

City of Fort Lauderdale

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



Meeting Minutes - DRAFT

Tuesday, May 7, 2013

1:30 PM

City Commission Conference Room

City Commission Conference 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
HARRY A. STEWART, City Attorney

Meeting was called to order at 1:35 P.M. by Mayor Seiler.

ROLL CALL

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

Also Present: 5 – City Manager Lee R. Feldman, City Auditor John Herbst, City Clerk Jonda K. Joseph, City Attorney Harry A. Stewart, Sergeant At Arms Sergeant Joel Winfrey

CITY COMMISSION REPORTS

Events and Matters of Interest

Members of the Commission announced recent and upcoming events and matters of interest.

Florida History Center Grant Application to Florida Division of Cultural Affairs; Request for Letter of Support

Vice Mayor Roberts referred to a request from the Florida History Center for a letter of support concerning their grant application to the Florida Division of Cultural Affairs. There was consensus agreement for the Commission Assistant Coordinator to draft a letter.

Consolidation of E-911 Communications

Vice Mayor Roberts announced that the County Commission voted 5-4 in favor of a consolidated system.

The City Manager advised that outstanding from the City's perspective is what the City paid for fiscal year 2012 and for 2013. He recalled at the City's joint meeting with the County, they had brought forward \$2.75 million for fiscal year 2013 and the City had proposed that amount for both years. In response to Commissioner Trantalis, the City Manager advised that the only portion that has not been paid by the City is from February 1 through August 30 of 2012. There is some intention from the County that the City should pay for that period which is roughly \$3.6 million. Discussion followed about the Sheriff's responsibility and the County's position. Vice Mayor Roberts also noted that Fort Lauderdale will be one of the last cities to transition into the consolidated system. Concluding, Commissioner Rogers felt the City should maintain its position.

Dock Waivers

Commissioner Rogers felt there is need to revise the code on this subject based on the numerous waiver applications coming forward. There was consensus. He noted it could be raised at the May 13 workshop (marine industry strategy).

Grant Acceptance – Re-Engage For Good City Challenge Grant – Volunteer Services Network - \$30,000 from Community Foundation of Broward Inc. – Regular Meeting Agenda Item M-3

In response to Mayor Seiler, the City Attorney advised that it is recommended the indemnification language be removed.

CONFERENCE REPORTS

CF-1 13-0623 PROPOSED LIEN SETTLEMENTS - SPECIAL MAGISTRATE AND CODE ENFORCEMENT BOARD CASES

The City Manager referred to Exhibit 3 of Commission Agenda Memorandum 13-0623 concerning a single family residence at 6721 NW 26 Way (CT09062372) that he is not recommending. (Agenda information showing 6421 is a typographical error) It is a short sale and the settlement price was \$156,000. The Property Appraiser shows the property at a little over \$190,000. They are seeking relief below the lien amnesty amount of \$22,000. The last offer from the seller was roughly \$5,600. The property is still in the name of the original seller. Commissioner Trantalis concluded the bank is looking for a release of the lien otherwise they would have to absorb it as it is being sold for less than the mortgage.

Returning to other cases in listed order, there was consensus approval of recommendations for 1701 SW 11 Court (CE12041348) and 2640 Riverland Road (CE12061218). The City Manager provided more detail concerning two liens for 5201 NW 24 Terrace. Commissioner DuBose wanted to be certain that precedent is not being set that could be used as a loop hole in the future. Commissioner Trantalis felt each case is handled independently.

The Commission returned to Case CT09062372, 6721 NW 26 Way. Craig Weber advised that both of the property owners, his mother and sister, have health issues. He expanded on what has occurred historically, including his degree of communication with his mother and cooperation on her part. His mother and sister will not get anything from this short sale. Commissioner Trantalis pointed out if a consensus is not reached, the property will go into foreclosure and the City's liens would be wiped out. Mr. Weber indicated the offer amount is \$5,600. Mayor Seiler and Commissioner Rogers supported the City Manager's recommendation of \$6,511. Discussion followed concerning the potential for another buyer to absorb the cost as well as property values and real estate listings in this neighborhood (Palm Aire Village). Mayor Seiler emphasized that approval of anything below the City's hard costs would be a burden to the taxpayers. There was consensus approval for settlement in the amount of \$6,342, which represents the City's hard costs.

