

# City of Fort Lauderdale

City Hall  
100 N. Andrews Avenue  
Fort Lauderdale, FL 33301  
[www.fortlauderdale.gov](http://www.fortlauderdale.gov)



## Meeting Minutes - DRAFT

Tuesday, December 18, 2012

6:00 PM

City Commission Chambers

## City Commission Regular Meeting

*FORT LAUDERDALE CITY COMMISSION*

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

*LEE R. FELDMAN, City Manager*  
*JOHN HERBST, City Auditor*  
*JONDA K. JOSEPH, City Clerk*  
*HARRY A. STEWART, City Attorney*

Meeting was called to order at 6:05 p.m. by Mayor Seiler.

**ATTENDANCE ROLL CALL**

**Present:** 4 - Mayor John P. "Jack" Seiler, Vice-Mayor Bruce G. Roberts, Commissioner Bobby B. DuBose and Commissioner Romney Rogers

**Vote Roll Call Order for this Meeting**

Commissioner Rogers, Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler.

**Invocation**

Pastor Dan Czaplewski  
Shepherd of the Coast Lutheran Church

**Pledge of Allegiance**

Led by Stephen Tilbrook

**Approval of MINUTES and Agenda**

- 1      **13-0046**      APPROVAL OF MINUTES - October 2, 2012 and October 16, 2012 Regular Meetings

**Motion** made by Vice Mayor Roberts and seconded by Commissioner DuBose to approve the minutes of the October 2, 2012 and October 16, 2012 Regular Meetings.

**APPROVED**

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

**PRESENTATIONS**

**PRES-1 12-2617      FIRE-RESCUE CENTENNIAL - EXPRESSION OF APPRECIATION**

Fire Rescue Chief Jeff Justinak announced that this is the Fire Rescue Department's centennial year. He recognized former Commissioner John Aurelius and his wife, Dori, for their fundraising efforts for the department's centennial event. A \$50,000 donation will go toward scholarships for children of Fort Lauderdale firefighters who are in need. He also recognized Tim McGovern, Parks and Recreation Department, for coordinating the event. Commissioner Aurelius suggested the Commission create a Hall of Fame to recognize the donors. He thanked Hugh McCauley of Hugh's Catering for helping to coordinate and execute the event. Chief Justinak expressed gratitude for the support of residents, community leaders, City staff, and the Commission. He presented the Commission with the original newspaper article from June 2, 1912, detailing the fire which served as the impetus for forming the City's fire department, as well as centennial badges and a keepsake.

## CONSENT AGENDA

### 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.

### Approval of the Consent Agenda

#### Approve the Consent Agenda

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

- M-1     12-2590**     EVENT AGREEMENTS AND RELATED ROAD CLOSINGS: Fort Lauderdale Rough Water Swim, 33311 You are Not Alone Walk, Trawler Fest, 5K for a Better Day and Tap-N-Run 4K

**APPROVED**

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

- M-2     12-2546**     PAY PLAN CLASSES - addition of two new classes - Public Safety Telecommunications Duty Officer and Public Safety Telecommunicator II; one class title change - Public Safety Telecommunicator I from Communications Specialist; and one class title and pay grade change - Public Safety Telecommunicator Trainee from Communications Specialist Trainee (Teamsters Local 769) and addition of one new class - Public Safety Communications Training Coordinator (Federation of Public Employees)

**APPROVED**

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

- M-3     12-2518**     FACILITY USE AGREEMENT FOR ANNUAL JOE DiMAGGIO LEGENDS BASEBALL GAME with South Broward Hospital District - Fort Lauderdale Stadium - January 26, 2013

**APPROVED**

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

- M-4 12-2620** GRANT APPLICATION - REPETITIVE FLOOD CLAIM PROGRAM - Federal Emergency Management Agency - Unified Hazard Mitigation Assistance Grant Program - no City match  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- M-5 12-2390** AMENDMENT 11 - WORK AUTHORIZATION - IMPERIAL POINT LARGE WATER MAIN - PHASE II - additional construction phase services - Keith and Schnars, P.A. - \$6,390  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- M-6 12-2643** TASK ORDER 1 - GEOTECHNICAL ENGINEERING SERVICES RELATING TO FIRE STATION 54 REPLACEMENT - Nodarse & Associates, Inc. - not-to-exceed \$14,710 - 3201 NE 32 Street  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- M-7 13-0031** TASK ORDER 26 - EXECUTIVE AIRPORT STADIUM PROPERTY EVALUATION - Kimley-Horn and Associates - not-to-exceed \$128,980  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- M-8 13-0049** TASK ORDER 22 - LOHMEYER REGIONAL WASTEWATER TREATMENT PLANT RENEWAL AND REPLACEMENT REPORT UPDATE with CDM Smith Inc. in the amount of \$20,310 and \$5,235.33 for engineering administration fees; funding approval and authorize City Manager to execute on behalf of City  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- M-9 12-2580** TASK ORDER 4 - MULTIMODAL TRANSPORTATION PLAN - Kittelson & Associates, Inc. - \$84,250  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

