

# City of Fort Lauderdale

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



## Meeting Minutes – APPROVED

**Tuesday, December 4, 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 6:04 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

Commissioner DuBose left the meeting at approximately 6:15 p.m. to attend a community meeting involving the School Board of Broward County and three schools in District III that was discussed at the conference meeting. This is an excused absence pursuant to Section 3.08 of the Charter.

## Vote Roll Call Order for this Meeting

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

## Invocation

Chaplain Luke Harrigan, Fort Lauderdale Police Department

## Pledge of Allegiance

Led by Mr. and Mrs. Peter Brandt

## Approval of MINUTES and Agenda

- 1      **12-2626**      APPROVAL OF MINUTES - September 27, 2012 and October 9, 2012  
City Commission Workshops

**Motion** made by Commissioner Rogers and seconded by Vice Mayor Roberts to approve the minutes of the September 27, 2012 and October 9, 2012 City Commission Workshops..

**APPROVED**

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

## PRESENTATIONS

- 13-0003**      WALK-ON - PROCLAMATION - Rick Case Bikes for Kids Day  
Proclamation for Dec 4, 2012

Commissioner DuBose presented a proclamation designating December 4, 2012, as Rick Case Bikes for Kids Day in the City to Rick and Rita Case. Mr. Case thanked the Commission and residents. He invited the public to bring unwanted bicycles to any Rick Case dealership for distribution to a needy child for the holidays.

- PRES-1 12-2517**      COMMUNITY APPEARANCE BOARD WOW AWARD – DISTRICT I

Vice Mayor Roberts recognized Peter and Connie Brandt who reside in Imperial Point as the recipients of the WOW Award for District I. Mr. Brandt thanked the Commission and expressed his love for the city.

Commissioner DuBose left the meeting at approximately 6:15 p.m.

**PRES-2 12-2637 PROCLAMATION DESIGNATING DECEMBER 8, 2012 AS  
MANGROVE AWARENESS DAY IN THE CITY OF FORT  
LAUDERDALE**

Commissioner Rogers presented a proclamation designating December 8, 2012, as Mangrove Awareness Day in the City to Lee Gottlieb, Director of Community Outreach Programs, Youth and Environmental Alliance. Mr. Gottlieb expressed excitement about partnering with the City for Mangrove Awareness Day. This demonstrates the City's commitment to protect the coastal wetlands. He invited the public to attend the related upcoming event at Bill Keith Preserve.

**PRES-3 12-2338 RECOGNITION OF PROCUREMENT SERVICES DIVISION OF  
FINANCE DEPARTMENT - RECIPIENT OF U.S. COMMUNITIES  
CUSTOMER APPRECIATION AWARD - THE POWER OF THANK  
YOU**

At the City Manager's request, Kirk Buffington, Deputy Director of Finance, introduced Kevin Juhring and David Kidd of U.S. Communities Government Purchasing Alliance (U.S. Communities). Mr. Juhring recalled that Mr. Buffington began utilizing national cooperative purchasing ten years ago to benefit the City. Since then Mr. Buffington has promoted national cooperative purchasing through his position as President of the NIGP (National Institute of Governmental Purchasing) resulting in over \$1 billion saved by 55,000 cities, counties, states, schools, and universities. Mr. Kidd presented Mr. Buffington with the U.S. Communities Customer Appreciation Award for the City. Mr. Buffington thanked U.S. Communities, the Commission, and the City Manager.

