

City of Fort Lauderdale

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



Meeting Minutes - APPROVED

Tuesday, April 15, 2014

6:00 PM

City Commission Chambers

City Commission Regular Meeting

FORT LAUDERDALE CITY COMMISSION

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

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

Meeting was called to order at 6:07 p.m. by Mayor Seiler.

ATTENDANCE ROLL CALL

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

Also Present: City Manager Lee R. Feldman, City Clerk Jonda K. Joseph, Assistant City Attorney Cynthia A. Everett and Sergeant At Arms Sergeant Todd Bunin

Not Present: City Auditor John Herbst

Vote Roll Call Order for this Meeting

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

Invocation

Reverend Jerry Singleton, Pastor, Saint Anthony Catholic Church

Pledge of Allegiance

Led by Boy Scout Garnett Byrd II

Approval of MINUTES and Agenda

14-0526 APPROVAL OF MINUTES for February 10, 2014 Joint Workshop with the Affordable Housing Advisory Committee, and March 4, 2014 and March 18, 2014 Regular Meetings

No public comments were submitted by email for the April 15, 2014 regular meeting.

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

APPROVED

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

OTHER BUSINESS

OB RECOGNITION OF POLICE SERGEANT JOYCE FLEMING

The Commission thanked Fort Lauderdale Police Department Sergeant Joyce Fleming for her service.

PRESENTATIONS

PRES-1 14-0528 RECOGNITION OF POLICE OFFICER OF THE MONTH FOR APRIL 2014

Police Chief Frank Adderley recognized Detective Lauren Dukanauskas as Officer of the Month for April 2014. Chief Adderley detailed how Dukanauskas' recent efforts have resulted in the arrests of 28 active burglars.

PRES-2 14-0470 PROCLAMATION DECLARING APRIL 26, 2014 AS ARBOR DAY IN THE CITY OF FORT LAUDERDALE

Vice-Mayor Rogers presented the proclamation to Parks Supervisor Gene Dempsey. Dempsey thanked the Commission for its support and highlighted plans for an Arbor Day program on April 26. To recognize the City's status as a Tree City USA for 35 years, community volunteers will plant 35 trees in Snyder Park.

PRES-3 14-0471 PROCLAMATION DECLARING APRIL, 2014 AS WATER CONSERVATION MONTH IN THE CITY OF FORT LAUDERDALE

Commissioner Roberts presented the proclamation to Acting Assistant Public Works Director Nancy Gassman. Gassman thanked the Commission and highlighted water conservation programs in the city.

PRES-4 14-0517 PROCLAMATION DECLARING APRIL 15, 2014 AS FORT LAUDERDALE CITY HALL AS CERTIFIED WILDLIFE HABITAT DAY IN RECOGNITION OF CITY HALL'S DESIGNATION AS A CERTIFIED WILDLIFE HABITAT BY NATIONAL WILDLIFE FEDERATION

Commissioner Trantalis presented the proclamation to Patrick Fitzgerald, senior director of education management for the National Wildlife Federation and Diana Guidry, Nature Scape Broward program coordinator and host for the National Wildlife Federation. Fitzgerald thanked the Commission and noted that today marks the start of Fort Lauderdale's registration as a Community Wildlife Habitat. Guidry outlined some details of the program.

PRES-5 14-0550 PROCLAMATION DECLARING APRIL 22, 2014, AS EARTH DAY IN THE CITY OF FORT LAUDERDALE

Commissioner Trantalis presented the proclamation to Acting Assistant Public Works Director Nancy Gassman. Gassman briefly addressed the City's commitment to sustainability.

PRES-6 WALK-ON PROCLAMATION DECLARING NATIONAL COMMUNITY DEVELOPMENT WEEK

Commissioner DuBose presented the proclamation to Housing and Community Development Program Manager Jonathan Brown. Brown thanked members of this division and community partners.

CONSENT AGENDA

Mayor Seiler announced the procedure for consent items.

Motion made by Commissioner Roberts and seconded by Commissioner Trantalis that Consent Agenda Item PUR-1 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda items be approved as recommended.

APPROVED

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

CONSENT MOTION

CM-1 14-0419 EVENT AGREEMENTS: 80th Easter Sunrise Service, Sports Authority Regrand Opening, EVP Fort Lauderdale Pro Am Beach Open, Ann Storck Center Celebrity Volleyball Tournament , Where the Cars Are and Triathlon for BCCkids.org.

APPROVED

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

CM-2 14-0420 EVENT AGREEMENTS AND RELATED ROAD CLOSINGS: Best Buddies Friendship Walk 2014, 19th Annual Las Olas Wine and Food Festival, Walk Like MADD & MADD and Fort Lauderdale Double Road Race

APPROVED

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

CM-3 14-0417 CONTRACT RENEWALS - JULY, AUGUST, SEPTEMBER 2014 - contingent upon each respective vendor agreeing to the extension

APPROVED

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

CM-4 14-0415 USE OF SCHOOL BUSES FOR CITY RECREATIONAL PROGRAMS AND EVENTS - Agreement with School Board of Broward County - May 1, 2014 through April 30, 2015.

