not quasi-judicial. It was suggested to him that any president of a sanctioned civic association be afforded a specified period of time for any item whether it be quasi-judicial or not. That is done in practice, but it is not reflected in the resolution. He thought perhaps it could be amended in the future if necessary. The Fort Lauderdale Council of Civic Associations would like some certainty on this point. Vice-Mayor Roberts noted that he also was asked to raise this point. However, there may be other stakeholders. Therefore, he recommended proceeding with the resolution as presented and addressing the issues raised by Commissioners Trantalis and Rogers in the future. In response to Mayor Seiler, the City Clerk advised she has been working with Information Technology Services to activate the public comment module of the agenda software which will be activated for the next Commission meeting on March 18. The City Manager understood that there are boards and committees that are not part of the Granicus agenda software system and therefore will need a public comment email address. The City Clerk explained that there will be a direct email option to each staff liaison. In response to Mayor Seiler, the City Clerk advised that comments can be submitted on the City website by clicking on the particular agenda and those comments would go to the staff liaison. There are about 34 boards at this time.

Commissioner Rogers commented that now that the policy is codified, it raises a higher level of responsibility. He is hesitant to omit language that allows longer time for the president of a civic association because when this Commission is no longer seated, the practice could change. Vice-Mayor Roberts thought there is flexibility in the policy that allows a board chairman or mayor to grant more time to a speaker when warranted. There are differing thoughts on the amount of time that should be afforded. He wanted to wait and see.

ADOPTED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

CR-6 14-0189

THREE-YEAR LEASE AGREEMENT WITH DOWNTOWN FORT LAUDERDALE TRANSPORTATION MANAGEMENT ASSOCIATION FOR OFFICE SPACE - 290 NE 3 Avenue - two, one-year renewal options - annual rent of \$1

ADOPTED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PURCHASING AGENDA

PUR-1 14-0172

PURCHASE OF 2014 INTERNATIONAL WORKSTAR TRUCK - \$99,730 from Navistar, Inc. c/o Rechten International Trucks, Inc. contingent upon approval of Aquatech B-15 sewer cleaner body purchase

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-2 14-0173 ONE-YEAR CONTRACT FOR EMERGENCY PUMPING SERVICES - \$51,750 from F.A. Johnson, Inc. and authorize City Manager to approve three, one-year renewal options contingent upon appropriation of funds

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-3 14-0174 ONE-YEAR CONTRACT FOR ACTUARIAL SERVICES - not to exceed amount of \$124,000 from Cavanaugh Macdonald Consulting, LLC and authorize City Manager to approve three, one-year renewal options contingent upon appropriation of funds

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-4 14-0178 ONE-YEAR CONTRACT FOR POROUS PAVING TREE PIT SYSTEM in estimated amount of \$45,500 from America's Best Service, LLC and authorize City Manager to approve three, one-year renewal options contingent upon appropriation of funds

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-5 14-0248 ONE-YEAR CONTRACT - POLICE MOTORCYCLE REPAIR SERVICES in the amount of \$25,498.92 from Peterson's Harley-Davidson of Miami, LLC and authorize City Manager to approve three, one-year renewal options contingent upon appropriation of funds

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-6 14-0332 ONE-YEAR CONTRACT FOR STORM WATER DITCH MAINTENANCE in estimated amount of \$50,125 from McIntyre Maintenance, Inc. and authorize City Manager to approve three, one-year renewal options contingent upon appropriation of funds

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-7 14-0238 CONTRACT FOR DESIGN AND IMPLEMENTATION OF BEACH STREETScape IMPROVEMENT PROJECT - CONSULTANT SERVICES in the amount of \$1,117,615.42 - Kimley-Horn and Associates, Inc.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-8 14-0175 PURCHASE OF 2014 AQUATECH B-15 SEWER CLEANER BODY in the amount of \$220,875.17 from Pat's Pump & Blower, LLC contingent upon approval of 2014 International Workstar truck purchase

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-9 14-0193 PURCHASE TWO REPLACEMENT BOAT ENGINES AND INSTALLATION in the amount of \$84,782 from Pompano Beach Marine Center, Inc.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-10 14-0209 PURCHASE AGREEMENTS - REPLACEMENT EQUIPMENT FOR SEVEN PLAYGROUNDS AND THREE NEW SHADE STRUCTURES - \$449,605.75 from Kompan, Inc. for five and \$199,249.97 from PlayCore Wisconsin, Inc. d/b/a Gametime for two - \$648,855.72 (total) - contingent upon approval of consolidated budget amendment

Art Seitz, 1905 North Atlantic Boulevard, said he has been to 17 of the 20 world's greatest waterfront cities. In San Sebastian Spain, there are rubber mats underneath playground equipment by the waterfront, in addition to carousels and rose gardens with piped-in music. He commended the City on recent improvements at Hardy Park. Shade and shelter is also needed at the Fort Lauderdale Aquatic Center. The beach needs recreational equipment. Every hotel should have a wide sidewalk and bicycle racks. He urged the Commission to look at recent improvements in Lauderdale by the Sea and Deerfield Beach. EDSA made a presentation this afternoon on what can be done to improve D.C. Alexander Park which is a good start.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-11 14-0288 PURCHASE FIRE PREVENTION AND SAFETY TRAINING TRAILER in the amount of \$120,420 from Bullex, Inc.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-12 14-0251 PROPRIETARY PURCHASE OF DATA ADMINISTRATION SERVICES AND DATA MIGRATION - estimated not to exceed \$53,100 from Smart Business System, Inc.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUR-13 14-0267 PROPRIETARY PURCHASE - OPENVISION LT C-ARM VIDEO X-RAY SYSTEM FOR POLICE DEPARTMENT - in the amount of \$62,940.17 from QSA Global, Inc.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

CITIZEN PRESENTATIONS

CIT-1 14-0344 ART SEITZ - Fort Lauderdale's A1A Greenway and Broward County Scenic Highway

Art Seitz commented that the Central Beach Alliance (CBA) is a not-for-profit corporation, not a neighborhood association. It is not recognized by the City on its website. John Weaver, president of the CBA, does not even live on the beach. He questioned who the CBA speaks on behalf of and who actually attends their meetings. He questioned their voting system. He referred to an upcoming presentation by the Florida Department of Transportation to the Metropolitan Planning Organization and indicated this is an opportunity for Fort Lauderdale to get a world-class greenway that should be ideally be 18 feet wide. He explained challenges associated with widening the walkway involving moving the wave wall because of the endangered sea turtles. He suggested that County Commissioner Chip LaMarca address this with the governor. He contended the City has lost grant funding in the past because of not being shovel-ready.