**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.

**CONSENT AGENDA**

**Present:** 3 - Mayor John P. "Jack" Seiler, Vice-Mayor Bruce G. Roberts and  
Commissioner Romney Rogers

**Absent:** 1 - Commissioner Bobby B. DuBose

**Approval of the Consent Agenda**

**Approve the Consent Agenda**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- M-1 12-2513** EVENT AGREEMENTS AND RELATED ROAD CLOSINGS:  
Chanukah Winter Wonderland, Vibe New Years Eve Party, Las Olas Gourmet Market, Coral Ridge Green Market, Biggest Loser 5K Run, Coral Ridge Association Holiday Party, MS Walk, Las Olas Wine & Food Festival, Yogafest 2013, Saveology/My Wish 4 U 5K/10k, and North Beach Village Winterfest Boat Parade Event  
**APPROVED**  
**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers  
**Excused:** 1 - Commissioner DuBose
- M-2 12-2596** FIRST AMENDMENT TO AGREEMENT FOR FIRE ASSESSMENT ROLL SERVICES with Broward County Property Appraiser - extending term to January, 2017  
**APPROVED**  
**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers  
**Excused:** 1 - Commissioner DuBose
- M-3 12-2597** AMENDED AGREEMENT FOR BEACH BUSINESS IMPROVEMENT DISTRICT ASSESSMENT ROLL SERVICES with Broward County Property Appraiser extending term from January 2013 to January 2017  
**APPROVED**  
**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers  
**Excused:** 1 - Commissioner DuBose
- M-4 12-2534** SETTLEMENT OF WORKER'S COMPENSATION FILES WC-09-13871, WC-10-14199, WC-11-14392 (Girvan Coley) - \$45,000  
**APPROVED**  
**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers  
**Excused:** 1 - Commissioner DuBose
- M-5 12-2550** POLLWORKER SERVICES AGREEMENT FOR DISTRICT II SPECIAL ELECTION(S) - Broward County Supervisor of Elections  
**APPROVED**  
**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers  
**Excused:** 1 - Commissioner DuBose

- M-6 12-2598** GRANT ACCEPTANCE - 2010 URBAN AREA SECURITY INITIATIVE - INTEROPERABLE COMMUNICATIONS PROJECT - \$98,159.29 from United States Department of Homeland Security via Florida Department of Emergency Management and City of Miramar, Sponsor Agency

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- M-7 12-2413** SECOND ONE-YEAR EXTENSION (FINAL) AND AMENDMENT TO AGREEMENT FOR FITNESS AND WELLNESS CLASSES AT BEACH COMMUNITY CENTER - North Broward Hospital District - February 1, 2013 through January 31, 2014

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- M-8 12-2500** GRANT ACCEPTANCE - 2012 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE COUNTYWIDE SOLICITATION GRANT PROGRAM - \$56,943 - and authorize City Manager to execute on behalf of City

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- M-9 12-2522** GRANT ACCEPTANCE - 2012 BULLETPROOF VEST PARTNERSHIP - \$8,621.11 from United States Department of Justice - Local match required - April 1, 2012 through August 31, 2014

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- M-10 12-2457** TASK ORDER 11 - GREENHOUSE GAS INVENTORY AND TRAINING - Miller, Legg & Associates, Inc. - not-to-exceed \$30,915

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- M-11 12-2414** CITY-ASSOCIATED COSTS FOR 2013 LAUDERDALE AIR SHOW - Request of Beach Business Improvement District Advisory Committee for funding - \$75,000

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- M-12 12-2478** AMENDED CODE ENFORCEMENT LIEN SETTLEMENT AGREEMENT for 11 SW 11 AVENUE - Case CE06091540

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- M-13 12-2621** 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 Dec 18, 2012**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

## **CONSENT RESOLUTION**

- CR-1 12-2466** CONSOLIDATED BUDGET AMENDMENT TO FISCAL YEAR 2013 BUDGET - APPROPRIATION

**ADOPTED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- CR-2 12-2521** GRANT APPLICATIONS - JOB ACCESS AND REVERSE COMMUTE (\$1,293,600) AND NEW FREEDOM PROGRAMS (\$105,300) TO REPLACE SIX TROLLEYS AND TWO YEARS OF TROLLEY OPERATIONAL COSTS - total of \$1,398,900 - South Florida Regional Transportation Authority with local match of \$428,700 - authorize acceptance and proper City Officials to execute grant agreements

**REMOVED FROM AGENDA**

- CR-3 12-2537** REPLACING SECONDARY NAME OF EL VEDADO DRIVE WITH WAYNE HUIZENGA BOULEVARD - section of SE 9 Street - El Vedado Drive between Federal Highway and Cordova Road  
**ADOPTED**  
**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers  
**Excused:** 1 - Commissioner DuBose
- CR-4 12-2584** GRANT APPLICATION - JOB ACCESS REVERSE COMMUTE PROGRAM FOR SHUTTLE SERVICE IN UPTOWN AREA - \$190,500 - Powerline and Cypress Creek Roads - South Florida Regional Transportation Authority - local match of \$91,500  
**REMOVED FROM AGENDA**