APPROVED

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

CM-5 14-0436 REVISED INSTALLATION AND MAINTENANCE OF LANDSCAPE AGREEMENT WITH BROWARD COUNTY - Broward Boulevard Livable Mobility Grant between Andrews Avenue and State Road 7 - Beautification Agreement with City of Plantation and Broward County

from State Road 7 to NW 7 Avenue to remain in full force and effect

APPROVED

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

- CM-6 14-0513** GRANT ACCEPTANCE - \$72,750 - HIGHWAY SAFETY GRANT PROGRAM - National Highway Safety Administration via Florida Department of Transportation and authorize City Manager to execute sub-grant recipient agreement

APPROVED

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

- CM-7 14-0421** HIGH PRIORITY REPAIRS TO LEAK IN WATER-MAIN - \$84,345.38 plus \$14,338.67 for estimated administration and engineering fees - intersection of NE 38 Street and NE 11 Avenue - Molloy Bros Inc.

APPROVED

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

- CM-8 14-0422** TASK ORDER 2014-01 - \$22,190 - PROFESSIONAL ENGINEERING SERVICES TO UPDATE WATER SUPPLY FACILITIES WORK PLAN AND COMPREHENSIVE PLAN - Hazen and Sawyer P.C.

APPROVED

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

- CM-9 14-0378** EXPANDING B-CYCLE STATION AT D.C. ALEXANDER PARK - THIRD ADDENDUM TO REVOCABLE LICENSE - B-Cycle, LLC and authorize City Manager to execute on behalf of City.

APPROVED

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

- CM-10 14-0441** AUTHORIZING CITY ATTORNEY'S OFFICE TO INITIATE LEGAL ACTION TO ABATE PUBLIC NUISANCE - homestead property at 3316 NE 38 Street - Lawrence and Barbara Cohen

Stephen Tate, 3309 NE 37 Avenue, entered support of the item for the record.

Shirley Gadol, 3325 NE 38 Street, entered support of the item for the record.

APPROVED

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

- CM-11 14-0396** ADDITIONAL FUNDING TO CONTRACT FOR WALKABILITY AND OTHER TRANSPORTATION AND MOBILITY DEPARTMENT PROJECTS - \$460,000 - Sun-Up Enterprises, Inc.

APPROVED

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

- CM-12 14-0443** FOREIGN TRADE ZONE OPERATOR AGREEMENT - SPVEF-SKID, LLC d/b/a Marina Mile Yachting Center at Marina Bay subject to approval of minor boundary modification for a usage driven site by Foreign-Trade Zones Board and activation request by U.S. Customs and Border Protection

APPROVED

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

- CM-13 14-0444** FOREIGN TRADE ZONE OPERATOR AGREEMENT - DFC Services Corporation subject to approval of minor boundary modification for a usage driven site by Foreign-Trade Zones Board and activation request by U.S. Customs and Border Protection

APPROVED

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

- CM-14 14-0430** AMENDMENT TO LEASE AGREEMENT FOR MARINE FACILITIES OFFICE SPACE - 408 South Andrews Avenue - May 1, 2014 - April 30, 2019 - Azorra Properties, LLC

APPROVED

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

CONSENT RESOLUTION

- CR-1 14-0424** ROOF REPLACEMENT FOR NEW RIVER INN AND KING CROMARTIE HOUSE - Second Amendment to Lease Agreement - City contribution in an amount not to exceed \$40,000 - matching funds for Florida Preservation Grant Program application - Fort Lauderdale Historical Society

ADOPTED

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

- CR-2 14-0397** QUALIFIED TARGET INDUSTRY TAX REFUND PROGRAM - RECOMMENDING PROJECT COMPACT as a qualified target industry business applicant and providing local support in the amount of \$190,800 contingent upon approval by State of Florida

REMOVED FROM AGENDA

- CR-3 14-0445** NEW FOREIGN TRADE ZONE SITES - authorizing City Manager to submit applications and execute operator agreements subject to approval of Foreign Trade Zones Board and activation request by U.S. Customs and Border Protection

ADOPTED

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

- CR-4 14-0446** REIMBURSEMENT FOR INFORMATION TECHNOLOGY EQUIPMENT AND SERVICES - U.S. CUSTOMS AND BORDER PROTECTION FACILITY AT EXECUTIVE AIRPORT - Memorandum of Agreement

ADOPTED

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

- CR-5 14-0540** AUTHORIZING CITY MANAGER TO ACCEPT APPOINTMENT TO NOVA SOUTHEASTERN UNIVERSITY PUBLIC ADMINISTRATION ADVISORY BOARD

ADOPTED

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

PURCHASING AGENDA

- PUR-1 14-0359** ONE-YEAR CONTRACT FOR JULY 4TH FIREWORKS DISPLAY - \$82,425 - Pyrotecnico of Florida, LLC and authorize City Manager to approve three, one-year renewal options

The City Clerk announced a correction to the funding index code.

In response to Commissioner Trantalis, the City Manager confirmed that the Beach Community

Redevelopment Area (CRA) is the funding source for this item. It will remain the funding source for each of the three years if it is renewed. It is budgeted each year in the CRA.

Motion made by Commissioner Trantalis and seconded by Commissioner Roberts to approve the item as amended.