**M-10 12-2604** NO OBJECTION TO PLAT NOTE AMENDMENT - French Village - Case 13-P-12

Applicant: Fredrico Fazio  
Location: East of Andrews Avenue, South of SE 8 Street, West of SE 2 Avenue and North SE 9 Street  
Zoning: Regional Activity Center - City Center  
Land Use: Downtown Regional Activity Center

**APPROVED**

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

**M-11 13-0019** HOUSING OPPORTUNITIES FOR PERSONS WITH HIV/AIDS (HOPWA) PROGRAM - LEGAL AID SERVICE OF BROWARD COUNTY, INC. PROGRAM PROVIDER AGREEMENT - ADDITION TO 2013 ANNUAL ACTION PLAN - \$250,556.98 - and authorize City Manager to execute on behalf of City

*Deferred to Jan 22, 2013, awaiting information from HUD. Item to be scheduled for Jan 22, 2013 with or without receipt of information from HUD*

**DEFERRED**

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

**M-12 12-2625** STRIKERS - USE OF LOCKHART AND FORT LAUDERDALE STADIUMS - LICENSE AGREEMENT with Traffic Sports USA, Inc. - January 1, 2013 through December 31, 2013

**APPROVED**

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

**M-13 12-2657** EQUIPMENT ROOM SPACE FOR PUBLIC SAFETY RADIO SYSTEM - FIRST AMENDMENT TO LEASE AGREEMENT with Playa del Sol Association - 3500 Galt Ocean Drive - fifteen-year term extension with five-year renewal option and other modifications - \$20,500 annually

**APPROVED**

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

**CONSENT RESOLUTION**

**CR-1 13-0017** BEACH RENOURISHMENT - supporting letter from Galt Mile Community Association, Inc. to the Governor, urging acceleration Broward County's Beach Renourishment Project, Segment II

**ADOPTED**

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

**CR-2 13-0021** RESCHEDULING JANUARY 1, 2013 CITY COMMISSION REGULAR AND CONFERENCE MEETINGS TO JANUARY 8, 2013

**ADOPTED**

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

**CR-3 12-2600** QUALIFIED TARGET INDUSTRY TAX REFUND PROGRAM - RECOMMENDING PROJECT ORANGE as a program applicant and providing for local financial support in the amount of \$140,000 contingent upon approval by Broward County and the State of Florida

**ADOPTED**

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

**CR-4 12-2588** PARCEL 8G - EXECUTIVE AIRPORT - Consent to Assignment of Lease Agreement from K.S.R. LLC to D.H.S. Investments LLC and Amendment to Lease Agreement with D.H.S. Investments LLC, extending term and other adjustments - authorizing City Manager to execute on behalf of City

**ADOPTED**

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

## **PURCHASING AGENDA**

**PUR-1 12-2492** CONTRACT AWARD FOR MARINE FACILITIES IMPROVEMENT SERVICES in the amount of \$685,330 from Engineer Control Systems Corporation and authorize City Manager to execute on behalf of City

**APPROVED**

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

**PUR-2 12-2510** CONTRACT FOR PURCHASE OF UTILITY SERVICE TAX AUDIT from Muniservices, LLC

**APPROVED**

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

- PUR-3 12-2533** TWO-YEAR CONTRACT FOR SECURITY AND SPORT LIGHTING SYSTEMS MAINTENANCE in estimated total amount of \$75,000 from Imperial Electrical Incorporated and Electrical Contracting Service, Inc., contingent upon approval and appropriation of funds  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- PUR-4 12-2545** PURCHASE OF POLICE MARINE UNIT REPLACEMENT BOAT ENGINES INCLUDING INSTALLATION in the amount of \$59,700 from Pompano Beach Marine Center  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- PUR-5 12-2586** CONTRACT TO PROVIDE STREET SIGN IMPROVEMENTS FOR ROCK ISLAND NEIGHBORHOOD in the amount of \$66,558.40 from JS-1 Construction Co.  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- PUR-6 12-2589** PURCHASE CITYWIDE COMPUTER REPLACEMENTS in estimated not to exceed amount of \$293,000 from Dell Marketing Corporation  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- PUR-7 12-2634** MULTI-YEAR FINANCIAL FORECAST AND BI-ANNUAL UPDATE - AMEND CONTRACT TO EXPAND PROPRIETARY SERVICES in the amount of \$218,107 from Burton and Associates, Inc.  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers
- PUR-8 12-2649** PURCHASE OF REINSURANCE FOR SELF-FUNDED MEDICAL PLAN in the amount of \$733,248 from Cigna Health and Life Insurance Company  
**APPROVED**  
**Aye:** 4 - Mayor Seiler, Vice-Mayor Roberts, Commissioner DuBose and Commissioner Rogers

