

# City of Fort Lauderdale

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



## Meeting Minutes

**Tuesday, June 20, 2017**

**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  
DEAN J. TRANTALIS Commissioner - District II  
ROBERT L. McKINZIE Commissioner - District III  
ROMNEY ROGERS Commissioner - District IV***

***LEE R. FELDMAN, City Manager  
JOHN HERBST, City Auditor  
JEFFREY A. MODARELLI, City Clerk  
CYNTHIA A. EVERETT, City Attorney***

**Invocation**

Pastor David Arbogast, First Baptist Church of Fort Lauderdale

**Pledge of Allegiance**

Chris Rudisill, Executive Director, Stonewall Museum and Archives

**ROLL CALL**

**Present:** 5 - Commissioner Robert L. McKinzie, Commissioner Romney Rogers, Vice Mayor Bruce G. Roberts, Commissioner Dean J. Trantalis and Mayor John P. "Jack" Seiler

**QUORUM ESTABLISHED**

**Also Present:** City Manager Lee R. Feldman, City Clerk Jeffrey A. Modarelli, City Attorney Cynthia A. Everett, City Auditor John Herbst, and Sergeant at Arms Jaime Costas

**There were no e-comments submitted for this meeting.**

**CALL TO ORDER**

Mayor Seiler called the meeting to order at 6:01 p.m.

**Agenda Announcements**

Mayor Seiler announced at the request of City Manager Feldman, items CR-4 and PH-1 had been deferred to the July 11, 2017 City Commission Regular Meeting.

Mayor Seiler also announced CR-3 has been revised to include an attachment.

**CR-4** [17-0665](#)

Resolution Approving and Authorizing the Execution of an Amended and Restated State Infrastructure Bank Loan Agreement for the Wave Streetcar -Request Deferment to July 11, 2017

Vice Mayor Roberts made a motion to defer this item until July 11, 2017 and was seconded by Commissioner Trantalis.

**DEFERRED to July 11, 2017**

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

**Not Present:** 1 - Commissioner McKinzie

**PH-1**    [17-0783](#)        Public Hearing Approving Annual Action Plan for Fiscal Year 2017-2018 Entitlement Grant Programs through the U.S. Department of Housing and Urban Development - Request Deferment to July 11, 2017

Vice Mayor Roberts made a motion to defer this item until July 11, 2017 and was seconded by Commissioner Trantalis.

**DEFERRED to July 11, 2017**

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

**Not Present:** 1 - Commissioner McKinzie

### Approval of MINUTES and Agenda

[17-0801](#)        Minutes for May 16, 2017 Commission Conference Meeting and May 16, 2017 Commission Regular Meeting

Commissioner Trantalis made a motion to approve this item and was seconded by Vice Mayor Roberts.

**APPROVED**

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

**Not Present:** 1 - Commissioner McKinzie

### PRESENTATIONS

**PRES-1**    [17-0808](#)        Proclamation declaring the Month of June, 2017 as LGBT Month in the City of Fort Lauderdale

Commissioner Trantalis presented a Proclamation declaring the Month of June, 2017 as LGBT Month in the City of Fort Lauderdale in recognition on PRIDE Week, reading the Proclamation in its entirety. The Proclamation was accepted by Chris Rudisill, Executive Director, Stonewall Museum and Archives, who thanked Commissioner Trantalis and the Commission for their support and recognition.

**PRESENTED**

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

Commissioner McKinzie arrived at 6:06 p.m.

**PRES-** [17-0809](#)  
**2**

Proclamation declaring June 27 - August 31, 2017 as JetBlue Soar with Reading Summer in the City of Fort Lauderdale

Vice Mayor Roberts presented a Proclamation declaring June 27 - August 31, 2017 as JetBlue Soar with Reading Summer in the City of Fort Lauderdale, reading the Proclamation in its entirety. Vice Mayor Roberts also thanked Chaz Adams, Strategic Communications Manager, for his work with this program. The Proclamation was accepted by Tina Klaric JetBlue Manager for Corporate Social Responsibility. Ms. Klaric expounded on the details of the program and Random House Children's Books contribution to the program. She thanked Vice Mayor Roberts and the Commission for the Proclamation and their recognition on behalf of JetBlue and Random House Children's Books.