APPROVED WITH A CORRECTED FUNDING INDEX CODE OF DSD070601-3203, ARTISTIC SERVICES

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

PUR-2 14-0389 ONE-YEAR CONTRACT FOR DAILY MAINTENANCE SERVICES OF SISTRUNK BOULEVARD - \$71,175 - Toilet Taxi Corp and authorize City Manager to approve three, one-year renewal options contingent upon appropriation of funds and ratify payment of \$47,159 made to X Treme Lawn & Landscape Corp. for maintenance services performed as a pilot program

APPROVED

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

PUR-3 14-0414 ONE-YEAR CONTRACT FOR BRIDGE TENDING SERVICES - 11th AVENUE SWING BRIDGE - \$145,229.85 - ISS Facility Services, Inc. and authorize City Manager to approve three, one-year renewal options contingent upon appropriation of funds

APPROVED

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

PUR-4 14-0476 ONE-YEAR CONTRACT EXTENSION FOR TOWING SERVICES - \$230,000 (annual revenue) with West Way Towing Inc. and authorize City Manager to approve three, one-year renewal options

APPROVED

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

PUR-5 14-0427 PURCHASE HARDWARE AND SOFTWARE LICENSES FOR KRONOS WORKFORCE TIMEKEEPING EXPANSION - estimated not to exceed amount of \$133,945 - Kronos, Inc., Computer Systems Support, Inc., SHI International Corp. and Dell Computer Marketing Limited Partnership

APPROVED

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

PUR-6 14-0434 INCREASED EXPENDITURE FOR PLUMBING MAINTENANCE SERVICES in the amount of \$50,000 with A-1 Paradise Plumbing, Inc. d/b/a Paradise Service Technologies

APPROVED

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

PUR-7 14-0520 BUSINESS ASSOCIATE AGREEMENT FOR ACTUARIAL SERVICES - Cavanaugh Macdonald Consulting, LLC

APPROVED

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

PUR-8 14-0523 ONE-YEAR CONTRACT FOR FOREIGN TRADE ZONE CONSULTING SERVICES in estimated amount of \$76,000 from IMS Worldwide, Inc. and authorize City Manager to approve two, one-year renewal options, contingent upon appropriation of funds

APPROVED

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

MOTIONS

M-1 14-0439 SETTLEMENT OF POLICE LIABILITY CLAIM PP L 11-889 (Anthony Munden) - \$45,000

Mayor Seiler opened the floor for public comment.

Charles King, 105 North Victoria Park Road, described his understanding of this matter and asked if \$45,000 is the going rate for false arrests. He also questioned whether there was any disciplinary action taken against the officer. Mayor Seiler explained the settlement is based on attorney fees and defense costs. The Commission was not pleased that the claim was filed in federal court and there was a technicality. In federal court, one is entitled to attorney fees. This amount essentially represents the plaintiff's attorney fees.

The City Manager confirmed for Commissioner Trantalis the officer is still employed with the City. He believed it was a matter of a transposition in numbers when recording the gun's serial number.

Raymond Cox, a homeless resident, questioned the City's position on verifying whether officers are telling the truth or providing false information intentionally. Mayor Seiler said the City does not tolerate untruthfulness. This was not intentional. It was a mix-up of numbers. Commissioner Roberts noted that

not only is untruthfulness an offense worthy of termination, the officer also loses his or her State certification.

There was no one else wishing to speak.

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

APPROVED

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

RESOLUTIONS

R-1 14-0451 APPOINTMENT OF CITY BOARD AND COMMITTEE MEMBERS - vacancy information provided under Conference Item BD-2

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

- Board of Adjustment Karl V. Shallenberger (Consensus/Mayor Seiler)
Sharon A. Zamojski (Consensus/Mayor Seiler)
- Cemetery System Delores Sallette (Commissioner DuBose)
- Education Advisory Board Maureen S. Dinnen (Vice-Mayor Rogers)
Deniece Jones (Commissioner DuBose)
- Historic Preservation David Kyner (Vice-Mayor Rogers)
Marilyn Mammano (Vice-Mayor Rogers)
- Housing Authority Shirley Carson (Mayor Seiler)
Robert Kelley (Mayor Seiler)
- Northwest Progresso Flagler Heights Alan L. Gabriel (Commissioner Roberts)
Jessie Adderley (Commissioner Trantalis)
Sonya Burrows (Commissioner DuBose)
Yvonne Sanandres (Vice-Mayor Rogers)
- Planning and Zoning James G. McCulla (Commissioner Roberts)

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

ADOPTED

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

R-2 14-0366 QUASI-JUDICIAL - Site Plan Level IV Development Permit - Case 68R13

Applicant: Royal Atlantic Developers, LLC
Location: 435 Bayshore Drive

Zoning: Intracoastal Overlook Area (IOA)
Future Land Use: Central Regional Activity Center

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

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

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

Attorney Donald Hall of Gunster, Yoakley & Stewart, P.A., representing the Applicant, said the project is a 10-story, 31-unit luxury condominium. It meets all requirements set forth in the City's comprehensive plan and Unified Land Development Regulations (ULDR) as applied to the Intracoastal Overlook Area (IOA) zoning district and portions of the Central Beach Master Plan which apply to the IOA district. Both the Central Beach Alliance (CBA) and Planning and Zoning Board have recommended approval.