CIT-2 14-0345 CHRISTINE TIMMON - Red Light Camera Program

Christine Timmon submitted documents for the record, including an article titled "Move to Stop New Red Light Cameras Gets Green Light" published by *News Service Florida* and a brief on red-light cameras published in the *Sun-Sentinel*. She expressed concern over the City of Hollywood's red light camera program. She elaborated on examples where people of different ethnicity and gender were not treated equally. She is suing them for violation of due process and civil rights. Cities collected \$119 million last year yet accidents increased. It is all about raising revenue.

CIT-3 14-0346 ROBERT WALSH - Slumlords and their Lawyers

NOT PRESENT

RESOLUTIONS

R-1 14-0164 QUASI-JUDICIAL - THIRTEEN WEST LAS OLAS PLAT - Case 19P13

Applicant: 13 W Las Olas Blvd LLP
Location: 13 West Las Olas Boulevard
Zoning: Regional Activity Center - City Center (RAC-CC)
Future Land Use: Downtown Regional Activity Center

All individuals wishing to speak on this matter were sworn in.

Members of the Commission announced with whom they had spoken and/or site visits made concerning this matter.

Mayor Seiler reviewed the procedure for the public hearing and opened the floor for public comment.

Attorney John Milledge of John M. Milledge, P.A., representing the Applicant, said the Applicant agrees with staff's recommendation. Additional disclosures were made.

There being no other individuals wishing to speak on this matter, a motion was made by Vice-Mayor Roberts and seconded by Commissioner Trantalis to close the public hearing. Roll call showed: AYES: Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler. NAYS: None.

Vice-Mayor Roberts introduced the resolution, which was read by title only.

ADOPTED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

R-2 14-0265 QUASI-JUDICIAL - EXTENSION OF TIME FOR SITE PLAN LEVEL IV EXPIRATION DATE - GRAND BIRCH CONDOMINIUMS - CASE 53R12

Applicant: Grand Birch Condominium, LLC
Location: 321 North Birch Road
Zoning: Intracoastal Overlook Area (IOA)
Future Land Use: Central Beach Regional Activity Center (C-RAC)

All individuals wishing to speak on this matter were sworn in.

Members of the Commission announced with whom they had spoken and/or site visits made concerning this matter.

Mayor Seiler opened the floor for public comment.

Heidi Davis Knapik of Gunster, Yoakley & Stewart, P.A., representing the Applicant, advised that the site plan was approved in April 2013. Subsequently the City was sued by the Central Beach Alliance (CBA) and Residents for Responsible Growth (RRG), and the Applicant intervened. The Applicant came forward in September, but the Commission asked that the site plan be deferred until the litigation was complete. The litigation has completed. This is a request for an 1-month extension. The litigation

prevented them from getting a building permit or financing. The project has been approved by staff, the Planning & Zoning Board and the Commission. The circuit court dismissed the case. The Applicant withdrew their case.

She confirmed for Commissioner Trantalis that she does not have any evidence of the Applicant's inability to get financing due to the litigation. She does not know if such evidence exists but that is what she was told by her client. She was advised by the City Attorney's Office not to proceed with seeking a permit because of pending litigation. The City Attorney indicated that she was not aware of such advice. Assistant City Attorney D'Wayne Spence advised that the City Attorney's Office did not give that advice. Unless there is a stay from the court, they are obliged to move forward. The City Attorney's Office has advised staff that the Applicant would move forward at their own risk. If they developed the site and an unfavorable ruling was handed down, they would have to demolish the site. Given those facts, a prudent applicant would not move forward. Sustainable and Economic Development Director Greg Brewton understood that staff could not deny a permit if the Applicant met all requirements; however, if they were to lose the court case, they would be subject to damages in terms of demolishing the site. Commissioner Trantalis concluded the request for an extension is based on inability of securing financing and obtaining a building permit, yet there is no such evidence. Knapik indicated the building permit and financing matters discussed are the reasons for seeking this extension.

Knapik confirmed for Mayor Seiler that the CBA and RRG sued the City, and the Applicant intervened. She reviewed the chronology relating to the two lawsuits filed by both the CBA and RRG. A claim was filed for fees against the CBA, but it was withdrawn today.

Fred Carlson, vice-president of the CBA, said he is the former president of the CBA. The Alliance is composed of more than 300 unpaid volunteers who work hard to improve the city. When the Grand Birch was proposed, the CBA thought their plans exceeded the City's guidelines. Neighbors wanted the Commission to deny approval. The CBA board agreed to take the position that the City should deny the project with the proviso that members would ratify the decision by a vote the following day. The RRG approached the CBA about joining the lawsuit, and CBA President John Weaver opted to join the lawsuit because there was a midnight filing deadline, with the understanding they could later withdraw if the membership did not approve. After the board vote of denial, Weaver withdrew the suit but the attorney did not take action, thus causing a six-week delay. It became a situation of attorneys attacking citizen involvement, free speech and so forth.

James Novick, a board member of the CBA and president of Alhambra Condominium Association, said he joined the CBA board after this issue arose. The CBA is a volunteer organization. It is common knowledge that everybody at the CBA meeting wanted to withdraw from the suit. As to the time it took for the CBA to be withdrawn, it was a mistake but that is no reason to bully people who chose to speak out at a public meeting. They are citizens trying to do the right thing for their neighborhood. There was an opportunity to resolve the issue today. Mayor Seiler asked if he is speaking about settlement communications. Novick referred to a communication sent to the Commission today, indicating that Grand Birch was not pursuing John Weaver or the CBA. Mayor Seiler clarified that regardless of whether a lawsuit is pending for one day or six weeks, if it is not withdrawn, it is a lawsuit and a matter of public record. Lenders can see that there is a pending lawsuit. Even though the CBA voted to withdraw the suit, that did not happen in a timely manner. He understands their position that, as long as the lawsuit was pending, they would have to move forward with the project at their own risk. It was the attorney's responsibility to take action. He understood that today the Applicant sent notice to the court stating they are no longer seeking fees against Weaver or the CBA. The issue at hand is why the lawsuit was not dropped immediately after the CBA's vote. A copy of the Applicant's email to the Commission on the matter of no longer seeking fees against Weaver or the CBA is attached to these minutes.

