

City of Fort Lauderdale

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



Meeting Minutes - APPROVED

Tuesday, April 7, 2015

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
ROBERT L. McKINZIE 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 6:16 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 Robert L. McKinzie

Also Present: City Manager Lee R. Feldman, City Auditor John Herbst, City Clerk Jonda K. Joseph, City Attorney Cynthia A. Everett and Sergeant At Arms Sergeant Tom Capano

Vote Roll Call Order for this Meeting

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

Invocation

Dr. Patrick Jules, Bethel Evangelical Baptist Church

Pledge of Allegiance

Led by winners of the "If I Were Mayor" essay contest

Approval of MINUTES and Agenda

No public comments were submitted by email for the April 7, 2015 regular meeting.

15-0407 Minutes for January 6, 2015 Conference and Regular Meetings, January 21, 2015 Conference and Regular Meetings and February 3, 2015 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 McKinzie, Vice-Mayor Rogers and Mayor Seiler

PRESENTATIONS

PRES-2 15-0491 Proclamation declaring April 23, 2015 as Children's Day in the City of Fort Lauderdale

Vice-Mayor Rogers presented the proclamation to the president of the Florida Turkish American Association.

PRES-1 15-0490 "If I Were Mayor" - Presentation of Certificates to Winners of Sister Cities International's 2015 Essay Student Competition

Vice-Mayor Rogers presented certificates to winners of the "If I Were Mayor" essay contest sponsored by the Greater Fort Lauderdale Sister Cities International.

PRES-3 15-0493 Proclamation Declaring the Week of April 12-18, 2015 as National Library Week in the City of Fort Lauderdale

Vice-Mayor Rogers presented the proclamation to Jane Nighbert of the Friends of Fort Lauderdale Libraries.

PRES-4 15-0494 Proclamation Declaring the Month of April, 2015 as Walk Like MADD & MADD DASH Month in the City of Fort Lauderdale

Commissioner Roberts presented the proclamation to Colonel Al Pollock of the Broward Sheriff's Office, MADD Executive Director David Pinsker and Heather Geronemus of MADD. Geronemus thanked the Commission and spoke of her personal experience with MADD.

PRES-5 15-0393 Community Appearance Board WOW Award for District II

Commissioner Trantalis recognized Ed Strobel for beautification efforts at his home in Sailboat Bend.

PRES-6 15-0388 Proclamation declaring the Month of April 2015 as Fair Housing Month in the City of Fort Lauderdale

Commissioner Trantalis presented the proclamation to Rita Scott of HOPE Inc. Scott thanked the Commission and noted the agency's ongoing partnership with the City.

PRES-7 15-0411 Proclamation declaring March 12, 2015 - March 12, 2016 as Mayors' Challenge for Safer People, Safer Streets Year in the City of Fort Lauderdale

Commissioner McKinzie presented the proclamation to Julie Leonard, deputy director of Transportation and Mobility. Leonard thanked the Commission for its support.

PRES-8 15-0389 Proclamation declaring the Week of April 6-11, 2015 as National Community Development Week in the City of Fort Lauderdale

Commissioner McKinzie presented the proclamation to Housing and Community Development Manager Jonathan Brown as well as HOME and Community Development Block Grant recipients. Brown thanked the Commission and staff for their support and provided statistics on the program.

CONSENT AGENDA

Mayor Seiler announced the procedure for consent items, noting that CR-3 should be listed as a motion and CM-11 was removed from the agenda.

Motion made by Commissioner Roberts and seconded by Commissioner McKinzie that Consent Agenda items CM-6 and CR-1 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda items be approved as recommended.

CONSENT MOTION

CM-1 15-0358 Event Agreements: Dawg Squad Foundation, USA Volleyball Junior Tour, Fiesta Fabuloso Cinco De Mayo Celebration and Food In Motion: Morning After Market

APPROVED

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

CM-2 15-0359 Event Agreements and Related Road Closing: Walk Like MADD & MADD Dash, 20th Annual Las Olas Wine & Food Festival and Fort Lauderdale Fringe Festival at Broward College

APPROVED

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

CM-3 15-0398 Recommendations for 2014-2015 Citizens' Committee of Recognition Awards

APPROVED

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

CM-4 15-0363 Settlement of Auto Liability Claim in the Matter of Sean Borden v. City of Fort Lauderdale - \$50,000

APPROVED

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

CM-5 15-0452 Assignment and Assumption of Lease Agreement between BE ML FLL, LLC and 2601 M L FUND, LLC for airspace - 2611 East Oakland Park Boulevard

APPROVED

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

CM-6 15-0454 First Amendment to Agreement and Addendum with CBRE, Inc. for Real Estate Brokerage and Lease Management Services

Commissioner Trantalis said he is concerned about renewal leases. The tenant should not be penalized 2 percent of the amount of the lease. He felt it is an undue burden and should be removed. Commissioner McKinzie agreed. He is also concerned about the scope of work being vague. Mayor Seiler felt that renewals should be reviewed to determine whether it is at market rate or rates have increased. Commissioner Trantalis agreed only if new terms are being negotiated. The City Manager

referred to Section 2.4.3, detailing when the 2 percent would be due. Assistant City Attorney Bob Dunckel explained that this is where the lessee has remained in possession after termination of the lease. They could stay or leave. There is not an option built into the base lease. There is no brokerage commission on a renewal option; only for the initial term.

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

APPROVED

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

- CM-7 15-0336** Donation to Fort Lauderdale Zeta Chi Chapter of Omega Psi Phi Fraternity, Inc. - Lamplighters Program - \$5,000 from State Law Enforcement Trust Fund

APPROVED

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

- CM-8 15-0337** Agreement with Sheriff of Broward County for Use of City's Compost Site

APPROVED

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

- CM-9 15-0343** Use of Federal Law Enforcement Trust Fund to Purchase Rechargeable Flashlights from SmartWater CSI Labino UV - \$36,385

APPROVED

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

- CM-10 15-0381** Grant Acceptance - \$35,000 - 2014 Federal Motor Carrier Safety Administration Safety Data Improvement Project Grant - Florida Department of Highway Safety and Motor Vehicles

APPROVED

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

- CM-11 15-0048** Termination of Lease Agreement with D.H.S. Investments LLC - Parcel 8G - Executive Airport

DEFERRED TO APRIL 21, 2015

CM-12 15-0421 2015 Summer Recess - Eliminate Second Conference and Regular Meetings in July (July 21) and First Conference and Regular Meetings in August (August 4)

APPROVED

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

CONSENT RESOLUTION

CR-1 15-0474 Appointing The McLawrence Law Firm, P.A., as special counsel to indigent defendants in City of Fort Lauderdale municipal ordinance violation cases and rescinding Resolution No. 15-61

Mayor Seiler pointed out this was re-bid because of an error on the part of the City. In the re-bid, the current counsel was the low bidder in the original bid submittals, but not in the re-bid. There was a minimal difference. The City Attorney advised that by what happened, the current counsel would not have been the low bidder the first time around. Because of what happened, she along with procurement staff felt the fairest thing to do would be re re-bid. She understood when the information was presented to the public, the computerized program (BidSync) asked for an alternate bid. The request that went out did not show anything about an alternate bid. The alternate bid section was completed by one bidder which is now the successful bidder. If they had followed what was presented to the public, that bidder would have been successful then also.