Fred Carlson, representing the CBA, entered support of the item for the record.

Dan Texera, president of Harbor House East Condominium Association, entered support of the item for the record.

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

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

Commissioner Trantalis further noted that this project was scaled down from the original version. He thought it was much improved and believed it would be a wonderful addition to the beach community.

ADOPTED

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

PUBLIC HEARINGS

PH-1 14-0416 QUASI-JUDICIAL - SECOND READING OF ORDINANCE
REZONING TO COMMUNITY BUSINESS WITH COMMERCIAL
FLEX ALLOCATION AND SITE PLAN FOR POLLO TROPICAL
RESTAURANT - Case 9ZR13

Applicant: RWL 8, LLC/Pollo Tropical/Hertz Car Rental
Location: North of Sunrise Boulevard between NE 9 Avenue and NE
10 Avenue
Current Zoning: Residential Mid Rise Multifamily/Medium Density
District (RMM-25)
Future Land Use: Commercial, Medium-High Residential

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

this matter.

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

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

ADOPTED ON SECOND READING

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

ORDINANCES

O-1 14-0522 FIRST READING OF ORDINANCE AMENDING UNIFIED LAND DEVELOPMENT REGULATIONS, SECTION 47-23.9, INTERDISTRICT CORRIDOR REQUIREMENTS - permitting encroachment of certain pedestrian amenities and creating a process to permit a request for reduction of an interdistrict corridor

Mayor Seiler noted that some questions related to this item have been resolved. The City Clerk announced that Commission Agenda Memorandum 14-0522 was amended to reflect those changes. Commissioner Trantalis thanked staff for addressing his concerns.

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

PASSED FIRST READING

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

Not Present: 1 – Commissioner Roberts

O-2 14-0537 FIRST READING OF ORDINANCE AMENDING CODE OF ORDINANCES, CHAPTER 16 SECTION 16-75, PUBLIC INDECENCY - PROHIBITION ON DISPOSAL OF URINE AND FECES

Mayor Seiler opened the floor for public comment.

Dan Lindblade, president and CEO of Fort Lauderdale Chamber of Commerce, spoke in support of the item. Homelessness has been discussed for more than six years. Passage of this ordinance and O-3 will position the City as pro-business and position the City to help the homeless.

Nathan Pim, representing Food Not Bombs, spoke in opposition to the item. After hours in downtown Fort Lauderdale, particularly after the bus station bathroom closes, there is no place for people to use the restroom. There are similar laws in Miami, but they have provisions if there are no restrooms available based on the *Pottinger* case. He suggested a public restroom be built or portable toilets be made available. He did not understand why public nudity is addressed in this ordinance. He also questioned the provision that it would be an additional charge if people to commit a crime while wearing another person's clothing.

Mark Mattern, 2448 Gulfstream Lane, representing the Flagler Village Improvement Association, spoke in support of the item.

Haylee Becker, representing Food Not Bombs, spoke in opposition to the item. The ordinance wording that public indecency is paired with a human bodily function is appalling. There are no public restrooms and the homeless have been aggressively removed from public spaces simply because they are homeless. The ordinance will prevent the homeless from being able to legally relieve themselves. She suggested creating appropriate public restrooms rather than arresting people and wasting resources.

Charles Gregory, 1517 NE 5 Terrace, spoke in opposition to the item. The homeless are not the only people who need public restrooms. Most cities have public restrooms. T

Raymond Cox, a homeless resident, spoke in opposition to the item. He questioned use of police resources for this.

Keith Costello, 101 NE 3 Avenue, representing Broward Bank of Commerce, spoke in support of the item. He also encouraged the Commission and City Attorney to work on ordinances related to camping, public feeding and solicitation in public roadways.

Reverend Gail Tapscott, resident and minister of Unitarian Universalist Church of Fort Lauderdale, spoke in opposition to the item. She believed public benches have been removed to prevent people from sleeping there. This impacts not just the homeless, but also those who are older, disabled or have a medical condition. The homeless should be welcomed in the same way that tourists are welcomed. They could make great contributions in the future, and some, such as veterans, have made great contributions in the past. This issue has been talked about for several years and she has seen no viable solution from the City or County. Surely the City can afford to build public restrooms.

Genia Ellis, representing Riverwalk Fort Lauderdale Trust, noted that their board of directors voted unanimously to support this ordinance and O-3. They are concerned for the entire community. The Commission should move forward in finding reasonable solutions. They also support bringing forward the additional ordinances under consideration. She also spoke on behalf of the Fort Lauderdale Woman's Club located in the heart of Stranahan Park. They are concerned about adequate planning for the homeless but also for the rest of the community.

Love Thy Neighbor Fund Inc. President Arnold Abbott, 6864 NW 25 Way, spoke in opposition to the item. He wanted to eliminate or ameliorate the conflict between the City and homeless advocates. He supports public sanitation and decency but there must be a better way to eliminate the problem. There should be portable restrooms out of sight of the citizenry but available. He discussed Love Thy Neighbor's history in litigation with the City over a feeding program on the beach and their feeding program today. There has been great publicity of it. There does not have to be an adversarial attitude. He would like to work with the City on organized feeding events.