### **PURCHASING AGENDA**

- PUR-1 12-2436** PROPRIETARY PURCHASE - DECORATIVE STREET NAME SIGNS AND PARTS FOR SEVEN ISLES NEIGHBORHOOD in the amount of \$42,469 from Municipal Lighting Systems, Inc.  
**APPROVED**  
**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers  
**Excused:** 1 - Commissioner DuBose
- PUR-2 12-2494** TWO-YEAR CONTRACT FOR PURCHASE OF SOD AND SOD INSTALLATION in estimated amount of \$324,000 from Sunset Sod, Inc., Tropical Landscaping & Lawn Maintenance, Inc. and Mullings Engineering Services LLC and authorize City Manager or designee to approve renewal options contingent upon approval and appropriation of funds  
**APPROVED**  
**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers  
**Excused:** 1 - Commissioner DuBose
- PUR-3 12-2495** ONE-YEAR CONTRACT FOR POLE SETTING AND REMOVAL SERVICES in the estimated amount of \$83,740 from Imperial Electrical Incorporated and authorize City Manager or designee to approve renewal options contingent upon approval and appropriation of funds  
**APPROVED**  
**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers  
**Excused:** 1 - Commissioner DuBose

**PUR-4 12-2496** PROPRIETARY PURCHASE - DECORATIVE STREET NAME SIGN POSTS AND ASSOCIATED PARTS FOR HARBOR BEACH NEIGHBORHOOD in the amount of \$45,442 from Municipal Lighting Systems Inc.

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

**PUR-5 12-2497** PURCHASE OF PLAYGROUND SHADE STRUCTURES in the amount of \$70,593.60 from Shade Systems, Inc.

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

**PUR-6 12-2498** PROPRIETARY PURCHASE - DECORATIVE STREET NAME SIGN POSTS AND ASSOCIATED PARTS FOR VICTORIA PARK NEIGHBORHOOD in the amount of \$40,189 from Lighting Concepts and Systems, Inc.

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

**PUR-7 12-2499** PURCHASE OF SYNTHETIC TURF AND PLAYGROUND INSTALLATION in the amount of \$67,779.18 from Advanced Recreational Concepts, LLC

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

**PUR-8 12-2503** PROPRIETARY PURCHASE - ANNUAL MAINTENANCE AND SUPPORT FOR 800 MHz PUBLIC SAFETY RADIO SYSTEM in the amount of \$349,765 from Motorola Solutions, Inc.

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

**PUR-9 12-2509** FORTY-EIGHT MONTH LEASE OF FULL COLOR DIGITAL PRESS in estimated amount of \$92,398.08 from Konica Minolta Business Solutions U.S.A., contingent upon approval and appropriation of funds

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

**CR-1 12-2466** CONSOLIDATED BUDGET AMENDMENT TO FISCAL YEAR 2013  
BUDGET - APPROPRIATION

Mayor Seiler announced a correction that the bid opening noted in this Commission Agenda Memorandum (Annual Storm Drainage Contract) was October 10, 2012, not December 10, 2012.

**M-6 12-2598** GRANT ACCEPTANCE - 2010 URBAN AREA SECURITY INITIATIVE  
- INTEROPERABLE COMMUNICATIONS PROJECT - \$98,159.29  
from United States Department of Homeland Security via Florida  
Department of Emergency Management and City of Miramar, Sponsor  
Agency

The City Clerk announced a correction that the date projects must be completed for this item is February 28, 2013, not February 28, 2012.