In response to Mr. Weber's question about making payments, the City Attorney indicated that the lien should not be released until the amount is fully satisfied. Mayor Seiler suggested Mr. Weber discuss the difference of \$742 with the realtors.

OLD/NEW BUSINESS

BUS-1 13-0630 PARKS AND RECREATION DEPARTMENT - INFORMATIONAL PRESENTATION

Phil Thornburg, Director of Parks and Recreation, presented slides concerning this matter. A copy of the slides is attached to these minutes.

During the presentation, Commissioner Rogers commented that Stranahan High School is in need of fields. Some discussion followed concerning use of fields under School Board jurisdiction. Commissioner Rogers requested a status report on reciprocal use. Commissioner DuBose indicated that parking for the new track (Joseph C. Carter Park) needs to be addressed.

Mayor Seiler opened the floor for public comment.

Charles King, 105 N. Victoria Park Road, questioned real estate being assigned to this department. He also encouraged the City to pursue selling all of their (surplus) properties. He did not see a need to retain a realtor, rather they could be listed online. In response to Commissioner Trantalis, the City Manager advised that this topic will likely be on the June 4 because two commissioners will not be present on May 21. Commissioner Trantalis explained that the City has already started the process of what Mr. King is suggesting.

BUS-2 13-0693 CODE AMENDMENT - CHAPTER 6, ARTICLE III, DIVISION 2 -
BEACH AREA ARTIFICIAL LIGHTING RESTRICTIONS - adding a
majority of standards recommended in Model Lighting Ordinance for
Marine Turtle Protection of Florida Administrative Code

Stephanie Denham, Senior Management Fellow, reviewed slides on this topic that are attached to these minutes together with information in Commission Agenda Memorandum 13-0393. The proposed will create the same requirements for existing and new development.

Mayor Seiler opened the floor for public comment.

Fred Carlson, representing Central Beach Alliance, commented that he has had informal conversations with beach hotel managers and they are concerned about the propaganda that would result from more muggings during the dark period. He asked if the lights should be off during the nesting or only during hatching. The City Manager advised that the Florida Administrative Code defines the period during which the lights must be restricted. In Broward County, it is from March 1 through October. It is defined as the nesting period. Ms. Denham explained that lights also disorient the mothers. Mr. Carlson pointed out that there are more turtles coming ashore and less beach for visitors. He suggested moving the eggs to one place to free up beach space. Ms. Denham advised that the mortality rate from relocated eggs is so high that the policy was discontinued by Broward County. She believed the County is following the State practice. Mr. Carlson emphasized the potential impact that a serious crime could have and that the turtle population has increased dramatically in the past ten years. The City Manager advised that the recommendation is bring the City's ordinance back to the State's standard, not the excessive standard that exists today. In response to Mr. Carlson and Commissioner Trantalis, Ms. Denham advised that there are coastal cities that have no regulatory ordinance. She did not know the impact of the turtle population in those areas. If a property owner needs a State permit, the City Manager noted they would then have to meet the State's minimum regulations. Mayor Seiler explained that the problem is not the tourist statistics, but rather safety. It is too dark. A better balance has to be struck. Commissioner Trantalis questioned if the turtle population growth would be interfered if there was no regulation. Ms. Denham reasoned by the Florida Fish and Wildlife Conservation Commission would recommend that there be some ordinance. Her recommendation is to reduce the stringency to the State model. She did not know the consequences for those cities that have no regulations.

Mr. Carlson concluded by sharing a turtle advocate comment made at the Alliance's meeting on this topic and he went on to emphasize that the bureaucracy of turtle advocates has taken precedence over common sense.