Dev Motwani, 416 NE 9 Avenue, spoke in support of the item. Those on both sides of the issue have valid opinions. He has witnessed acts in public spaces that are a detriment to the community. There are many acts of indecency beyond those being focused on tonight.

Mara Schlackman, resident and representing the South Florida chapter of the National Lawyers Guild, spoke in opposition to the item. This comes before the Commission as a revision to an existing ordinance, which already had a provision barring bodily functions that occur outside a restroom therefore she did not

understand what the added language is expected to accomplish. She pointed out that Commission Agenda Memorandum 14-0537, does not cite any specific circumstances in Fort Lauderdale as justification for the amendment. The penalty for violating the ordinance is up to a \$500 fine or up to 60 days in jail. The homeless will be unable to pay the fine, which will cause overcrowding in the jail system. She cited the *Pottinger* decision which states that arresting the homeless for life-sustaining activities burdens their fundamental right to travel and other constitutional rights. The consent decree provides that there has to be a public restroom within a quarter-mile before action can be taken against an individual for relieving themselves. There is no such limitation in the proposed ordinance. The City could provide portable restrooms. She provided information about a portable restroom initiated in Portland, Oregon, referenced in a publication about national homelessness and poverty. She referenced Exhibit 2, the U.S. Department of Justice document titled "Homeless Encampments," which states that one solution is to provide more public toilets. She felt that is better than the punitive approach being advocated. She pointed out that the City's Housing First strategy is only helping eight people and was opposed to penalizing those who cannot be helped with housing.

Charles King, 105 North Victoria Park Road, noted the homeless workshop held on January 29, 2014. He believed the public was looking forward to the passage of ordinances discussed at that workshop. Other cities are passing laws on this topic. He was opposed to portable toilets in Stranahan Park. He supported the previous one-way bus program. He suggested dispersing the homeless. There will never be a solution. The *Pottinger* decision has since been struck down. Public and private behaviors should be separate.

Jeff Weinberger of the Broward Homeless Campaign spoke in opposition to the item. He urged the Commission to carefully consider the ordinances under Items O-2 and O-3 tonight, as well as others being proposed. He asked the Commission to consider how criminalizing behavior that the homeless cannot help but engage applies morally to City officials' stated plan to house the homeless. They will be throwing away taxpayer money on legal battles and tarnishing the City's image if any of the ordinances are adopted. Homeless advocates will fight every step of the way until every homeless person in the city is housed and provided services. Homelessness is on the rise, especially among children. The true unemployment rate is more than 15 percent. Food stamps and housing programs have been cut. For the Commission to consider passing such laws is the height of hypocrisy and cruelty.

Tim Petrillo, 2400 NE 7 Place, said he is a business owner and serves on the Downtown Development Authority Board of Directors. He understood this is a difficult issue. However, it also is difficult to explain why someone would defecate on the public right-of-way in front of a restaurant or on the doorstep of a residence. Guests are being threatened for money. Businesses are losing customers and staff. These ordinances need to be in place.

There was no one else wishing to speak.

Commissioner Trantalis felt that the City is determined to find an accommodation that meets the needs of the citizenry and the homeless. He did not believe the ordinances before the Commission tonight are comprehensive. It sends the wrong message, that this alone is how the City is dealing with homelessness. This is a challenge for the entire community. However, the Commission is now faced with voting on an amendment to an existing ordinance regarding public indecency. The question is whether it is a civil right to defecate on public property. This issue has been addressed by the federal courts. He noted the *Pottinger* case, which was recently amended, that has been raised this evening. In response to Commissioner Trantalis, the City Attorney said she believes this ordinance is within the parameters set forth in the *Pottinger* case. In terms of availability of public facilities, she deferred to the City Manager. This is an existing ordinance that has been on the books since the 1970s. The

amendment is related to disposal of human waste, as opposed to the actual act, which is already covered by the existing ordinance. Commissioner Trantalis pointed out that the *Pottinger* case requires that the City provide a restroom within a certain radius from where people may congregate. He wanted to know if that requirement is being addressed. The City Attorney advised that *Pottinger* dealt specifically with the City of Miami. There is always prosecutorial discretion. Police can use judgment in determining whether an arrest is warranted. Being homeless is not a crime.

Commissioner Trantalis felt that this ordinance is targeting the homeless. He was concerned that this is not a comprehensive approach. It is a civil right to defecate, but not on public property. He did not buy into the fact that a person has the right to defecate on public or private property because it exceeds the boundaries of human decency. However, in accepting that homelessness exists, the City has to make an accommodation to minimize the impact. The City Attorney disagreed that this ordinance targets the homeless. The ordinance has been in existence for many years. It applies to everyone. There are people who have homes but also have engaged in these activities. This is one of many items being considered with respect to the homeless. Mayor Seiler agreed with the City Attorney.