**CR-2 12-2521** GRANT APPLICATIONS - JOB ACCESS AND REVERSE COMMUTE  
(\$1,293,600) AND NEW FREEDOM PROGRAMS (\$105,300) TO  
REPLACE SIX TROLLEYS AND TWO YEARS OF TROLLEY  
OPERATIONAL COSTS - total of \$1,398,900 - South Florida Regional  
Transportation Authority with local match of \$428,700 - authorize  
acceptance and proper City Officials to execute grant agreements

Mayor Seiler announced that this item was removed from the agenda at the request of the City Manager.

**CR-4 12-2584** GRANT APPLICATION - JOB ACCESS REVERSE COMMUTE  
PROGRAM FOR SHUTTLE SERVICE IN UPTOWN AREA - \$190,500  
- Powerline and Cypress Creek Roads - South Florida Regional  
Transportation Authority - local match of \$91,500

Mayor Seiler announced that this item was removed from the agenda at the request of the City Manager.

**Motion** made by Vice Mayor Roberts and seconded by Commissioner Rogers that Consent Agenda Items M-13 and CR-1 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda items be approved as recommended. Roll call showed: AYES: Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None. Commissioner DuBose was not present for this vote.

**M-13 12-2621** 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 explained that staff would like to defer this item to December 18, 2012.

**Motion** made by Commissioner Rogers and seconded by Vice Mayor Roberts to defer the item to December 18, 2012. Roll call showed: AYES: Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None. Commissioner DuBose was not present for this vote.

Mayor Seiler asked the City Manager to involve a Legal Aid representative in the discussion with the U.S. Department of Housing and Urban Development.

**CR-1 12-2466** CONSOLIDATED BUDGET AMENDMENT TO FISCAL YEAR 2013 BUDGET - APPROPRIATION

Mary Fertig, representing the Idlewyld Improvement Association, spoke in reference to section G (Appropriation from fund balance – Stormwater Fund – Annual Storm Drainage Contract - \$2,000,000) of Commission Agenda Memorandum 12-2466. She recalled asking at the March 20, 2012 conference meeting whether City staff had studied long-term climate and environmental changes in order to gauge an expected impact to the city. But she did not receive an answer. The high tides and flooding that occurred in October and November raised similar concerns. She recalled Mayor Seiler's indication that there may be a future argument opposing underground utilities; but others predict a case in support. Regardless, it is time to start endeavoring to find the answer. She elaborated upon the unprecedented scale of flooding that occurred this year and the resulting issues and damage in Idlewyld and other neighborhoods. She expressed concern about the failure to research climate change, and asked the City to take a proactive approach and advise residents how to prepare. If this matter is not addressed, it will impact the City's budget. Planning should include the entire city. Mayor Seiler pointed out the Assistant City Manager Susanne Torriente's, ongoing involvement and work on this topic. He suggested that any suggestions or inquiries be directed to Ms. Torriente or the City Manager.

**Motion** made by Vice Mayor Roberts and seconded by Commissioner Rogers to approve the item as presented. Roll call showed: AYES: Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None. Commissioner DuBose was not present for this vote.

## MOTIONS

**MD-1 12-2477** APPEAL OF PLANNING AND ZONING BOARD DENIAL FOR REZONING - Case 12-Z-12  
Applicant: Key Village, LLC  
Location: 475 SW 27 Avenue  
Current Zoning: Mobile Home Park MHP  
Proposed Zoning: Community Facility - School CF-S

Future Land Use: Medium High Residential

1) Introduce resolution upholding Board decision of denial OR 2) motion to hold de novo hearing immediately OR 3) introduce

resolution setting de novo hearing within sixty days

Anyone wishing to speak must be sworn in.

Mayor Seiler announced the Applicant's request for a deferral. There was no such motion made. He announced the options available to the Commission.

Mayor Seiler opened the floor for public comment.

Gus Carbonell of MG3 Developer Group, LLC, representing the Applicant, indicated that the proposed project is a one-story, 29-classroom charter school. He has met several times with the immediate community, as well as with the neighboring community and there seemed to be no objection until the Planning and Zoning Board hearing (hearing) on October 17, 2012 (meeting minutes shown in Exhibit 3 of Commission Agenda Memorandum 12-2477). He contended that evidence presented at the hearing was in error. An email was sent to the City with about 110 opposed signatures, but he believed those individuals had been misinformed about the project. Although it is not required in the ULDR (Unified Land Development Regulations), it has been customary to consider the site plan along with a rezoning request, so that residents can see what is being proposed. In response to Mayor Seiler, he contended that there was no competent substantial evidence to support the Board's decision.