Novick explained that he did not understand why he was served with the lawsuit. It appeared to be a bullying tactic to silence the neighborhood from speaking up. Furthermore, it appeared that there was an opportunity to resolve this matter before this evening and he is unsure why that did not happen.

Charles King, 105 North Victoria Park Road, supported the extension. The developer wants to build an 11-story building, with each unit selling for \$2.4 million. Those buyers will bring their wealth to Fort Lauderdale's economy. They will likely not stay year round and use the roadways or schools. It is an attractive building. He commented that the building next to the proposed project is almost the same height. The City should not be operated in such a way that no one will ever be inconvenienced by construction and no one will ever have an unobstructed view. This is an opportunity to create real estate that can be used as a revenue source.

John Weaver, president of the Central Beach Alliance, supported the extension subject to this issue being worked out. He referred to the letter of withdrawal to say it is probably possible for them to reinstate it easily or go after individuals. Therefore, he felt the lawsuit should be closed with prejudice. He provided a copy of lawsuits for the record that the Applicant determined to be frivolous. They filed the lawsuit on the May 16 because of a filing deadline, not because they were anxious to enter litigation. He read portions of a letter from Gunster, Yoakley & Stewart, P.A. (Applicant's attorney), dated June 24, 2013, which states "... despite the vote of the CBA against joining the litigation ... because the suit is being brought with malice and an improper purpose, Grand Birch will also seek punitive damages. We expect the damages resulting from the pending lawsuits to be millions of dollars, and Grand Birch will seek to trouble that amount in punitive damages." He went on to read from another letter, in which five individuals are referenced. The letter speaks about his comments made at a May 17, 2013, meeting and states that Grand Birch intends to not only pursue the remedies set forth in the June 24 letter but would also seek recourse against the five individuals. He does not believe that Grand Birch's withdrawing the request for attorney's fees closes the pending threat against the five individuals. Mayor Seiler advised that if correspondence between an attorney and his client are submitted for the record, the attorney-client privilege is waived. Weaver went on to say that Grand Birch essentially has a settlement agreement with a couple of members of the RRG. The withdrawal letter is a good first step. He reiterated his request for the case to be closed with prejudice. He went on to comment about the CBA's approval of the project.

Vice-Mayor Roberts thought a counter-suit could be expected. Commissioner Trantalis clarified that the RRG and CBA sued the City and the developer intervened. It was not a counter-suit. As a result, the developer participated in the suit at their own risk. Once the suit was dismissed, they determined they wanted \$7,000 in attorney's fees. Furthermore, this is not over because the threatening letters leave open the opportunity for litigation to continue against the individuals. Mayor Seiler explained that the lawsuit revolved around the Grand Birch property. In response to Mayor Seiler, the City Attorney advised that a significant amount of staff time, at least three weeks and more than 20 hours, was spent on this case. Commissioner Trantalis went on to say that the Applicant is asking for an extension based on the premise of their inability to get financing and a building permit, of which there is no evidence. He believed the developer has agreed to withdraw the request for attorney fees only because they want the extension granted tonight.

Weaver clarified that he would like the extension approved. When the CBA joined the lawsuit, they were concerned about neighborhood compatibility. When the CBA voted against the lawsuit, Don Hall of the law firm representing the Applicant, was in attendance. Mayor Seiler pointed out that the City was sued. He wanted to know when the City knew that CBA was not going to pursue this. The suit against the City was filed May 16, and dismissed on July 8. If the City Attorney did not know the suit was dismissed and spent three weeks preparing to respond, he could understand why that would be a problem. The City Attorney agreed to determine the date on which the City was notified that the lawsuit was dropped. Even when the CBA dropped out, the City was still in litigation with the RRG. Weaver believed the City was

notified on July 8. The City is not counter-suing and/or threatening individuals for millions of dollars. He was concerned about bullying and sneak attack tactics. Mayor Seiler explained that the CBA chose to initiate a lawsuit yet there are comments about a sneak attack. Weaver said the only way for a neighborhood group to question a Commission decision is to sue the City. Grand Birch's threat against individuals still remains. If they back off that threat, the issue is resolved. Some dialogue pursued as to Grand Birch suing the CBA. Mayor Seiler thought it is not the Commission's place to intervene in a legal dispute between an entity that sued the City and a developer. The Commission cannot negotiate and impose conditions that involve settling a dispute. In response to Commissioner Trantalis, Weaver said that despite the legal issues, he does not think that Grand Birch should be delayed. Although this has not been discussed with the CBA board, he thought that would likely be their opinion as well. The City Attorney advised that the land development regulations are clear. There are two considerations: that the applicable remain the same and whether there is a finding of good cause to grant the request. This is not a situation in which the Commission has authority to impose additional conditions.

In response to Weaver, Knapik confirmed that the Applicant is withdrawing legal action against the CBA. In her work, she is not involved in litigation. Mayor Seiler suggested that Weaver work with the Applicant's attorneys to reach a resolution.

Art Seitz, 1905 North Atlantic Boulevard, noted that the Central Beach Alliance is a not-for-profit entity that is not recognized by the Fort Lauderdale Council of Civic Associations. No one would care about this organization except that it has approved billions of dollars in projects. He detailed how a previous board vice-president was ousted because he did not live on the beach. Another was told she did not file her application on time. The CBA imploded after Fred Carlson resigned and John Weaver and Lester Zalewski took over. The current president lives in Victoria Park. Seitz added that he was elected to the board. At the time of re-election, he asked for a quorum count. The claim was made that there were 350 members yet there were only 24 people present. Both Carlson and Weaver speak on behalf of the CBA without prior consultation.

There being no other individuals wishing to speak on this matter, a motion was made by Commissioner Trantalis and seconded by Vice-Mayor Roberts to close the public hearing. Roll call showed: AYES: Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler. NAYS: None.

Mayor Seiler commented that he has great respect for the CBA and values its members' input. He respects the work of Weaver, Carlson and Novick. However, two lawsuits were filed against the City that directly impacted the project of the party that intervened in the lawsuit. Because of the lawsuit, it is doubtful that financing could be secured and it does not make sense to spend money on permits and construction at the risk of a lawsuit. He understands the request for an extension. He hopes the involved parties can work out their differences and come to a good faith resolution. This should be a lesson for the CBA that if they are going to rush to file an unsupported lawsuit, there should also be a sense of urgency when they opt to dismiss it. More than 20 hours of time in the City Attorney's Office was spent from the taxpayers' pocket. As to rushing to the courthouse, he hoped this message is received by all sides.

