

FORT LAUDERDALE CITY COMMISSION REGULAR MEETING
OCTOBER 2, 2012

Agenda #	File #	Resolution/ Ordinance	Title	Page No.
	OB		INTERLOCAL AGREEMENT(ILA) FOR RECYCLABLES MATERIAL RECOVERY WITH BROWARD COUNTY	35
PRES-1	12.2212		PROCLAMATION DECLARING WEEK OF OCTOBER 12-19, 2012 AS ARCHITECTURE WEEK	1
PRES-2	12-2278		PROCLAMATION DESIGNATING OCTOBER 1-5, 2012 AS CUSTOMER SERVICE WEEK IN THE CITY OF FORT LAUDERDALE	2
PRES-3	12-2285		PROCLAMATION DECLARING THE WEEK OF OCTOBER 7-13, 2012 AS FIRE PREVENTION WEEK IN THE CITY OF FORT LAUDERDALE	2
M-1	12-2254		APPROVAL OF MINUTES - June 29, 2012 Joint Workshop with Pension Boards and August 21, 2012 Regular Meeting	2
M-2	12-2084		CONTRACT RENEWALS - JANUARY, FEBRUARY, MARCH 2013 AND ONE FROM OCTOBER, 2012 - contingent upon respective vendor agreeing to the extension.	2
M-3	12-2158		EVENT AGREEMENTS AND RELATED ROAD CLOSINGS: 1)Live Long Live Strong Benefit, 2)Trick or Treat on SW 2nd Street, 3)Off the Hookah Block Party, 4)Dillard High School Homecoming Parade, 5)Dolphins Cycling Challenge, 6)Half Marathon 13.1, 7)KID Inlet Challenge, 8)Livelong Benefiting Livestrong, 9)American Cancer Society Broward County Making Strides Against Breast Cancer and 10)Las Olas Gourmet Market.	3
M-4	12-2155		SECOND AMENDMENT TO AGREEMENT with CIMA Engineering Corp., for additional services required at Fire Station #46 - \$44,165.88 plus 2% engineering administration fees and to authorize the City Manager to execute on behalf of the City.	3
M-5	12-2157		CHANGE ORDER 2 - M.V.P. Contractors, Inc. - Fire Station # 46 - \$393.84 plus 2% engineering administration fees and to authorize the City Manager to execute on behalf of the City.	3
M-6	12-2220		TASK ORDER 16 - CDM Smith Inc. - Sewer Collection Basin A-7 Flow Diversion and Pump Station A-8 Improvement Analysis and Conceptual Design - \$40.330 plus 2% engineering administration fees and authorize funding transfer	3
M-7	12-2241		REVOCABLE LICENSE - James A. Cummings, Inc. - SE 6 Street - Construction of New Broward County Courthouse Tower - Temporary Closure of Sidewalks, On-Street Parking Spaces and Vehicular Lanes	3, 7
M-8	12-2261		CHANGE ORDER NO. 9 - Central Florida Equipment, Inc. - \$215,521.82 - Sistrunk Boulevard Streetscape and Enhancement - Additional 203 calendar days	3, 6, 8
CR-1	12-2276	12-190	CITY CLERK COMPENSATION - Resolution setting compensation for City Clerk	4, 8
CR-2	12-2187	12-191	CONSOLIDATED BUDGET AMENDMENT TO FISCAL YEAR 2013 BUDGET - APPROPRIATION	4, 9
CR-3	12-1262	12-192	GRANT ACCEPTANCE - \$42,545.00 from Florida Department of Health via Broward County - Emergency Medical Services County Grant Program; approving contract and authorizing City Manager to execute on behalf of City - video laryngoscopes	4
CR-4	12-2094	12-193	A RESOLUTION IN SUPPORT OF ON-STREET PARKING ON BROWARD BOULEVARD, EAST OF NE 15 AVENUE AND BOTH THE NORTH AND SOUTH SIDES OF THE ROADWAY	5
PUR-1	12-1981		ONE-YEAR CONTRACT FOR LOBBYIST SERVICES in the amount of \$50,000 with Ericks Consultants, Inc. and authorize the City Manager or designee to approval all renewal options - RFP 125-11001	5, 10

PUR-2	12-2068		FIVE-YEAR CONTRACT EXTENSION AND FIRST AMENDMENT TO CONTRACT FOR CEMETERY MANAGEMENT SERVICES in the annual amount of \$776,911 with CFS Funeral Services, Inc. - Contract 785-9854	5
PUR-3	12-2078		THIRTY-TWO MONTH CONTRACT - PURCHASE OF SODIUM HYPOCHLORITE in estimated amount of \$1,655,000 from Odyssey Manufacturing Company, and authorize the City Manager or designee to approve all renewal options, contingent upon the approval and appropriation of funds - Co-Op Contract 2012-15	5
PUR-4	12-2135		PROPRIETARY PURCHASE - WATER DISTRIBUTION AND WASTEWATER COLLECTION INFRASTRUCTURE AND TREATMENT FACILITIES with various vendors on an as-needed basis contingent upon appropriation and approval of funds.	5
PUR-5	12-2136		THREE-YEAR CONTRACT FOR THE LEASE OF HOLIDAY LIGHTS in the annual amount of \$132,682 with Brandano Displays, Inc. and authorize the City Manager to execute two, one year renewals on behalf of the City contingent upon appropriation and approval of funds - RFP 825-11017	6
PUR-6	12-2138		PURCHASE SALT WATER MONITORING REDEVELOPMENT OR REPLACEMENT WELLS not to exceed the amount of \$52,630 from Vertical V-Southeast, Inc. contingent upon appropriation and approval of funds - ITB 423-11061	6
PUR-7	12-2140		TWENTY-EIGHT MONTH CONTRACT FOR EMPLOYEE HEALTH CENTER/CLINIC ADMINISTRATION SERVICES in the amount of \$1,583,845 with Marathon Health, Inc. and authorize the City Manager or designee to approve two, one-year renewal options contingent upon approval and appropriation of funds - RFP 725-11022	6, 12
PUR-8	12-2173		INCREASE EXPENDITURE - ADDITIONAL LATENT PRINT EXAMINATION SERVICES in the amount of \$8,910 with Ron Smith & Associates, Inc. - Contract 225-10914	6
PUR-9	12-2223		ONE-YEAR CONTRACT FOR THE MAINTENANCE OF CITY OWNED STORMWATER STRUCTURES FOR UTILITY OPERATIONS in the amount of \$69,650 from A & A Drainage & Vac Services, Inc. and authorize the City Manager or his designee to approve all extension options.	6, 15, 35
MD-1	12-2264		CODE ENFORCEMENT LIEN SETTLEMENT in the amount of \$4,300 for Case CE06091540 at 11 SW 11 AVE	21
CIT-1	12-2255		CAROL D. RUBENSTEIN - Design Vision for the South entrance to the City, i.e. seaport, airport & highways	22
CIT-2	12-2256		DEV RATNAM, Ph.D. - 20,000 square foot two story office building - owned by KSR LLC - owner trying to sell building situated in Parcel 8G, City of Fort Lauderdale Executive Airport with Land Lease	22
CIT-3	12-2257		ART SEITZ - Barrier Island, Need to Rebid International Swimming Hall of Fame/Fort Lauderdale Aquatic Complex Project, Indy Car Race Contract, New York City Southport renovation	23
CIT-4	12-2271		ROBERT WALSH - Revenue (extra) for City of Fort Lauderdale	23
CIT-5	12-2275		DONNA MERGENHAGEN - "Small Business Saturday" has become a national economic driver and many cities have acknowledged the day.	23
R-1	12-2250	12-182	APPOINTMENT OF CITY BOARD AND COMMITTEE MEMBERS All vacancy information is provided under Conference item BD-2	24
R-2	12-2231	12-183	SALE OF CITY-OWNED PROPERTY, PURCHASE AND SALE CONTRACT AND DEED OF CONVEYANCE - \$1,000 - Accepting offer from Sara Walter for the property with approximate street address of northeast corner of NW 13 Street and 1 Avenue and authorizing proper City Officials to execute all necessary documents subject to City Attorney review.	25

R-3	12-2280	12-184 12-185	1)REVISING CITY'S CONTRIBUTION RATE TO 401(a) DEFINED CONTRIBUTION MONEY PURCHASE PLAN FOR NON-CLASSIFIED EMPLOYEES; REVISING EFFECTIVE DATE FOR NON-CLASSIFIED EMPLOYEES HIRED ON OR AFTER AUGUST 1, 2012; PROVIDING FOR A CONTRIBUTION RATE FOR NON-CLASSIFIED EMPLOYEES HIRED PRIOR TO AUGUST 1, 2012 2) INCREASING BASE SALARY FOR CERTAIN NON-CLASSIFIED EMPLOYEES PARTICIPATING IN 401(a) DEFINED CONTRIBUTION MONEY PURCHASE PLAN AND INCREASING BASE SALARY OF CITY MANAGER	25
R-4	12-2160	12-186	TEN-YEAR AIRSPACE AGREEMENT - Florida Department of Transportation - to utilize FDOT property adjacent to Riverland Woods Park at State Road 7 - one (1) ten (10) year renewal and authorizing execution by the City Manager	29
R-5	12-2240	12-187	SIDEWALK REPAIRS - AUTHORIZING REPAIRS TO SIDEWALKS ABUTTING PRIVATE PROPERTY AT COST TO PROPERTY OWNERS - 625 N Birch Road and 95 N Birch Road	30
R-6	12-2208	12-188	QUASI JUDICIAL - VACATION OF WATER PIPE EASEMENT Applicant: Stanley R. Gumberg, Trustee and the Coral Ridge Mall Location: 3200 North Federal Highway Case: 6-M-12 Anyone wishing to speak must be sworn in. Commission will announce any site visits, communications or expert opinions received and make them part of the record.	30
R-7	12-2225	12-189	QUASI JUDICIAL - VACATION OF WATER AND SEWER UTILITY EASEMENT Applicant: Stanley R. Gumberg, Trustee and the Coral Ridge Mall Location: 3200 North Federal Highway Case: 6-M-12 Anyone wishing to speak must be sworn in. Commission will announce any site visits, communications or expert opinions received and make them part of the record.	31
O-1	12-2152	C-12-36	QUASI-JUDICIAL - SECOND READING - VACATION OF 40 FOOT RIGHT-OF-WAY - NE 7 Avenue between Sunrise Boulevard and NE 9 Street - Case 8-P-11 Applicant: Holman Automotive, Inc. Anyone wishing to speak must be sworn in. Commission will announce any site visits, communications or expert opinions received and make them part of the record.	32
O-2	12-2153	C-12-39	SECOND READING OF ORDINANCE AMENDING UNIFIED LAND DEVELOPMENT REGULATIONS, SECTIONS 47-20, PARKING AND LOADING REQUIREMENTS - implementing recommendations of the Barrier Island Parking Study on the barrier island - Case 9-T-12	33
O-3	12-2262	C-12-38	SECOND READING OF ORDINANCE AMENDING CODE OF ORDINANCES - CHAPTER 18, NUISANCES - ESTABLISHING A REGISTRATION PROGRAM FOR ABANDONED RESIDENTIAL PROPERTY	34
O-4	12-2253	C-12-37	SECOND READING OF ORDINANCE AMENDING CODE OF ORDINANCES - CHAPTER 25, STREETS AND SIDEWALKS - UNDERGROUNDING OF UTILITY FACILITIES - Special Assessment Program	34
O-5	12-2147	C-12-40	FIRST READING OF AN ORDINANCE AMENDING CODE OF ORDINANCES - SECTIONS 26-91(C) AND 26-161 - increase surcharge for School Crossing Guard Program and increase maximum parking fee at Fort Lauderdale Beach Park Lot for Special Events	35

**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE
October 2, 2012**

Meeting was called to order at 6:01 p.m. by Mayor Seiler on the above date, in City Hall, 100 North Andrews Avenue, 1st floor Chambers.

Roll call showed:

Present: Commissioner Bruce G. Roberts
Vice Mayor Charlotte E. Rodstrom
Commissioner Romney Rogers
Commissioner Bobby B. DuBose
Mayor John P. "Jack" Seiler

Also Present:	City Manager	Lee R. Feldman
	City Auditor	John Herbst
	City Clerk	Jonda K. Joseph
	City Attorney	Harry A. Stewart
	Sergeant At Arms	Sergeant Jeff Brull
		Sergeant Edward Wenger

Invocation was offered by Reverend Brad Schmidt, City Church, followed by the recitation of the pledge by led by Acting Police Chief Russell Hanstein (Assistant Chief of the Investigative Bureau).

NOTE: All items were presented by Mayor Seiler unless otherwise shown, and all those desiring to be heard were heard. Items discussed are identified by the agenda number for reference. Items not on the agenda carry the description "OB" (Other Business).

The City Clerk advised that more information was added to the June 29, 2012 Joint Workshop with Pension Boards minutes, in accordance with Vice Mayor Rodstrom's prior request.

Motion made by Vice Mayor Rodstrom and seconded by Commissioner Roberts to approve the minutes of the June 29, 2012 Joint Workshop with Pension Boards and August 21, 2012 Regular Meeting. YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

**PRES-1 12-2212 PROCLAMATION DECLARING WEEK OF OCTOBER 12-19, 2012 AS
ARCHITECTURE WEEK**

Commissioner Rogers presented a proclamation declaring October 12–19, 2012, as Architecture Week in the City to Karen Warseck, President of AIA Fort Lauderdale. Ms. Warseck thanked the Commission. She emphasized that architecture relates to all aspects of life. Architects strive daily to create a built environment that promotes the health, safety, and welfare of those who inhabit the building.