Mayor Seiler was concerned about potentially penalizing someone for not filling out the alternate section when that section was not part of the bid. The City Attorney did not feel that anyone is being penalized, but rather it was done to be fair to everyone. Mayor Seiler questioned if the original higher bidder come in a dollar lower in the re-bid. Finance Director Kirk Buffington believed that is correct. Mayor Seiler felt it should be re-bid again in order to have a fair process.

C. Edward McGee Jr., representing Steven Schaet, noted that there were originally three bidders. The McLawrence bid was \$190 per case but had a contingency (alternate) bid that if there was a lower bid, they would drop to \$150. Schaet's bid was \$170 per case. He currently holds the contract at \$195 per case. There was a third bidder tied with Schaet at \$170. Although Schaet handled close to 500 cases for the City, he only billed for 261. When there is an individual in front of a judge that has multiple cases and some are dismissed, he does not bill the City for dismissed cases. The Schaet office is four blocks from the courthouse and not 56 blocks away. Also, he does not have a standing recusal order with any of the applicable judges but McLawrence does. If an individual is held in jail an extra day or two because a recusal order has been entered and the case has to be reassigned, the individual has a potential case against the City for contracting with an attorney who cannot represent him or her in front of the assigned judge. He believed that Schaet's bid was unfairly compromised and suggested that McLawrence's bid should have been disallowed. Once the other bidders saw Schaet's bid, the current low bid is now \$1.50 lower than Schaet's. He elaborated on Schaet's track record and volume of cases.

The City Attorney advised that she has met with Schaet and McLawrence. Staff is attempting to be fair. There is an administrative process, bid protest if one has an objection to how the City has carried out the bid process. Buffington advised that a bid protest has not been filed. Mayor Seiler indicated that he received a hand-delivered letter from McGee after the last meeting when re-bidding was announced. He has a problem with the process. Whether the error was made by the City or by BidSync, he

questioned why Schaet is being penalized for that error. The City Attorney did not believe that Mayor Seiler has all of the facts regarding the bidders. As to not filing a bid protest, McGee indicated that they are attempting to not create more difficulties and thought the delivered letter put the City on notice. In further response, the City Attorney advised that in reviewing the qualifications, there was a question as to whether all bidders were responsive.

Commissioner Roberts did not believe the Commission has all of the information needed to make a decision. He suggested deferring the matter. The City Attorney explained that if there is an objection to what occurred during the bid process, the appropriate response is to file a protest which did not occur in this instance.

Commissioner McKinzie noted his experience with BidSync as a former vendor. If BidSync is where the final information was inputted and a decision was made, this is how it is determined what has taken place. Mayor Seiler believed this is an unusual situation. Schaet was the low bidder, but BidSync added another category, an alternate bid, which was not what the City was asking. Buffington explained that it was not added by BidSync; it just exists and staff did not delete it. Mayor Seiler pointed out that the figures became public and then there were new bids submitted. It is not fair for the bidder that was originally \$20 lower to lose the bid because the City did not delete a category. In response to Commissioner McKinzie, Buffington advised that it was a blank category that pre-existed which allows a bidder to submit an alternative. Until this bid, the category has never been an issue in the hundreds of bids completed with BidSync. McLawrence's bid was \$190 per case and alternatively \$150 per case. Mayor Seiler felt the bid was faulty. There should be a level playing field. The City Attorney believed there was a level playing field because Schaet and others met with staff and it was re-bid. Mayor Seiler suggested a last and final re-bid.

Vice-Mayor Rogers felt that the process was flawed from the start because one bidder followed the application instructions literally instead of following the City's instructions. He felt it was correct to start over. The next question is whether the second process was fair. There is a difference of opinion on whether it was fair for everyone to know the bids from the initial process. The City Attorney indicated that everyone had the same information. Vice-Mayor Rogers felt it comes down to what is fair and in the best interest of the City. A re-bid is another opportunity for more savings.

Allen Jackson, representing Franz McLawrence, was concerned that the Commission is taking up an issue that the City Attorney has deemed unflawed. McLawrence took the opportunity to enter extra information that was provided for on the form and should not be penalized for doing so. It went through the bid process. McLawrence Law Group should be awarded the contract. The bidder who lost should go through the protest procedure if he feels he was treated unfairly. However, that process should not be in the hands of the Commission. He was concerned when an African-American wins a contract there seems to be a problem.

Franz McLawrence noted that he followed the rules and provisions set forth in the bid. He won the bid. There was then a rebid with no explanation. He won the rebid and now there is another issue. He advised that he has no standing recusal order before any Broward County judge. He is a former public defender. He noted his track record and volume of cases. When he placed the alternative bid, and the bid closed, those figures became public. Everyone bid lower on the second bid to undercut his price.

Charles King, 105 North Victoria Park Road, felt the low bid should be honored.

Steven Schaet explained that he has had the contract for four years. He elaborated on his experience and credentials as an attorney. His office is close to the courthouse while McLawrence is 56 blocks away which will present a burden on the court. He spoke with staff in the Procurement Division who

indicated that it was believed McLawrence's bid was non-responsive and should be struck. The matter was brought to the City Attorney and he then found that there would be a re-bid. The form did not ask for an alternative bid, just a separate section. He expanded on what he has done in the current contract to save money for the City and expressed the viewpoint that McLawrence will likely not make such accommodations.

There was no one else wishing to speak.