**PUR-9 12-2660** PURCHASE OF RADIO COMMUNICATIONS HARDWARE AND INSTALLATION SERVICES TO UPGRADE INTEROPERABLE RADIO COMMUNICATIONS TRAILER in the amount of \$96,455 from JPS, Communications, Inc., Hutton Communications, Inc., Motorola Solutions, Inc., Tessco Incorporated and SkyBase Communications, LLC

**APPROVED**

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

**PUR-10 12-2544** PROPRIETARY PURCHASE - ANNUAL SUPPORT FOR POLICE AND FIRE COMPUTER AIDED DISPATCH AND RECORDS MANAGEMENT SYSTEM in the amount of \$233,785 from Intergraph Corporation, d/b/a Intergraph Corporation CAD Systems

**APPROVED**

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

**PUR-11 12-2659** WAIVER OF FORMAL BID REQUIREMENTS AND APPROVE CONTRACT - DEVELOP CITY RESOURCE OPTIMIZATION SOLUTION (CROS) FOR POLICE DEPARTMENT in the amount of \$150,000 from International Business Machines Corporation

**APPROVED**

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

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**M-12 12-2625** STRIKERS - USE OF LOCKHART AND FORT LAUDERDALE STADIUMS - LICENSE AGREEMENT with Traffic Sports USA, Inc. - January 1, 2013 through December 31, 2013

Mayor Seiler announced a correction to this item that the Strikers License Agreement is with Miami FC, LLC d/b/a Fort Lauderdale Strikers and not Traffic Sports USA, Inc.

**OB** PUBLIC HEARING – PROPOSED PROGRAM AMENDMENT FOR NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) AND NOTICE OF FUNDING AVAILABILITY STATE HOUSING INITIATIVES PARTNERSHIP (SHIP) FUNDS

In accordance with the rescheduled January Commission meetings due to the New Year's holiday, Mayor Seiler announced that the public hearing for the Neighborhood Stabilization Program (NSP3) program amendment and State Housing Initiatives Partnership (SHIP) funding availability will take place at the January 8, 2013 Regular Commission meeting.



**13-0078****WALK-ON - MOTION - EVENT AGREEMENT - Cillarda, Inc. for Notre Dame Fighting Irish Bowl Celebrations**

Mayor Seiler announced that the requested road closures for this item were revised. A copy of Memorandum 13-0078 is attached to these minutes.

**Motion** made by Vice Mayor Roberts and seconded by Commissioner Rogers to approve the item as amended (see Memorandum 13-0078).

**APPROVED AS AMENDED**

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

**Motion** made by Vice Mayor Roberts and seconded by Commissioner Rogers that Consent Agenda Item M-11 be deleted from the Consent Agenda and considered separately at the City Manager's request, and that all remaining Consent Agenda items be approved as recommended. Roll call showed: AYES: Commissioner Rogers, Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: None.

**M-11 13-0019****HOUSING OPPORTUNITIES FOR PERSONS WITH HIV/AIDS (HOPWA) PROGRAM - LEGAL AID SERVICE OF BROWARD COUNTY, INC. PROGRAM PROVIDER AGREEMENT - ADDITION TO 2013 ANNUAL ACTION PLAN - \$250,556.98 - and authorize City Manager to execute on behalf of City**

The City Manager pointed out that this item is contingent upon the U.S. Department of Housing and Urban Development (HUD) approving the agreement.

In response to Vice Mayor Roberts, the City Attorney advised that Legal Aid Service of Broward County, Inc. (Legal Aid) has filed a lawsuit against the City challenging the housing and code enforcement programs as well as HOPWA (Housing Opportunities for Persons with HIV/AIDS) funding. The lawsuit alleges that funds were fraudulently obtained and misappropriated; that the City's code enforcement actions are racially motivated; and that the actions constitute common law fraud. The City prevailed in the lower court, and the lawsuit is currently under appeal in Federal court.

Mayor Seiler opened the floor for public comment.