**PRES-2 12-2278 PROCLAMATION DESIGNATING
OCTOBER 1-5, 2012 AS CUSTOMER SERVICE WEEK IN THE CITY
OF FORT LAUDERDALE**

Commissioner Roberts presented a proclamation designating October 1-5, 2012, as Customer Service Week in the City to Linda Gee, Customer Operations Manager. The following customer service staff members joined Ms. Gee to accept the proclamation: Arnette Torrence, Revenue Collection Supervisor; Onesi Girona, Senior Customer Service Representative; Penny Temple, Senior Accounting Clerk; Ruth Lozier, Customer Service Representative I; Colleen DaCosta, Customer Service Representative II; Denny Priddy, Customer Service Representative II; Miranda Scott, Customer Service Representative II; Marla Donald, Administrative Aide; Rosemary Collette, Service Clerk; Debbie Smith, Clerk III; Ed Sawyer, Meter Reader/Service worker; Jeanette Johnson, Commission Assistant II; Mary Crance, Customer Service Representative I; and Junia Robinson, Haitian Community Programs Coordinator. Ms. Gee thanked the Commission for their recognition.

**PRES-3 12-2285 PROCLAMATION DECLARING THE WEEK OF OCTOBER 7-13, 2012
AS FIRE PREVENTION WEEK IN THE CITY OF FORT LAUDERDALE**

Vice Mayor Rodstrom presented a proclamation designating October 7-13, 2012, as Fire Prevention Week in the City to David Raines, Fire Marshal. Mr. Raines urged the public to establish a home escape plan that includes two exit points and an outdoor meeting place. Children should be instructed to follow the procedure, and not to re-enter after exiting.

Consent Agenda

(CA)

The following items were listed on the agenda for approval as recommended. The City Manager reviewed each item and observations were made as shown. The following statement was read:

Those matters included under the Consent Agenda are self-explanatory and are not expected to require review or discussion. Items will be enacted by one motion; if discussion on an item is desired by any City Commissioner or member of the public, however, that item may be removed from the Consent Agenda and considered separately.

**M-1 12-2254 APPROVAL OF MINUTES - June 29, 2012 Joint Workshop with
Pension Boards and August 21, 2012 Regular Meeting**

There is no fiscal impact associated with this action.

**M-2 12-2084 CONTRACT RENEWALS - JANUARY, FEBRUARY, MARCH 2013 AND
ONE FROM OCTOBER, 2012 - contingent upon respective vendor
agreeing to the extension.**

Please see funding information attached to these minutes.

M-3 **12-2158**
EVENT AGREEMENTS AND RELATED ROAD CLOSINGS: 1)Live Long Live Strong Benefit, 2)Trick or Treat on SW 2nd Street, 3)Off the Hookah Block Party, 4)Dillard High School Homecoming Parade, 5)Dolphins Cycling Challenge, 6)Half Marathon 13.1, 7)KID Inlet Challenge, 8)Livelong Benefiting Livestrong, 9)American Cancer Society Broward County Making Strides Against Breast Cancer and 10)Las Olas Gourmet Market.

There is no fiscal impact associated with this action.

M-4 **12-2155** **SECOND AMENDMENT TO AGREEMENT with CIMA Engineering Corp., for additional services required at Fire Station #46 - \$44,165.88 plus 2% engineering administration fees and to authorize the City Manager to execute on behalf of the City.**

Please see funding information attached to these minutes.

M-5 **12-2157** **CHANGE ORDER 2 - M.V.P. Contractors, Inc. - Fire Station # 46 - \$393.84 plus 2% engineering administration fees and to authorize the City Manager to execute on behalf of the City.**

Please see funding information attached to these minutes.

M-6 **12-2220** **TASK ORDER 16 - CDM Smith Inc. - Sewer Collection Basin A-7 Flow Diversion and Pump Station A-8 Improvement Analysis and Conceptual Design - \$40.330 plus 2% engineering administration fees and authorize funding transfer**

Please see funding information attached to these minutes.

M-7 **12-2241** **REVOCABLE LICENSE - James A. Cummings, Inc. - SE 6 Street - Construction of New Broward County Courthouse Tower - Temporary Closure of Sidewalks, On-Street Parking Spaces and Vehicular Lanes**

There is no fiscal impact associated with this action.

M-8 **12-2261** **CHANGE ORDER NO. 9 - Central Florida Equipment, Inc. - \$215,521.82 - Sistrunk Boulevard Streetscape and Enhancement - Additional 203 calendar days**

Please see funding information attached to these minutes.

This Commission Agenda Memorandum (12-2261) was revised. See announcement on page 6.

CONSENT RESOLUTION

CR-1 12-2276 CITY CLERK COMPENSATION - Resolution setting compensation for City Clerk

Please see funding information attached to these minutes.

RESOLUTION NO. 12-190

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING FOR AN INCREASE IN THE COMPENSATION PAID TO CITY CLERK.

CR-2 12-2187 CONSOLIDATED BUDGET AMENDMENT TO FISCAL YEAR 2013 BUDGET - APPROPRIATION

Please see funding information attached to these minutes.

RESOLUTION NO. 12-191

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OPERATING BUDGET OF THE CITY OF FORT LAUDERDALE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2012, AND ENDING SEPTEMBER 30, 2013, BY APPROPRIATING FUNDS AS SET FORTH IN CITY COMMISSION AGENDA MEMO #12-2187 AND PROVIDING FOR AN EFFECTIVE DATE.

CR-3 12-1262 GRANT ACCEPTANCE - \$42,545.00 from Florida Department of Health via Broward County - Emergency Medical Services County Grant Program; approving contract and authorizing City Manager to execute on behalf of City - video laryngoscopes

Please see funding information attached to these minutes.

RESOLUTION NO. 12-192

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING AN AGREEMENT WITH BROWARD COUNTY TO RECEIVE GRANT FUNDING IN THE AMOUNT OF \$42,545 THROUGH THE FLORIDA DEPARTMENT OF STATE VIA THE EMERGENCY MEDICAL SERVICES COUNTY GRANT PROGRAM AND DELEGATING THE CITY MANAGER AUTHORITY TO EXECUTE SUCH AGREEMENT ON BEHALF OF THE CITY.

- CR-4 12-2094 A RESOLUTION IN SUPPORT OF ON-STREET PARKING ON BROWARD BOULEVARD, EAST OF NE 15 AVENUE AND BOTH THE NORTH AND SOUTH SIDES OF THE ROADWAY**

There is no fiscal impact associated with this action.

RESOLUTION NO. 12-193

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, SUPPORTING ON-STREET PARKING ON EAST BROWARD BOULEVARD, EAST OF NE 15 AVENUE ON THE SOUTH SIDE OF THE ROADWAY.

PURCHASING AGENDA

- PUR-1 12-1981 ONE-YEAR CONTRACT FOR LOBBYIST SERVICES in the amount of \$50,000 with Ericks Consultants, Inc. and authorize the City Manager or designee to approval all renewal options - RFP 125-11001**

Please see funding information attached to these minutes.

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- PUR-2 12-2068 FIVE-YEAR CONTRACT EXTENSION AND FIRST AMENDMENT TO CONTRACT FOR CEMETERY MANAGEMENT SERVICES in the annual amount of \$776,911 with CFS Funeral Services, Inc. - Contract 785-9854**

Please see funding information attached to these minutes.

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- PUR-3 12-2078 THIRTY-TWO MONTH CONTRACT - PURCHASE OF SODIUM HYPOCHLORITE in estimated amount of \$1,655,000 from Odyssey Manufacturing Company, and authorize the City Manager or designee to approve all renewal options, contingent upon the approval and appropriation of funds - Co-Op Contract 2012-15**

Please see funding information attached to these minutes.

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- PUR-4 12-2135 PROPRIETARY PURCHASE - WATER DISTRIBUTION AND WASTEWATER COLLECTION INFRASTRUCTURE AND TREATMENT FACILITIES with various vendors on an as-needed basis contingent upon appropriation and approval of funds.**

Please see funding information attached to these minutes.

PUR-5 12-2136 THREE-YEAR CONTRACT FOR THE LEASE OF HOLIDAY LIGHTS in the annual amount of \$132,682 with Brandano Displays, Inc. and authorize the City Manager to execute two, one year renewals on behalf of the City contingent upon appropriation and approval of funds - RFP 825-11017

Please see funding information attached to these minutes.

PUR-6 12-2138 PURCHASE SALT WATER MONITORING REDEVELOPMENT OR REPLACEMENT WELLS not to exceed the amount of \$52,630 from Vertical V-Southeast, Inc. contingent upon appropriation and approval of funds - ITB 423-11061

Please see funding information attached to these minutes.

PUR-7 12-2140 TWENTY-EIGHT MONTH CONTRACT FOR EMPLOYEE HEALTH CENTER/CLINIC ADMINISTRATION SERVICES in the amount of \$1,583,845 with Marathon Health, Inc. and authorize the City Manager or designee to approve two, one-year renewal options contingent upon approval and appropriation of funds - RFP 725-11022

Please see funding information attached to these minutes.

PUR-8 12-2173 INCREASE EXPENDITURE - ADDITIONAL LATENT PRINT EXAMINATION SERVICES in the amount of \$8,910 with Ron Smith & Associates, Inc. - Contract 225-10914

Please see funding information attached to these minutes.

PUR-9 12-2223 ONE-YEAR CONTRACT FOR THE MAINTENANCE OF CITY OWNED STORMWATER STRUCTURES FOR UTILITY OPERATIONS in the amount of \$69,650 from A & A Drainage & Vac Services, Inc. and authorize the City Manager or his designee to approve all extension options.

Please see funding information attached to these minutes.

M-8 12-2261 CHANGE ORDER NO. 9 - Central Florida Equipment, Inc. - \$215,521.82 - Sistrunk Boulevard Streetscape and Enhancement - Additional 203 calendar days

Pursuant to Memorandum 12-287, the City Clerk announced that this item was corrected to reflect that it is subject to funding approval by the CRA (Community Redevelopment Agency) Board of Directors, and the contractor's correct name is Central Florida Equipment Rentals, Inc., not Central Florida Equipment, Inc.

Motion made by Vice Mayor Rodstrom and seconded by Commissioner Roberts that Consent Agenda Items M-7, M-8, CR-1, CR-2, PUR-1, PUR-7, and PUR-9 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda items be approved as recommended. Roll call showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

M-7 12-2241 REVOCABLE LICENSE - James A. Cummings, Inc. - SE 6 Street - Construction of New Broward County Courthouse Tower - Temporary Closure of Sidewalks, On-Street Parking Spaces and Vehicular Lanes

Commissioner Rogers thought this item relates to safety. A crosswalk is needed on SE 1 Avenue and SE 6 Street in front of the courthouse. Mayor Seiler agreed. The City Manager advised that staff will coordinate this with the contractor and not execute the license agreement until the crosswalk is completed. Commissioner Rogers did not want the project to be shut down, but felt that adding a crosswalk is important and relatively simple. Ultimately, the pedestrian detours on SE 6 Street and SE 1 Avenue set forth in Exhibits 1 and 2 of Commission Agenda Memorandum 12-2241 need to be properly identified or another reasonable accommodation needs to be made. Commissioner Rogers commented that, presently, pedestrians are only met with a sign indicating that the sidewalk is closed, and no alternative routes are offered. It is unsafe, given the confluence of people and vehicles at this location.

Justin Thorpe of James A. Cummings, Inc., referred to the traffic plan set forth in Exhibit 2 which includes crosswalk striping from SE 1 Avenue across SE 6 Street to the south side and signage. He agreed to have it done this week. Many people do not heed the signage. Mayor Seiler noted that it is not the City's liability if pedestrians choose to ignore signage. However, it is problematic to have signage that only indicates the sidewalk is closed. Mr. Thorpe contended that there is currently signage in place on the northwest corner of SE 6 Street and SE 1 Avenue directing pedestrians where to cross and stating that the sidewalk is closed. The signage faces pedestrians traveling from the west. Commissioner Rogers thought it should be made larger. Mr. Thorpe noted that additional signage directing pedestrians to utilize the sidewalk across the street has been ordered and will be placed along the construction fence. In response to Mayor Seiler, he explained that the current signage is actually on SE 1 Avenue, but appears differently in Exhibit 2 due to the scale of the drawing. Further discussion ensued on the particulars. Mr. Thorpe further explained that there is a sign on the south side of SE 6 Street (at SE 1 Avenue) indicating that the crosswalk is closed and directing pedestrians east, toward the courthouse's main entrance. The new signs will be bright yellow. Commissioner Rogers remarked that many drivers utilize the parking lot on SE 1 Avenue, so it is important to place the signs such that pedestrians heading north on SE 1 Avenue are aware they should stay on the sidewalk on SE 6 Street in order to go east on the south side. Mayor Seiler thought there is currently no signage in the area where most people park and the concern is that pedestrians are walking alongside the construction barriers and against traffic.