**PRESENTED**

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

**PRES-** [17-0804](#)  
**3**

Recognizing Laura Garcia, City Controller - Finance Department - Designation of Certified Government Finance Officer

Kirk Buffington, Finance Director, recognized and acknowledged Laura Garcia, City Controller - Finance Department, for her achievement in receiving the Government Finance Officer Certification. Mr. Buffington expounded on the requirements and testing involved for this certification and designation. Ms. Garcia thanked Mr. Buffington and the City for their recognition, stating the training and experience provided by the City was an integral part of her success.

**PRESENTED**

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

**PRES-** [17-0810](#)  
**4**

Police Officer of the Month for June, 2017

Police Major Michael Gregory recognized Officer Kimberley Shushman as the Police Officer of the Month for June 2017. Major Gregory described a violent armed robbery incident involving two suspects that occurred on May 31, 2017. Officer Shushman took this incident report and began circulating the area, checking Carter Park. She observed two males matching the suspect's description riding bicycles in Carter Park. Officer Shushman relayed this information via radio to other officers in the area. Officer Shushman quickly set up a perimeter. Upon viewing her patrol vehicle, the suspects began fleeing the area. As a result of Officer Shushman's actions, both suspects were

apprehended. One of the suspects was in possession of a sub-machine gun. The second suspect was in possession of the victim's stolen property. Officer Shushman's knowledge of her assigned area and keen observation skills lead to the apprehension of two dangerous felons and is commended for a job well done.

**PRESENTED**

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

**CONSENT AGENDA PUBLIC COMMENT**

Mayor Seiler announced the procedures for public comment on items on the Consent Agenda.

Commissioner Trantalis requested item CR-2 be pulled for discussion.

Mayor Seiler announced for the record that Mary Ellen Hines from Fidelity Law Group was in attendance in support of CM-10.

**CONSENT AGENDA**

**CONSENT MOTION**

**Approval of the Consent Agenda**

**Approve the Consent Agenda**

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

**CM-1** [17-0687](#)

Motion to Approve Event Agreements: Naked Feet 5K, Potential Church Beach Baptism, and Friday Night Sound Waves

**APPROVED**

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

**CM-2** [17-0689](#)

Motion to Approve an Event Agreement and Related Road Closings: with Stephen Siller Tunnel to Towers Foundation, Inc. for The Stephen Siller to Tunnel Towers 5K Run & Walk

**APPROVED**

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

**CM-3** [17-0698](#)

Motion Authorizing Settlement of Workers' Compensation Claim of William D. Rippey - \$50,000.00

**APPROVED**

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

**CM-4**    [17-0793](#)    Motion Authorizing Settlement of General Liability Claim in the Matter of Groenewold v. City of Fort Lauderdale, Case No. CACE 15-021775 (03) - \$90,000.00

**APPROVED**

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

**CM-5**    [17-0794](#)    Motion Authorizing Settlement of General Liability Claim in the Matter of Christine D'onofrio v. City of Fort Lauderdale, Case No. CACE 16-004368 (12) - \$35,000.00

**APPROVED**

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

**CM-6**    [17-0646](#)    Motion Authorizing the July 4th Spectacular for July 4, 2017 as a Public Purpose Special Event Creating a Temporary Exemption Relating to the Sale, Possession and Consumption of Alcohol at the Event

**APPROVED**

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

**CM-7**    [17-0278](#)    Motion to Authorize the City Manager to Execute an Easement with Florida Power & Light Company

**APPROVED**

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

**CM-8**    [17-0688](#)    Motion to Authorize the Execution of a Temporary Access Agreement with the Broward County School Board

**APPROVED**

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

**CM-9**    [17-0740](#)    Motion to Approve First Amendment to Task Order Number 3 for Construction Services - Molloy Bros, Inc. - \$20,459

**APPROVED**

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

**CM-10** [17-0660](#)

Motion Authorizing Execution of a Subordination Agreement to the Florida Department of Transportation Easement Interest - West Sunrise Boulevard Between NW 3rd and 4th Avenues

**APPROVED**

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

**CM-11** [17-0369](#)

Motion Authorizing Execution of a Revocable License with WDF-4 Wood Harbor Park Owner, LLC ("WDF") for Temporary Right-of-Way Closure of Portions of SE 19th Street, SE 20th Street, and SE 10th Avenue Abutting the Harbor Park Apartments Project

**APPROVED**

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

**CM-12** [17-0507](#)

Motion to Approve the Withdrawal of an Application - Rezoning from Boulevard Business (B-1) and Residential Multi-family Mid Rise/Medium High Density (RMH-60) to Innovative Development (ID) including Approval of Associated Development Plan - Live Galleria - Keystone-Florida Property Holding Corporation - Case Number ID14001