Mayor Seiler reiterated his recommendation to re-bid the item and a level playing field. Vice-Mayor Rogers felt there should be closer examination of the billing for this contract. If there are multiple charges against an individual but the attorney makes only one court appearance, he asked how many cases are billed. Buffington advised that the line item in the bid is per case. Commissioner McKinzie pointed out that BidSync is a third party used in more than one area of the City. Other vendors could be penalized. Mayor Seiler pointed out that Buffington stated that this scenario has never happened before. The City has been using BidSync since 2006 or 2007. Staff did not turn off the option. Buffington responded to Commissioner Trantalis that he believes the process was fair and he concurs with the City Attorney's recommendation.

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

ADOPTED

Aye: 3 – Commissioner Roberts, Commissioner Trantalis and Commissioner McKinzie

Nay: 2 – Vice-Mayor Rogers and Mayor Seiler

CR-2 15-0333 Consolidated Budget Amendment to Fiscal Year 2015 Budget - Appropriation

ADOPTED

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

CR-3 15-0306 Month to Month Extension of Lease Agreement with International Swimming Hall of Fame, Inc. retroactive to February 10, 2015

ADOPTED

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

CR-4 15-0365 Establishing 2015 Walk of Fame Induction Committee

ADOPTED

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

CR-5 15-0344 Grant Application to Florida Inland Navigation District - 2015

Waterways Assistance Program - \$42,000

ADOPTED

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

CR-6 15-0346 Amendment to Landscape Inclusive Memorandum of Agreement with Florida Department of Transportation - Improvements to State Road A1A between NE 9 Street and NE 18 Street

ADOPTED

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

PURCHASING AGENDA

PUR-1 15-0269 Ammunition - Florida Bullet Incorporated - \$34,527

APPROVED

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

PUR-2 15-0271 Liquid Oxygen (Cryogenic) for Lohmeyer Wastewater Treatment Plant Scheduled Maintenance - Solutionwerks, Inc. - \$543,000

APPROVED

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

PUR-3 15-0301 Cooling Tower Media Replacement for Lohmeyer Wastewater Treatment Plant - Solutionwerks, Inc. - \$82,000

APPROVED

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

PUR-4 15-0334 After School Snack Program - Greater Miami Caterers, Inc. - \$58,871

APPROVED

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

PUR-5 15-0347 City-wide Purchase of Communications Services - State of Florida Department of Management Services - \$77,000

APPROVED

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

PUR-6 15-0348 Parks and Recreation System Master Plan - Aecom Technical Services, Inc. - \$497,576

APPROVED

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

PUR-7 15-0399 Comprehensive Utility Strategic Master Plan - Reiss Engineering, Inc., - \$1,199,812.80

APPROVED

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

PUR-8 15-0427 Fire Station No. 54 Pre-Demolition Asbestos Remediation - Best-Tec Asbestos Abatement, Inc. - \$88,580

APPROVED

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

PUR-9 15-0433 Increase Expenditure for Plumbing Maintenance Services - A-1 Paradise Plumbing, Inc. d/b/a Paradise Service Technologies - \$50,000

APPROVED

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

PUR-10 15-0496 Software Licenses - Datalink Corporation - \$101,400.

APPROVED

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

MOTIONS

M-1 15-0472 Las Olas Marina Expansion

Mayor Seiler opened the floor for public comment.

Joe Hessmann, 30267 P.O. Box, discussed the marina's history. The parking lot was to remain in the

City's hands. Any changes were to be put to a vote of the citizens. He believed this is the most popular marina on the east coast of this country. He advocated for expansion.

Jim Wade, representing LOMMXD, LLC, brought attention to their unsolicited proposal for expanding the marina with additional amenities. LOMMXD is flexible. He elaborated on amenities including parking and revenue-generating information. They have worked with the boat show. He supported going forward with evaluating the unsolicited proposal.

Larry Woods, representing LOMMXD, LLC, referred to the Commission Agenda Memorandum 15-0472 indicating that the unsolicited proposal is subject to the submerged land lease between the Trustees of the Internal Improvement Trust Fund (TIIF) and the City. He has discussions with State officials and indicated that TIIF is very agreeable to working with a joint application from LOMMXD and the City to significantly reduce the percentage on the upland portion of the deed covenant from 1989. LOMMXD recommends the marina be operated by a private developer such as themselves.

L.F. Rosenthal, 1237 NW 4 Avenue, urged that those who have submitted the unsolicited proposal be treated fairly and according to the process.

Ed Smoker, 1200 East Las Olas Boulevard, advocated for the unsolicited proposal process moving forward and that the governing statute be followed. This is a way of having a streamlined process in comparison to the RFP process and one that will afford other proposals coming forward.

Andrew Doole, representing Show Management, said Show Management produces and manages the Fort Lauderdale Boat Show. Show Management's official position is that the future of the Fort Lauderdale Boat Show would be best served by Bellingham Marina or an RFP for a new marina, but no upland development.

Abby Laughlin, representing Central Beach Alliance, noted that this is public land with deed restrictions. Several issues have not been clarified. The project optics should be viewed from a waterway point of view – the primary need of the boats which is enough depth, dockage and good power, not the upland point of view. The CBA supports the Bellingham proposal and projects that the Marine Advisory Board has outlined. They voted 175 to 0 to not have a hotel.

Fred Carlson, 625 Orton Avenue, noted that the developers indicated with a smaller hotel, the project would not be affordable. A large hotel would sub-optimize the mega-yacht industry needs. Fort Lauderdale is in severe competition with the rest of the world. The City should pay attention to this fact. A hotel could be built elsewhere. He felt this is prime, one-use kind of property and that aspect should be maximized. The CBA vote, while unanimous, occurred after intelligent presentations by Bob Dean and representatives of the Venetian. The CBA members have kept an open mind and spent a huge amount of time reviewing this project.

Barry Flanigan, chair of the Marine Advisory Board, said he is speaking as an individual. He discussed how the Bellingham proposal started and that it was researched by Sasaki. He elaborated on what could be accommodated in the Bellingham proposal for 122 vessels, ranging from 120 to 270 feet or 4,400 feet. It would leave 300 feet of floating docks, which would negate the City repaying the County for their grant. There would be some 2,400 lineal feet remaining for vessels under 82 feet. He indicated that a record is kept of vessels turned away from the Las Olas Marina. From 2008 to 2015, some 165 vessels from 100 to 150 feet were turned away which represent \$1.9 million in revenue. Fourteen vessels over 150 feet were turned away which represent \$210,000. There has been overwhelming support from the Central Beach Alliance and three City advisory boards.