Motion made by Commissioner Rogers and seconded by Commissioner Roberts to approve the item as amended to be subject to the traffic plan including both a crosswalk and signage placed in appropriate locations being acceptable to the City. Roll call showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

**M-8 12-2261 CHANGE ORDER NO. 9 - Central Florida Equipment, Inc. -
\$215,521.82 - Sistrunk Boulevard Streetscape and Enhancement -
Additional 203 calendar days**

Commissioner Rogers expressed concern for safety in this matter. The north side of this project is one lane that extends from Federal Highway to Andrews Avenue, and it is not apparent to him where the shoulder is located and there is no sidewalk. This is problematic for both drivers and pedestrians. Further, he was uncertain whether the traffic lane is the correct size. The south side has two lanes and a wide sidewalk. The City Manager advised that the design was affected because the City had to accommodate issues raised by Broward County regarding turn lanes. Nonetheless, staff will make certain that the traffic lane is the proper width and that the shoulder and sidewalk clearances are addressed. Commissioner DuBose recalled that right-of-way issues on the north side precluded a sidewalk. He agreed that the north lane seemed narrow when he drove on it.

In response to Commissioner DuBose, Albert Carbon, Public Works Director, explained that the project will be completed before November 15, 2012. When the rainy weather subsides, the last lift of asphalt will be put in place and the sidewalks completed. Commissioner DuBose was frustrated about issues relating to this project and the multiple delays. He was concerned about whether this project will be completed in November as it was supposed to be completed in May. The City Manager noted that, if the project is not completed by November 15, the contractor would face financial penalties under the liquidated damages provision of the contract. In further response, Mr. Carbon indicated the contract does provide for rain days. However, the contractor is committed to completing this project; though there have been delays due to the overhead electric lines not being relocated. Commissioner DuBose thought the contractor has not lived up to their commitment. There have been issues with the contractor. Mr. Carbon provided more detail for Commissioner DuBose with respect to the contract provision concerning weather delays. The contractor can choose to work on Saturday.

Motion made by Vice Mayor Rodstrom and seconded by Commissioner DuBose to approve the item as amended and shown above. Roll call showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None

**CR-1 12-2276 CITY CLERK COMPENSATION - Resolution setting compensation for
City Clerk**

Vice Mayor Rodstrom indicated that she removed this item from the consent agenda to vote no. Philosophically, she did not believe the timing is appropriate as the City is currently borrowing funds to meet financial obligations. Although the City Clerk usually performs her duties well, she recently made an error that placed the Commission in harm's way.

Mayor Seiler opened the floor for public comment.

Fred Carlson, 625 Orton Avenue, expressed support of the item. The City Clerk has not received a raise in four years, despite growing inflation. He did not believe that freezing a salary is appropriate when the City's salary policy is to grant raises, and other raises have been granted.

There was no one else wishing to speak.

Motion made by Vice Mayor Rodstrom and seconded by Commissioner Roberts to approve the item as presented.

Commissioner Roberts pointed out Exhibit 1 of Commission Agenda Memorandum 12-2276 which indicates that Fort Lauderdale has three times as many agenda items annually than other Broward County municipalities shown. In response to Vice Mayor Rodstrom, the City Clerk indicated that her current salary is \$104,894. Mayor Seiler noted that the City Clerk's salary has been frozen for the past four years, therefore, this slight increase represents about 1 percent per year. The City Clerk's responsibilities have been increased and her staff has been decreased. He thought the proposed is a reasonable adjustment as compared to other cities in Broward County and the state.

Roll call showed: YEAS: Commissioner Roberts, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: Vice Mayor Rodstrom.

**CR-2 12-2187 CONSOLIDATED BUDGET AMENDMENT TO FISCAL YEAR 2013
BUDGET - APPROPRIATION**

Vice Mayor Rodstrom drew attention to page 6 of Commission Agenda Memorandum 12-2187; and provided a photo documenting the South Middle River neighborhood's concerns about unimproved rights-of-way; and a letter, dated September 21, 2012, from Sal Gatano, President of South Middle River Civic Association, requesting funding to pave the rights-of-way. A copy of the photo and Mr. Gatano's letter were made part of the record. She pointed out that this item proposes to transfer approximately \$22,000 (\$18,451 and \$3,732) from South Middle River Terrace Park to Guthrie Blake Park and Lauderdale Manors Park. She wanted to keep the \$22,000 in place for desperately needed landscaping when the right-of-way improvements are made in South Middle River.

Commissioner DuBose pointed out that each commission district was allocated park funding. Guthrie Blake Park has not had any attention. Vice Mayor Rodstrom pointed out that this funding has nothing to do with the original allocation of park funds. She clarified that she is simply asking that funds not be transferred from South Middle River Terrace Park to another park. Mayor Seiler noted that improvements in Guthrie Blake are currently underway. The funds to be transferred from South Middle River Terrace Park are those that were remaining when that project was completed. He agreed that the unpaved streets in South Middle River has been outstanding for years however he did not think \$22,000 would be enough to complete such a project, whereas they would likely be enough to complete the Guthrie Blake Park. Vice Mayor Rodstrom noted that the funds can be utilized for landscaping improvements. Commissioner DuBose and Mayor Seiler indicated that remaining funds have been taken from completed park projects in all four districts to be utilized on park projects in other districts. In addition to serving each district's needs, Commissioner DuBose noted that

the Commission also serves as a collaborative body to ensure that all neighborhoods are assisted. In response to Vice Mayor Rodstrom, he indicated that neither Guthrie Blake Park nor Lauderdale Manors Park are located within a CRA (Community Redevelopment Agency) boundary.

In response to Mayor Seiler, Phil Thornburg, Parks and Recreation Director, confirmed that the proposed funding transfers are needed to complete Guthrie Blake Park as well as the other projects set forth in the backup. The South Middle River Terrace Park project received some grant funds, so there were some remaining funds. The idea was to transfer the remaining funds and complete other park projects. Commissioner Roberts thought the bigger issue is roads in need of paving; however, that cost was last estimated at \$500,000 to \$1 million. Therefore, he suggested approving the City Manager's recommendation for this item, and seek more sizeable funding avenues for the paving. Commissioner DuBose remarked that the City's park system can be viewed as a whole because residents utilize different parks throughout the city. Hence, there have not been issues in the past with such transfers. Mayor Seiler noted that, although Lauderdale Manors Park and South Middle River Terrace Park are not in the same district, they are within close proximity and share common boundaries on Powerline Road.

Motion made by Vice Mayor Rodstrom and seconded by Commissioner Roberts to approve the item as presented. Roll call showed: YEAS: Commissioner Roberts, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: Vice Mayor Rodstrom.

PUR-1 12-1981 ONE-YEAR CONTRACT FOR LOBBYIST SERVICES in the amount of \$50,000 with Ericks Consultants, Inc. and authorize the City Manager or designee to approval all renewal options - RFP 125-11001

This item was removed from the consent agenda by, both, Commissioner Roberts and Vice Mayor Rodstrom.

Commissioner Roberts expressed desire for the City to utilize two lobbyists as it has in the past. It would present a conflict as one lobbyist may represent several entities and could, therefore, be lobbying in support of a topic opposed by the City. He wanted to split the contract between the two top-ranked proposers. Vice Mayor Rodstrom agreed. She thought the two top-ranked proposers would work well together and even more could be accomplished for the City.

In response to Commissioner Rogers, the City Attorney explained that changing the terms of the RFP may cause the proposers to change their bids. Commissioner Rogers noted that changing the RFP could be problematic in terms of the outcomes. In response to Commissioner Roberts, Kirk Buffington, Deputy Director of Finance, advised that the RFP state that one or more firms could be selected.

Mayor Seiler agreed that the two top-ranked firms are excellent, although he was prepared to approve this item as recommended. In the past, the City utilized two lobbyist firms at \$50,000 each. Therefore, he thought it is unfair to split this contract for the proposed amount; rather, two firms should be offered \$40,000 each. He stressed the value of these services. The proposed compensation was assumed when the top-ranked proposer, Ericks Consultants, Inc. (Ericks), completed the RFP. Further, Ericks probably did not bid on other work because

it was the top-ranked proposer for this RFP at a certain price. He thought the additional funding could be derived from an area where an issue is in need of lobbying. Vice Mayor Rodstrom agreed with such a compromise. Commissioner Roberts stressed that the City is dealing with challenging legislative issues. Hence, it is important for the City to have more potency in Tallahassee. Commissioner Rogers assumed inquiries were made in the evaluation process as to the number of other entities the firms represent. If the proposed item is to be amended, he wanted the proposers to address the Commission on that question and so forth. Mayor Seiler emphasized that the evaluation committee already ranked the top two firms, therefore either firm can perform the services. Commissioner Rogers pointed out that lobbyists are governed by an ethical code, so there must be some means to resolve conflicts.

Ron Book of Ronald L. Book, P.A., explained that this firm represents a number of clients as do most top-ranked lobbyist firms. The value of having two lobbyists is that, in the event of a conflict, the City can assign an issue to another firm. All of the top-ranked lobbyist firms are well sought after. The evaluation committee also inquired as to the firm's number of clients. His firm would not have responded to the RFP if it did not have the time and energy to devote to these services. He avowed to provide the City with 100 percent of an effort as set forth in the Code of Professional Responsibility. The lobbyists in his firm have never been in a situation where a problem was created for a client based on conflict. His firm has about the same amount of work currently as it did last year and has capacity to take on additional clients. His firm wants to represent the City, and has applied every time this RFP has been issued. The firm is locally based with offices in Miami and Tallahassee, and is prepared to live by no representations before this commission at any point in time, and to aggressively represent the City's interest. He believed a list of the firm's clients had been submitted in response to the evaluation committee's inquiries. Commissioner Rogers noted that the top ranked firm's local office is in Fort Lauderdale and was, therefore, given a local preference. He thought Mr. Book's indication that the firm's amount of work is comparable to last year is an objective standard. Mr. Book added that he resides in Plantation and spends time in downtown Fort Lauderdale. Commissioner Rogers asked about possible funding opportunities for the City, Mr. Book indicated that the latest revenue estimate showed about a \$71 million revenue advantage over current projections going forward from today. There are issues other than purely appropriations. He mentioned community redevelopment area issues as well as issues relating to law enforcement and pension. He thought the State is clearly in a recovery mode and there will be more funding available than last year.

David Ericks of Ericks Consultants, Inc., explained that his firm added personnel and created a team of lobbyists specifically to represent the City when this proposal was submitted to ensure the work could be handled. He thought this matter was well vetted by the evaluation committee. His firm answered all of their inquiries as to possible conflicts and the firm's clients. In response to Commissioner Rogers, he clarified that the team of additional personnel was created specifically for the City, but they have sought other bids. Given their amount and scope of experience, he believed there is nothing that his firm cannot accomplish for the City. Commissioner Rogers asked whether splitting the contract would impede the firm's ability to perform for the City. Mr. Ericks indicated that the more the merrier. But, by the same token, his firm bid this project fairly and included the appropriate number of personnel to perform what was set out.

Commissioner DuBose did not favor splitting the contract at \$40,000 for each firm because the three, one-year renewal options could result in a \$320,000 commitment. Given the economic climate, he felt more inclined to go year-to-year. He spends a significant amount of time in Tallahassee, and did not think more lobbyists will be able to secure funding that is just not there. In response to Vice Mayor Rodstrom, Mayor Seiler advised that this item can be amended such

that Commission approval is required for the renewals. Commissioner DuBose explained he is also concerned about increasing the contract amount to \$80,000 including concern that the budget next year is an unknown. Mayor Seiler suggested the item be amended to reflect that a one-year renewal must be brought back to the Commission. At the end of the first year, the Commission will know whether it wishes to renew both contracts or only one. He reiterated his desire to increase the amount of the contract if it is split to ensure the City's objectives are met at the executive and legislative branches of State government. But, if the contract amount is not increased to \$80,000, he did not want to split it.

Motion made by Commissioner Roberts and seconded by Vice Mayor Rodstrom to approve the item as amended for a one-year contract divided between the two top-ranked proposers, Ericks Consultants, Inc. and Ronald L. Book, P.A., respectively, in the amount of \$40,000 each, and Commission approval required for renewal.

Commissioner DuBose indicated that he would consider this contract if it was only one year for \$80,000; however, there are three one-year renewal options which could cost the City a total of \$320,000. Discussion ensued about the City's options. Commissioner Rogers agreed that the Commission should look at this contract every year. He felt confident that the two top-ranked firms are more than competent to represent the City. Being that an evaluation process was conducted and the top-ranked proposer was recommended, he had concerns about splitting the contract; but he is willing to move forward and see if two lobbyists are better than one. He thought the element of competition will be beneficial. If, after one year, the Commission does not want to renew this contract, he assumed there would be the option to hire only one of the firms or neither. In terms of the competition factor and the high caliber of the firms, Commissioner DuBose agreed. His concern is simply about the amount and the potential terms. Having the best lobbyists in the world does not guarantee that any funding will be procured. Commissioner Rogers reiterated his thought that competition is good and two firms for \$80,000 is a great value and a better deal.

Roll call showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner Rogers, and Mayor Seiler. NAYS: Commissioner DuBose.

Members of both firms were introduced.