**Motion** made by Vice Mayor Roberts and seconded by Commissioner Rogers to hold a de novo hearing immediately. Roll call showed: AYES: Commissioner Rogers, Vice Mayor Roberts, and Mayor Seiler. NAYS: None. Commissioner DuBose was not present for this vote.

Mr. Carbonell advised that the project is in compliance with the ULDR. The entire DRC (Development Review Committee) process was completed. He believes a charter school is a good fit for the area. It seemed the opposing argument at the hearing was based on protecting the School Board of Broward County (School Board) from having a competing school in the neighborhood. But charter schools are a matter of choice. The Applicant has built 15 (charter) schools in the state and only deals with reputable operators. However, opposition arose from residents being misinformed that the proposed would be utilized as an alternative school for troubled children. He believed the vote of the Board was biased by residents that were not properly informed. There were unrealistic rumors spread. Schools belong in residential neighborhoods. The site is large enough for the proposed project which is 58 percent open space. A traffic study was completed. All of the evidence presented to the Board met the criteria as being the right zoning and land use. If the rezoning is granted, it will be necessary to bring this back to the Board, re-address the neighborhood, and modify the plans as necessary. The property is currently zoned MHP (Mobile Home Park) which the neighborhood also does not favor. Mayor Seiler asked him if he wanted to direct the Commission to any information in the record with respect to the Board's decision. Mr. Carbonell understood that, once the Board's decision was made, the appeal has to be made to the Commission. He was willing to go back to the Board if so directed by the Commission.

In response to Mayor Seiler, Greg Brewton, Sustainable Development Director, explained that this is the same information that was brought forward at the Board meeting. The Applicant provided a detailed description of the property's intended use. The question is whether there was a deviation from the ULDR requirement. Therefore, he did not believe this matter could be resolved by sending it back to the Board to present the same information addressed tonight. The Board's decision was based on their belief that the proposed zoning is not appropriate for the area. In further response, he reiterated that the Board reviewed the same information brought forward by the Applicant tonight in its entirety; the intended use of the property was examined as well as the surrounding zoning. The Board was concerned about potential traffic issues.

Vice Mayor Roberts did not believe Mr. Carbonell had addressed Mayor Seiler's inquiry as to whether he can direct the Commission to specific information in the record that relates to the Board's decision. Mr. Carbonell thought the Board had put the cart before the horse. Only the rezoning was supposed to be addressed, yet issues like flooding and traffic were included without seeing the plans. He thought the prior method of including a site plan with a rezoning request is better because those attending the Board meeting wanted to see what was proposed for the site.

Commissioner Rogers noted that the Commission is guided by the record. He read the following excerpts from the Board meeting minutes: Mr. Witschen stated that he did not agree with staff with respect to compatibility, as most of the property abuts single-family homes. He felt the issue was also one of adding a relatively intense use onto a small parcel, and concluded that the traffic generation was also likely to create an issue. Mr. Cohen stated his primary concern regarding compatibility was related to the increase in traffic. While he believed a school would be a good use for the property, he did not feel two buses would be realistic to bring a portion of 600 students to the facility. Commissioner Rogers thought the proposed school may be compatible with the neighborhood if it was the only one. But there are already two schools in the area, and a third would impact the neighborhood by adding a layer of more traffic. He believed the record has more than enough evidence by ruling of the Board to support how they ruled. Mr. Carbonell clarified that two buses at a time can be accommodated in the school's drop-off area. The other schools are a few blocks to the south, and there is no traffic issue at the proposed school's location on 27<sup>th</sup> Avenue. Regardless of how this property is utilized, there will be some traffic impact. He noted that the Board denied his request for rebuttal. Commissioner Rogers read the following excerpt from the Board meeting minutes: Willie Dudley, longtime resident of 4<sup>th</sup> Court, states that he is a former educator and school principal, as well as an area director supervising charter schools. He observed that the property in question is a small parcel, and stated that it would not be possible to have two buses and 600 students on the property. He added that he was concerned about the impact the proposed school would have on the nearby schools, as well as traffic it would bring into the surrounding community and stated that the community would prefer townhouses or single-family homes, as there is no need for another school in the area. Commissioner Rogers reiterated that there is enough evidence in the record to support the Board's ruling. He has not found any evidence in the record that is contrary to the law. It is the Applicant's responsibility to point that out.