Tony Karrat of Legal Aid Service of Broward County, Inc., was not aware that the lawsuit directly involves the HOPWA program. Legal Aid is representing plaintiffs in the lawsuit, but is not directly suing the City. The lawsuit has nothing to do with the proposed item in terms of providing services. This is only one phase of the broad range of services provided by Legal Aid. Mayor Seiler was previously unaware that the lawsuit involved HOPWA funds. The City Attorney read the following excerpt from the complaint: The City and (Alfred) Battle should also certify that the housing activities undertaken with CDBG (Community Development Block Grant); HOME (HOME Investment Partnership Program); ESG (Emergency Shelter Grant Program); and HOPWA funds for furthering affordable housing are consistent with the Neighborhood Comprehensive Plan, the CRA (Community Redevelopment Agency) Plan, the CRA Implementation Plan and any other plans the City will create with the entitlement funds.

Commissioner DuBose indicated that he had also been unaware of this. Mr. Karrat explained that the lawsuit actually pertains to the City's code enforcement policies, and the HOPWA program would only be indirectly involved, if at all. He did not believe there are any allegations of misappropriated HOPWA

funds. Commissioner DuBose was concerned, and asked whether funding Legal Aid with HOPWA funds poses a conflict. Mr. Karrat maintained that Legal Aid is not suing the City, so there is no direct conflict. He reasoned that law firms have represented clients against the City, yet still conducted business with the City. Mayor Seiler articulated that, although the Commission supports providing HOPWA funds for Legal Aid, Legal Aid is suing the City for HOPWA activities which he believed constitutes a conflict.

Commissioner Rogers articulated the distinction between representing a client for being denied funds based on an alleged breach of rules, and filing a lawsuit for a client, claiming the City's entire program is unlawful. Mr. Karrat disputed that the lawsuit alleges the City's entire HOPWA program is unlawful. Rather, HOPWA was grouped with several other funding sources that could have been used to provide housing improvements for the individuals with code violations. The lawsuit does not claim the City's HOPWA program is inappropriate or that it should not operate. In response to Commissioner Rogers, the City Attorney explained that the lawsuit groups funds for CDBG, housing program and HOPWA program into one allegation that the funds are fraudulently appropriated and fraudulently used.

Mayor Seiler read the following excerpts from the complaint: The Inspector General Auditor of HUD has found glaring deficiencies and has notified the City that it must pay back over \$5 million dollars of non-federal funds it has misspent on ineligible activities as verified in its numerous audits which constitutes a fraudulent misuse of Scott's and the counter-plaintiffs' sub-recipient assets and other eligible entitlement program resources. The complaint further alleges that the City excluded (Scott and the other counter-plaintiffs) from participation in these programs which constitutes a felony, and that the City is amassing huge financial gains. Mr. Karrat explained to him that the lawsuit has been ongoing for many years. The City Attorney reiterated that the City won the lawsuit on a motion for summary judgment and a lengthy count-by-count decision, but it is currently under appeal. In further response to Mayor Seiler, Mr. Karrat indicated that White & Case LLP is representing the plaintiffs in the appeal. Legal Aid is only involved in a consultative manner.

Commissioner DuBose indicated that the lawsuit matter added to his apprehension about approving this item with the HUD contingency. Potential conflicts have already been detected and measures to alleviate were taken. However, the lawsuit issue raised tonight is a larger conflict. He was not comfortable approving this item with the HUD contingency. Even if only acting as a consultant, Legal Aid is involved in the lawsuit. Mr. Karrat disagreed. Mayor Seiler clarified that, although there may be other law firms representing clients against the City who conduct business with the City, the City does not hire those law firms. Mr. Karrat noted that the City's Community Services Board (Board) rated Legal Aid the highest applicant in its category of support services. Commissioner DuBose indicated that Legal Aid's level of service is not in question. He was uncertain if these issues were presented to the Board when the RFP was reviewed. There have been conflicts related to HUD and the City took corrective actions. He did not want to take any action that may cause an issue with HUD, thereby jeopardizing these funds which are targeted for the neediest residents.

Commissioner Rogers remarked that these are not City funds, rather these are federal funds administered through HUD. Therefore, HUD's approval is needed and HUD should be made aware of this lawsuit, if it has not been already. The City has the onus to comply with the rules because it is the administrator. He maintained that there is a distinction between Legal Aid representing an individual who was denied funding versus an allegation that the administrator is amiss. He suggested this matter be included in HUD's review. The City Attorney advised that HUD was a party to the lawsuit early on, but has since been removed.