In response to Commissioner Trantalis, the City Manager advised that this ordinance does not specifically target the homeless; it targets a behavior exhibited in the homeless as well as the general population. This activity occurs frequently at the beach, where there are not a lot of public restrooms. With regard to adding restroom facilities, the City is only one party of many in a downtown environment. The County operates a bus terminal that has public restrooms, which they choose to close at a certain hour. There are public buildings such as City Hall, the courthouse, the library, County Commission building and several parks which have operational restrooms during business hours. After hours, there are numerous facilities that provide shelter. He was unaware of a situation in which a homeless person would be refused the opportunity to use the restroom at the Salvation Army or another similar agency. The question should not be about what the City alone is doing but what the community as a whole provides.

The City Manager further pointed out that Fort Lauderdale is the only city in the county with a Housing First program to accommodate the most vulnerable chronically homeless. There are 22 available units, and seven have already received tenants. Getting into these homes does not require detoxification or for tenants to be drug- or alcohol-free. The City provides social services. Technically the responsibility of providing social services lies with the County, because they receive funding for those services. Fort Lauderdale has to compete with all 30 other cities for a portion of those resources. He noted there are numerous beds available but unoccupied at a facility operated by the Sheriff. The Sheriff is seeking funding to open the facility. Commissioner Trantalis felt that a problem still exists. This is clearly a measure to deal with the homeless. It is a very lukewarm first step. The Commission has a greater responsibility and this is not their best step forward. He was embarrassed that this is the response after hours of work on this matter. He wanted to pick up the pace and find a better situation.

Commissioner DuBose pointed out that this issue is larger than this Commission. It is a county, state and federal issue. If it was simple, someone would have provided an answer. The City has spent countless hours on this issue. He takes exception to some of Commissioner Trantalis' comments. Their efforts are genuine. The Commission has worked hard on this issue and will continue to do so. Comments made are unfair to the other members of the Commission.

Commissioner Roberts said this is not intended to target the homeless. It is an addition and refinement of an ordinance that has existed for years. Everyone agrees that this behavior cannot be tolerated. He wanted to add language in Subparagraph (a)(7) to (a)(6) because it is more specific to that illegal activity. He went on to say that this Commission inherited this issue. It has been ongoing for years. The City has

provided a continuum of care. This is addressing illegal activity not homelessness. He went on to elaborate on what the City is doing. He felt the Commission should continue to address illegal activity as well as social services. He agreed to look into public toilets. However, they are expensive and sometimes do not work out because of maintenance issues and criminal activity.

Vice-Mayor Rogers pointed out also that the City has dedicated Commission and staff time as well as financial resources to try to address this comprehensively. He would be happy to discuss the matter further with Abbott. Everyone has to work together on this. He reiterated that this is the County's charter obligation and funding. He believed a day center where people can be assessed and assisted is a necessity. The County has a facility in a commercial area that could be retrofitted for that use. These ordinances are one piece of the comprehensive pie. This Commission is compassionate to those in need. Doing nothing is not an option.

Mayor Seiler agreed that this Commission has done several things to assist the homeless and he went on to expand on them. This is not about the homeless; it is about criminal behavior. The Commission has to protect the community for the benefit of all. If a crime is committed, there will be a penalty. Homelessness is a serious issue but it is the responsibility of many entities. Much of the homeless population is transported here from other parts of Broward County. They are arrested and released from jail in Fort Lauderdale. As the Commission focuses on a solution, it is saying that criminal activity downtown will not be tolerated. He concluded by saying that the Police Department has been recognized for working with the homeless.

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

Commissioner Roberts requested the amendment he suggested be considered for second reading.

PASSED FIRST READING

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

O-3 14-0538 FIRST READING OF ORDINANCE AMENDING CODE OF ORDINANCES, CHAPTER 16, ARTICLE IV - CREATING SECTION 16-83, OUTDOOR STORAGE ON PUBLIC PROPERTY - PROHIBITION OF OUTDOOR STORAGE ON PUBLIC PROPERTY

Mayor Seiler opened the floor for public comment.

Ghazal Tajalli, 8303 West Sample Road, Coral Springs, spoke in opposition to the item. She believed it targets the City's most vulnerable residents. The homeless issue should be addressed by providing solutions and addressing the social solutions that cause it.

Love Thy Neighbor Fund Inc. President Arnold Abbott, 6864 NW 25 Way, spoke in opposition to the item. He thanked those members of the Commission who said they wanted to continue dialogue on this. He suggested having a City office dedicated to coordinating activities of organizations that help the homeless. It could be staffed at no cost to the City. He commented on how visitors to Fort Lauderdale appreciate that the homeless are being cared for. The problem is not going anywhere. The homeless are human beings and deserve attention.

Reverend Gail Tapscott, representing the Unitarian Universalist Church of Fort Lauderdale, spoke in opposition to the item. She thanked Commissioner Trantalis for his comments. Everyone knows the staff

and Commission work. No one expects any one government agency to fix everything. She was confused by comments that people are afraid of homeless people who approach them. She felt it has to do with perspective. She elaborated on the difficult times of today. She commended Abbott's work in the community. She urged the Commission to avoid the appearance of demonizing a sector of the population.