Mayor Seiler clarified the process. There is evidence in the record that supports the Board's decision. The Commission would have to find that there is no evidence in the record. Mr. Carbonell believed that the Board relied on emotions expressed by some neighbors during their public comment. He referred to evidence presented by individuals who are employed by the School Board and that the School Board has endeavored to make it difficult for charter schools to operate because they are competition. Mayor Seiler emphasized that the standard that the Commission must follow is not related to a possible bias or prejudice, rather it is whether there is competent substantial evidence in the record. The Commission cannot reverse the Board's decision if competent substantial evidence is found in the record, unless the Applicant points out information in the record demonstrating that there is no competent substantial evidence to support the Board's decision. Mr. Carbonell noted that the record shows that a traffic study was completed, and the traffic, land use, and zoning will work; also, the residential location is standard for elementary schools. The (neighborhood) believes the existing schools are suitable, though much larger and located in single family neighborhoods. He thought these are contradictory elements. If the evidence brought forward at a hearing is incorrect, then a decision is based on incorrect evidence.

Commissioner Rogers thought Mr. Dudley's credentials as shown on page 8 of the Board hearing minutes (October 17, 2012 - Exhibit 3) deflate Mr. Carbonell's contention of prejudice. His statement appears to be competent evidence in that he claims to be a supervisor of charter schools. Further Mr. Dudley is a longtime resident and former school principal and educator. He believes the site is too small for 600 students and there will be problems with bus circulation. Mr. Carbonell clarified that Mr.

Dudley worked for the School Board as an area director supervising charter schools, not for a particular charter school. He thought the record shows two sides. Mayor Seiler pointed out that if both sides are in the record, there is competent substantial evidence. The absence of record evidence would allow Mr. Carbonell to prevail. He thought Mr. Carbonell's acknowledgement that both sides are in the record means the Board weighed this matter in a quasi-judicial proceeding and made a decision. Mr. Carbonell pointed out that the traffic study presented shows that traffic is not an issue in the area. Also, flooding will not be an issue because the project meets the Florida Building Code requirements. There has been a lot of hearsay from neighbors who are unfamiliar with both the project and the backup information. This is a good project that belongs on this site.

Charles King, 105 North Victoria Park Road, recalled that he spoke at the Planning and Zoning Board meeting where this matter was addressed. He thought there is opposition to charter schools and an effort to prop up substandard schools. Mayor Seiler explained the standard that the Commission has to apply is whether there is competent substantial evidence in the record to support the Board's decision. This procedure is not a reopening of the hearing; Mr. King may point out in the Board minutes where there is or is not competent substantial evidence to support the Board's decision. Mr. King noted that Mr. Cohen opposed the Board's denial for rezoning. The proposed site is currently zoned as a trailer park and a trailer park is located across the street. He thought the City should use this opportunity to not have a trailer park and to provide options for elementary school aged children. It seemed that the Board believed the site was not large enough and this was their main reason aside from people in opposition. In response to Mayor Seiler, Mr. Brewton confirmed that lot size is competent substantial evidence. He added that the assertion that the Board made an emotional decision is disrespectful. Rather, the Board heard the testimony and based their decision on it. Mr. King thought lot size is an arbitrary reason. Mayor Seiler indicated that the fact that the lot is vacant cannot be considered in this type of hearing.

There being no other 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, and Mayor Seiler. NAYS: None. Commissioner DuBose was not present for this vote.