Steve Lange, 1705 North Fort Lauderdale Beach Boulevard, indicated he is a long-time resident on the west side of A-1-A. He supported everything said by Mr. Carlson. The (current) ordinance has gone way over-board. There should be a balance but not at the expense of human life. He elaborated upon how pitch dark it is now. It is dangerous. He discussed the advantages of moving eggs. He did not support following the State model, but preferred a reasonable approach drafted by the City. He did not think the hatchlings would be able to climb over the construction materials along a part of A-1-A for the next two to three years. In the past twenty-five years he has never seen a sea turtle in his neighborhood. He

commented on headlights of vehicles stopped at Sunrise Boulevard and A-1-A that is causing hatchlings to get onto A-1-A, but did not feel it is happening anywhere else.

Once the lighting is changed, Vice Mayor Roberts wanted some form of certification as to compliance in order to avoid repetitive costly adjustments. He went on to comment about Pompano Beach's approach. There is lighting along the sidewalk as well as street lighting. There is also landscaping and dunes which reduces the need for lighting. He suggested staff look into that solution. There should be more community vetting, bringing various groups together. He would favor reducing the regulations as much as possible. If other communities do not have regulations, he questioned why Fort Lauderdale has to. He wanted changes in place by next turtle season. The City Manager advised that those cities in Broward that do not have regulations are Dania Beach, Sea Ranch Lakes and Lighthouse Point. In response to additional questions about the State regulations and what Fort Lauderdale has in place now, Ms. Denham explained the City's ordinance in its entirety is stricter than the State model. There are two provisions stricter than the State model being recommended to stay in place. They have to do with parking structures and special event permits.

Mr. Carlson was concerned about embracing the State model in any fashion. Mr. Lange felt the regulations are too far-reaching. He agreed with Mr. Carlson. The current ordinance should be revised to be less stringent. Discussions need to take place on an acceptable approach including a shortened period of time.

In response to Commissioner Rogers, Ms. Denham advised that the City's ordinance addresses design of parking structures which is not in the State regulations. She believed the recommendation is to defer to the State regulations, but offered to confirm. From a safety standpoint, Commissioner Rogers emphasized any lighting changes in a parking structure should be at a minimum and only for that period of time absolutely necessary. As to compliant lighting overall, he felt it is unfair to repeatedly ask for adjustments to be made. Mr. Denham advised that staff's conclusion is in conformance with crime prevention through artificial lighting design guidelines.

Vice Mayor Roberts wanted to invite all beach impacted neighborhoods including hoteliers for a workshop. Mayor Seiler wanted something in place by next turtle season. He suggested venues of the beach community center and International Swimming Hall of Fame.

BUS-3 12-2655 AFFORDABLE HOUSING STRATEGY AND HOUSING MARKET STUDY - REISSUANCE OF REQUEST FOR PROPOSAL

Alfred Battle, Economic and Community Reinvestment Manager, confirmed for Mayor Seiler that there would be need for more resources than the Community Redevelopment Agency. Mayor Seiler felt that this is a regional issue. Commissioner Rogers commented on a recently published statistic on a high percentage of people in Broward County expending fifty percent of their income on housing. He felt there should be concern about this. He believed the County will force the City to provide ten percent affordable housing when new units are requested. In response to Vice Mayor Roberts' question as to the County's approach with it being a regional matter, Commissioner Rogers believed that the County will simply insist the cities address the matter if they want more units. Commissioner Trantalis questioned how affordable housing is defined. He elaborated upon some history on this issue and the question of rental versus ownership. Commissioner Rogers preferred for the City to make a decision on a course of action as opposed to having to follow a County dictate. He suggested an incentive be offered to developer, such as site plan concessions. Commissioner Rogers raised the point of the market rising and falling and Commissioner DuBose commented that it comes down to people earning a livable wage. Discussion then turned to the matter being a regional issue. Commissioner DuBose did not think the City has all of the data in order to set policy. Commissioner Rogers referred to Pinnacle at Tarpon River project on 3

Avenue which is on the evening agenda. He described it as workforce housing and felt this type of housing should be promoted. He believed a survey of housing stock is needed in order to develop a policy on what the City wants to promote. Mayor Seiler pointed out that the housing stock in Dania Beach has more relevance than housing stock in Fort Lauderdale's Palm Aire area for courthouse workforce housing. He went on to point out the City does not know whether to approve requests for expansion by the Housing Authority. As such, property is being removed from tax rolls. Commissioner Rogers believed the City needs to know its housing stock in order to know what policy it can support. Mayor Seiler believed area in surrounding cities needs to be included which lends itself to being a County study.