Ray Delpapa, 765 NE 127 Street, North Miami, representing Pax Christi St. Maurice Catholic Church, spoke in opposition to the item. He described his situation where he is one paycheck away from being unemployed. He also described an experience with an elderly homeless woman at a restaurant he frequents. It seems that generally society in this country does not want to deal with the homeless, so instead they vilify them and want them out of sight. Many homeless are veterans who are unable to hold a job because of what they went through. The same people who do not want homeless on the street also do not want higher taxes that would alleviate the problem.

Mark Mattern, 2448 Gulfstream Lane, representing Flagler Village Improvement Association, said the Association is unanimously in support of the item.

Mara Schlackman, representing the National Lawyers Guild, spoke in opposition to the item. She pointed out that the ordinance does not provide adequate notice so that possessions can be removed when public spaces are being cleaned. She provided a Model Policy for Cleaning Public Spaces in the Advocacy Manual, from the National Law Center on Homelessness and Poverty, which is attached to these minutes. In response to Mayor Seiler, Schlackman explained that the Advocacy Manual is written by the National Law Center on Homelessness and Poverty. It provides 14 days' notice whereas the City is considering 36 hours. The exception for safety and security to allow for immediate removal from public buildings is poorly defined. There is a reference that seems to equate dissidents with terrorism. The City should carefully consider such a policy that makes it more difficult for the homeless to keep the relatively few possessions that they have.

Commissioner Trantalis noted that the ordinance also provides for written 24-hour notice. There are a couple of people who have established a location on Las Olas Boulevard and placed their personal items in a certain area. Law enforcement has advised that the current ordinances do not allow for an officer to require that those items be removed. Schlackman explained that the model policy has to do with times when there is an area cleanup. She felt that a homeless person needs more than 24 hours to find a new location for their belongings. In some cases, a person may not be with their stowed belongings all day, therefore she questioned how they would receive notice. Commissioner Trantalis asked what would be the remedy if notice was given to an individual and he or she was offered lodging but refused. Under the *Pottinger* settlement, if someone refuses a bed, Schlackman indicated the city can take steps against the individual. However, there are far more homeless in Fort Lauderdale than are being provided with beds. She felt it is a very limited hypothetical and not realistic to the situation. Commissioner Trantalis ultimately confirmed that Schlackman's position is that 14 days is adequate notice if no lodging is identified. If a bed is available, 24 hours would be sufficient.

Nathan Pim, representing Food Not Bombs, spoke in opposition to the item. He felt the current proposed ordinance has improved from the previous draft. A solution would be to provide housing. Utah has decreased its homeless rate by 78 percent. Utah addressed the problem by providing homes. He went on to discuss the particulars of Utah's approach and suggested it be explored.

Haylee Becker, representing Food Not Bombs, spoke in opposition to the item. This Commission has relentlessly over the years attempted to rid the city of the homeless. Looking at the Housing First program, she questioned why only 22 people could be housed with \$600,000 in comparison with Utah's

program of only \$11,000 per individual. She questioned funds spent to landscape Stranahan Park, which is now empty, and funds spent on the anti-panhandling program. She questioned the definition of public space and the extent of enforcement. This is a total waste of time and resources that will not help the homeless or rid the city of the homeless. It will cause Fort Lauderdale to become known for hate.

Jim Moyer, representing the Salvation Army, noted that the Florida Department of Veterans District 8 is hosting a stand-down event on May 23-25 for homeless veterans. The ultimate objective of this initiative is to house veterans from Broward, Miami-Dade and Monroe counties. A full court will be assembled for Miami-Dade County matters. He asked the City to consider partnering in this effort. He asked the City to partner with the Salvation Army in identifying homeless veterans.

Charles King, 105 North Victoria Park Road, spoke in support of the item. He felt it is impossible to entirely solve the homeless challenges regardless of how much money or social services are dedicated to it. People could begin to find it inviting to seek out free housing. He believed the Commission is afraid to do what they promised. There has not been much improvement on this topic. The landscaping in Stranahan Park has had the biggest impact thus far.

Charles Gregory, 1517 NE 5 Terrace, wanted a more peaceful course of action. He appreciated Abbott's comments about working together. From an economic standpoint, it does not make sense to lock people up for being homeless. It would be cheaper to give them housing. He drew attention to the hundreds of homes that have been foreclosed on that could be used. There are many ways to address this humanely. He urged the City to proceed with cooperation instead of competition.

Tim Petrillo, 2400 NE 7 Place, spoke in support of the item. A holistic approach is needed but this is one piece of the puzzle.

Jeff Weinberger of the Broward Homeless Campaign spoke in opposition to the item. Homeless people do not have a choice of where to store their belongings. He questioned how criminalizing the storage of one's belongings helps to solve homelessness. He elaborated on the mistreatment of the homeless. The proposed ordinance does not move toward a solution.

Dev Motwani, 416 NE 9 Avenue, spoke in support of the item. He advised that there are unhappy people on both sides of the issue. There has been considerable time devoted to trying to find something that is fair and balanced. There are real life safety issues in the ordinance. The intent is not to be insensitive, which is why a notification period is included. The police outreach unit does a good job of informing people about local beds and shelters. He hoped that the Housing First program could be expanded.

Keith Costello, 101 NE 3 Avenue, representing Broward Bank of Commerce, spoke in support of the item. He agreed with Gregory about working together on this. People in the business community do not hate the homeless. Broward Bank of Commerce made a loan to the Woman's Club for their renovation. The Woman's Club is now having difficulty renting their facility because people are afraid of the location. People should be offering solutions instead of yelling.