Commissioner Trantalis did not believe there was sufficient evidence presented this evening to authorize the extension on the basis that they were unable to get financing. Evidence presented tonight indicates additionally that the building permit was not denied. It was a business decision on the part of the Applicant to not move forward which has nothing to do with the City's responsibility to grant an extension. The Commission should evaluate the process that was invoked. The CBA members should have the right to speak their opinions and have decisions made by a court. The Applicant was not asked to intervene and did so at their own risk. The Commission should discourage the writing of threatening letters and

attempting to intimidate people. It would send the wrong message if such poor conduct is rewarded. The Applicant should not put neighborhoods, individuals and the City at risk.

Vice-Mayor Roberts pointed out that the neighborhood supports the extension. He supported the Mayor's suggestion to work out differences in advance. Everyone wants the project to go forward. The Commission already approved this project. He felt the other issue should be resolved outside of the City's auspices.

Vice-Mayor Roberts introduced the resolution, which was read by title only.

ADOPTED

Aye: 4 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner DuBose and Mayor Seiler

Nay: 1 - Commissioner Trantalis

R-3 14-0241 APPOINTMENT OF CITY BOARD AND COMMITTEE MEMBERS - vacancy information provided under Conference Item BD-2

The City Clerk announced the appointees/re-appointees who were the subjects of this resolution:

- Aviation Advisory Board
 - Tom Moody (Mayor Seiler)
 - Dana Pollitt (Vice-Mayor Roberts)
 - Michael Grimme (Commissioner Trantalis)
 - Ed Kwoka (Commissioner Trantalis)
- Budget Advisory Board
 - David Orshefsky (Commissioner Trantalis)
- Community Appearance Board
 - David Bowles (Commissioner Trantalis)
 - Paul Czerwonka (Commissioner Trantalis)
 - Camille Hansen (Commissioner Trantalis)
 - Kennon Blake Williams (Commissioner Trantalis)
 - Jiro Yates (Commissioner Trantalis)
- Education Advisory Board
 - Magdalene J. Lewis (Mayor Seiler)
 - Maureen Persi (Mayor Seiler)
 - Chet A. Ludwick (Vice-Mayor Roberts)
 - Austin Edward Scott (Vice-Mayor Roberts)
 - Jennifer Kimmey (Commissioner Trantalis)
 - Edna Elijah (Commissioner DuBose)
 - Wayne Neunie (Commissioner DuBose)
 - Chet A. Ludwick (Vice-Mayor Roberts)
 - Lillian Small (Commissioner DuBose)
- Historic Preservation Board
 - George Figler (Commissioner Trantalis)
 - Timothy Mark Lyons (Commissioner Trantalis)
- Marine Advisory Board
 - Frank Herhold (Mayor Seiler)
 - Joe Cain (Vice-Mayor Roberts)
 - John T. Holmes (Vice-Mayor Roberts)
 - Tom Tapp (Vice-Mayor Roberts)

Robert Dean (Commissioner Trantalis)
Jimmie Harrison (Commissioner Trantalis)
Jack Newton (Commissioner Trantalis)

Sustainability Advisory Board

Jim Wood (Commissioner Trantalis)

Commissioner DuBose introduced the resolution, which was read by title only.

ADOPTED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PUBLIC HEARINGS

PH-1 14-0313 QUASI-JUDICIAL - RESOLUTION - WAIVER OF LIMITATIONS OF UNIFIED LAND DEVELOPMENT REGULATIONS, SECTION 47-19.3.D for construction of nine triple-pile clusters extending a maximum of 125 feet from property line into Middle River - 704 NE 20 Avenue

Applicant: Shawn and Jennifer Benyo

All individuals wishing to speak on this matter were sworn in.

Members of the Commission announced with whom they had spoken and/or site visits made concerning this matter.

Mayor Seiler reviewed the procedure for the public hearing and opened the floor for public comment.

Attorney Tyler Chappell of The Chappell Group, representing the Applicant, advised that the Applicant went before the Marine Advisory Board in December 2013 and received unanimous approval for a 166-foot mooring pile cluster. At the request of the Commission, the Applicant returned to the Marine Advisory Board and received unanimous approval for a reduced 125-foot cluster. The item was deferred from the Commission's February 18 meeting because there was a need to clarify the minutes of the two board meetings. The residence will be occupied by a tenant or renter who will be the owner or owner's representative of the vessels moored behind the residence. All activity of the house must conform with the neighborhood as outlined in the City's Code of Ordinances. Parking will be confined to the property, not on the street or in the right-of-way. The Applicant has received 10 letters of support, including letters from adjacent property owners to the north and south and to the west across NE 20 Avenue. Additionally, he met with the City Manager and confirmed that the owner will ensure that the tenants conform with the code. Some revisions were made to provisions outlined in correspondence with Commissioner Trantalis to ensure that the house and activity would conform with Chapter 9 of the Code of Ordinances. Additionally all work that would be performed on the vessels at a shipyard would not be allowed.

In response to the City Manager, Chappell said that the Applicant did not agree to limiting occupancy to four adults. With it being a three-bedroom home, such a limitation would not be in conformance with the Code of Ordinances or the housing code. It is understood there would not be numerous individuals residing at the property. Discussion ensued as to an occupancy limitation. The City Manager pointed out that the housing code would allow for an occupancy of 12 which he felt is excessive. Mayor Seiler wanted to limit occupancy to no more than six unrelated adults, which would allow two individuals per bedroom. There also are six parking spaces. The Applicant agreed to that condition.

Charles King, 105 North Victoria Park Road, said he is a real estate agent and lives in this neighborhood. He opposes the item. He discussed property values in this neighborhood. He would like the Commission to change the zoning and develop a plan to improve this area so that this does not continue. He questioned who decided that there are six parking spaces at this residence. This is a derelict home. No one would think this is a waterfront property, but because there is space for a massive boat, it has value. He questioned whether the two boats to be docked at this property would be owned by the same individual. He advocated for developing a plan for this area and changing the zoning to townhouses, for example.