Mayor Seiler noted that Paragraphs 99, 112 and 151 of the complaint all insist that the City certify that the housing activities undertaken with HOPWA funds are consistent with the Neighborhood

Comprehensive Plan, the CRA Plan, the CRA Implementation Plan and any other plans the City will create with the entitlement funds. So the HOPWA funds are being called into question. Fraud with these funds is being alleged. He asked why this issue was not raised when this item was brought forward previously. The City Attorney explained that he did not realize HOPWA funding for Legal Aid would be approved. He thought it had been made clear that this litigation has been ongoing for almost five years. Mr. Karrat explained that, historically, Legal Aid programs, including this one, have made advocacy efforts directly against HUD, but that has never stopped HUD from funding Legal Aid programs and providing various funding streams. It is not a conflict of interest because it is Legal Aid's role to assist clients in their advocacy against governmental agencies, private corporations or individuals. Mayor Seiler noted that, if Legal Aid accepts these funds from the City, it cannot represent a plaintiff against the City in HOPWA- or HUD-related matters. Mr. Karrat indicated that Legal Aid is not doing that. Legal Aid will only be representing HOPWA residents on their civil legal matters; Legal Aid will not be suing the City. Mayor Seiler read the following excerpt from the complaint: The City and its agents made material misrepresentations of fact to HUD with knowledge of, or in reckless disregard of their truth, in connection with City's requests for federal housing and community development-related grants and funding. Mr. Karrat thought that was related to funding questioned by HUD a number of years ago. Mayor Seiler indicated that HUD did not question the City's administration of HOPWA funds, but it is contained nevertheless in the complaint.

In response to questions raised by Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler, Mr. Karrat noted that (Dwayne Dickerson of Fowler White Boggs) represented Legal Aid at the November 20, 2012 Regular Commission meeting (Item PH-1). As to whether Legal Aid has a subsidiary, he indicated that Coast to Coast Legal Aid of South Florida (Coast to Coast) is a separate corporation with whom Legal Aid shares an office building. Legal Aid and Coast to Coast are not part of the same firm. The lawsuit was filed by Legal Aid, not Coast to Coast. Vice Mayor Roberts thought the lawsuit encompasses all of the City's HUD programs, not just HOPWA, because HOPWA and CDBG are both HUD programs. Therefore, he would not be satisfied if the HOPWA component was withdrawn. He did not see how the components could be objectively separated, nor did he think it would be legal. Ultimately, Legal Aid would, either, represent other individuals against other areas of the City's HUD programs, or direct those clients to another attorney to provide representation.

Upon passing the gavel, a **motion** was made by Mayor Seiler and seconded by Commissioner Rogers to approve this item subject to written approval or waiver from both HUD and the Florida Bar Association. It failed as shown below.

In response to inquiries made by Commissioner DuBose and Commissioner Rogers, Mayor Seiler indicated that the Commission could instead request approval from HUD and the Florida Bar before taking action. He confirmed that the facts of the lawsuit will be presented to HUD. He thought Legal Aid would be precluded from representing a party against the City as relates to its HOPWA or HUD programs. Although not totally against the motion, Commissioner DuBose felt HUD's responses have historically lacked clarity, therefore he wanted to have their response before moving forward.

Roll call showed: AYES: Commissioner Rogers and Mayor Seiler. NAYS: Vice Mayor Roberts and Commissioner DuBose.

Jonathan Brown, Housing and Community Development Program Manager, explained to Commissioner DuBose that deferring this item in order to follow up with HUD will not create any issues with the City's annual action plan. However, the City Manager pointed out that there is an 18 month moving target deadline for the funds to be spent. In response to questions raised by Mayor Seiler, Mr. Brown indicated that he already requested HUD's opinion on this matter and will ask for a timeframe as to when their response can be expected. Mr. Karrat confirmed that the plaintiff's attorney named on the lawsuit works for Legal Aid. The City Attorney explained that a preliminary answer was received from

HUD's technical advisor, indicating that this question has not been posed previously, but it is probably a conflict. Mr. Brown referred to the email response shown in Exhibit 3 of Commission Agenda Memorandum 13-0019. They have forwarded the matter to their Miami office. The City Attorney indicated that HUD's technical advisors have not seen the lawsuit. In response to Mr. Karrat, Commissioner DuBose noted that he would want to review any response received from HUD. He was concerned about the potential for misinterpretation or lack of clarity in general. In response to Mayor Seiler, Mr. Karrat indicated that a joint letter to HUD was drafted by Legal Aid and the City Attorney's office, but it did not cover the lawsuit issue because it has never been raised. The City Attorney explained to Mayor Seiler that all of the counts against the City are on appeal, except those pertaining to Alfred Battle personally. However, Mr. Karrat believed only two counts were appealed. He could not recall them specifically.

Vice Mayor Roberts thought the item should be deferred until a response is received from HUD; if no response is received by the end of January, the funds should possibly be reallocated.

There was no one else wishing to speak.

**Motion** made by Vice Mayor Roberts and seconded by Commissioner DuBose to defer the item to January 22, 2013 to allow time for HUD to review the matter and provide a response. Roll call showed: AYES: Commissioner Rogers, Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: None.

The Commission is to receive an update, regardless of whether a response is received from HUD.