Mr. Battle advised the Broward County has conducted a study of the affordable housing market in the past 1 ½ years by Florida International University. He believed the cost to focus on Fort Lauderdale was in the range of \$30,000-\$40,000.

Commissioner Trantalis agreed with Mayor Seiler that there is a large stock of affordable housing within the metropolitan area. Further discussion on the topic ensued. Commissioner DuBose thought the issue was more comprehensive and not about flex unit allocation by the County. Mayor Seiler requested the County study be provided again to the Commission. Vice Mayor Roberts requested an executive summary of the study. Mayor Seiler questioned if the County would recognize the City's study if one is done. Commissioner Rogers felt the educational aspect is important. The City should look at what it wants to accomplish throughout the coming years in redevelopment. With low interest rates and tax credits available today, market rate affordable units can be built which he considered to be a win win. Mayor Seiler felt it first has to be determined if there is such a demand in eastern Broward County. Commissioner DuBose wanted to focus on Fort Lauderdale. Mayor Seiler commented that if affordable units are to be added to the housing stock, he preferred to keep the property on the tax rolls, but have a certain number of units in a project be affordable. Commissioner DuBose wanted to look at this, to be able to shape the city in its future and attract young working people. Mayor Seiler supported looking at affordable housing that would be on the tax rolls and would attract 28-32 year olds. Commissioner DuBose wanted a study that would be inclusive of all types. Commissioner Rogers felt it is about a housing continuum from starter to retirement home. Data is needed. Vice Mayor Roberts believed this needs to be addressed, but felt it is a matter of wanting more information first. In response to Vice Mayor Roberts, the City Manager advised the cost range for a study would be \$30,000-\$70,000.

The City Manager advised that the item will be rescheduled for June 4 and provide a copy of the County study. During the interim, staff will have a discussion with Florida International University.

Mayor Seiler opened the floor for public comment.

Charles King, 105 N. Victoria Park Road, feared this study would be used by developers wanting to build large affordable complexes in the Sistrunk area. It is a county issue. He did not want Fort Lauderdale to be singled out. Commissioner Trantalis clarified discussion regarding the County had to do with a definition including a percentage of income devoted toward housing and how many housing opportunities that exist in each city that would match. Mr. King pointed out that people may not be truthful about their income. He went on to mention a recent news article about Carlisle Development Group, LLC, one of the largest affordable housing developers, and allegations relating to their work. He felt incentives can create opportunities for corruption. Vice Mayor Roberts noted that the allegations were strictly pertaining to Miami-Dade projects. Mr. King emphasized the advantage of an inclusionary concept and not concentrated in one neighborhood. A study would show that one area has been overwhelmed with such housing. He was concerned about the number of properties not on the tax rolls.

There was no one else wishing to speak.

BUS-4 13-0682 HOPWA PROGRAM PROVIDER AGREEMENT WITH LEGAL AID SERVICE OF BROWARD COUNTY, INC.

The City Attorney noted that the Commission approved the allocation of \$250,000 on the condition that Legal Aid provide an affidavit, indicating they were not aware of fraud in a program that they had filed suit over which is now on appeal. Legal Aid seems to feel that the allegations are not on appeal, but he disagrees. If the appeal is successful, the second amended complaint will be referenced in the remand.

Dwayne Dickerson of Legal Aid Service of Broward County, Inc., advised that Legal Aid is no longer representing the clients on the appeal. Legal Aid felt an affidavit would not be appropriate because they are not the attorneys of record for the appeal. Legal Aid also felt it would be leveraging the need for the funding against clients that they have represented in the past. A letter, dated April 26, 2013, has been furnished in the alternative (Exhibit 1 to Commission Agenda Memorandum 13-0682). It states that Legal Aid is not handling the appeal level and that claims pending on appeal do not involve the City's administration of federal grant money. The U.S. District Court disposed of that claim in the City's favor and his client elected not to appeal.