PUR-7 12-2140 TWENTY-EIGHT MONTH CONTRACT FOR EMPLOYEE HEALTH CENTER/CLINIC ADMINISTRATION SERVICES in the amount of \$1,583,845 with Marathon Health, Inc. and authorize the City Manager or designee to approve two, one-year renewal options contingent upon approval and appropriation of funds - RFP 725-11022

Vice Mayor Rodstrom indicated that she does not object to this concept. However, the \$1.5 million cost is to be funded by an employee insurance premium increase and the Self Insured Health Benefits Fund (Self Insured Fund) as set forth on page 4 of Commission Agenda Memorandum 12-2140. She recalled that Broward County implemented a similar clinic that failed because it was not conveniently located onsite. The convenience factor is important. She thought it will be difficult to achieve 35 percent of the employees for this option. She was uncertain whether there is enough space to include a clinic at City Hall. For the same proposed cost, she believed the City could instead utilize a VIP concierge medical service. If the clinic lacks convenience, the City will lose money on it. She asked how long it will take to

make up this expense. There are a number of clinics on the health plan, but the proposed is only to be utilized by City employees for their convenience. She has been told that this is a benefit to the employees as well as the City. However, in order to truly benefit employees, she believed it should be located on-site. The City Manager explained that the private sector has successfully utilized employee health clinics for a long time as a means to control costs in a self-insured environment. The City has a self-insured plan and the cost for the clinic will be derived from that budget. The concept is that the City will be able to control its healthcare costs to have a quick return on the investment so the clinic will essentially pay for itself in a period of time. Dennis Stone, Employee Benefits Coordinator, confirmed twelve months is the estimated time. The City Manager pointed out that the clinic will not be utilized by all employees. For example, police officers have a separate program; however, there are dependents and other lives, in addition to City employees, that will utilize the clinic. Staff is examining where would be the best location. It must be convenient for employees and dependents. He pointed out that employers do not utilize on-site locations because employees desire privacy. He expanded on the issue of privacy, the clinic's staffing and intended services. Services will be provided at a fixed cost. The City will avoid the overhead and profit associated with mainstream medical practices. Ultimately, this investment will pay for itself and keep the City's experience down which will help control premiums. The health insurance premium increase is due to the City's high experience, not because of the clinic. He elaborated upon cost containment measures the City is looking at in order to achieve an affordable plan. The incentive for employees to utilize the clinic is that no co-pay will be charged. Being that the clinic will allow the City to provide healthcare at a lower cost, the goal is to steer as much employee participation to it as possible. Vice Mayor Rodstrom inquired whether Marathon Health, Inc. (Marathon) has performed an analysis to determine how many employees and dependents will utilize this type of clinic versus their primary care physician.

The City Manager explained to Vice Mayor Rodstrom that the projected start-up date is March 1, 2013. Most employees have had favorable experiences with these clinics and have developed preferences for the clinic doctor. The management of the clinic will be critical in order to obtain employee confidence. Employees seeking alternatives to healthcare costs will view the clinic favorably. He recalled his experience with a municipal clinic in Palm Bay that had utilization rates of over 100 percent each month. It was necessary to expand the hours of operation and add doctors. Palm Bay has since closed their clinic because it is no longer self-insured. He noted that the City Auditor has advocated for this concept for some time. The City will make up the \$1.5 million funding over a 12-month period. The clinic is not being included as a benefit in union negotiations because the City is ultimately controlling its healthcare costs of its system. The City bargains for the amount of funding it will pay, which is currently a fixed amount. Also, the City's bargaining units do not all come due at the same time. Vice Mayor Rodstrom asked whether any doctors would be willing to perform these services and provide their own office for \$1.5 million. The City Manager clarified that, in addition to a doctor's salary, the proposed funding amount is for consumables, pharmaceuticals and lab work.

Vice Mayor Rodstrom was concerned about the start-up cost for the clinic as the savings are not guaranteed. The City Manager indicated that there is a performance guarantee on the return on investment (ROI) Jerry Ford, CEO of Marathon Health, Inc., explained that the guarantee upfront is ten percent of the annual fee, year over year. The guarantee can be tied directly to the ROI. He elaborated upon the types of medical services provided by Marathon. The savings based on redirection of care is derived from the cost to see a physician in the community versus the cost of a seeing a physician in the clinic. The cost of the clinic is fixed

and the amount for the first year is about \$684,000 which provides a half-time medical doctor; a full-time mid-level practitioner, nurse practitioner or physician's assistant; and a medical assistant. The clinic can provide full lab work services, acute care and first treatment of injury. Further, there is a technology support system that can fully integrate with the City's insurance carrier and PBM (Pharmacy Benefit Manager) to provide full aggregate reporting about healthcare costs, including on a departmental basis. The goal is to help employees and their dependents to live healthier, more productive lives and create a savings for the City by changing the prevalence rates of chronic conditions. The guarantee is ten percent of the \$684,000 which will be at risk for Marathon to change prevalence rates and will be tied to the City's ROI. The ROI is derived from removing the chance of healthcare dollars being spent elsewhere in the community including unnecessary emergency room visits. Vice Mayor Rodstrom wanted the clinic to be located near City Hall. Mr. Ford pointed out that, for the last three years, Marathon has provided a clinic for Plantation which has been expanded, shown a significant ROI and a 97 percent employee satisfaction rating. He clarified that the \$1.5 million is over the twenty-eight month period.

In response to Commissioner Rogers, Mr. Ford explained how the ROI is calculated. The result is about a 20 to 40 percent reduction in urgent care costs and about a 20 percent reduction in specialty care costs. He confirmed for Commissioner Rogers that Marathon ran a predictive model based on the City's current rates. The City's ROI is 1.2 in hard dollar in year-one which is guaranteed by Marathon; if the actual ROI is less, Marathon will provide the City a \$68,000 credit according to the ten percent guarantee. The ROI was calculated at 35 percent employee participation in the first year. The City will select the clinic location. In response to Vice Mayor Rodstrom's question about deciding upon the clinic location, Mr. Stone elaborated upon the committee process being used as well as gathering of information from JM Family Enterprises which operates a number of employee clinics. The Commission approval in order to move forward is first needed. There are staff carpenters who can assist with the build-out of a facility. There are a couple of City facilities that would be considered, but it will probably be a storefront. He confirmed that the projected build-out cost of about \$100,000 is included in the \$1.5 million funding, and, in the event a non-city owned facility is utilized, the rent cost is estimated and included at about \$55,000 annually. The locations of employee residences and their travel routes to work are being considered for the facility to be easily accessible. The committee plans to utilize Marathon to assist in locating a facility. He clarified that the start-up cost from the Self Insured Fund is about \$37,000 and about \$57,000 monthly fee to Marathon. The employees make about 30,000 medical visits per year; 20,000 to specialists and 10,000 to primary care physicians. The (primary care) visits will begin to move over to the clinic, so much of the City's costs will be shifted or redirected to a set fee. He confirmed that employee use of the clinic will be voluntary. In response to Commissioner Rogers, Mr. Stone elaborated upon increased City costs as a result of the new federal health care program (The Patient Protection and Affordable Care Act). As for stop-loss premiums, the City has been hard hit this year with thirteen claims averaging about \$161,000 each. The City Manager advised that clinics, after several years of good experience, will allow the City to have less expensive stop-loss and excess insurance. It was confirmed for Vice Mayor Rodstrom that there is adequate funding in the Self Insured Fund for the start-up and to sustain the clinic for the 28-month period and the renewal options. Mr. Ford explained that the Plantation clinic was operating in the black after six months. He stressed that Marathon's customer service will be a catalyst to draw in City employees. He elaborated upon active outreach that Marathon will conduct before the clinic opens. The goal is for the clinic to be creating a savings for the City as soon as it becomes operational. He confirmed for Commissioner Rogers that the cost is a maximum guaranteed price, regardless of utilization level. If the clinic is very successful, it will be self-sustaining in terms of funding additional resources. Further, Marathon is willing to set a cap for the cost of additional staff so that cost

can also be locked in. Vice Mayor Rodstrom thought the clinic should offer some evening or Saturday hours. Mr. Ford explained that the swing shifts will be covered, so hours of operation are spread to include a couple of late nights and a couple of early mornings. Vice Mayor Rodstrom reiterated her desire for the clinic to have convenient hours and a location that is close to City Hall in order to facilitate maximum usage. The City Manager advised that the clinic will be located in Fort Lauderdale. Mayor Seiler suggested utilizing the City Park Garage as a clinic location because it already has offices and parking, and is close to City Hall. Also, the lease would be under the City's control. Vice Mayor Rodstrom agreed, and also suggested the City's Construction Services Bureau One-Stop Shop (300 NW 1 Avenue) as a possible location. In other words, she suggested a City-owned facility.

Mayor Seiler opened the floor for public comment.

Robert Walsh, 401 East Las Olas Boulevard, has addressed this matter with Mr. Stone and trusts his opinion. He wanted to be sure that Marathon, and not the City, would be liable for any related lawsuits. The proposed is costly and there are budget concerns. Therefore, he asked whether there is demand for a clinic which is basically a luxury. He stressed that Fort Lauderdale is different than Palm Bay. He suggested deferring this item for six months.

There was no one else wishing to speak.

Motion made by Vice Mayor Rodstrom and seconded by Commissioner Roberts to approve the item as presented.

Commissioner Roberts referred to a response to a City resident and a New York Times article about health clinics that were provided by the City Auditor. A copy of the response and article were made part of the record. He listed a number of private companies noted in the article that are successfully utilizing clinics. Vice Mayor Rodstrom questioned making comparisons to private sector. Her support for this item is contingent upon the information she has been provided, that the following elements are included: a guaranteed revenue source, cost savings, a guarantee on the ROI, and that it is a benefit for employees.

Roll call showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

PUR-9 12-2223 ONE-YEAR CONTRACT FOR THE MAINTENANCE OF CITY OWNED STORMWATER STRUCTURES FOR UTILITY OPERATIONS in the amount of \$69,650 from A & A Drainage & Vac Services, Inc. and authorize the City Manager or his designee to approve all extension options.

ALL INDIVIDUALS WISHING TO SPEAK ON THIS MATTER WERE SWORN IN.

Stephanie Toothaker, representing F.A. Johnson, Inc. (F.A. Johnson), indicated that F.A. Johnson filed a timely bid protest against the City's intent to award this contract to A & A Drainage & Vac Services, Inc. (A & A). Initially, the City (staff) agreed with the bid protest. Subsequently, City staff advised F.A. Johnson of its intent to award their firm and F.A. Johnson provided the City with revised pricing that was half of the original bid. Both the original and revised pricing were well within the budgeted amount. F.A. Johnson is appealing the City's

reversal of that decision and intent to award to A & A.

F.A. Johnson's protest is, in part, based on whether a license is required. A & A does not have a contractor's license. She referred to her handout depicting page 6 of the RFP, Storm Structure Service Maintenance (Annual Contract), which indicates that contractors are to be properly and legally licensed to perform such work. A copy of the handout is attached to these minutes. She highlighted information on page 6 of the RFP regarding some of the requirements. Following the bid protest, David Burgueno, Broward County Chief Investigator for Contractor Licensing and Enforcement, provided information to City staff, supporting F.A. Johnson's position that a contractor's license is required. She submitted a letter from Mr. Burgueno, dated July 17, 2012, which he wrote after reviewing the City's bid proposal. A copy of Mr. Burgueno's letter is attached to these minutes. Subsequent to Mr. Burgueno's letter, A & A requested a temporary license from Broward County's Central Examining Board of Engineered Construction Trades (CEB). The CEB discussed whether A & A had the proper experience to sit for the license, but ultimately tabled the issue and it is still pending. However, the CEB issued a letter (Exhibit 4, Commission Agenda Memorandum 12-2223) dated, August 8, 2012, indicating that cleaning and video inspections of storm drains do not require a license. A copy of this letter is attached to these minutes. City staff is relying upon this position, although the CEB did not review the City's RFP. However, the letter also states that the County is in the process of rewriting the code to require a license for these services. Therefore, A & A would be out of compliance as soon as that code amendment goes into effect. The City's position is that the CEB's opinion as expressed in the August 8 letter overrules Mr. Burgueno's opinion. Yet her client was recently told by the CEB that Mr. Burgueno's letter had not been overruled by the CEB's letter, and that it was still a valid letter. Therefore, pursuant to Mr. Burgueno's opinion, her client's position is that a contractor's license is required to perform these services. Another component of this bid protest is that A & A did not have the required number of vacuum vehicles (trucks). She referred to her handout depicting page 7 of the RFP which is attached to these minutes and contended that her client provided valid information to City staff, indicating that A & A only had two licensed trucks when the bids were opened, despite the City's requirement for a minimum of three permitted vacuum vehicles. She referred to a letter, dated July 3, 2012 (Exhibit 3 to Commission Agenda Memorandum 12-2223), that she received from the Deputy Director of Finance, which indicates that the bid did not state that three trucks were required at bid submittal, and that the City would accept compliance by the date of award. She elaborated upon case law set forth in Exhibit 3, *Harry Pepper & Associates v. city of Cape Coral (Harry Pepper)*, which argues that deviations and variances are grounds for finding a bid non-responsive. The last component of this bid protest is the required number of employees which is set forth on page 7 of the RFP which states that the contractor must have a minimum of six employees. However, at the time of the bid opening, the Florida Department of Financial Services (FDFS) Internet database indicated that A & A had one employee in addition to the owner and his wife. She submitted a printout from the FDFS website which was made a part of the record. Further, as of today, the FDFS website still indicates that James Scrima and his wife (A & A) are exempt from insurance requirements, and there is only one additional employee. She incorporated her former comments regarding case law for this provision of the bid. She has provided City staff with copies of notices of violation concerning the second-ranked bidder, EnviroWaste Services Group, Inc. (EnviroWaste), which is a violation of the bid requirements. In closing, she asked that A & A and EnviroWaste be deemed non-responsive, and the contract be awarded to F.A. Johnson.