Frank Herhold read a statement from Mary Fertig, president of Idlewyld Improvement Association, concerning a motion passed by the Association in support of dredging out and expanding the current marina north of the Las Olas Bridge but in opposition to the unsolicited proposal or any development of

the upland. The statement is attached to these minutes. He also provided his notes from the February 25, 2015 Commission special meeting on this topic that are also attached to these minutes.

Bradley Deckelbaum, 1425 SE 2 Court, supported the marina expansion proposal and for the Commission to instruct staff to work with LOMMXD, LLC to enter into a final agreement. He believes that expansion without upland development is not financially sustainable. If the City takes the RFP course, he believed every feasible response will have substantially similar upland proposals. Other concepts for use of this property will become unfeasible if this is allowed to drag on when considering the Community Redevelopment Agency (CRA) sunset timeline. Working with LOMMXD would be streamlined.

St. George Gauardabassi, member of the Marine Advisory Board, urged support of the Marine Advisory Board's recommendation of the Bellingham proposal. The City will maintain control of the property and have flexibility in the future.

Sadler James, 15 Isle of Venice, was pleased with how the marinas are handled now. He advocated for the City maintaining control over the marinas; and supported an expansion and the boat show. Small and medium sized vessels should be accommodated.

Art Seitz, 1905 North Atlantic Boulevard, felt the Intracoastal Waterway should have a promenade of some 40 feet in width and to enhance the views. He advocated for the RFP course.

Phil Purcell, executive director of Marine Industries Association of South Florida, indicated that with their partner, Show Management, they host the Fort Lauderdale Boat Show. He supported the RFP course. He discussed the marine industry as a job creator and noted that this marina is also. There should be thoughtful stewardship with input from the Marine Advisory Board, the Boat Show, Marine Industries Association along with all stakeholders and citizens. He urged the City proceed expeditiously.

There being no one else wishing to speak, a **motion** was made by Commissioner Roberts and seconded by Commissioner Trantalis to close the public hearing. **Aye:** 5 – Commissioner Roberts, Commissioner Trantalis, Commissioner McKinzie, Vice-Mayor Rogers and Mayor Seiler

The City Manager indicated that his recommendation is to issue a RFP for marina development including potential excavation of a portion of the parking lot for an expanded marina as the sole course of moving forward. He felt the RFP should be presented to the Beach Redevelopment Advisory Board and the Marine Advisory Board and to the Commission. He will do his best to bring it to the Commission by the end of June. Commissioner Trantalis felt presentations to the boards could be simultaneous.

In response to Vice-Mayor Rogers, the City Manager advised that he would not recommend a parallel path with continued negotiations with LOMMXD unsolicited proposal (P3, public private partnership) because it would not be well-received by entities preparing to respond to the RFP. Vice-Mayor Rogers noted the time expiring on the CRA and the wisdom in having a Plan B. There has not been any discussion on maintenance and operation costs for all of the improvements planned for the beach CRA. If the marina expansion is not feasible without upland development and an income stream, the City would not be any farther ahead than it is now. The City Manager indicated that the LOMMXD unsolicited proposal (Plan B) requires the City to make a \$20.1 million cash contribution and to pledge the TIF (tax increment financing) generated from the project. The City does not have the \$20.1 million and would have to identify those dollars. He confirmed for Vice-Mayor Rogers that the City has \$20.1 million, but committed to other projects. Vice-Mayor Rogers pointed out if the RFP course does not work, the City would need the \$20.1 million anyway. The City Manager indicated that would be dependent upon the extent of marina improvements. Vice-Mayor Rogers pointed out the length of time it has taken for the Aquatic Center project. The City Manager felt it has to do with what type of interest the Commission has in upland development. Vice-Mayor Rogers indicated that upland development

would not be his first choice, but only if the City does not have sufficient funds in the future for the improvements, including operating and maintaining them. Mayor Seiler referred to various requirements with other governmental levels and the lease terms including \$900,000 to Broward County if the marina is privatized. He supported expansion. He raised questions about a fall-back position. If there is no interest in upland development, Vice-Mayor Rogers felt the Commission should simply say it. Commissioner Roberts did not favor upland development. The Boat Show is opposed to upland development. Another point is maintaining the natural beauty of the site and visibility of the yachts. Then there is development intensity. The Marine Advisory Board has expressed an interest in vessel size flexibility. Upland development could still be considered in the future. Another dynamic is the need to renegotiate the lease with the State. Mayor Seiler noted in total including the property, the City's investment is \$53.8 million. Then there is a possibility that 50 percent of the net profits may go to the State for 30 years and 50 percent gross profit sharing less 50 percent normal maintenance expenses for the years thereafter and a potential \$900,000 repayment to the County. Whereas with an RFP, there is not a \$54 million commitment. The Boat Show's opposition to upland development is very meaningful. In response to Commissioner Trantalis, Commissioner Roberts felt a new P3 would be necessary if the City wants parallel paths because of the upland development. The City Attorney indicated that the City is not required to reject the unsolicited proposal if the City proceeds with an RFP.

Mayor Seiler asked what would be a reasonable return on the \$54 million investment by the City. The City Auditor believed 8 percent would be reasonable in the current market. All of the information from LOMMXD is predicated on the City receiving the entire revenue stream. LOMMXD had gotten close to 8 percent but it was before details regarding the State's share of any future revenue was contemplated. He did not think they have created a revised pro forma because they think there can be a modification accomplished with the State.

Vice-Mayor Rogers indicated that upland development is not his first choice but he pointed out the benefit of having a joint use parking garage. Commissioner Roberts reiterated his position that it would be too crowded when considering all of the development contemplated on the barrier island. Vice-Mayor Rogers commented that he is concerned about paying for everything and whether there are issues about further development of the marina to any extent without a substantial investment.

A motion made by Commissioner Trantalis and seconded by Commissioner Roberts to approve the City Manager's recommendation of proceeding with an RFP was amended after the following discussion.

In response to Vice-Mayor Rogers, the City Manager indicated that the Commission has moved from 15 to 30 percent design, therefore the City should disclose that the intent is to place a parking garage on that portion of the upland. Vice-Mayor Rogers felt that would be necessary if the Commission wants to stay with having no net loss of parking. Mayor Seiler felt there was consensus to leave open green space on the south side of the bridge and to situate a garage somewhere on the north side. He did not think an exact location could be determined at this point. Seagrass could impact the location. The City Manager felt it could be accomplished in language of the RFP. In response to Vice-Mayor Rogers, the City Manager advised the RFP would indicate there shall not be any other upland development. Mayor Seiler pointed out there may be an office for the marina and other amenities. Commissioner Trantalis felt it should be open, but the focus should be the marina. Commissioner Roberts felt it is fair to say a parking garage is contemplated on the north side of the bridge according to 30 percent design which is the only upland development contemplated. The City Manager pointed out that the RFP will be brought back to the Commission. Mayor Seiler reiterated there will also be facilities for operation of the marina.