There being no other individuals wishing to speak on this matter, a **motion** was made by Commissioner Trantalis and seconded by Vice-Mayor Roberts to close the public hearing. Roll call showed: AYES: Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler. NAYS: None.

Commissioner Trantalis raised the issue of enforcement. The City Manager said he is unsure about an enforcement mechanism. If staff believes there to be more than six adults in the house, a search warrant must be obtained, which would be a cumbersome task. Assistant City Attorney Bob Dunckel said this waiver is being granted under the Unified Land Development Regulations (ULDR) and therefore, attached conditions, if violated, can be prosecuted before the Code Enforcement Board. Commissioner Trantalis said it appears the City has a weakened stance in terms of enforcement. The survey shows a 60-foot-wide lot that may not accommodate more than four or five vehicles. The complexion of the street is changing, which is not necessarily a bad thing. They have discussed increasing opportunities for dock space. The concern is about impact in the neighborhood. He appreciates the Applicant's promise, but that may not be the case with a future owner of the property. The City Manager did not believe there is an easy answer if any. Commissioner Rogers agreed that the complexion of the street has changed and it is positive for the marine industry which is the city's largest industry. As long as it does not negatively impact the surrounding property, it will be OK. The restrictions lend themselves to responsible ownership and oversight. It is no different than when conditions are imposed on other uses. The decision should be based on the facts presented. The property is in terrible condition and this owner will improve it. He felt it will be a positive change. In response to Commissioner Trantalis, Dunckel said a clause outlining that a violation of conditions would result in forfeiture of the waiver could be added.

Vice-Mayor Roberts and Mayor Seiler commented that they have no concerns related to the current property owner. Discussion turned to protection for the future. Commissioner Rogers felt that adding the marine dimension to the property is positive. The imposition of removing the waiver would remove that positive aspect. Mayor Seiler pointed out that if the waiver is revoked and the property is converted back to its current condition because there is no dockside activity, then the purpose is defeated because the property could deteriorate again. Vice-Mayor Roberts was not aware of any issues with other waivers that were granted. Commissioner Trantalis said there have been complaints about a "party house" nearby on 20 NE Avenue.

Chappell added that there is an ongoing revitalization effort on this street. There have been numerous waivers issued and most of the homes are being renovated. There are other residents on the street that have spent hundreds of thousands of dollars and will not turn their properties into something detrimental to the neighborhood. An opportunity will be lost if the Applicant is not allowed to sell the property with its marine use. There is one problem property, but that owner's actions should not have an adverse impact on the other property owners on this street.

Mayor Seiler felt the district commissioner should remain vigilant as to what is occurring on this street and any violations. This Applicant has shown a willingness and ability to do the right thing.

Vice-Mayor Roberts introduced the resolution subject to provide if the residence is non-owner occupied, it shall be occupied by a tenant/renter who will be the owner or owner's representative of the vessels moored behind the residence. Tenant will be leasing a single-family residence and all activity must conform with the neighborhood and applicable to the code of ordinances. All parking will be confined to the property with occupancy limited to six adults over the age of 18. No work would be performed at the residence that would be performed at a shipyard or commercial facility. All conditions of the resolution were which was read by title only, were accepted by the Applicant.

ADOPTED AS AMENDED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PH-2 14-0271 QUASI-JUDICIAL -SECOND READING OF ORDINANCE - CONRAD FORT LAUDERDALE BEACH RESORT - application of prior zoning regulation to the calculation of gross floor area - Unified Land Development Regulations, Section 47-2.2C - Site Plan Level IV Development Permit - Case 75R13

All individuals wishing to speak on this matter were sworn in.

Members of the Commission announced with whom they had spoken and/or site visits made concerning this matter.

Mayor Seiler opened the floor for public comment.

Art Seitz, 1905 North Atlantic Boulevard, said there are a lot of impediments on State Road A1A that need to be removed. He hopes that they add bicycle racks and palm trees on the east side of A1A. Widening A1A should be a goal of every new development or redevelopment. Ten feet should be the minimum for a sidewalk. There needs to be a safe way to get people attending events on the beach home. He supports impact fees. More palm trees are needed on the beach. Many have been washed away and they need to be replaced, especially north of Sunrise Boulevard.

There being no other individuals wishing to speak on this matter, a **motion** was made by Commissioner Trantalis and seconded by Commissioner Rogers to close the public hearing. Roll call showed: AYES: Commissioner Rogers, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler. NAYS: None. NOT PRESENT: Vice-Mayor Roberts

Commissioner Trantalis introduced the ordinance, which was read by title only.

In response to Commissioner Trantalis, Director of Transportation and Mobility Diana Alarcon said staff is working on a variance request through the Florida Department of Transportation that would allow for trees to line the east side of the roadway. There is not a designated project for this area. However the Beach Master Plan includes trees lining the entire A1A corridor in streetscape improvements and a variance has been submitted for this if the opportunity arises.

ADOPTED ON SECOND READING

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

PH-3 14-0247 MOTION - SUBSTANTIAL AMENDMENT TO 2009-2010, 2010-2011, 2011-2012 AND 2012-2013 ANNUAL ACTION PLANS OF 2005-2010 AND 2010-2015 CONSOLIDATED PLANS FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Mayor Seiler opened the floor for public comment.

Frank Jean-Mary, 9620 Bolder Street, said he is speaking on behalf of Grace Community Development Inc., Pastor Luke Harrigan and the Haitian community, 30,000 voters who live, work and vote in Fort Lauderdale. Funding is available for community projects but none of the projects are for the Haitian community. Overlooking of the Haitian community needs to stop. Grace Community Development submitted a proposal, but it is not being considered. Pastor Luke Harrigan met with the City Manager last week to review the proposal. There are leftover funds that must be spent, and the same agencies that have already received funding will be getting more money while the Haitian community is left out of the process. Their proposal was for a building that would serve the Haitian community with youth crime prevention, after-school programs, civic programs and family empowerment programs. He asked that funds be allocated to the Haitian community.

Mayor Seiler advised that the proposal was submitted just last week. Other agencies submitted applications up to five years ago. There is a time frame in which the Community Development Block Grant (CDBG) funds must be spent. The City Manager explained there is no pending contract or property or specific dollar amount. Staff was looking for agencies that are familiar with the paperwork because the funds need to be spent quickly. Berry indicated they have a property under contract at 2301 NW 19 Street that is owned by Axel Motor Inc. He believed Axel Motor Inc. is a for-profit corporation, but the purchaser would be Grace Community Development Inc., which is a non-profit agency. He was unsure whether the organization has qualified for CDBG funds in the past.