Debate ensued between Mayor Seiler and Ms. Toothaker about the *Harry Pepper* case law. She indicated that she had a host of other case law that the vendor is supposed to meet minimum bid requirements when the bid is opened.

James Scrima, owner of A & A Drainage & Vac Services, Inc., thought the case law seems to be a ruling about obtaining a license to perform services, rather than having a necessary piece of equipment to perform the services. He indicated that the third truck was in the process of being purchased for about 30 days prior, regardless of the City's bid. It was a matter of transporting the truck. He indicated that Mr. Burgueno interprets maintenance as repairs. He offered to provide audio tape recording to this end. However, the CEB stated yesterday that F.A. Johnson has inquired on 17 separate occasions, and has received the same answer 17 times, that the CEB's understanding of maintenance is not the cleaning or removing of a baffle or water valve. The CEB interprets maintenance as, for example, the contractor having to cut something or perform concrete repairs because a pipe has been put through the structure. The CEB also indicated that code rewrite is not because the licensing language is unclear, but because the CEB recognizes that there is no requirement. The CEB wants to have a requirement for such cleaning storm other than simply an occupational license. The CEB hopes to have the revision complete in the next eight months. He has an audio tape recording of this dialogue if the Commission wishes to hear it. The documentation for his firm to hold a plumbing and general contracting license will be submitted to the State tomorrow. Therefore, he will not be out of compliance when the code is rewritten. In fact, his firm's licensing will be more advanced than that of F.A. Johnson. Mr. Scrima viewed the sealed bid process as a means for the City to obtain a true figure for pricing and performance and save tax dollars. The prices set forth in his bid are true and accurate, based on his firm's size and overhead. He submitted documentation of A & A's bids for citywide cleaning of storm drainage system services for Coral Springs and storm water catch basin cleaning and line jetting for Sunny Isles Beach. The contract with Sunny Isles includes the cities of Cooper City and Coconut Creek. Copies of these documents are attached to these minutes. A & A quoted the same prices to Fort Lauderdale it did for Coral Springs, and basically the same pricing as Sunny Isles Beach, though some of the pricing for Fort Lauderdale is lower because the items are different. Mayor Seiler pointed out that A & A is not named on the Sunny Isles bid document provided. Mr. Scrima indicated that he can provide documentation of this contract that includes his name before the end of the meeting. He contended that the City's procurement division has performed its due diligence and contacted the cities with whom A & A is contracted, to find there have been no issues and that the contracts have been renewed upon each option. These are current contracts. As for A & A's number of employees, he indicated that the Florida Division of Workers' Compensation (Workers' Compensation) showed one employee. When A & A began operating in 2000, it was exempt from Workers' Compensation. However, they currently have seven employees, and all of them were so employed prior to the bid. He submitted a letter from Florida United Businesses Association (FUBA), dated October 1, 2012, indicating that A & A has 7 employees on their Workers' Compensation policy. A copy of the letter is attached to these minutes. Workers' Compensation does not utilize a given number of employees, but rather the payroll. A County occupational license is offered at the same price for businesses with one to five employees. A & A hired a sixth and seventh employee this year which was not reflected on the occupational license until it was renewed. A copy of the occupational license was provided to the City. He asked the Commission to recognize that A & A is the lowest responsive and responsible bidder that can provide a significant cost savings to the City. He requested the CEB letter be acknowledged as an accurate depiction of the requirements. He noted that the City's contract was provided at a CEB meeting in August wherein the CEB determined that work for that contract does not require any special licenses. City staff also recognizes that A & A has proper documentation. He has an audio tape recording of dialogue with the CEB.

Commissioner Rogers recalled that his previous inquiry was based on A & A's price being 20 percent of the highest bid. Although cost savings is important, he was concerned whether A & A would be able to provide the necessary employees and equipment to complete the work. Mr. Scrima confirmed that A & A will be licensed as a plumber and general contractor in about one

month. He explained that the \$0 unit price for some services in A & A's bid is due to the fact that those services are included in the other pricing. The automated bid submittal system did not allow for the term, included, therefore the unit price of \$0 was used. If the City utilizes A & A, it will be able to clean three times as many drains for the same price as the second-ranked bidder. In further response, he explained that his third truck was purchased as a spare; the other two trucks are operational full time. The amount of work currently proposed by the City can be completed with one truck. A & A will have no issue performing the services. He encouraged the City to allocate more funds because of the cost savings and get more cleaning done. A & A has been in operation since 200. It also provides services for Weston and Sunny Isles Beach which incorporates Coconut Creek and Cooper City. Through A & A's contract with Coral Springs there are piggyback contracts with Pembroke Pines and Southwest Ranches. A & A office is located in Pembroke Pines and based in Weston.

Kirk Buffinton, Deputy Director of Finance, advised that the bid specifications were clear that cleaning was necessary for each unit. This is not a maintenance contract. Procurement staff collaborated with Public Works and the City Auditor to determine a premise for their recommendation about licensing. Staff is relying on the CEB's position that a license is not required at this time to perform cleaning and video inspections of storm drains as expressed in their most recent letter (August 8). As for whether A & A not having a third truck at the time of the bid is a minor variance, he agreed that there is a sizeable amount of case law regarding minor variances. He noted that the ruling in *Robinson Electric Company, Inc. v. Dade County* was, for a variance to be minor, the granting of the variance must not give a competitive advantage to the vendor to which it is being granted, and must not disadvantage other bidders who do not receive the same variance. He elaborated upon other case law, including *Harry Pepper*, and noted that, in those cases, the variances taken by the contractors were significant. However, the City's bid simply stated that the contractor has to have three trucks in order to be awarded the contract and perform the services; it did not state that, at time of bid to qualify, the contractor must have three trucks. Mayor Seiler raised the issue as to whether the City assumes that the bidder has the present ability to comply with the bid requirements and provide the services when the bid is submitted. Mr. Buffinton advised the City operates under the assumption that the bidders must meet the minimum specifications provided as per staff's due diligence and review of the responses. Ultimately, he believed this matter is a variance because the bid did not expressly state that the contractor must have three trucks at time of bid to qualify. Mayor Seiler did not find it reasonable for the City to operate under that assumption as it could create a situation where proposers randomly submit lowball bids and only come into compliance with the bid requirements if awarded the contract. Hence, those bidders would not incur any cost or expense unless awarded the contract. In fairness, the proposers should have to comply on the day the bids are opened. Mr. Buffinton explained that, in the interest of taking advantage of significant cost savings, staff allowed A & A to provide proof of compliance with the vehicle requirement prior to their recommendation to award. Dialogue ensued between Mayor Seiler and Mr. Buffinton on this point. Mr. Buffinton remarked that, of all the contracts brought forward for award, perhaps there has been some fifteen occasions where staff has recommended variances be made. The City Manager advised that the two factors considered in recommending this award were A & A's ability to perform the same type of service in other cities, and the significant price difference between A & A and EnviroWaste. Staff felt it was clearly in the City's best interest to achieve the price savings. As for the number of employees, Mr. Buffinton noted that staff's review of A & A's payroll records online indicate that the firm has seven employees which was in place prior to the bid award.

In response to Commissioner Rogers, Mr. Buffinton explained when staff received the first letter from the CEB in August, stating that a contractor license was required, staff determined A

& A and EnviroWaste to be non-responsive. At that point it was possible for staff to enter into negotiations with F.A. Johnson who negotiated in good faith and addressed the matter of pricing. However, staff returned to their original recommendation when the second letter from the CEB (Exhibit 4) was received, stating that a license was not required. A & A is capable of performing the services, and has good references from the cities for which it has been performing these services. None of those cities have filed a complaint about A & A or had issues with their performance.

In response to Commissioner Rogers, Ms. Toothaker explained that F.A. Johnson had cut their price to less than half of what was originally proposed which was within about \$50,000 of the A & A price of \$70,000. However, F.A. Johnson has the proper number of vehicles and proper licenses and their employees are insured which has a value. Mr. Buffington advised that the RFP includes language that the City reserves the right to award the bid in whatever it considers its best interest. Clearly the intent of the bid was to award a single contractor. Commissioner Rogers noted that competition is beneficial. Mr. Buffington confirmed that the RFP does not contain any language preventing the City from splitting this contract between A & A and F.A. Johnson. There are no other proposers that could be considered. The City Manager advised that, if this contract is split, the City would be paying a different price per unit for the same work. So the split would have to be based upon either the number of activities or price, and there would be less cleaning activity from one contractor because of the price differential. In response to Commissioner Rogers raising the possibility that F.A. Johnson may be willing to match A & A's price, the City Manager believed that would be considered best and final offer and he felt the matter is beyond that stage. In response to Commissioner Roberts, Mr. Scrima advised that he had the truck on order prior to the bid process and prior to being advised that he would be awarded the contract. He elaborated upon an issue that caused a delay in registering the truck and during that time, it was in Broward County's hands. There have never been any issues related to licensing raised in any other A & A bid awards. The most recently awarded contract is with Sunny Isles Beach last year, and the renewal period is October 1. He confirmed that, in order to maintain contractual obligations, A & A would be required to obtain any licensing deemed appropriate by Broward County or the cities with whom he is currently contracted. He reiterated that the documentation for A & A's (license qualifier) plumbing and general contractor licenses will be submitted to the State in the next couple of days. He is preparing for the possibility of Broward County requiring licensing. Ms. Toothaker believed Mr. Scrima acknowledged that a license is needed to perform these services because he approached the CEB to request the ability to sit for one. She read the following excerpt from the minutes of the CEB's August 24, 2012 meeting: Motion by Jeff Greenfield to table the decision until September 10, on the condition that Mr. Scrima provide detailed notarized letter from Sullivan describing the work performed; the length of employment – a notarized letter indicating that he has the ability to do this kind of work. She surmised that Sullivan is the company Mr. Scrima worked for that actually bid on other contracts. In order to video and clean a storm drain, a baffle must be removed. If the baffle breaks and must be repaired or replaced, it would be considered maintenance which is the point at which a license is required.

Pete Cameron of F.A. Johnson, Inc., noted his credentials as a licensed general contractor and a licensed underground utility and excavation contractor, as well as his experience bidding on public contracts for over ten years. The City's primary reason for reversing their recommendation was the position stated in the August 8 letter from the CEB. He appeared before the CEB yesterday concerning that letter. Ultimately, the CEB's purpose was not to decide a city contract or to advise a city; nor was it to overrule Mr. Burgueno's letter. When he asked whether the letter was written in review of the City bid to determine if a bidder needs a license, he was told the CEB did not see a copy of the bid and refused to see a copy as their

position is to interpret. He has an audio tape recording of that meeting wherein it was confirmed that Mr. Burgueno's position regarding the City contract still stands as written.

In response to Vice Mayor Rodstrom, Mr. Cameron explained that F. A. Johnson's negotiated price was \$125,000, and their initial bid was \$160,000. F. A. Johnson negotiated in good faith and thought a deal was in place. F.A. Johnson carries general liability, auto liability, and workers' compensation insurance, per the State requirements for their licenses. In response to Commissioner Rogers, Ms. Toothaker noted that the information provided from the FDFS shows today's date at 2:22 a.m. Mr. Scrima referred to a letter from FUBA he submitted which indicates that A & A has seven employees. Commissioner Rogers questioned whether the information posted on the FDFS website is self-reported or based on information provided from insurers. Mr. Scrima was not familiar with FDFS, but explained that employers are responsible for reporting new hires via an online process. Each A & A employee has been properly documented. A & A carries liability and auto insurance, as well as workers' compensation. Mr. Cameron articulated that the FDFS website is an online database maintained by the State for consumer protection. It allows the public to look up a business's current worker compensation policy to determine the details, including the number of covered employees. The FDFS website is updated multiple times per week; however, since July, the website has consistently shown Mr. and Mrs. Scrima as exempt and one total A & A employee covered.

Mr. Cameron noted his public records request from Cooper City for all invoices submitted and received 26 ranging from current to two years ago. They show that A & A performed duties consistent with repairs without a contractor's license. Although the proposed contract is only for cleaning, it likely will move beyond cleaning in scope. He offered to provide copies of these invoices. He reiterated F. A. Johnson's licensing in-place and that F. A. Johnson has seven contracts with the DOT (Department of Transportation) for this type of work and contracts throughout the state. He believed it is a matter of bootlegging services for unlicensed A & A to perform such work. It is purpose for disqualification. Given A & A's consistent patterns of circumventing and avoiding licensing requirements, he did not see how they could be considered.