Motion made by Commissioner Trantalis and seconded by Commissioner Roberts to approve the City Manager's recommendation of proceeding with an RFP, specifying that the City has authorized at 30 percent design a parking garage on the north side of Las Olas Boulevard which is the only upland development contemplated, except for ancillary facilities for operation of the marina.

APPROVED

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

CITIZEN PRESENTATIONS

CIT-1 15-0482 Art Seitz and Sadler James - Fort Lauderdale Beach – City

Sadler James referred to the Broward County Inspector General's report (July 24, 2013) concerning the Aquatic Center, citing specific state statutes. Over the period of the contract, there have been numerous citizen complaints and apparent violations of business contracting. The report has been ignored. There is a common consensus that this is not yet resolved. He is in the process of registering a citizen's complaint with the State of Florida Attorney General's Office to resolve it. He provided a copy of his complaint with the Inspector General's report that was made a part of the record.

CIT-2 15-0483 Joseph M. Holland - Engineering in City of Fort Lauderdale - current municipal policy

Joseph Holland was not present.

CIT-3 15-0484 Elijah M. Manley - Expanding Youth Rights, Lowering Voting Age to 16

Elijah Manley was not present.

CIT-4 15-0485 John J. Zullo - Introduce Arbor Day Foundation - Celebrate National Arbor Day, April 24, 2015

John Zullo announced the upcoming Arbor Day, its history and the importance of trees to the environment.

CIT-5 15-0486 Charles King - Police Body Cameras

Charles King, 105 North Victoria Park Road, expressed concern about the City's police force not residing in the city and there not being total cost recovery for their take-home vehicles. Community policing is consequently not possible. The off-duty detail program is not random. Some cities take a portion of the off-duty detail compensation. He felt the fact that the City does not penalize officers for wrongdoing is not helpful in terms of the police force quality. He felt the union runs the department. He felt there are Jim Crow laws for bicycle registration in that it is only being enforced in the black community. He advocated for police body cameras.

M-2 15-0473 Fort Lauderdale Aquatic Center Cost Escalation

The City Manager explained the issue at hand is that the City has been put on notice by Recreation & Design Construction (RDC) of potential cost increases to the guaranteed maximum price (GMP) in the City's agreement with RDC. RDC has submitted documentation and claim it justifies a \$3.6 million increase to the GMP based on cost escalation from the contract date to to-date. The City retained the services of Atkins for a cost analysis and their report is provided in the Commission's backup. Atkins

justifies about \$2.1 million increase mostly in the price of concrete. The City was not in any way the cause of delay. There is a gap of about \$1.5 million. RDC will lower its developer's fee by about \$750,000 to help meet that gap but would like certain other assurances to help eliminate risk for them moving forward. He went on to describe funding for the project being from the two sources. One is the Community Redevelopment Agency's contribution which will be just shy of \$27 million based on approval of the first change order. The parking garage will be funded from parking revenues. The City anticipates issuing a parking revenue bond. Lowering the scope of the parking garage by eliminating one level does not create a savings for the CRA and will not balance this project.

Mayor Selier opened the floor for public comment.

Lobbyist Jim Blosser, representing Recreation and Design Construction (RDC) indicated that the development agreement executed on September 18, 2012, has significant provisions that protect RDC from delays. As of today, those delays out of RDC control have now exceeded 550 days. RDC believes there is legal basis to say there has been a non-cause delay by RDC's side. Atkins' first response was \$41 million plus which exceeded RDC's proposed increase by a significant amount and that calculation did not even include the delay escalation. Their new number of \$2.1 million is based on 11 percent. RDC has done independent research with prominent local developers and learned that during the last two years, escalation has at a minimum been 12 percent and a range of 12 to 18 percent. The proposed increase of RDC is 11 percent and does not include any escalation in their fee, but rather freezes it at the original contract. RDC has proposed a reduction in their fee to 16.5 percent. If the City decides to go forward with the change order at \$1.2 million, the developer fee on a blended basis inclusive of what RDC has already been paid would be 15 percent. It reflects an extraordinary savings considering the risk involved in this project. The agreement provides in numerous sections that RDC is not obligated to commence construction until the costs for performance of the construction do not exceed the GMP. The project is now at 50 percent of construction documents. There is a provision that this entire matter will be revisited at 90 percent. There is discretion of the City Manager for the project to be scaled back to stay within the proposed budget and/or the sums can be increased. There has not been true awareness about the continuing escalation between now and when final bids are invited. No one will bid until there is a certain timeline. The final plans have not yet been drawn and the market at the end of the 90 percent is unknown. If authorized tonight, RDC can be out of the ground in three to four months with full cooperation of the City in securing permits and so forth.

David Shula 10805 Indian Trail, Cooper City, emphasized the importance of this project. This is a rare opportunity for this Commission to approve a legacy project.

L.F. Rosenthal, 1237 NW 4 Avenue, urged the Commission to finalize this project and move forward.

Debbie Eisinger, 25 Hendricks Isle, urged support of the project without modification and further delay. It should be a worldwide top rated swim and dive facility. She elaborated on various ways to offset costs. She noted the swimming is a sport for all ages.

Art Seitz, 1905 North Atlantic Boulevard criticized RDC, the design and the process. He spoke about RDC's claim to have built Typhoon Lagoon and that the San Diego Wavehouse involvement when that entity had claimed bankruptcy. Mayor Seiler took issue with Seitz's statement that there were six bids that were not considered. Seitz felt it should be put out for bid again.

Charles King, 105 North Victoria Park Road, did not think that RDC will lose money on the project as a result of this change order. He felt RDC is a predator and not a partner. He criticized the selection process and the concept in general. He believed there has been corruption relating to this project. Commissioner Roberts took exception to the accusation of corruption.

There being no one else wishing to speak, a **motion** was made by Commissioner Roberts and seconded by Commissioner McKinzie to close the public hearing. **Aye:** 5 – Commissioner Roberts, Commissioner Trantalis, Commissioner McKinzie, Vice-Mayor Rogers and Mayor Seiler

Commissioner Trantalis asked the City Attorney to confirm her previous statement that the City would be on firm legal ground if it maintained its position of keeping the contract in its original form without any cost increase. The City Attorney advised that her office reviewed the contract and believe it does not require the City to absorb those additional costs or to make any accommodations. She had asked if there was a provision missed, that it be pointed out. Nothing has been pointed out.