Mayor Seiler advised that he met with Pastor Harrigan about this project roughly 10 days ago. He provided the paperwork, but it missed this cycle. At the time there was no property under ownership. The City Manager advised that the funds have to be spent by July 30.

Vice-Mayor Roberts commented that he also met with Pastor Harrigan, who was asking for \$150,000. Berry clarified they need \$250,000. Vice-Mayor Roberts inquired whether Grace has additional funds beyond \$150,000 to complete the building purchase. Berry said if the City made the allocation, they would contact other partners to raise the balance. Mayor Seiler explained if Grace cannot guarantee this, the City would be in violation. The City Manager said it is preferable if agencies spend the money prior to the July 30 deadline to allow time for processing paperwork. If the deal does not go through, it causes a problem for the City. Berry said they will do their best to spend the money by June 30. If they could be awarded \$250,000, they would definitely be able to spend it. Mayor Seiler noted that an allocation of \$150,000 would be the largest amount dispersed to a single agency. Berry thought that if they had \$150,000 they could mortgage the additional \$100,000. Mayor Seiler explained this is a one-time allocation. Banks would have difficulty lending to an agency that has no guaranteed revenue stream. Berry said the agency does have a revenue stream. He was unable to provide specifics about their operating budget.

Commissioner DuBose was concerned because allocations related to CDBG funds must be advertised. The City has experienced problems in the past with doing the right thing, but not complying procedurally. If this deal does not go through, it would affect other eligible communities. This proposal was not included in the original notice which is required by HUD. In order for the Commission to comply with the process, this needs to be voted on soon. More time should have been allowed for the Commission to consider this. If the funding allocations are amended, it would have to be re-advertised and the process restarted.

The timeline is already tight. Jean-Mary asked if this has to be voted on this evening. Mayor Seiler confirmed that the Commission needs a guarantee that the agency can spend \$150,000 and raise the additional funds to purchase the building. The program would also need to be approved. Commissioner DuBose explained that the process does not allow the Commission to reconsider the proposal at the next meeting in two weeks. The public notice period is longer than two weeks. If the window of opportunity is missed, not only would Grace not receive funding, but the other agencies that followed the process would not receive funding. The timing is problematic procedurally.

Commissioner Trantalis thought it is a shame that this community is underserved and overlooked. Hopefully this will be a learning experience to allow them a future opportunity to go through the process long before the deadline. They are getting tangled up in the red tape. He hopes the Haitian community will be able to have a community center. The Commission's hands are tied because of federal government requirements. He would like staff to assist Grace through the process so they are first in line in the next cycle. Commissioner DuBose added that they have been awarded funding in the past. There is a desire to help; it is about the federal government and their guidelines. Also, there are never enough dollars to meet all of the needs. The City Manager advised that applications for the next cycle are being accepted now, which he outlined to Pastor Harrigan. Funding awards will be allocated next October. Applications will be reviewed by the Community Services Board and a recommendation presented to the Commission.

Mayor Seiler noted that the identified property is assessed at \$132,000 but the owners have quoted a sale price of \$250,000. He was unsure whether CDBG guidelines would allow an expenditure with such a variance between sale price and assessed value. Assistant City Attorney Cole Copertino advised that CDBG funds can be used to purchase a building, as long as the substantial activity is for the CDBG purpose. Any percentage of activity that is unrelated cannot be covered with CDBG funds. Mayor Seiler clarified that if 25 percent of the activities meet CDBG guidelines, CDBG could fund 25 percent of the building purchase. Copertino explained there are other components to the process, but generally that is correct. There are guidelines governing maximum purchase prices but presumably it would have to be within the market rate. Mayor Seiler felt the building will need significant renovations and asked if CDBG funds could be used if it was going to take 18 months, for example, to open the center. Copertino advised that the building would have to meet certain guidelines for the use. The same funding source could not be used to operating the activity that is used to purchase the building.

In response to Mayor Seiler, Berry indicated that Grace has received pledges for additional funding and anticipates opening by the beginning of June for summer programming. Mayor Seiler pointed out that if CDBG funds are used, the building must comply with state and federal laws. He was unsure whether the building is even zoned for use as a community center. These issues should have been addressed last year for timeliness with the current funding cycle. He explained that as an example if 20 percent of what is being done in the building is CDBG compliant, that is the percentage that is possible.

Discussion ensued about the property's zoning and purchase price. The City Manager noted that the property was foreclosed on by SunTrust Bank and sold to Axel Motor Inc. several months ago for \$80,000. Mayor Seiler questioned a sale price of \$250,000 based on that information. Berry explained that terms of the purchase were negotiated prior to him joining the organization. He understood the urgency and ramifications of expending the grant funds within the specified timeline. Director of Sustainable and Economic Development Greg Brewton advised that the property is zoned commercial. A community center would be allowed, subject to site plan conditions. In response to Mayor Seiler, Berry advised that there are two purchase contracts for the property. Only one is executed. The seller has indicated they would have no problem executing the other contract with Grace. There are two additional properties that have been identified. Mayor Seiler emphasized challenges relating to the deadline. He would be happy to try to find some funding for the Haitian community in the next cycle. Although he

understands these difficulties, he reiterated that the Haitian community has been overlooked and he inquired about the next available funding cycle. Mayor Seiler encouraged Grace to submit an application for next year's cycle which is starting now. He agreed with Commissioner DuBose that as to procedural mistakes related to CDBG funding allocations approved by a previous commission that this Commission had to address and consequently this money could be put at risk. Commissioner DuBose said the Commission is not saying no, but rather now is not the appropriate time. CDBG dollars have previously been awarded to the Haitian community, specifically Minority Development. Berry contended that business is not a Haitian organization. Commissioner DuBose indicated that Minority Development claimed they were helping the Haitian community. There is a desire on the part of the Commission to help, but the due diligence needs to be done first. Berry said he would like that desire translated into action. Commissioner DuBose said it is a partnership; the Haitian community has to do its part.

Mayor Seiler again pointed out that Axel Motor Inc. purchased the property less than a year ago for \$80,000 and is now selling it for \$250,000.

Commissioner Rogers advised that the Commission wants to help, but it is not possible during the current funding cycle. He also referenced penalties previously assessed by HUD. Now is the time to start the process for the next funding cycle.