In response to Commissioner Rogers, Mr. Cameron explained that he has found 25 to 50 percent of systems opened on public roadways have some form of damage. The drainage systems in the proposed contract are aging. In order to avoid roadway excavation, many cities and the DOT utilize different forms of rehabilitative services which F. A. Johnson performs. The rehabilitative services are more cost effective and efficient than open cut excavation. He thought information he found in Cooper City is reason to further investigate. He has submitted this information to Mr. Burgueno. In response to Commissioner Rogers, Mr. Cameron noted that information is reported to the workers' compensation carrier when a business hires or reduces their number of employees, and the worker's compensation carrier updates the State so the data on the FDFS website stays current. His monitoring of F.A. Johnson's information has shown that the process seems to be up-to-date. In response to the City Manager, Mr. Cameron advised that their corporate name is F. A. Johnson, Inc. and d/b/a Johnson Environmental Services. The City Manager noted that the website shows F. A. Johnson Environmental Services has three employees. Mr. Cameron indicated that they have multiple corporations. He advised that three employees is not accurate. He agreed with the City Manager's finding from the website that F. A. Johnson, Inc. has six employees. The City Manager indicated another area of the website for workers compensation shows that F. A. Johnson, Inc. has three employees. He concluded by questioning the reliability of the website. Commissioner DuBose commented on his familiarity with the FDFS website. There are times when it is not up-to-date as the agent submits the information. Hence, he questioned it was raised tonight.

Commissioner Rogers thought it could be considered a red herring.

Mr. Buffington clarified that prior to the award recommendation, A & A's insurance policies were reviewed and approved in accordance with the bid specifications by the City's risk management department. In response to Mayor Seiler, Albert Carbon, Public Works Director, indicated that he considers the work in the proposed contract to be maintenance as it is cleaning the storm drains. The contractor is to clean the storm drain and report any needed repairs to the City. In response to Vice Mayor Rodstrom, he explained that either staff or a contractor performs the repairs, depending upon the extent of them. Commissioner Rogers thought the proposed work seems to be more than just cleaning, and if done incorrectly, it is problematic. Mr. Carbon recalled the significant rain event in October, 2011, which resulted in the City's commitment to increase the storm drain maintenance. Staff has been cleaning every storm drain, but clogs can recur with only one rainstorm. The purpose of this contract is to provide supplemental help. Vice Mayor Rodstrom reasoned that the process would be less fragmented if one contractor was utilized that could perform both cleaning and repairs. Mr. Carbon reiterated that staff can also make the repairs. He confirmed for Mayor Seiler his belief that the work in the proposed contract can be performed according to this recommendation.

Motion made by Commissioner Roberts and seconded by Commissioner DuBose to approve the item as presented.

Mayor Seiler disclosed that years ago, he handled a hearing for another attorney who represented F.A. Johnson, Inc. According to his recollection, the attorney paid for his services, not F.A. Johnson. The City Attorney has advised that there is no conflict of interest.

Roll call showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom and Commissioner DuBose. NAYS: Commissioner Rogers and Mayor Seiler.

Vice Mayor Rodstrom expressed desire to change her vote.

Motion made by Vice Mayor Rodstrom to reconsider Agenda Item PUR-9 died for lack of a second.

Continued on page 37.

MOTIONS FOR DISCUSSION

**MD-1 12-2264 CODE ENFORCEMENT LIEN SETTLEMENT in the amount of \$4,300
for Case CE06091540 at 11 SW 11 AVE**

There is no fiscal impact associated with this action.

The City Manager provided a revised lien settlement agreement for this item. He noted that this matter was discussed at the September 18 conference meeting. The proposed agreement allows the respondent one year from the issuance of the permits to come into compliance with the code violations, and authorizes the City Manager to extend the one-year deadline if good cause is shown. In response to Mayor Seiler, he recalled that, when this item was previously addressed at the conference meeting (Item CF-2), the focus was on attainment of the Certificate of Occupancy within one year. However, the proposed

agreement aims at the code violations that relate to the property's exterior because staff is concerned about the aesthetic appearance. Commissioner Rogers thought the property's exterior should be completed, and did not think it is clearly prescribed in the agreement. Discussion ensued about possible language revisions for clarity. Mayor Seiler suggested adding the word "full" to read, "full compliance with the violations".

Motion made by Commissioner Rogers and seconded by Commissioner DuBose to approve the item as amended by adding the word "full" to the Paragraph 1 of the agreement to read, "OWNER shall proceed with its plan for relocation and rehabilitation of the structures on the subject property in compliance with the Certificate of Appropriateness from the City of Fort Lauderdale Historic Preservation Board, issuance of all required permits as required by the City of Fort Lauderdale Building Department (also known as Department of Sustainable Development) for the project and full compliance with the violations in Case Number CE06091540 within one year of the issuance of the required permits, which may be extended by the City of Fort Lauderdale City Manager if good cause is shown by OWNER." Roll call showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

CITIZEN PRESENTATIONS

CIT-1 12-2255 CAROL D. RUBENSTEIN - Design Vision for the South entrance to the City, i.e. seaport, airport & highways

Ms. Rubenstein indicated that she owns property located at 412 SE 23 Street. She elaborated upon the property's boundaries. She encouraged the City to visually enhance its south entrance by utilizing a visionary and, or an architect, along with City planners and university students to implement a design vision. The south area should not be sold short because of its present circumstances and usage.

CIT-2 12-2256 DEV RATNAM, Ph.D. - 20,000 square foot two story office building - owned by KSR LLC - owner trying to sell building situated in Parcel 8G, City of Fort Lauderdale Executive Airport with Land Lease

Dr. Ratnam explained that he purchased a 20,000 square foot office building located at 2400 West Cypress Creek Road which has a land lease of \$2,700 (monthly) to expire in 2034 with the Executive Airport Authority. He thought the property was a good investment, and elaborated upon the cost and projected income. However, the building has been losing about \$150,000 annually in rental income since 2007, due to the economic downturn. He elaborated upon his efforts to sell the building since 2009. Despite numerous inquiries and concessions, possible buyers still lost interest because of the structure of the land lease. The building is on one acre of land. He has been negotiating with the Airport Manager since 2009; however, the land lease includes some structural limitations. In addition to reduced property values, interest rates have also come down. He hired an attorney to work toward revising the land lease, but was unsuccessful. He elaborated upon the reasons he must sell the property and is ready to accept any offer. He presented Resolution 10-69 that states that the yearly lease rate is to be ten percent of the appraised value.

The City Manager advised that the rents must comply with the FAA (Federal Aviation Administration) guideline which is ten percent of the appraised value. Dr. Ratnam's current rent

is \$38,283; and the property recently appraised at \$525,000. Hence, the rent is still based on the appraised value in the initial lease. Further, Dr. Ratnam is currently three months in arrears on rent and there are fire code violations that will be brought forward to the Special Magistrate. He noted that Dr. Ratnam has gone before the Aviation Advisory Board several times and has spoken to airport administrators. Staff has striven to cooperate, but has limited ability due to the FAA guidelines. Commissioner Roberts commended the Airport Manager for her efforts in this matter. Mayor Seiler elaborated upon numerous issues and facilities for which the City has dealt with FAA guidelines. The City made robust efforts in those matters, but there is little recourse for FAA mandates. Therefore, he did not believe the requirement set forth in Dr. Ratnam's lease could be changed. In response to Dr. Ratnam, Mayor Seiler explained that the City cannot afford to purchase his property.

CIT-3 12-2257 ART SEITZ - Barrier Island, Need to Rebid International Swimming Hall of Fame/Fort Lauderdale Aquatic Complex Project, Indy Car Race Contract, New York City Southport renovation

Mr. Seitz remarked on a comment made by Vice Mayor Rodstrom at the September 18 regular Commission meeting about emails she received from the public expressing disappointment about not being able to speak on the budget items because they were brought forward at a late hour. Mayor Seiler indicated that he never received any emails about that matter. Mr. Seitz did not believe that any emails were sent. He recalled performing public records requests in response to assertions that the City received letters opposing, both, the air show and including a hotel at the International Swimming Hall of Fame (ISHOF) (Aquatic Complex). He did not receive any responses. Mayor Seiler clarified that his prior statement about the hotel matter was that he received communications, not correspondence. Mr. Seitz elaborated upon a wide sidewalk and landscaping improvements near Searstown and Andrews Avenue. Though there is no bicycle lane, all that is needed is a pathway wide enough for cyclists and pedestrians. Fort Lauderdale is the worst in the country for cyclist and pedestrian fatalities, and the government has done almost nothing to remedy it. The city lacks connectivity, and has inadequate bicycle lanes. He expressed disappointment with the ISHOF design, and with Vice Mayor Rodstrom's performance, the turnover of her assistants as well as the cost of the City's upcoming special election. Mayor Seiler advised Mr. Seitz to limit his comments to the topics that he committed to address.

CIT-4 12-2271 ROBERT WALSH - Revenue (extra) for City of Fort Lauderdale

Mr. Walsh suggested the City create additional revenue by implementing a permit process with a \$100 fee for exotic dancers. He also suggested implementing a sin tax for bath houses. He urged the Commission to look outside the box in terms of developing measures to raise additional revenue. He elaborated upon a possible buyer for the Trump International Hotel & Tower building. He thought these suggestions should also be offered to Broward County.

CIT-5 12-2275 DONNA MERGENHAGEN - "Small Business Saturday" has become a national economic driver and many cities have acknowledged the day.

Ms. Mergenhagen noted her credentials as a small business owner in the city. She provided a historic outline of the origins of Small Business Saturday (SBS). Cities throughout the country

acknowledge and promote SBS. Some areas have adopted quarterly and monthly SBS events. She elaborated upon the number and variety of small businesses in Fort Lauderdale that serve both residents and tourists. The number of jobs and other monetary returns from small, locally owned and operated businesses contribute to the City's economy at a greater percentage than large chains. She asked the Commission to acknowledge all of the city's small businesses on SBS, and elaborated upon suggested measures to that end. Mayor Seiler liked the idea and asked her to send him information as to what other cities have done in terms of a resolution. Ms. Mergenhagen indicated that she would resend an email with information about what other cities in Florida do to recognize SBS which is celebrated on the Saturday following Thanksgiving. She commented on the public's desire to patronize small businesses, rather than chains. However, Fort Lauderdale lacks a unified directory and a unified effort to bring awareness of small businesses. Commissioner Rogers pointed out that 80 percent of all businesses are small businesses which are promoted by the Greater Fort Lauderdale Chamber of Commerce (Chamber of Commerce). Therefore, he suggested involving the Chamber of Commerce in promoting SBS. Ms. Mergenhagen thought the Chamber of Commerce has shown some interest in SBS which benefits all small businesses; however, very small businesses cannot afford membership to the chamber.

RESOLUTIONS

R-1 12-2250 APPOINTMENT OF CITY BOARD AND COMMITTEE MEMBERS
All vacancy information is provided under Conference item BD-2

There is no fiscal impact associated with this action.

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

Affordable Housing Advisory Committee	Kevin Borwick (Commissioner Rogers – Advocate for low income persons in connection with affordable housing category)
Audit Advisory Board	Roger Ally (Vice Mayor Rodstrom)
Cemetery System Board of Trustees	Vicki Mowrey (Mayor Seiler)
Community Appearance Board	Thomas Yianilos (Mayor Seiler)
Visioning Committee	Desorae Giles-Smith (Commissioner DuBose)

Commissioner Roberts introduced the following resolution:

RESOLUTION NO. 12-182

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
FORT LAUDERDALE, FLORIDA, APPOINTING BOARD
MEMBERS AS SET FORTH IN THE EXHIBIT ATTACHED
HERETO AND MADE A PART HEREOF.**

Which resolution was read by title only. Roll called showed: YEAS: Commissioner Roberts,

Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler.
NAYS: None.

R-2 12-2231 SALE OF CITY-OWNED PROPERTY, PURCHASE AND SALE CONTRACT AND DEED OF CONVEYANCE - \$1,000 - Accepting offer from Sara Walter for the property with approximate street address of northeast corner of NW 13 Street and 1 Avenue and authorizing proper City Officials to execute all necessary documents subject to City Attorney review.

Please see funding information attached to these minutes.

Commissioner Roberts introduced the following resolution:

RESOLUTION NO. 12-183

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PURSUANT TO SECTION 8.04 OF THE CITY CHARTER, ACCEPTING THE OFFER OF ONE THOUSAND AND 00/100 DOLLARS (\$1,000.00) BY SARAH WALTER, A SINGLE PERSON, FOR THE PURCHASE OF THAT VACANT PARCEL LOCATED APPROXIMATELY AT THE NORTHEAST CORNER OF NW 13TH STREET AND 1ST AVENUE, AND MORE PARTICULARLY DESCRIBED BELOW AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONTRACT FOR SALE AND PURCHASE OF THE PROPERTY; AUTHORIZING EXECUTION AND DELIVERY OF A DEED OF CONVEYANCE TO THE PROPERTY; AND FURTHER AUTHORIZING THE EXECUTION OF ANY AND ALL INSTRUMENTS REASONABLY NECESSARY OR INCIDENTAL TO A CONSUMMATION OF THE TRANSFER OF TITLE TO THE PROPERTY; AND PROVIDING FOR AN EFFECTIVE DATE.

Which resolution was read by title only. Roll called showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler.
NAYS: None.

R-3 12-2280 RESOLUTION TO APPROVE A RATE FOR THE NON-CLASSIFIED EMPLOYEES PARTICIPATING IN THE NON-CLASSIFIED EMPLOYEE 401(a) RETIREMENT PROGRAM.

There is no fiscal impact associated with this action.