In response to Commissioner Trantalis, Mr. Dickerson indicated there is a category in the HOPWA Program for non-housing support services, such as evictions, tenant foreclosure disputes, fraudulent leases and landlord abuse of tenants. Commissioner Trantalis asked whether other agencies in the HOPWA Program might be handling these matters and Mr. Dickerson cautioned against the practice of law without a license. Commissioner DuBose emphasized the importance of the HOPWA Program with respect to the provision of housing, that this program services the entire county and this area is one of the leaders in the country with this issue. With that said, the funding need is critical. He noted the strictness of the U.S. Department of Housing and Urban Development (HUD) with use of the funding and elaborated upon the circular path with regard to use of these dollars for disputes. In response to Commissioner Trantalis, Mr. Dickerson indicated that the category for these services was established by the City in the RFP and the Community Services Board recommended Legal Aid as number one to provide the services. Looking at the track record, Legal Aid helps more people in more instances than just giving the money to the voucher program. Commissioner DuBose understood this is first year funding in this category and asked for more information about value for the dollar on the part of Legal Aid. He was concerned about the scarcity of HOPWA dollars and importance of how it is allocated. Patrice Paldino, Housing Unit Supervisor for Legal Aid, noted the average rent in the county is approximately \$1,200 per month. The program allows 7 percent for administrative cost which leaves \$232,500 which is the equivalent of 194 months of rent. Provider agencies pay on average two months of rent which would be 97 clients. Legal Aid's proposal will address approximately 260 legal issues. In response to Commissioner DuBose, Ms. Paldino elaborated upon the types of issues that come to Legal Aid including situations where foreclosure actions impact tenants and repairs. The occupant's rights in all areas of the home are screened and protected which lends support in other programs. In further response, Tony Karrat, Executive Director for Legal Aid, advised that currently Legal Aid does not represent HOPWA individuals, but there may be a select few that could receive service based on other guidelines. There are 1,200 people receiving HOPWA benefits now. Mr. Dickerson believed there is very little overlap in funding from housing providers in that those providers generally refer individuals to Legal Aid. Further discussion ensued on this point. Commissioner Rogers asked if all HOPWA clients would receive HOPWA related representation if the funding was allocated. Ms. Paldino explained that cases are assessed and if there is merit, they would receive service.

Commissioner Rogers referred to the City Attorney's comment that the pleading of record still have allegations of fraud in the program. Mr. Dickerson advised that White & Case, appellate counsel, has indicated that any claims pending on appeal do not involve the City's administration of federal grant funds and that the U.S. District Court disposed of that claim in the City's favor and no appeal was filed. The City

Attorney disagreed. If it is remanded, facts relative to the counter claim would be alleged and re-alleges all of the facts set out in the factual statement, which includes fraud and everything that the City originally expressed concern about. Mr. Dickerson explained that lawsuit was based on specific clients with a specific set of facts. He felt the two are mutually exclusive. The funds in question are for future HOPWA clients. He referred again to the Community Services Board's recommendation of Legal Aid. Commissioner Rogers was concerned about potential issues with HUD. He wanted the affidavit that has been requested. If the City is on notice, he felt it could pose a problem. The allegations put the City on notice. Mayor Seiler pointed out that the allegations were not specific. It would be easier to resolve if they had been specific. He felt the letter gives comfort that the allegations are gone because they were not appealed. It is not right to put completely unfounded allegations in a lawsuit. Commissioner Rogers requested more specific language in another letter, indicating the allegations will not be reasserted at the trial level if an appeal is won. Mayor Seiler suggested language indicating that the allegations are not on appeal and will not be pursued if an appeal is returned. Vice Mayor Roberts indicated if the letter does not satisfy the City Attorney's concerns, he will not support this. He commented that a lot of time and use of funds is being wasted as pointed out by Commissioner DuBose. Mr. Karrat pointed out that Legal Aid has no control over the matter if the appeal is successful and it returns to district court. Commissioner Rogers thought that HUD could take the position that the City was still on notice of a fraud allegation. Mr. Dickerson referred to a January 10, 2013 letter from HUD to Jonathan Brown indicating that wherein the City and Legal Aid are in litigation would not give rise to a conflict of interest based upon HUD's HOPWA Program conflict interest regulations. Commissioner Rogers was concerned about the cloud of the allegations.