Genia Ellis, representing Riverwalk Fort Lauderdale, spoke in support of the item. She commented that the City has been working on this for a number of years. She believed the Commission is paying attention to the needs of the community and taking positive steps. She looked forward to seeing what is presented in the future.

Raymond Cox, a homeless resident, spoke in opposition to the item. Post-hurricane, there could be homeless people who never expected to be in that situation. He questioned whether the same laws would

be applied. He posed questions of what an individual should do to find a restroom that he or she may use. He believed this is a civil rights issue.

Dan Lindblade, representing the Fort Lauderdale Chamber of Commerce, spoke in support of the item. The business community is part of the solution. He applauded the Commission and staff for taking up this matter in the face of adversity. The community received national accolades recently for working together. The Fast Forward vision plan included input from homeless people. He believed these two ordinances are a cornerstone for the future. The Chamber believes this is the right direction. He was certain that there will be continued work on solutions to this problem. The homeless have to be part of the effort. He invited the homeless community to come to the Chamber and work on solutions.

There was no one else wishing to speak.

Commissioner Roberts wanted to add benches to the definition of public property in Subparagraph (a)(3). After some discussion, Mayor Seiler suggested "any other equipment, furnishing, fixture and structure." It was agreed the City Attorney would incorporate such language for the second reading.

Commissioner Trantalis said he would be more comfortable if the 24-hour notice provision was coupled with the opportunity to access a place to relocate. Mayor Seiler believed that would place an undue burden on law enforcement. The City Manager advised that an organization provides the City with a list at 10 a.m. daily of all available beds. By early evening those beds become fully occupied. There is not a way for an officer on the street to determine if there would be a bed for an individual.

Mayor Seiler noted that today is the anniversary of the Boston Marathon bombing, which occurred because a bomb was left in a backpack on a public right-of-way. He appreciated the language concerning threats to the health, safety and welfare of the public addressed in Subparagraphs (c)(3)a, b and c. This is targeted to a particular issue that gives officers another tool to keep the community safe.

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

PASSED FIRST READING. SECTION 16-83(a)(3) WILL BE REVISED TO ADD LANGUAGE PROVIDING FOR ANY OTHER EQUIPMENT, STRUCTURE, FURNISHING OR FIXTURE WITHIN PUBLIC PROPERTY TO THE DEFINITION FOR SECOND READING CONSIDERATION

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

O-4 14-0380 SECOND READING OF ORDINANCE AMENDING CODE OF ORDINANCES, CHAPTER 27, VEHICLES FOR HIRE - modifying regulation of vehicles for hire - licenses, certificates of public convenience and necessity and permits

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

ADOPTED ON SECOND READING

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

O-5 14-0521 SECOND READING OF ORDINANCE AMENDING CODE OF

ORDINANCES, SECTIONS 2-63 and 2-64, AUTHORITY TO LEASE CITY PROPERTY AND GRANT CONCESSION RIGHTS IN OR UPON CITY PROPERTY - granting authority to City Manager for periods not exceeding one year without City Commission approval

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

ADOPTED ON SECOND READING

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

There being no other matters to come before the Commission, the meeting was adjourned at 9:18 p.m.

John P. "Jack" Seiler
Mayor

ATTEST:

Jonda K. Joseph
City Clerk

PROVIDED BY 0-3
MARA SHLACKMAN
APR 15, 2014

MODEL POLICY FOR CLEANING PUBLIC SPACES:

I. PURPOSE

The purpose of this protocol is to establish procedures for disposition of property discovered during the cleaning of public spaces, including areas where individuals who are homeless may be located. The goal is to ensure that the owners of any property discovered during a cleaning are afforded due process of law and support by appropriate service provider agencies.

II. NOTICE

The city agency responsible for cleaning public spaces shall provide 14 days notice prior to cleaning a space in which homeless individuals are located. Written notice should be provided to each person at the location and shall also include a posted written notice in conspicuous places at the location. The written notice shall be in both English and Spanish and include the date and time the cleaning will occur, advisement that property is subject to confiscation if not removed, the procedure for retrieving any confiscated property, the current contact information of the government agency responsible for storing the property, and the contact information of an appointed service provider agency.

Prior to posting written notice of the cleaning, the city agency shall contact a pre-designated service provider to provide notice of the cleaning. The agency should have the ability to conduct outreach to the individuals located at the cleaning site. The 14-day notice period will not commence until the city agency has made contact with the service provider agency.

The 14-day notice period refers to regular business days and does not include weekends or holidays. This will allow outreach workers a reasonable period of time to contact the persons at the cleaning location and to arrange for any necessary services.

III. Sorting and Storing Property

Any property remaining at the cleaning site after the 14-day notice period shall be sorted through. Any items that are spoiled or mildewed shall be considered trash. Appropriate arrangements shall be made to have those items disposed of.

Personal items that do not appear to be spoiled or mildewed, such as clothing, bedding, photographs, personal papers, and keepsakes, shall be processed and stored for 6 months at a designated storage site from which its owner may retrieve it.