RESOLUTION NO. 12-184*

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, REVISING THE CITY'S CONTRIBUTION RATE TO THE 401(A) DEFINED CONTRIBUTION MONEY PURCHASE PLAN FOR NONCLASSIFIED EMPLOYEES ("401(A) PLAN")

EFFECTIVE OCTOBER 1, 2012 BY ADOPTING A CONTRIBUTION RATE NOT TO EXCEED 27.71% OF EARNING FOR THOSE NONCLASSIFIED EMPLOYEES HIRED BEFORE OCTOBER 1, 2012; BY REVISING EFFECTIVE OCTOBER 1, 2012 THE CONTRIBUTION RATE TO THE 401(A) PLAN TO PROVIDE FOR A FIXED CONTRIBUTION RATE OF 9.0% AS TO NONCLASSIFIED EMPLOYEES HIRED ON OR AFTER OCTOBER 1, 2012; PROVIDING FOR A CONTRIBUTION RATE TO THE 401(A) PLAN FOR NON-CLASSIFIED EMPLOYEES HIRED PRIOR TO OCTOBER 1, 2012 FOR A CONTRIBUTION RATE EQUAL TO THE CITY'S NORMAL COST COMPONENT OF THE ANNUAL REQUIRED CONTRIBUTION (ARC) TO THE CITY'S GENERAL EMPLOYEES' RETIREMENT SYSTEM ("GERS") AT A RATE NOT TO EXCEED 19.89% OF THE EMPLOYEE'S EARNINGS TO TAKE EFFECT SIMULTANEOUS WITH THE EFFECTIVE DATE OF AN ORDINANCE PROVIDING FOR A SPECIAL CLASS OVERRIDE FOR A CERTAIN CLASS OF EMPLOYEES; AUTHORIZING THE CITY'S FINANCE DIRECTOR TO EXECUTE ALL OTHER NECESSARY DOCUMENTS WITH ICMA RETIREMENT CORPORATION TO EFFECTUATE THE REVISED CONTRIBUTION RATE; REPEALING ANY AND ALL RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE.

*Resolution was revised. See discussion below and revised title on page 29.

Mayor Seiler opened the floor for public comment.

Charles King, 105 North Victoria Park Road, questioned whether the Commission considers this to be pension reform and Mayor Seiler responded no. Mr. King felt it appears to be spin control for a pension scandal that was uncovered. Vice Mayor Rodstrom confirmed that employees do not contribute to the 401(a). Mayor Seiler went on to respond to Mr. King's questions about the new cap of 19 percent being put in place for 24 employees who were previously at 27 percent which program happened in the 1990's. The contribution rate is now 9 percent for all future hires and the pay scale has been restructured. The reform will create a substantial savings totaling millions of dollars. Mr. King contended that the 24 employees received a salary raise for the exact amount that their 401(a) contribution was lowered. Mayor Seiler clarified that these employees already had vested benefits, and are being made whole as a result of this. The 24 were given the option to either participate in the 401(a) or the pension and they chose this route. They were hired with an expectation of a certain salary. This item is not related to employees in the police department. Voting for this item is a vote in favor of some pension reform. This item has, both, positive and negative elements. The Commission referred the matter to the Budget Advisory Board (BAB). The BAB recommended that those employees who have achieved a certain benefit will receive the same net package, but all future hires will be capped at 9 percent.

Commissioner Roberts pointed out that it is a wash for the 24, in terms of the City's costs. There is a reduction of 8 percent in the COLA (Cost of Living Adjustment) contribution and a corresponding increase to most of 6 percent in salary. He recalled that Mayor Seiler suggested taking BAB's recommendation even further by making the FICA (Federal Insurance

Contributions Act) contribution as part of the net package so the City's costs would not rise. It was not exactly a percentage-for-percentage reduction. Rather, an 8 percent reduction in the 401(a) contribution resulted in a 6 percent increase in base pay and again, the 9 percent cap will afford future savings.

Robert Walsh, 401 East Las Olas Boulevard, contended that some City employees brought this issue to his attention. He would have preferred for the City Manager to receive 19 percent and 9 percent for all other employees, but did not object to the proposed plan which will be a savings. The City Manager had a reasonable expectation of his compensation when he was hired. He did not think the others would resign if their contribution rate was lowered to 9 percent. Ultimately, his loyalty is to residents. He inquired as to why a media representative is not present this evening.

There was no one else wishing to speak.

Vice Mayor Rodstrom noted that this is an opportunity to change previously set bad policy. She thought the 9 percent cap for future hires is good legislation; however, the 19.89 percent for existing employees is not. She attended the BAB meeting when this matter was addressed. It is problematic for individuals with a vested interest in this item to speak on behalf of themselves and others. However, the BAB is a voluntary board that provides the best possible information to the Commission based on information they are provided. The members are not necessarily experts in the area of pensions. If the BAB is not provided adequate information, they will not perform to their optimum ability which she believed was the case. The decision made tonight will be an affirmation of the future. The proposed provides for a 6.13 percent raise to the base salaries of the employees with a 19.89 percent cap. The pension is based on the base salary. So an individual earning \$100,000 with a 6 percent base salary increase would earn \$1,200 more per year in pension. She did not believe the BAB had been made aware that the 6.13 percent raise would go to the employees' base salaries.

In response to Mayor Seiler, the City Auditor explained that, per the Commission's request, he developed a formula that would result in the same total amount of compensation. He detailed how he arrived at such formula. The total dollar amount is unchanged. He offered to confirm that his calculation and formula takes into consideration ultimate impact on the pension (401(a)). Mayor Seiler agreed with Vice Mayor Rodstrom's concern about the 401(a) contribution also rises when the base salary is increased. He stressed that the Commission's desire was to achieve the same net effect. In response to Vice Mayor Rodstrom, the City Manager explained that some of the 24 employees have not reached their cap and qualify for a merit raise just as any other management/confidential employee. Vice Mayor Rodstrom expressed further concern that these employees could also qualify for a 3 percent maximum merit increase in addition to the 19.89 percent contribution rate and 6.13 percent base salary increase.

Mayor Seiler was concerned that there are now 30 employees receiving the higher contribution rate, rather than just 24 because people have been hired while this matter has been under discussion. He did not think new hires should be added to this group. The City Manager explained that the benefit is in place by resolution and staff has operated within that paradigm. After further discussion, Commissioner Rogers suggested a separate resolution stating that every hire after a chosen date certain receives the 9 percent contribution rate. The City Manager explained staff is short-staffed in getting the data into the computer system. Commissioner Rogers thought it should have been made clear to anyone hired within the past 60 days that the benefits were in flux. Further discussion ensued about an appropriate date to use as demarcation. Commissioner Rogers expressed frustration with respect to the individual positions in this group in that some make sense while others seem out of balance. Adding more

to the group only adds to the equation.

Assistant City Attorney Bob Dunckel advised that policy and law conflict sometimes. The City's 401(a) Plan was adopted in 1999, which provided that the contribution rate could be changed from time to time by the Commission. It was not changed recently. These employees continue to get paid bi-weekly. The 401(a) rate can be modified prospectively, but not retrospectively. In response to Vice Mayor Rodstrom, he indicated that it is the Commission's discretion as to the amount provided it is prospective. Further discussion ensued as to individuals hired in the past sixty days and this matter which the Commission has already indicated will be changed. Mayor Seiler stressed that the proposed is extremely generous, but it is being offered in fairness because of the City's prior 401(a) contribution rate promise. But, it is no longer a fairness issue for individuals hired within the last 60 days because there was no expectation that it would remain in-place. Vice Mayor Rodstrom disagreed because the legislation remains in-place. She thought litigation could be brought against the City. The City has created a new class of employees that cannot truly be considered at-will. Mr. Dunckel indicated his opinion is that policy needs to be followed until it is changed. Vice Mayor Rodstrom agreed.

Mayor Seiler thought this matter had been clearly addressed as of August 1, 2012. He suggested this date be used. Commissioner Rogers agreed. In response to Vice Mayor Rodstrom's previous question, the City Auditor advised that he has rechecked his calculations. They are accurate. It does increase the base salary. Mayor Seiler suggested the BAB recommendation be applied to employees hired on or before July 31, 2012, and not to employees hired on August 1, 2012, or later. Commissioners Rogers and Roberts agreed. Commissioner Roberts introduced the following resolution:

RESOLUTION NO. 12-184

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, REVISING THE CITY'S CONTRIBUTION RATE TO THE 401(A) DEFINED CONTRIBUTION MONEY PURCHASE PLAN FOR NON-CLASSIFIED EMPLOYEES ("401(A) PLAN") EFFECTIVE OCTOBER 1, 2012 BY ADOPTING A CONTRIBUTION RATE NOT TO EXCEED 27.71% OF EARNINGS FOR THOSE NON-CLASSIFIED EMPLOYEES HIRED BEFORE AUGUST 1, 2012; BY REVISING EFFECTIVE AUGUST 1, 2012 THE CONTRIBUTION RATE TO THE 401(A) PLAN TO PROVIDE FOR A FIXED CONTRIBUTION RATE OF 9.0% AS TO NON-CLASSIFIED EMPLOYEES HIRED ON OR AFTER AUGUST 1, 2012; PROVIDING FOR A CONTRIBUTION RATE TO THE 401(A) PLAN FOR NON-CLASSIFIED EMPLOYEES HIRED PRIOR TO AUGUST 1, 2012 FOR A CONTRIBUTION RATE EQUAL TO THE CITY'S NORMAL COST COMPONENT OF THE ANNUAL REQUIRED CONTRIBUTION (ARC) TO THE CITY'S GENERAL EMPLOYEES' RETIREMENT SYSTEM ("GERS") AT A RATE NOT TO EXCEED 19.89% OF THE EMPLOYEE'S EARNINGS TO TAKE EFFECT SIMULTANEOUS WITH THE EFFECTIVE DATE OF AN ORDINANCE PROVIDING FOR A SPECIAL CLASS OVERRIDE FOR A CERTAIN CLASS OF EMPLOYEES; AUTHORIZING THE CITY'S FINANCE DIRECTOR TO EXECUTE ALL OTHER NECESSARY DOCUMENTS WITH ICMA RETIREMENT

CORPORATION TO EFFECTUATE THE REVISED CONTRIBUTION RATE; REPEALING ANY AND ALL RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE.

Which resolution, as amended and noted above, was read by title only. Roll called showed: YEAS: Commissioner Roberts, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: Vice Mayor Rodstrom.

In response to Mayor Seiler, Assistant City Attorney Dunckel advised that the effective date is intended to coincide with the effective date of the ordinance that will create the special class override projected to be October 14. The City Attorney advised that the following resolution does not need to be changed to be in line with the revised August 1 timeline.

Commissioner Roberts introduced the following resolution:

RESOLUTION NO. 12-185

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, INCREASING THE BASE SALARY AT A RATE OF 6.13% FOR CERTAIN NON-CLASSIFIED EMPLOYEES PARTICIPATING IN THE CITY'S 401(A) DEFINED CONTRIBUTION MONEY PURCHASE PLAN; INCREASING THE BASE SALARY OF THE CITY MANAGER AT A RATE OF 4.0%; REPEALING ANY AND ALL RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING AN EFFECTIVE DATE.

Which resolution was read by title only. Roll called showed: YEAS: Commissioner Roberts, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: Vice Mayor Rodstrom.

R-4 12-2160 TEN-YEAR AIRSPACE AGREEMENT - Florida Department of Transportation - to utilize FDOT property adjacent to Riverland Woods Park at State Road 7 - one (1) ten (10) year renewal and authorizing execution by the City Manager

There is no fiscal impact associated with this action.

Commissioner Roberts introduced the following resolution:

RESOLUTION NO. 12-186

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING EXECUTION BY THE CITY MANAGER OF AN AIRSPACE AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION RELATIVE TO SURPLUS PROPERTY LOCATED NEXT TO RIVERLAND WOODS PARK AT STATE ROAD 7 (441), RIVERLAND ROAD AND THE NORTH NEW RIVER CANAL (C-19); AUTHORIZING THE CITY MANAGER

TO EXECUTE ANY AND ALL INSTRUMENTS REASONABLY NECESSARY OR INCIDENTAL TO EXECUTION OF THE AIRSPACE AGREEMENT; PROVIDING FOR THE REPEAL OF RESOLUTIONS OR PARTS THEREOF IN CONFLICT HERewith; PROVIDING FOR REVIEW BY THE CITY ATTORNEY PRIOR TO EXECUTION; PROVIDING FOR AN EFFECTIVE DATE.

Which resolution was read by title only. Roll called showed: YEAS: Commissioner Roberts, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: Vice Mayor Rodstrom.

**R-5 12-2240 SIDEWALK REPAIRS - AUTHORIZING REPAIRS TO SIDEWALKS
ABUTTING PRIVATE PROPERTY AT COST TO PROPERTY OWNERS
- 625 N Birch Road and 95 N Birch Road**

There is no fiscal impact associated with this action.

Commissioner Roberts introduced the following resolution:

RESOLUTION NO. 12-187

A RESOLUTION REQUIRING THE OWNERS OF CERTAIN PARCELS OF REAL PROPERTY TO RECONSTRUCT OR REPAIR SIDEWALKS ABUTTING THEIR PROPERTIES WITHIN SIXTY (60) DAYS AND, IN THE EVENT SUCH OWNERS FAIL TO DO SO, AUTHORIZING CITY WORK CREWS OR CONTRACTORS, OR BOTH, TO RECONSTRUCT OR REPAIR SAID SIDEWALKS WITH THE COST OF PERFORMING SUCH WORK CONSTITUTING A CHARGE AND LIEN AGAINST SAID PROPERTY.