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

*Resolution adopted upholding decision of Planning and Zoning Board's denial of the rezoning.*

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

## **CITIZEN PRESENTATIONS**

**CIT-1 12-2627** RALPH ENDERBY - Preservation of Rain Tree and development of Rain Tree Park during development of Marina Lofts

Mr. Enderby noted that he resides at Esplanade on the New River. He asked the Commission to make the rain tree's current location a ½ acre pocket park and preserve the tree as originally proposed in the 1987 New River Master Plan. He presented slides concerning this matter. A copy of the slides is attached to these minutes. He noted the area including where the tree is situated proposed to be developed into 1,000 units called Marina Lofts. The developer would like to move the tree to a nearby 90-foot parcel. He did not think it will fit onto that sized parcel. The rain tree is native to South Florida,

and this is the only one of its kind in the country. The tree is protected from being moved without Commission approval under City Ordinance 87-318.

**CIT-2 12-2628 ART SEITZ - Barrier Island**

Mr. Seitz submitted a graphic illustration of the city of Hollywood's redevelopment vision for A-1-A, and suggested the City adopt these ideas. A copy of the illustration is attached to these minutes. He thanked the FDOT (Florida Department of Transportation) and the City Manager for their responsiveness to the tidal flooding on A-1-A. He referred to a letter he received in 2008 from former Mayor James Naugle who credited him for the possibility of the City's central and northern beaches being renourishment and widened because of measures he took which led to Fort Lauderdale submitting an application for beach renourishment. However, almost no beach renourishment funding ultimately came to the City. He listed several residents whom he thanked for providing input on beach area issues. He claimed the CBA (Central Beach Alliance) is a not-for-profit organization, not a homeowners association. He thought the City's Planning and Zoning Board has shown bias in favor of development for some time. He referred to the top priority of Vision 2020 being what the Commission talked about 3 ½ years ago, such as A-1-A, wider sidewalks and promenades. For the most part it has been all talk with the exception of Vice Mayor Roberts. He elaborated upon the Bahia Mar project being dead and referred to D.C. Alexander Park being pushed back and the Las Olas Marina (parking) lot being turned into a marina, and was concerned about so much money being left on the table.

**CIT-3 12-2629 MARION RADEER - Marina Lofts development**

Ms. Radeer read a prepared statement which is attached to these minutes. She submitted a written statement from the Esplanade on the New River Board of Directors which was made part of the record.

**CIT-4 12-2630 JOHN M. CARR - Homeless in the Downtown Historical Area -**

Mr. Carr was not present.

**CIT-5 12-2631 DENNIS ULMER - A Citizen Thanks Our Business Partners and City Employees**

Mr. Ulmer expressed gratitude to members of the business community who have provided funding for City events during these challenging economic times. He also thanked City staff for utilizing their expertise and workmanship to resolve issues. Fort Lauderdale is a great City that is always striving to improve. He was pleased to work with City staff as a citizen volunteer over the last 30 years. He felt confident that the City's vision for 2035 would be met if the business partners continue to work with the City and staff under the Commission's leadership.

## **RESOLUTIONS**

**R-1 12-2444 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:

Budget Advisory Board                      Drew Saito (Vice Mayor Roberts – moved from District II to District I)

Code Enforcement Board                  Howard Elfman (Consensus)

Howard Nelson (Consensus)

## Community Appearance Board

Jonathan Arbogast (Commissioner Rogers)  
Karen J. Doyle (Commissioner Rogers)  
Ryan Paton (Commissioner Rogers)  
Barbra Stern (Commissioner Rogers)

## Economic Development Advisory Board

Dev Motwani (Commissioner Rogers)

## Fire-Rescue Facilities Bond Issue Blue Ribbon Committee

Frederick H. Nesbitt (Vice Mayor Roberts)  
June D. Page (Vice Mayor Roberts)  
Nadine Hankerson (Commissioner DuBose)  
Bryson Michael Ridgway (Commissioner DuBose)  
Frank B. Anderson, Jr. (Commissioner Rogers)

## Sustainability Advisory Board Utility Advisory Committee

Mate Thitisawat (Consensus)  
James Dunmire (Mayor Seiler)