Berry said he will work with Pastor Harrigan to complete the requirements and apply for funding in the next cycle. He reiterated that the Haitian community feels it has been left out of the process. Although funding was allocated to Minority Development, whose leader is Haitian, that organization does not have the same stature as Grace. Both Commissioner DuBose and Brewton agreed to work with Berry to assure they are guided through the next funding cycle.

Mayor Seiler clarified that Axel Motor Inc. also owns two adjacent properties on NW 19 Street. The property at 2301 is a duplex and the other at 2401 is 600 square feet. One was purchased for \$80,000, and the other for \$100,000.

Fenel Antoine, 1619 NW 14 Avenue, said he was a member of the advisory board in 2009 when Pastor Harrigan submitted an application for funding. He believed there are 2,000 people who support funding for a community center. He asked Commissioner DuBose to support the Haitian community. He asked the Commission to help address this matter and not exclude them.

There being no other individuals wishing to speak on this matter, a **motion** was made by Commissioner Trantalis and seconded by Vice-Mayor Roberts to close the public hearing. Roll call showed: AYES: Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler. NAYS: None.

Motion made by Commissioner Trantalis and seconded by Vice-Mayor Roberts to approve the item as recommended.

APPROVED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

ORDINANCES

O-1 14-0353 FIRST READING OF ORDINANCE - VACATION OF 30 FOOT RIGHT-OF-WAY - amending Exhibit A to Ordinance C-14-09 - Wal-mart shopping center development on south side of West

Broward Boulevard between SW 24 and 27 Avenues - Case 26P13

Commissioner DuBose introduced the ordinance, which was read by title only.

PASSED FIRST READING

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

- O-2 14-0342** FIRST READING OF ORDINANCE AMENDING CODE OF ORDINANCES, CHAPTER 2, ARTICLE IV, DIVISION 2, SECTION 2-127, APPROVAL OF CHANGE ORDERS AND TASK ORDERS - authorizing City Manager or designee to approve in the aggregate do not exceed original contract amount approved by City Commission

In response to Commissioner Trantalis, the City Manager explained this does not make any changes to the process related to change orders. The Commission approves items related to professional services such as environmental engineering and it is estimated the City will spend \$200,000 on environmental engineering services each year. According to the way the code reads, once \$25,000 is spent under that contract, every new activity has to come back to the Commission. On the last agenda, a \$5,566 task order was processed. Even if a contract was not in place, it would be under the City Manager's authority to make the expenditure. However because of this code provision, it has to go before the Commission. The purpose is to speed up the process. Commissioner Trantalis explained there was a reason for the \$25,000 cap. This appears to be a loophole to go beyond it. The City Manager explained this situation was created unintentionally when revisions were made to the change order process about a year ago. At that time, change orders and task orders were lumped together in the amendment. Prior to that time, the City Manager had such authority. This would bring the standard back to where it was when he came on board.

Mayor Seiler was concerned that the city manager's designee is allowed approval authority. If that designee is, for example, the Director of Finance, it removes the opportunity for an additional review. He referred to Page 1 of Exhibit 1 and suggested revising the language to read, "Notwithstanding the foregoing paragraph, the city manager is authorized to approve task orders in amounts that, in the aggregate, do not exceed the contract amount of the corresponding existing contract." He clarified that he is speaking about authority to the city manager alone.

Vice-Mayor Roberts introduced the ordinance as amended above, which was read by title only.

PASSED FIRST READING AS AMENDED

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

- O-3 14-0156** FIRST READING OF ORDINANCE AMENDING CODE OF ORDINANCES, CHAPTER 20, ARTICLE IV, DIVISION 3, POLICE AND FIREFIGHTERS RETIREMENT SYSTEM - relating to ratified agreements with Fraternal Order of Police, Lodge 31

Mayor Seiler opened the floor for public comment.

Charles King, 105 North Victoria Park Road, believed this adds up over a 30-year period to some \$67 million. He questioned this being pension reform. Little attention is being given to the matter, but it is where almost all of the City's money goes. He advocated for a defined contribution concept. Overall he felt the City is generous. He felt it should be something affordable to the City. The City Manager explained that state law dictates that acceptance of the insurance premium requires that the City have a defined benefit plan.

There was no one else wishing to speak.

Commissioner Trantalis advised that although he did not agree with the measure originally because he did not think it was enough, this is a reduction in the right direction. It will allow the City to save with respect to the pension program.

Commissioner Trantalis introduced the ordinance, which was read by title only.

PASSED FIRST READING

Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

**O-4 14-0107 QUASI-JUDICIAL - SECOND READING OF ORDINANCE
REZONING TO PARKS, RECREATION AND OPEN
SPACE (P) - Case 13Z12**

Applicant: Lauderdale Yacht Club
Location: South Side of SE 12 Street between Cordova Road and Intracoastal Waterway
Current Zoning: Residential Low Rise Multifamily/Medium High Density District (RML-25)
Future Land Use: Medium High Residential

Members of the Commission announced with whom they had spoken and/or site visits made concerning this matter.

Mayor Seiler opened the floor for public comment.

There being no individuals wishing to speak on this matter, a motion was made by Vice-Mayor Roberts and seconded by Commissioner Trantalis to close the public hearing. Roll call showed: AYES: Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler. NAYS: None.

Commissioner Trantalis introduced the ordinance, which was read by title only.

ADOPTED ON SECOND READING

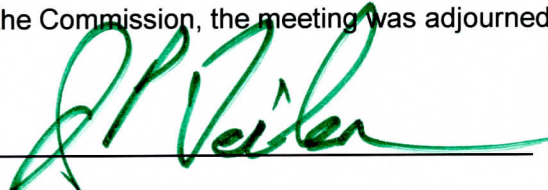
Aye: 5 - Commissioner Rogers, Vice-Mayor Roberts, Commissioner Trantalis, Commissioner DuBose and Mayor Seiler

OTHER BUSINESS

OB REQUEST FOR CLOSED SESSION

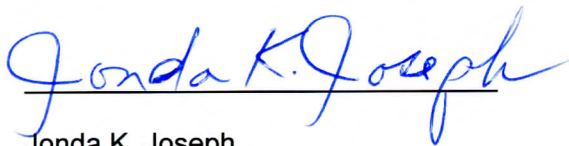
The City Attorney requested a closed door meeting for March 18, 2014.