Which resolution was read by title only. Roll called showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

**R-6 12-2208 QUASI JUDICIAL - VACATION OF WATER PIPE EASEMENT
Applicant: Stanley R. Gumberg, Trustee and the Coral Ridge Mall
Location: 3200 North Federal Highway
Case: 6-M-12**

There is no fiscal impact associated with this action.

Members of the Commission announced the same disclosures as those indicated on prior considerations, Commissioner Roberts announced with whom he had spoken and site visits made concerning this matter.

Commissioner Roberts introduced the following resolution:

RESOLUTION NO. 12-188

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, VACATING A PORTION OF THAT WATER PIPE EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 2435, PAGE 922 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA OVER A PORTION OF TRACT "A", "RESUBDIVISION OF A PORTION OF CORAL RIDGE GALT ADDITION NO. 2", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 36, PAGE 15 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED EAST OF NORTH FEDERAL HIGHWAY (US1; SR5), NORTH OF EAST OAKLAND PARK BOULEVARD, WEST OF NORTHEAST 26TH AVENUE AND SOUTH OF NORTHEAST 35TH DRIVE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

Which resolution was read by title only. Roll called showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

R-7 12-2225 QUASI JUDICIAL - VACATION OF WATER AND SEWER UTILITY EASEMENT
Applicant: Stanley R. Gumberg, Trustee and the
Coral Ridge Mall Location: 3200 North Federal
Highway
Case: 6-M-12

There is no fiscal impact associated with this action.

Members of the Commission announced the disclosures were the same as those indicated on prior considerations.

In response to Commissioner Rogers, Commissioner Roberts explained that, if there is flooding, it is intermittent, cleared within a certain time period and not related to the easement issue. The Applicant is looking into ways to enhance the clearing. As for David Bishop's assertion at the September 18 regular meeting about people parking along 26 Avenue and walking through a gate, he clarified that there is no gate at that location. He was satisfied with the information he received during his site visit and tour. New construction will not extend much further than the existing footprint. There were other business-related matters pertaining to the site that involved Mr. Bishop. It was more of a civil issue with no bearing on this item.

Commissioner Roberts introduced the following resolution:

RESOLUTION NO. 12-189

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, VACATING A PORTION OF THAT WATER AND SEWER EASEMENT AS RECORDED IN OFFICIAL RECORDS BOOK 2458, PAGE 439 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA OVER A

PORTION OF TRACT "A", "RESUBDIVISION OF A PORTION OF CORAL RIDGE GALT ADDITION NO. 2", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 36, PAGE 15 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED EAST OF NORTH FEDERAL HIGHWAY (US1;SR5), NORTH OF EAST OAKLAND PARK BOULEVARD, WEST OF NORTHEAST 26TH AVENUE AND SOUTH OF NORTHEAST 35TH DRIVE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

Which resolution was read by title only. Roll called showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

ORDINANCES

O-1 12-2152 QUASI-JUDICIAL - SECOND READING - VACATION OF 40 FOOT RIGHT-OF-WAY - NE 7 Avenue between Sunrise Boulevard and NE 9 Street - Case 8-P-11
Applicant: Holman Automotive, Inc.

There is no fiscal impact associated with this action.

The Commission announced the disclosures were the same as those indicated on first reading, with one additional site visit announced by Mayor Seiler.

Vice Mayor Rodstrom introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-12-36

AN ORDINANCE VACATING, ABANDONING AND CLOSING A PORTION OF NORTHEAST 7TH AVENUE BETWEEN BLOCK 218 AND BLOCK 219, "PROGRESSO", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 18 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED EAST OF NORTH FEDERAL HIGHWAY (US1;SR5), SOUTH OF EAST SUNRISE BOULEVARD, WEST OF NORTHEAST 10TH AVENUE AND NORTH OF NORTHEAST 9TH STREET, SUCH LAND BEING LOCATED IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

Which ordinance was read by title only. Roll called showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

O-2**12-2153****SECON****Island Parking Study on the barrier island - Case 9-T-12**

There is no fiscal impact associated with this action.

ORDINANCE NO. C-12-39

AN ORDINANCE AMENDING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, REVISING THE PARKING AND LOADING REQUIREMENTS FOR THE CENTRAL BEACH DISTRICTS AND THE NORTH BEACH AREA BY AMENDING SECTION 47-20.2, PARKING AND LOADING ZONE REQUIREMENTS, TO ADD PARKING REQUIREMENTS FOR THE CENTRAL BEACH DISTRICTS AND NORTH BEACH AREA; AMENDING TABLE 3 OF SECTION 47-20.2, PARKING AND LOADING ZONE REQUIREMENTS, TO REVISE PARKING CALCULATIONS FOR SPECIFIC USES AND ADD SPECIFIC PARKING CALCULATIONS FOR ZONING DISTRICTS WITHIN THE CENTRAL BEACH AREA; CREATING TABLE 4 OF SECTION 47-20.2, PARKING AND LOADING ZONE REQUIREMENTS, TO ADD A TABLE OF PARKING CALCULATIONS FOR SPECIFIC USES WITHIN THE NORTH BEACH AREA; AMENDING SECTION 47-20.3, REDUCTIONS AND EXEMPTIONS, TO CHANGE THE CRITERIA FOR PARKING REDUCTIONS PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

Vice Mayor Rodstrom recalled that she supported this item on first reading. However questions have now arisen. She suggested deferral. In response to Commissioner DuBose, the City Manager advised that there is no specific time issue from an administrative standpoint; however, certain projects are pending this ordinance, such as Sunrise Lane and Bokamper's.

Vice Mayor Rodstrom explained that residents are wanting clarification about the concept of building parking garages and the new parking calculations. She believed there was more concern about the residential rather than the business areas. She was uncertain if this item covers the area in totality. Greg Brewton, Sustainable Development Director, explained that the proposed ordinance specifically addresses commercial inclusive of hotels, non-residential development. It will not impact any residential. In further response, he indicated that projects requiring approval of the Commission or the Planning and Zoning Board would be subject to conditions that would be related to the impact that development may or may not have on the property being developed. He noted that nothing is pending for the October Planning and Zoning Board meeting. Vice Mayor Rodstrom wanted a deferral so that the Director of Transportation and Mobility has an opportunity to speak to residents.

Motion made by Vice Mayor Rodstrom and seconded by Commissioner DuBose to defer the item to October 16, 2012. Roll call showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

REGISTRATION PROGRAM FOR ABANDONED RESIDENTIAL PROPERTY

Please see funding information attached to these minutes.

Commissioner Roberts introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-12-38

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CHAPTER 18, NUISANCES, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA TO INCLUDE A CITY RESIDENTIAL ABANDONED PROPERTY PROGRAM; PROVIDING FOR ABANDONED PROPERTY REGISTRATION BY FORECLOSING MORTGAGEES; PROVIDING FOR DEFINITIONS; PROVIDING FOR RESPONSIBILITY FOR COMPLIANCE OF NUISANCE VIOLATIONS; PROVIDING FOR INSPECTIONS OF ABANDONED PROPERTY; AND FURTHER PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Which ordinance was read by title only. Roll called showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

O-4 12-2253 SECOND READING OF ORDINANCE AMENDING CODE OF ORDINANCES - CHAPTER 25, STREETS AND SIDEWALKS - UNDERGROUNDING OF UTILITY FACILITIES - Special Assessment Program

There is no fiscal impact associated with this action.

Vice Mayor Rodstrom introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-12-37

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CITY OF FORT LAUDERDALE CODE OF ORDINANCES SECTION 25-124, ENTITLED "DEFINITIONS" REVISING DEFINITIONAL TERMS; AMENDING SECTION 25-129.1(B), ENTITLED "FINDINGS AND SUPPORT FOR UNDERGROUND UTILITY LINE ASSESSMENT" AND SECTION 25-129.4, ENTITLED "INITIATION OF PROCESS" TO REQUIRE A THRESHOLD OF SEVENTY PERCENT (70%) OF THE SIGNED AND RETURNED BALLOTS WITHIN A PROPOSED UNDERGROUND SPECIAL ASSESSMENT AREA BE "IN FAVOR" OF THE PROPOSED SPECIAL ASSESSMENT AS A CONDITION PRECEDENT TO THE SPECIAL ASSESSMENT PROCESS; REQUIRING MAILING OF THE BALLOTS BY THE CITY CLERK; PROVIDING FOR AUTHORIZATION OF AN AGREEMENT WITH AND

EXPENDITURES FOR COORDINATING CONSULTANT SERVICES FOR THE PREPARATION OF PLANS & SPECIFICATION AND STUDY; PROVIDING FOR SIMULTANEOUS IMPLEMENTATION OF A METHOD OF REIMBURSEMENT TO THE CITY BY THE OWNERS OF PARCELS WITHIN THE UNDERGROUND SPECIAL ASSESSMENT AREA FOR THE FUNDING OF THE COSTS OF THE COORDINATING CONSULTANT SERVICES; REQUIRING PREPARATION OF THE BALLOT UPON BEING PROVIDED WITH PRELIMINARY PLANS WITH A 90% COMPLETION AND STRUCTURE OF THE BALLOT FOR THE SPECIAL ASSESSMENT; AMENDING SEC. 25-129.13, ENTITLED "EFFECT OF FINAL ASSESSMENT RESOLUTION" REQUIRING A COMPETITIVE NEGOTIATION PROCESS FOR SELECTING THE CONTRACTORS FOR CONSTRUCTION OF THE UNDERGROUND UTILITY LINE FACILITIES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Which ordinance was read by title only. Roll called showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

O-5 12-2147 FIRST READING OF AN ORDINANCE AMENDING CODE OF ORDINANCES - SECTIONS 26-91(C) AND 26-161 - increase surcharge for School Crossing Guard Program and increase maximum parking fee at Fort Lauderdale Beach Park Lot for Special Event

Please see funding information attached to these minutes.

In response to Vice Mayor Rodstrom, the City Manager advised that the purpose of this ordinance is to correct a scrivener's error with regard to special event permit parking. It will be raised from \$10 to \$20 as a maximum. It actually has nothing to do with school crossing guards.

Vice Mayor Rodstrom introduced the following ordinance on FIRST reading:

ORDINANCE NO. C-12-40

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE RELATING TO PARKING; AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, ENTITLED "TRAFFIC" BY AMENDING SECTION 26-91 "SCHEDULE OF FINES" TO PROVIDE FOR AN INCREASE IN PENALTIES FOR CERTAIN PARKING VIOLATIONS, AND TO INCREASE THE SURCHARGE IMPOSED TO FUND THE SCHOOL CROSSING GUARD PROGRAM; AMENDING SECTION 26-161 "RATES AND HOURS FOR ON AND OFF-STREET PARKING" TO PROVIDE FOR AN INCREASE IN MAXIMUM PARKING FEE AT A GIVEN PARKING LOT WHEN SPECIAL EVENTS ARE SCHEDULED; PROVIDING

FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND
PROVIDING FOR AN EFFECTIVE DATE.

Which ordinance was read by title only. Roll called showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

**OB INTERLOCAL AGREEMENT (ILA) FOR RECYCLABLES MATERIAL RECOVERY
 WITH BROWARD COUNTY**

Mayor Seiler highlighted information in Memorandum 12-284 which is attached to these minutes. The City Manager requested that approval be subject to the City Attorney's review.

Motion made by Vice Mayor Rodstrom and seconded by Commissioner Roberts to approve an interlocal agreement for recyclables material recovery with Broward County subject to the City Attorney's review. Roll call showed: YEAS: Commissioner Roberts, Vice Mayor Rodstrom, Commissioner DuBose, Commissioner Rogers, and Mayor Seiler. NAYS: None.

**PUR-9 12-2223 ONE-YEAR CONTRACT FOR THE MAINTENANCE OF CITY OWNED
 STORMWATER STRUCTURES FOR UTILITY OPERATIONS in the
 amount of \$69,650 from A & A Drainage & Vac Services, Inc. and
 authorize the City Manager or his designee to approve all extension
 options.**

Continued from page 22.

Vice Mayor Rodstrom pointed out that Robert's Rules of Order (RRO) indicates that one is allowed to change their vote before the vote has been announced. She would like to do so. Mayor Seiler noted that the problem is that the vote went through and Vice Mayor Rodstrom's motion to reconsider died for lack of a second. Those who were not on the prevailing side cannot second it. Vice Mayor Rodstrom believed that a motion is not necessary. The City Attorney advised the City has historically followed the rule that, once the last vote is taken, not announced as per RRO, a motion to reconsider is necessary. The motion to reconsider can be seconded by someone who was not on the prevailing side, but the motion cannot be made by someone who was not on the prevailing side. This policy has been followed because the charter states that the mayor votes last, therefore the mayor's vote marks the end of the voting. The same motion cannot be repeatedly made, although it could be made at the next regular meeting. Vice Mayor Rodstrom announced that she intends to make a motion to reconsider this item on October 16 because she wishes to change her vote. In response to Commissioner Roberts and Mayor Seiler, the City Attorney indicated that there was no prevailing side for Vice Mayor Rodstrom's motion to reconsider because it failed for lack of a second. He agreed to examine the specifics of the process in preparation for the October 16 meeting.

There being no other matters to come before the Commission, the meeting was adjourned at 11:18 p.m.

John P. "Jack" Seiler
Mayor

ATTEST:

Jonda K. Joseph
City Clerk