## MOTIONS FOR DISCUSSION

**MD-1 12-2599** AMERICA'S BACKYARD REVOLUTION LIVE at 109 SW 2 Avenue -  
111 Properties, Inc., v. City of Fort Lauderdale  
Land Use Dispute Resolution Settlement

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

### APPROVED

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

**MD-2 13-0028** NON-MOTORIZED VEHICLE BUSINESS PERMIT FOR CERTAIN  
AREA OF DOWNTOWN - Cycle Party Fort Lauderdale LLC

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

### APPROVED

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

**RESOLUTIONS**

**R-1 12-2447** APPOINTMENT OF CITY BOARD AND COMMITTEE MEMBERS, All vacancy information is provided under Conference item BD-2

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

- Audit Advisory Board Jennifer Diehl (Vice Mayor Roberts)
- Citizens Committee of Recognition Gloria Katz (Consensus – Former Commissioner Category)  
Courtney Crush (Consensus – Former Honoree Category)
- Citizens Police Review Board Maxine Streeter (Commissioner Rogers)
- Code Enforcement Board Rob Smith (Consensus/Alternate)
- Economic Development Advisory Board John Scherer (Mayor Seiler – Small Business Interest Category)  
Jason Scott Crush (Commissioner DuBose – Small Business Interest and International Business Interest Categories)
- Marine Advisory Board Lisa Scott-Founds (Mayor Seiler for District II)

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

**ADOPTED**

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

**R-2 12-2583** STATE HOUSING INITIATIVES PARTNERSHIP PROGRAM - 1) Accepting Affordable Housing Advisory Committee Report and authorizing submittal to Florida Housing Finance Corporation and 2) Authorizing an increase in State Housing Initiatives Partnership Program funds for administrative use in grant years 2011, 2012 and 2013

*1) Accepting Affordable Housing Advisory Committee Report and authorizing submittal to Florida Housing Finance Corporation*

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

**ADOPTED**

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

*2) Authorizing an increase in State Housing Initiatives Partnership Program funds for administrative use in grant years 2011, 2012 and 2013*

Commissioner Rogers introduced the resolution which was read by title only.

**ADOPTED**

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

**PUBLIC HEARINGS**

**PH-1 12-2481** QUASI-JUDICIAL - FIRST READING OF ORDINANCE VACATING RIGHT-OF-WAY - PORTION OF SE 9 STREET - FRENCH VILLAGE - Case 11-P-12

Location: Portion of SE 9 Street at 101 SE 9 Street  
Applicant: D. Fredrico Fazio

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.

The Commission announced with whom he had spoken with and/or site visits made concerning this matter.

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

Vice Mayor Roberts introduced the ordinance which was read by title only.

**PASSED FIRST READING**

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

**PH-2 12-2484** QUASI-JUDICIAL - FIRST READING OF ORDINANCE REZONING TO COMMUNITY BUSINESS (CB) - Case 1-Z-12

From: Industrial (I)  
Applicant: Romelio Riveron  
Location: 610 NW 9 Avenue  
Land Use: Northwest Regional Activity Center

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.

Members of the Commission announced site visits made concerning this matter.

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

Vice Mayor Roberts introduced the ordinance which was read by title only.

**PASSED FIRST READING**

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

**PH-3 12-2485** QUASI-JUDICIAL - FIRST READING OF ORDINANCE VACATING RIGHT-OF-WAY - SOUTHWEST CORNER OF SE 8 STREET AND SE 2 AVENUE - FRENCH VILLAGE - Case 10-P-12

Applicant: D. Fredrico Fazio

Location: Southwest corner of SE 8 Street and SE 2 Avenue

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.

The Commission announced with whom he had spoken with and/or site visits made concerning this matter.

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

Vice Mayor Roberts introduced the ordinance which was read by title only.

**PASSED FIRST READING**

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

**PH-4 12-2601** WAVE STREETCAR SYSTEM - DOWNTOWN TRANSIT CIRCULATOR - SPECIAL ASSESSMENT IN DOWNTOWN AND SOUTH REGIONAL ACTIVITY CENTER BOUNDARIES

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

In response to Commissioner Rogers, the City Manager confirmed that this item is not an assessment, rather it is a resolution of intent to establish a non-ad valorem assessment for the 2013-2014 fiscal year. A final assessment study is being performed which will be brought back. From that point, public hearings will be held and rates set. He thought this could be brought before the Commission by March or April, 2013.

Commissioner Rogers introduced the resolution which was read by title only.

**ADOPTED**

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

**PH-5 12-2602** NEW TROLLEY NEIGHBORHOOD LINK COMMUNITY BUS ROUTE - replacing Housing Authority's Red and Blue Routes - effective January 2, 2013

*Subject to Broward County Board of County Commissioners' action*

Mayor Seiler opened the floor for public comment.