There being no other matters to come before the Commission, the meeting was adjourned at 10:02 p.m.



John P. "Jack" Seiler
Mayor

ATTEST:



Jonda K. Joseph
City Clerk

April Saginor

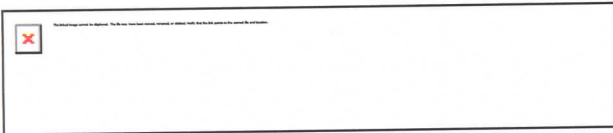
From: Davis, Heidi <HDavis@gunster.com>
Sent: Tuesday, March 04, 2014 3:11 PM
To: Jack Seiler; Bruce G. Roberts; Romney Rogers; Bobby B. DuBose; Dean Trantalis
Cc: Lee Feldman; Cynthia Everett; Hargreaves, Mary; Hall, Donald
Subject: Grand Birch, LLC
Attachments: Grand Birch, LLC.PDF; image002.jpg
Importance: High

**NOT RECEIVED
AT MEETING**

Dear Mayor and Commissioners – Please see the attached letter, which is in response to Central Beach Alliance President John Weaver’s recent email and clarifies the litigation involving Grand Birch, LLC. All of the litigation relating to the Grand Birch site plan has been completed.

Although unrelated to the site plan litigation, we hereby notify you that Grand Birch, LLC has withdrawn its motion and will not seek to recover attorney fees or costs against the Central Beach Alliance. The Notice of Withdrawal is also attached.

Please do not hesitate to contact me if you have any questions. Thank you, Heidi



Heidi Davis Knapik | Shareholder
Las Olas Centre, 450 East Las Olas Boulevard, Suite 1400
Fort Lauderdale, FL 33301-4206
P 954-468-1391
gunster.com | [View my bio](#) | hdavis@gunster.com



March 4, 2014

The Honorable John P. "Jack" Seiler, Mayor
The Honorable Bruce G. Roberts, Vice Mayor
The Honorable Dean J. Trantalis, Commissioner
The Honorable Bobby B. DuBose, Commissioner
The Honorable Romney Rogers, Commissioner
City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

Re: Grand Birch, LLC, Case No. 53-R-12 – Request for Extension of Time for Site Plan Expiration (City Commission Agenda Item #R-2)

Dear Mayor, Vice Mayor and Commissioners:

We are in receipt of John Weaver's March 3, 2014, email to the City Commission, and, on behalf of Grand Birch, LLC, please consider this response.

Grand Birch never sued the Central Beach Alliance. The Central Beach Alliance and Residents for Responsible Growth LLC sued the City of Fort Lauderdale in a lawsuit that alleged that Resolution No. 13-65, approving Grand Birch's development plan, was inconsistent with the City's Comprehensive Plan. Grand Birch intervened in the lawsuit, and successfully dismissed the declaratory judgment count relating to the location of the pool. The remainder of the lawsuit, including the Chapter 163 counts, was voluntarily dismissed after the plaintiff's own expert witness testified that the Grand Birch development plan was not inconsistent with the City's Comprehensive Plan. As allowed by statute, Grand Birch simply requested its attorney's fees incurred in its successful defense of the Chapter 163 lawsuit. Grand Birch has never filed a lawsuit requesting compensatory or punitive damages from the Central Beach Alliance

Nevertheless, Grand Birch has withdrawn its request for attorney's fees with respect to the Central Beach Alliance. A copy of the Notice is attached. Grand Birch already has suffered from unnecessary delays and expenses resulting from a frivolous lawsuit, and Grand Birch wants to move forward. We appreciate the City's consideration of the application.

Sincerely,

Michael W. Marcil

MWM/mh
FTL_ACTIVE 4448512.1

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

RESIDENTS FOR RESPONSIBLE GROWTH,
LLC, a Florida Limited Liability Company,

Plaintiff,

vs.

CITY OF FORT LAUDERDALE, FLORIDA,
by and through its City Commission, a Florida
municipality,

Defendant,

and

GRAND BIRCH, LLC, a Florida Limited
Liability Company,

Defendant-Intervenor.

Case No. 062013CA011308AXXXCE

**GRAND BIRCH, LLC'S NOTICE OF WITHDRAWAL OF GRAND BIRCH, LLC'S
AMENDED MOTION FOR SANCTIONS AGAINST PLAINTIFF, CENTRAL BEACH
ALLIANCE OF FORT LAUDERDALE, INC., PURSUANT TO FLORIDA STATUTES
SECTION 163.3215(6)**

Defendant-Intervenor, Grand Birch, LLC, by and through its undersigned counsel, hereby files its Notice of Withdrawal of Grand Birch, LLC's Amended Motion for Sanctions against Plaintiff, Central Beach Alliance of Fort Lauderdale, Inc., pursuant to Florida Statutes Section 163.3215(6).¹

¹Grand Birch's Motion for Entitlement to Reasonable Expenses Incurred in Chapter 163 Consistency Challenge Filed by Plaintiff, Residents for Responsible Growth, LLC and Request for Evidentiary Hearing as to Amount of Reasonable Expenses, served on November 19, 2013, remains pending as to Becker & Poliakoff, P.A., Arnstein & Lehr, P.A., Keith Poliakoff, Michelle Klymko and Daniel Wallach.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via email to:
Edward R. Blumberg (erb@deutschblumberg.com), Deutsch & Blumberg, P.A., Counsel for
Daniel L. Wallach and Becker & Poliakoff, P.A., New World Tower, Suite 2802, 100 North
Biscayne Boulevard, Miami, Florida 33132; James C. Brady, Esquire (jcbrady@arnstein.com),
Arnstein & Lehr, P.A., 200 East Las Olas Boulevard, Suite 1700, Fort Lauderdale, Florida
33301; and Ginger Wald, Esquire, City of Fort Lauderdale, 100 North Andrews Avenue, 7th
Floor, Fort Lauderdale, Florida 33301 (gwald@fortlauderdale.gov), this 4th day of March, 2014.

GUNSTER, YOAKLEY & STEWART, P.A.
450 East Las Olas Boulevard, Suite 1400
Fort Lauderdale, Florida 33301
Tel: (954) 462-2000
Fax: (954) 523-1722

By: /s/ Jonathan K. Osborne
MICHAEL W. MARCIL, ESQ.
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mmarcil@gunster.com
JONATHAN K. OSBORNE, ESQ.
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josborne@gunster.com
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