**APPROVED**

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

## CONSENT RESOLUTION

**CR-1** [17-0805](#)

Resolution appointing the law firm of Lubell and Rosen, LLC, as Special Counsel, to represent the City of Fort Lauderdale in connection with Health Insurance Portability and Accountability Act (HIPAA) Compliance and Health Law Issues

**ADOPTED**

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

**CR-2** [17-0745](#)

Resolution Approving the Consolidated Budget Amendment to Fiscal Year 2017 - Appropriation

Commissioner Trantalis explained this item was to approve a budget amendment, expressing his concern on page three, Item D -

Appropriation of Fund Balance \$4,792,000. He asked City Manager Feldman about this item, noting his concerns about drawing down funds from the Water and Sewer Fund to pay for twelve full-time positions, purchasing of pipes and equipment inventory.

City Manager Feldman explained the details of Item D related to recent wastewater breakage and the forthcoming knowledge of a lack of personnel and equipment to respond both quickly and adequately. He confirmed the additional positions will be paid for out of next year's operating revenues and are included in next year's proposed budget. Discussions continued on current unfilled budgeted positions. In response to Commissioner Trantalis's question, City Manager Feldman stated he would not recommend taking personnel from other departments. Commissioner Trantalis asked about the Return on Investment (ROI) Fund amount. City Manager Feldman addressed his questions, explaining how the twelve positions will be funded in the next year's budget from operating revenues from the Water and Sewer Fund.

Vice Mayor Roberts introduced this item that was read by title only.

**ADOPTED**

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

**Moment of Silence**

Mayor Seiler requested a moment of silence in remembrance of the seven U.S. Navy sailors. The sailors perished following the collision of the USS Fitzgerald destroyer and a large container ship off the coast of Japan.

**CR-3** [17-0409](#)

**Resolution Adopting the SE 17th Street Mobility Plan**

Commissioner Rogers commented on the importance of all stakeholders understanding CR-3's attachment. It will require the gathering of all partners/stakeholders including Port Everglades, Broward County, SE 17th Street neighborhoods and property owners working together towards the goal of implementing this transportation plan. He stated the need for consensus, noting the importance of continuing the conversation with all stakeholders to make this plan a reality. Mayor Seiler confirmed this message would be conveyed.

**ADOPTED**

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



**CR-5**    [17-0744](#)            Resolution to Remove the Thru Truck Prohibition on SE 15th Avenue and to Restrict Thru Trucks on SE 17th Avenue between Broward Boulevard and Las Olas Boulevard

**ADOPTED**

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

**PURCHASING AGENDA**

**PUR-1**    [17-0566](#)            Motion to Approve Contract for Purchase of Automated Passport Control Kiosks for the U.S. Customs and Border Protection Facility at Fort Lauderdale Executive Airport - GRC, Inc. - \$131,748

**APPROVED**

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

**PUR-2**    [17-0578](#)            Motion to Approve Contracts for Purchase of Liquid Chlorine and Calcium Hypochlorite - Allied Universal Corp. and Chemrite, Inc. - \$215,000 (estimated two-year total)

**APPROVED**

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

**PUR-3**    [17-0617](#)            Motion to Approve Additional Expenditures for Special Event Clean-Up Services - Weed-A-Way, Inc. - \$46,524

**APPROVED**

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

**PUR-4**    [17-0651](#)            Motion to Approve Contract for Lake Estates Small Water Main Improvements - V Engineering & Consulting Corp. - \$1,716,000

**APPROVED**

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

**PUR-5**    [17-0664](#)            Motion to Approve Contract for Purchase of Consulting Services to Produce a Design and Construction Manual - Brooks + Scarpa Architects, Inc. - \$300,000

**APPROVED**

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

**PUR-6** [17-0642](#) Motion to Waive Minor Irregularity and to Approve Contracts for the Purchase of Stormwater Drainage Construction Services - Various Contractors - \$4,500,000 (two-year total)

**APPROVED**

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

**Moment of Silence**

**MOTIONS**

**M-1** [17-0709](#) Motion to Approve an Event Agreement and Related Road Closings with Strictly Local, Inc. for Food in Motion: Flagler Village Green Market

Commissioner Trantalis made a motion to approve this item with the extended hours for amplified music until 11:00 p.m. and was seconded by Vice Mayor Roberts.