Roosevelt Walters, 1207 NW 10 Place, thought this matter is confusing, and wanted to reserve his comments until it has been addressed by the Commission.

Diana Alarcon, Transportation and Mobility Director, indicated that the Housing Authority's blue and red routes will no longer be operating by the end of 2012. The proposed is the replacement community bus route, called Neighborhood Link (NL). She highlighted information set forth in Commission Agenda Memorandum 12-2602. They have been adjusted to eliminate duplication between BCT (Broward County Transit) and the TMA's (Downtown Fort Lauderdale Transportation Management Association) Northwest route, and a portion was added in Melrose Park. In response to questions raised by Vice Mayor Roberts and Commissioner Rogers, she confirmed that the NL is a combination of the Housing Authority's blue and red routes, and that the TMA's Northwest route is still operating and has connectivity (on Sistrunk). The NL route has connectivity with BCT, but no overlap. She pointed out that the Sav-A-Lot (on the corner of NW 7<sup>th</sup> Avenue and Sistrunk) has been added to the NL route. The NL route goes west on NW 4<sup>th</sup> Street from NW 7<sup>th</sup> Avenue in order to connect with the Housing Authority's residential projects. The objective when combining the routes was to determine the best route with the least amount of headway in order to touch critical areas for Housing Authority residents, and to serve other riders of the community bus service. She confirmed that the NL route to be voted on tonight is depicted in Exhibit 3 as HACFL A – Revised which is attached to these minutes.

Irvin Minney, Broward County Transit, noted that BCT is preparing an amendment for the January 8, 2013 Commission meeting that will eliminate the red route and reduce service on the blue route as set forth in the email he sent to City Transportation Planner, Kevin C. Walford, on December 17, 2012, which was made a part of the record. He was concerned that the route is scheduled to begin on January 2, as it has not been approved by the Broward County Board of County Commissioners (County Commission). Ms. Alarcon confirmed for Mayor Seiler her awareness of the information conveyed by Mr. Minney. However, this matter has been addressed multiple times with BCT, including Mr. Minney; they are well aware of the proposed route and have verbally assured the City that this will be supported as it is a means to continue the route. Mr. Minney remarked that he cannot usurp the County Commission's authority. In response to the City Manager, he was not aware of the County Commission approving retroactively. The City Manager thought it is in their ability. Mr. Minney explained to Commissioner Rogers that he worked handily with the City to develop the proposed route. He did not believe the route has any issues, and the amendment does not vary from it. He is simply trying to follow the procedure set forth in the interlocal agreement (ILA). Commissioner Rogers thought this is a matter of form over substance. He asked if the County Commission can ratify the route as approved by the City. Mr. Minney thought the County Commission would like to discuss this. Historically, items have been approved by the City first, and then the County. Thus, he thought the proposed start date should be delayed. Mayor Seiler asked whether the County Commission would vote this item down because the route commenced before their approval. Mr. Minney reiterated that he could not speak for the County Commission. There is also cancellation of a route which has to be approved by the County Commission.

Commissioner DuBose emphasized that providing the service is more important than the procedure, and there could be no service until January 15. The City's due diligence could be presented to the County. The City is simply making sure that the services are in place. Mr. Minney suggested the City keep the current services operating until January 15. Commissioner DuBose explained that the City does not have a funding source for the current route because the County has not provided any assistance. Mr. Minney contended that the County has lived up to its financial obligations pertaining to the route. Commissioner DuBose noted that his addressing that matter with Broward County



Commissioner Dale V.C. Holness netted nothing and this is the City's way of ensuring the services continue.

Ms. Alarcon clarified that this item is strictly a public hearing for a new route. Staff will present the amended agreement and all of the documentation to be presented to the County on January 8, 2013. The City has secured some funding, and the TMA has agreed to support the new route for two months while this process is finalized. So the financial gap is filled. Mr. Minney contended that the City is in violation of the ILA because action is being taken to cancel a route and to begin a new route on January 2. Mayor Seiler articulated that the City has a funding source for the proposed route, but not for the current route. He thought a form over substance doctrine can be set aside because, ultimately, the County and the City both serve the public, and community transportation is necessary. He asked Mr. Minney whether he will recommend the County Commission to oppose this item. Mr. Minney noted that he will report this violation to the County Attorney. The City Attorney advised that the ILA is subject to funding. The proposed item is modifying the agreement with the TMA in order to change the route because the agreement the City had for this route with the Housing Authority is no longer valid and was not modifiable. The only question remaining is funding which will be decided upon by the County Commission when this modification is presented to them. Mr. Minney clarified that he is only referring to the ILA, and not the agreement between the City and the TMA. Commissioner Rogers pointed out that Mr. Minney attends the TMA meetings. Mayor Seiler questioned the matter of compliance with the ILA, being that there is no funding. Whereas, the City has a funding source, partner, and amended plan for the proposed route. The objective is to serve the public and provide transportation to the needy. Mr. Minney maintained that he is simply performing his due diligence.