Mayor Seiler suggested Atkins' cost escalation estimate of \$2.1 million (Attachment A, Exhibit 6 to Commission Agenda Memorandum 15-0473) based on concrete costs. Commissioner Trantalis pointed out that figure is based on an estimate for the increased cost as a result of the delay, however the City Manager advised that the City is not responsible for the delay. Mayor Seiler indicated that concrete cost has increased. Commissioner Trantalis did not dispute the estimate, but he did not think it is the City's responsibility. Mayor Seiler noted it will be revisited at the 90 percent level. Commissioner Roberts agreed with \$2.1 million and disagreed that the City is entirely responsible for the delay. He asked about attributing responsibility of both in the \$2.1 million.

Commissioner Roberts indicated that world class is not necessarily aesthetics, but rather with international competition. He is comfortable with this aspect. Commissioner McKinzie was also comfortable with the understanding that an elevator and a floor is not being eliminated.

In response to Vice-Mayor Rogers asked about the negotiations. Joe Cerrone, RDC president, indicated that there were a series of conditions to try to limit the liability. He provided an email, dated April 2, 2015, with a list of the suggested conditions that is attached to these minutes. The City Manager indicated the City's concern with the condition of allowing the pool backwash to connect to sanitary is whether it is permitted under the Department of Environmental Protection. Cerrone indicated that it is currently being backwashed into the Intracoastal. There is not enough capacity potentially for the future in the sanitary system. There is an associated fee. Mayor Seiler asked what is customary. Cerrone indicated previously it could go into the French drain. Some cities allow it to backwash into sanitary. Fort Lauderdale is limited in capacity because of the barrier island. The City Manager explained that the City is limited to the ability of its pump stations to handle large increases in volume. At peak, this would be some 35,000 gallons of backwash. Cerrone indicated it would occur once a month. It could be programmed so as not to occur all at once or during peak hours. The ordinance changed after the contract. Now there is no computer automation on it and it is not possible to drop it into the drainage system which would be done in some other cities. The City Manager advised that the City would have to pay the ongoing cost if it is possible. Cerrone advised that RDC anticipated it would go into the sanitary or French drain with some pre-treatment. He went on to say that initially the transformer was pad-mounted. Three months ago Florida Power and Light requested it be in a vault which has to be constructed in the garage and a loss of 5-8 parking spaces. The City Manager pointed out that the developer's guaranteed maximum price (GMP) was higher than customary to assume these types of risks. Cerrone did not have a hard number on the vault cost available. Aside from the construction, there will be a loss of revenue from the parking spaces. The cost of a parking space equates to \$12-\$14,000. Three transformers were contemplated in the contract, but no vaults. Cerrone clarified for Vice-Mayor Rogers that the main bleacher stands have cover but the dive well does not. The City Manager advised that the issue of whether cover for the dive well is required is an unresolved as to design. The City's position is that U.S. Diving believes it is necessary to make it a competitive facility whereas Cerrone's position is that there is nothing in any U.S. Diving regulation that says it needs to be there. Cerrone explained U.S. Diving wants the bleachers raised so that people can

view over the judges. It is not about a canopy. It is not possible and fit the required 500 seats in the building. In response to Commissioner Trantalis, the City Manager advised that the contract provides for RDC to design the facility to standards within the Beach Master Plan. There is a disagreement as to whether the skinning of the garage is a requirement of that plan. He believed at the Development Review Committee (DRC) threshold, staff determined it was not a requirement, but the Beach Redevelopment Advisory Board took a different position. Jenni Morejon, Director of Sustainable Development, understood comments made at DRC were that it would be preferable or recommended to have some type of cladding, although the Beach Master Plan is not a codified set of regulations that would require it. The project has proceeded through DRC to site plan consideration by the City Commission. Good planning principles would include having some type of cladding on non-active facades. Typically there are architectural treatments to shield the presence of vehicles, lighting and so forth. She wanted to go back and read the DRC comments. Staff works with developers on all projects to try to get the best out of a project. There is a set of code requirements and then there are recommendations to make a project better for the community.

In response to Vice-Mayor Rogers, the City Manager explained that he concluded with RDC that there is still a \$1.5 million gap. By lowering the developer's fee, it is now a gap of \$750,000. He believed the developer's fee should absorb the difference between the \$2.1 million and the \$3.6 million. He understood that the City would process a change order to increase the guaranteed maximum price (GMP) by \$2.1 million. RDC would still have the obligation to complete the project at that price without amending the scope. Whatever is left over for their developer's fee would be it. Mayor Seiler pointed out in August of 2012 projected unit concrete cost was \$67 and it is now \$94. In response to Vice-Mayor Rogers, Cerrone advised that RDC's escalation number represents 11 percent. The City Manager indicated it depends on how it is measured. With a lot of the soft costs, including the developer's fee, it comes to 11 percent. However, looking at just the line items of the GMP's construction components, it is 16 percent. The final cost of the project could consume the developer's fee. His goal was 13 percent. RDC offered 15 percent with the City assuming the delineated issues (attached email of April 2, 2015). He took exception to putting sales tax savings into the contingency that the developer can use to address increased costs. Blosser indicated that in any event the developer's fee would not exceed 16.5 percent. The 15 percent was a push number when escalation of \$3.6 million, change order of \$1.2 million and giving credit for that portion of the fee already paid to date. The Atkins escalation amount is about 6.5 percent, which is a national average.

Mayor Seiler supported \$2.1 million. Commissioner Roberts was not convinced that the increase is the City's responsibility, but understanding that it will be revisited at 90 percent, he could agree to \$2.1 million at this time. Mayor Seiler indicated he also does not think it is the City's responsibility, but he is trying to find a compromise. In response to Commissioner Trantalis, Commissioner Roberts felt the costs become more realistic and other things come into play as the project approaches 90 percent.

At Mayor Seiler's request, Adrian Viera of Atkins North America, Inc. responded that the \$2.1 million is based on RSMeans Current Cost Index which is a national historic increase and escalation (comparison). Atkins has done estimates in this range. He confirmed that nothing has happened materially to change Atkins' draft document, dated March 31, 2015 (Exhibit 6 to Commission Agenda Memorandum 15-0473).

A **motion** was made by Commissioner Roberts and seconded by Commissioner McKinzie to approve an increase to the Guaranteed Maximum Price Developer's Agreement of \$2.1 million without any admission of responsibility.