## Visioning Committee

Stanley Eichelbaum (Mayor Seiler)  
Leigh R. Kerr (Mayor Seiler)  
Alan L. Gabriel (Vice Mayor Roberts)  
James G. McCulla (Vice Mayor Roberts)  
Desorae Giles-Smith (Commissioner DuBose)  
Randall Vitale (Commissioner DuBose)  
Peg Buchan (Commissioner Rogers)  
Wiley D. Thompson, III (Commissioner Rogers)  
Dan Lindblade (Consensus)

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

**ADOPTED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

**R-2 12-2549 VISIONING COMMITTEE TERM EXTENSION**

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

**ADOPTED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

**12-2641**

WALK-ON - Motion approving an Interlocal Agreement with the Housing Authority of the City of Fort Lauderdale for community bus service to the Northwest and Resolution amending the budget by appropriating the funds

The City Clerk noted that this item was revised to include a motion to approve an Interlocal Agreement with the Housing Authority and authorize execution of the agreement.

**Motion** made by Vice Mayor Roberts and seconded by Commissioner Rogers to approve the item and introduce the resolution noted above.

**ADOPTED**

**Aye:**3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

**12-2642**

WALK-ON - MOTION - Dockage Facility Use Agreement with Winterfest, Inc. Boat Parade/2012

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

**APPROVED**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

**ORDINANCES**

**O-1**

**12-2451**

QUASI-JUDICIAL - SECOND READING OF ORDINANCE  
REZONING TO EXCLUSIVE PARKING USE (XP) - Case 3-ZR-12

From: Residential Single Family/Low Medium Density District (RS-8)  
and Limited Residential Office (ROA)

Applicant: First Presbyterian Church of Fort Lauderdale

Location: 1224 East Las Olas Boulevard

Future Land Use: Low-Medium

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 reaffirmed the same disclosures as those indicated on prior considerations.

Mayor Seiler opened the floor for public comment.

Robert Walsh, 401 East Las Olas Boulevard, asked the Commission to include a caveat that Fort Lauderdale residents are given preference for hire on construction projects related to this item.

There was no one else wishing to speak.

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

**ADOPTED ON SECOND READING**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- O-2 12-2470** SECOND READING OF ORDINANCE AMENDING CODE OF ORDINANCES, CHAPTER 15 AND UNIFIED LAND DEVELOPMENT REGULATIONS, SECTIONS 47-6, 47-18 AND 47-20 - ADULT GAMING FACILITIES AND ELECTRONIC GAMING DEVICES - ESTABLISHING REGULATIONS, LOCATION AND OPERATIONS STANDARDS AND REQUIREMENTS FOR CONDITIONAL REVIEW AND APPROVAL

Mayor Seiler opened the floor for public comment.

Robert Walsh, 401 East Las Olas Boulevard, suggested the Commission include a sin tax for every bet wagered at adult gaming facilities in order to increase revenue for the City.

There was no one else wishing to speak.

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

**ADOPTED ON SECOND READING**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- O-3 12-2471** SECOND READING OF ORDINANCE AMENDING CODE OF ORDINANCES, CHAPTER 9 AND UNIFIED LAND DEVELOPMENT REGULATION, SECTIONS 47-19.2.Z, 47-21.5 AND 47-35.1 - IMPLEMENTATION OF GO SOLAR ROOFTOP PHOTOVOLTAIC SOLAR SYSTEM PERMITTING PROGRAM

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

**ADOPTED ON SECOND READING**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

- O-4 12-2603** SECOND READING OF ORDINANCE - CONVENIENCE AND LIQUOR STORE MORATORIUM WITHIN BOUNDARY OF NORTHWEST PROGRESSO FLAGLER HEIGHTS COMMUNITY REDEVELOPMENT AREA - 90 days with ability to extend

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

**ADOPTED ON SECOND READING**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

**O-5 12-2452** FIRST 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.

**PASSED FIRST READING**

**Aye:** 3 - Mayor Seiler, Vice-Mayor Roberts and Commissioner Rogers

**Excused:** 1 - Commissioner DuBose

Note: The City Commission adjourned the regular meeting at 7:33 p.m. and returned to the conference meeting agenda, Commission Reports.

---

John P. "Jack" Seiler  
Mayor

ATTEST:

---

Jonda K. Joseph  
City Clerk