In response to questions raised by the City Manager and Commissioner DuBose, Mr. Minney determined that the City was in violation of the ILA upon viewing the Commission Agenda Memorandum for this item. He worked with City staff to create the proposed route, but claimed to have no idea about the proposed January 2 commencement date. In dispute, Ms. Alarcon pointed out that the end date of December 31, 2012, for the current service and the commencement date of January 2 for the proposed route were addressed at the TMA Board meeting on November 28, and Mr. Minney was present. She also provided an update at a (TMA Board) meeting on December 12. Mayor Seiler pointed out that the City is just now being told it is in violation of the ILA, some twenty days after the TMA Board meeting. Mr. Minney claimed his notice about this matter was not late. In response to Mayor Seiler, Patricia Zeiler, Managing Director of the Downtown Fort Lauderdale Transportation Management Association, explained that this matter has been discussed for over a year. City staff made a complete presentation before the TMA Board on November 28 with a recommended route and a timeline. She noted that the ILA is important and that the proposed is not a new route; rather it is a modified route that provides the same level of service and connectivity. BCT is a funding partner who must be taken into consideration. She felt certain that BCT will provide assistance in getting this through the County Commission. It will be their decision as to whether this will be funded through January 15. Going forward, she felt certain there will be funding. Mr. Minney referred again to the email he sent to Mr. Walford on December 17 which outlines how BCT and the City should proceed. He indicated that he cannot make the decision as to whether BCT will provide the funding. In response to Commissioner Rogers, Mr. Minney maintained that the County Commission would have a say if the City moves forward on January 8. The City has not explicitly announced cancellation of a route. Commissioner Rogers reasoned that the cancellation issue is inherently covered in this item because the proposed route replaces the current Housing Authority routes. He stressed that it was Mr. Minney's responsibility to raise any issues pertaining to how the City proceeds at the November 28 TMA Board meeting which he attended as well, but Mr. Minney made no statement.

This item was momentarily deferred. Continued on page 19.

**ORDINANCES**

- O-1 12-2587** FIRST READING OF ORDINANCE - Amending Pay Plan, Schedule I (Supervisory, Professional, and Managerial employees - P.E.R.C Exempt) - adding one new class - Public Safety Communications Manager

Vice Mayor Roberts introduced the ordinance which was read by title only.

**PASSED FIRST READING**

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

- O-2 12-2635** SECOND READING OF ORDINANCE AMENDING CODE OF ORDINANCES - IMPLEMENTING COMPLIANCE REQUIREMENTS FOR INDUSTRIAL PRETREATMENT PROGRAMS mandated by Florida Department of Environmental Protection and modifying regional advisory board membership requirements - Chapter 28, Water, Wastewater and Stormwater

Vice Mayor Roberts introduced the ordinance which was read by title only.

**ADOPTED ON SECOND READING**

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

Note: The City Commission recessed the regular meeting at 8:07 p.m., and returned to the conference meeting agenda item BD-2. The Commission returned to the regular meeting, item PH-5, at 8:17 p.m.

- PH-5 12-2602** NEW TROLLEY NEIGHBORHOOD LINK COMMUNITY BUS ROUTE - replacing Housing Authority's Red and Blue Routes - effective January 2, 2013

*Subject to Broward County Board of County Commissioners' action*

Continued from page 16

The City Manager explained that staff has addressed the matter with the Broward County Transit Director, Tim Garling, who agreed to discuss this with the County Administrator tomorrow. BCT will move forward with a recommendation for the County Commission to approve this item retroactively, if supported by the County Administrator. The City Manager advised Mr. Garling that the current service will end on December 31 when funding runs out. He sensed there may be a dispute as to whether it is the City's right to stop the current route, regardless of funding. But he believes the City is on solid ground regarding that issue. He stressed to Mr. Garling that this is about providing a needed service. Just as the City continues to provide assistance to the County on other projects, the City hopes the County will assist with this.

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

**Motion** made by Commissioner Rogers and seconded by Vice Mayor Roberts to approve the item as amended, subject to the Broward County Board of County Commissioners' action. Roll call showed: AYES: Commissioner Rogers, Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: None.

**APPROVED AS AMENDED**

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

Note: There being no other matters to come before the Commission, the meeting was adjourned at 8:22 p.m.

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John P. "Jack" Seiler  
Mayor

ATTEST:

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Jonda K. Joseph  
City Clerk