APPROVED

Aye: 5 – Commissioner Roberts, Commissioner McKinzie, and Mayor Seiler; **Nay:** 2 – Commissioner Trantalis and Vice-Mayor Rogers

RESOLUTIONS

R-1 15-0385 Appointment of Vice Mayor

Vice-Mayor Rogers introduced the resolution appointing Robert L. McKinzie as Vice-Mayor, which was read by title only.

ADOPTED

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

R-2 15-0460 Authorizing Issuance by the Fort Lauderdale Community Redevelopment Agency of its Fort Lauderdale Community Redevelopment Agency Tax Increment Revenue Note, Series 2015 (Northwest-Progresso-Flagler Heights Community Redevelopment Area Project) - North Loop Option of Wave Streetcar Project

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

ADOPTED

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

R-3 15-0453 Amend Resolution No. 15-51 to Announce that Bidders May Submit an Alternative Term for Lease of Bryan Homes

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

ADOPTED

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

R-4 15-0376 Appointment of City Board and Committee Members

Audit Advisory Board Gregg McKee (Commissioner Trantalis)

Aviation Advisory Board Edward Rebholtz (Commissioner Rogers)

Charter Revision Board Maria Del Rosario (Mayor Seiler)
Rochelle Golub (Commissioner Roberts)
Ron Gunzburger (Commissioner Trantalis)

Sunrise Key Neighborhood Improvement District Raymond Parker (Consensus)

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

ADOPTED

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

R-5 15-0309 Quasi-Judicial - Site Plan Level IV Development Permit - Bayshore Club - Case R14041

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 Roberts and seconded by Commissioner Rogers to close the public hearing. Roll call showed: AYES: Commissioner Roberts, Commissioner Trantalis, Vice-Mayor McKinzie, Commissioner Rogers and Mayor Seiler. NAYS: None.

Commissioner Trantalis believed the Central Beach Alliance endorsed this project because enough property was acquired in order to accommodate the setback requirements and that is why he supports it. This project should not be used as a standard for others to place the structure on a postage stamp site. Mayor Seiler was extremely impressed with the manner in which the Applicant worked with the neighbors.

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

ADOPTED

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

PUBLIC HEARINGS

PH-1 15-0466 Quasi-Judicial - Resolution Granting a Waiver of Limitations at 1524 South Ocean Drive to Construct Wood Marginal Dock and Boat Lift - 1524 Land, LLC c/o Mr. Victor Doudine

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

Mayor Seiler opened the floor for public comment.

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

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

ADOPTED

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

PH-2 14-1540 Ordinance - Amendment to City of Fort Lauderdale Comprehensive Plan to Update Goals, Objectives and Policies related to 10-Year Water Supply Facilities Work Plan and General Sanitary Sewer, Solid Waste, Drainage, Potable Water and Natural Groundwater Aquifer Recharge Element - Case T14011

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

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

PASSED FIRST READING

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

PH-3 15-0174 Motion - Application for Certificate of Public Convenience and Necessity for Non-motorized Vehicles for Hire - Str84Word Productions LLC, d/b/a Bumble Bee Bike Tours

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

Motion made by Commissioner Rogers and seconded by Commissioner Roberts to approve the item as recommended including the Police Department's condition that the maximum group size be capped at ten, inclusive of the guide, per tour.

APPROVED

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

ORDINANCES

O-1 15-0328 Ordinance Regulating and Permitting Street Performers and Street Artists (Riverwalk/Central Beach Area)

Mayor Seiler opened the floor for public comment.

Julian Golpa, president of Las Olas Beach Club Association, opposed the ordinance. Restaurant seating and foot traffic make it already difficult to get by. He suggested it be permitted to the south. In response to Mayor Seiler, Golpa indicated he just heard about this matter last week. Commissioner Roberts believed the area Golpa is speaking about would likely not be allowed because there is a requirement for a 3-foot circumference around the performer. Golpa indicated other issues are security and noise. With the current situation at Beach Place, the Association strongly suggests moving the permitted area to the south.

The City Manager advised that there is currently a street artist in this area that is the subject of some litigation with the City. This ordinance would legitimize his presence. Commissioner Trantalis explained the genesis of the ordinance was to invite portrait artistry not circus performers. Golpa questioned how the City plans to enforce it. Mayor Seiler noted the publicity related to this item.

Darrin Gersky, representing Las Olas Beach Club, indicated that the block between Cortez and Poinsettia is residential. He elaborated upon restrictions in the condominium's declaration. This activity should be allowed in certain areas, such as the downtown, but not in this location for safety reasons.

Some discussion ensued about the artist that has been situated in front of Beach Place for some time and whether he impedes traffic and so forth, and came up again during Mr. Gersky's comments.

Commissioner Trantalis asked if there is any way the ordinance could be modified to reduce activity from Las Olas to Castillo. He previously advocated for the east side of the street because the west side is far too busy. Mayor Seiler suggested no street performers on the beach, but simply street artists and street performers downtown which is what they have been requesting.

Gersky believed as written, an individual can set up 20 feet away from the next person. He appreciated Mayor Seiler's suggestion as making more sense. Assistant City Attorney Alain Boileau indicated from a first amendment standpoint it would be extremely difficult if not impossible to limit the type of activity on the beach versus any other area in the city. The first amendment requires that to the greatest extent possible the speaker and art is a form of speech reach his or her intended audience. Commissioner Trantalis questioned if the first amendment right is overridden, whether the City has a compelling interest to protect its citizens. Because of overcrowding, people could fall into the street. Boileau indicated empirical data that people have died would be needed. Open alternative locations are required. As to the east side of the street, the City prevailed in previous litigation regarding panhandling and soliciting and the compelling governmental interest of tourism. If the City infringes upon that court decision, protections will be lost. In response to Mayor Seiler about limiting to artists, Boileau advised that the City must allow for open alternative channels of communication and to perform. Previous locations were insufficient under the law because they do not address a sufficient amount of tourism and the intended audience. It cannot be limited to just downtown or Riverwalk. The proposed ordinance has limitations based on the type of activity. A juggler needs more space than an artist. There are a variety of other limitations. If a large crowd gathers around a performance and the pedestrian walkway is hindered, the ordinance provides for police to disperse the crowd and temporarily stop the artist. Mayor Seiler pointed out that people could have to walk onto the street before the police arrive. He asked if the distances could be adjusted. Boileau noted that the sidewalk width is a factor in deciding upon a distance. Commissioner Trantalis noted that the City is contemplating converting the Oceanside parking lot to an open public space. He asked about allowing this activity only in that area. Boileau advised that Miami Beach attempted it and it was found to be unconstitutional. In fact, Miami Beach offered seven dispersed locations and that was found unconstitutional. Mayor Seiler asked about moving the location from Alhambra to Poinsettia along with Poinsettia southward and Riverwalk. Poinsettia would be the northernmost boundary. Boileau advised that from a legal standpoint, the City would need to show in any challenge that it has left sufficient open ample alternatives. He agreed with the suggestion.