In response to Commissioner Trantalis, Jonathan Brown, Housing and Community Development Program Manager, indicated if this is not approved, staff would request Commission direction for use of the funds. The RFP set funds aside for non-housing support services. This contract would be one-year with the option to extend for two, one-year periods. Commissioner Trantalis agreed with Mayor Seiler that this matter should be addressed without delay. He supported the allocation to Legal Aid. Commissioner Rogers reiterated his request for another letter. In response to Mayor Seiler, the City Attorney advised that the matter will have to be voted on. Mayor Seiler wanted Legal Aid to be able to use these dollars where they are needed. He elaborated upon what could happen on the part of HUD in a situation of this nature. The City Manager suggested the letter be furnished by tomorrow to facilitate scheduling on a regular meeting agenda. Additional discussion ensued concerning specific language for the letter.

BOARDS AND COMMITTEES

BD-2 13-0573 BOARD AND COMMITTEE VACANCIES

See Regular Meeting item R-1.

CITY MANAGER REPORTS - None

Note: The City Commission recessed at 5:40 p.m. and convened as the Community Redevelopment Agency Board of Commissioners from 12:49 a.m. and then reconvened the conference meeting with Item BD-1 at 12:58 a.m.

**BD-1 13-0572 COMMUNICATIONS TO CITY COMMISSION AND MINUTES
CIRCULATED - period ending May 2, 2013**

Utility Advisory Committee

Based upon the recommendations from the Utility Advisory Committee's Tree Subcommittee members, the UAC strongly recommends that the rain tree located on the property at 424 SW 4 Avenue be preserved in place due to its historic significance and aesthetic value (1987 Resolution 87-318).

Motion made by Ms. Murru and seconded by Mr. Siedmon to forward the Rain Tree Communication to the City Commission. The motion passed 7 – 0.

The communication was received.

Sustainability Advisory Board

The Sustainability Advisory Board recommends that the City Commissioners respect the protection that was granted to the Rain Tree in 1987 (Resolution 87-318). That resolution gives the present Commission the power over the future of the tree. At a time when the City of Fort Lauderdale is implementing more sustainable practices, the protection of this tree demonstrates a furtherance of the commitment of building a sustainable community for future generations.

Motion made by Ms. Eckels and seconded by Mr. Moyer to forward the Rain Tree Communication to the City Commission. In a voice vote, 6-2 with Mr. Lentner and Mr. Cook opposed.

The communication was received.

Northwest Progresso Flagler Heights Redevelopment Advisory Board

The Board requested by consensus that new City Commissioner Dean Trantalis appoint a new Board member in order to fill an existing vacancy.

Commissioner Trantalis noted appointments that occurred this evening as a result of his nominations.

Community Appearance Board

Motion made by Mr. Catalino and seconded by Ms. Mammano that the following be read as a communication to the City Commission:

Dear Mayor Seiler and Commissioners: The Community Appearance Board's 35th Annual Awards presentation will be held on May 9, 2013 at the Hilton Fort Lauderdale Beach Resort from 5:00 – 8:00 pm. We respectfully request that an announcement be

made at the upcoming meetings encouraging members of the community to attend. We have some great properties this year from every district in the City. Greg Stuart, Executive Director of the Broward Metropolitan Planning Organization will be our keynote speaker to discuss The Wave and the benefits it will bring to the community. There will be a cash bar cocktail reception from 5:30 – 6:30 and the presentation will begin at 6:30. Tickets may be purchased in advanced for \$30.00 or at the door for \$35.00 on the night of the event. In a voice vote the **motion** passed unanimously

The communication was received.

Middle River South Middle River Sunrise Boulevard Redevelopment Advisory Board

Motion made by member Vonder Meulen and seconded by member Maleta, to make a request for City or CDBG funding in the amount of \$207,500 from the 2014 budget for a Facade Improvement Program in the amount of \$200,000 and \$7,500 for the installation of 3 donated statues. Statues will not to be installed in the medians. Motion passed 9 to 2. (against – Maleta and Jones)

This communication was deferred to May 21, 2013.

The meeting was adjourned at 1:02 a.m.