Commissioner Roberts commented on his observations in other cities and his belief that vehicular traffic is not an impact.

A **motion** was made by Commissioner Trantalis and seconded by Commissioner Roberts to introduce the ordinance on second reading as amended to move the northernmost boundary from Alhambra

Street to Poinsettia Street.

Upon inquiry, a representative of Ritz Carlton Hotel advised that although the Ritz Carlton is opposed to the ordinance, they favor this motion on the floor.

Gladys Declovet-Mims, representing Las Olas Beach Club, expressed concern about the noise.

Mari Mennel-Bell, 1524 Bayview Drive, supported the ordinance. She hoped that it would eventually be spread throughout the city. She suggested that New Orleans could be consulted if needed.

Benjamin Prows, 1215 SE 2 Avenue, suggested limiting the number of permits. He commented on the limited space for jugglers. He advocated for including the east side of the street as well.

Genia Ellis, representing Fort Lauderdale Riverwalk Inc., commented that it is designed to occur in a regional activity center. The areas mentioned this evening are designated as Beach Resort, which means although there is residential, it is also a resort and tourism destination. She advocated for the ordinance and people who will secure permits.

There being no one else wishing to speak, a **motion** was made by Commissioner Trantalis and seconded by Vice-Mayor McKinzie to close the public hearing.

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

ADOPTED ON SECOND READING with Poinsettia as the northernmost boundary

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

O-2 15-0044 Ordinance Amending Schedule I of the Pay Plan, by Modifying the Class Title of One Class, Modifying the Pay Range of Several Classes and Modifying the Management Category of Several Classes

Mayor Seiler opened the floor for public comment.

L. F. Rosenthal, 1237 NW 4 Avenue, advocated for competitive salaries for the City Attorney and assistant attorneys.

There being no one else wishing to speak, a **motion** was made by Commissioner Roberts and seconded by Commissioner Rogers to close the public hearing.

Commissioner Rogers felt it would be helpful to show the employee with the position along with a market survey if available in the future.

Commissioner Rogers introduced the ordinance on first reading, which was read by title only.

PASSED FIRST READING

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

O-3 15-0409 Ordinance Establishing Number of Members for Marine Advisory

Board and Parks, Recreation and Beaches Advisory Board

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

PASSED FIRST READING

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

O-4 15-0373 Quasi-Judicial - Ordinance - Public Purpose Use and Site Plan Level IV Development Permit for Aquatic Center - City of Fort Lauderdale - Case R14005

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 opened the floor for public comment.

Charles King, 105 North Victoria Park Road, discussed the Office of Inspector General's report relating to proposed renovation of the Aquatic Center. Mayor Seiler noted that no one on the Commission was accused of any misconduct. King advocated for abandoning the renovation project.

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

Commissioner Rogers indicated he is still concerned about whether five levels of parking are needed. There are other area developments and many of the spaces will only be used two months of the year during the boat show time. Commissioner Roberts pointed out that parking in area developments could impact parking on the north side of the bridge. He agreed, but did not think it is a piecemeal approach. Commissioner Rogers pointed out that the site analysis reflects a number of parking spaces less than what the City is building.

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

PASSED FIRST READING

Aye: 4 – Commissioner Roberts, Vice-Mayor McKinzie, Commissioner Rogers and Mayor Seiler

Nay: 1 - Commissioner Trantalis

O-5 15-0402 Quasi-Judicial - Ordinance - Rezoning from Residential Mid Rise Multifamily/Medium Density District (RMM-25) to Exclusive Use - Parking Lot (X-P) with Commercial Flex Allocation - Preston Holding's Land Trust - Case ZR14002 - Intersection of SE 10 Terrace and SE 2 Court

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

There being no one 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, Vice-Mayor McKinzie, Commissioner Rogers and Mayor Seiler. NAYS: None.

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

PASSED SECOND READING

Aye: 4 – Commissioner Roberts, Commissioner Trantalis, Vice-Mayor McKinzie, and Mayor Seiler

Nay: 1 - Commissioner Rogers

O-6 15-0456 Ordinance Amending City Code to Provide Special Magistrate with the Authority to Settle Code Enforcement Fines, Penalties and Liens

Mayor Seiler opened the floor for public comment.

Robert Goldstein, 4100 Galt Ocean Drive, urged that the magistrate be given discretion on reducing fines. There are properties that have been purchased with existing fines that remain on record for the new owner even though violations have been corrected.

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

The City Manager responded to Mayor Seiler's question, indicating there is no minimum in the ordinance rather authority is given to the magistrate to weigh all factors. Commissioner Rogers believed out-of-pocket expenses should be provided for. Mayor Seiler agreed that every possible out-of-pocket expense of the City including time spent by the City Attorney's Office should be reimbursed. There was consensus agreement to make this amendment for second reading.

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

PASSED FIRST READING

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

O-7 15-0102 Ordinance Updating Municipal Water System Backflow Prevention Program

There being no one 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, Vice-Mayor McKinzie, Commissioner Rogers and Mayor Seiler. NAYS: None.

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

In response to Commissioner Roberts, the City Manager advised that every affected property will receive a letter from the City explaining the requirements and giving them time to comply. Nancy Gassman, Assistant Public Works Director, indicated that notices are sent 45 and 20 days prior to the due date. There are additional notices after the compliance date passes. The City Manager indicated this is being rolled out in phases. He has not received any complaints.

PASSED FIRST READING

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

REQUEST FOR CLOSED DOOR SESSION

The City Attorney requested a closed door session for April 21, 2015, regarding matters related to *Silvia E. Villagran v. City of Fort Lauderdale Case No. 13-027759 Div. 04* and *Vincent Hall v. City of Fort Lauderdale Case No. 13-018465 Div. 18*.

There being no other matters to come before the Commission, the meeting adjourned at 11:39 p.m.

John P. "Jack" Seiler
Mayor

ATTEST:

Jonda K. Joseph
City Clerk