**APPROVED**

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

**RESOLUTIONS**

**R-1** [17-0761](#) Appointment of Board and Committee Members

City Clerk Modarelli read the Board and Committee appointments in this Resolution into the record and are attached to these minutes.

Vice Mayor Roberts introduced this item that was read by title only.

**ADOPTED**

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

**R-2** [17-0753](#) Quasi-Judicial - Appeal of Planning and Zoning Board Denial of a Rezoning - Progresso Commons - 947 Andrews Avenue, Fort Lauderdale - Project Andrews, LLC Harvey Taylor - Case Z17004

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.

Each City Commission member disclosed their verbal and written communications, site visits, and expert opinions received.

Mayor Seiler opened the public hearing.

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

Mayor Seiler recognized Assistant City Attorney D'Wayne Spence who explained the procedural issues involved in this item. The Planning and Zoning Board denied this application. The initial hearing for appealing this decision would determine whether the Planning and Zoning Board followed the basic essential requirements of law or based their decision on competent substantial evidence in their denial of this application.

Commissioner Trantalis introduced a Resolution requesting and setting a De Novo Hearing on the Appeal of the Planning and Zoning Board decision for 6:00 p.m. on July 11, 2017, stating the Planning and Zoning Board departed from the essential requirements of law. The Resolution was read by title only.

Mayor Seiler recognized Ron Lux, President of Old Progresso Village, Ron Centamore, Chair of the Northwest Progresso Flagler Heights Community Redevelopment Agency (NWPFH CRA) and Kim Centamore, stating they were in support of this resolution, thanking them for their attendance.

**ADOPTED Resolution setting a De Novo Hearing for July 11, 2017 at 6 PM**

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

**R-3**     [17-0715](#)

**City Attorney Annual Performance Review and Merit Adjustment**

Commissioner Trantalis commented on the significant improvement of the City Attorney's Office over the past year, noting the complexity of numerous legal issues. He confirmed he would agree with the 3% merit adjustment.

Commissioner Rogers commented on City Attorney's performance, confirming that she has been able to balance a heavy workload and, when necessary, has engaged the expertise of outside counsel. He confirmed his concurrence with Commissioner Trantalis's assessment.

Commissioner McKinzie confirmed his full support of the 3% merit increase. He thanked City Attorney Everett.

Vice Mayor Roberts concurred with Commissioner Trantalis, Commission Rogers, and Commissioner McKinzie, stating City Attorney Everett has overcome previous concerns. Due to the difficult workload, he recommended delegating to outside counsel when necessary. Commissioner Roberts commented that he hopes to see the continued collaborative effort with the City Attorney's Office and other City Staff members.

Mayor Seiler stated he supports a full 3% merit increase, confirming the existing cooperative, collaborative relationship among the Charter Officers and City Staff. He also acknowledged the excellent legal team assembled by City Attorney Everett.

Mayor Seiler recognized Charles King, 105 N. Victoria Park Road. Mr. King commented on the Police Body Camera issue and the lawsuits against the City. He also asked about City Attorney Everett's total compensation package. In response to Commissioner Trantalis's question, City Attorney Everett stated her total compensation with the 3% merit increase will be approximately \$237,000 annually.

City Attorney Everett thanked the Commission for the 3% merit increase, confirming she will continue to work to exceed the Commission's expectations. She thanked the legal staff and the legal support staff.

Vice Mayor Roberts introduced this resolution that was read by title only.

**ADOPTED Resolution providing for a 3% Merit Salary Increase**

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

## **PUBLIC HEARINGS**

**PH-2**    [17-0812](#)

Request for Deferment of the Lease Agreement with Las Olas SMI (Suntex Marina Investors), LLC to July 11, 2017

City Manager Feldman explained PH-2 is deferring a vote on the lease until July 11, 2017. The City Manager Report will discuss the outstanding legal issues requested by the City Attorney's Office.

Commissioner Trantalis commented on the deferment of item PH-2, discussing his meeting with the Suntex people and City Attorney Everett. He expressed his concern on the lengthy aspect of this matter, confirming his desire to get the marina project completed. There are two or three outstanding issues. Other issues having been

resolved as a result of Staff's efforts. Last week there was a meeting with representatives from six of the adjacent buildings near the planned marina where many issues were aired and resolved. Commissioner Trantalis emphasized the need for July 11, 2017 to be the final date for a decision in order to move forward, stating the issue regarding change of ownership can be resolved quickly. The other issue concerns the restaurant and the garbage area location.

City Attorney Everett confirmed during the Managers Report portion of the Agenda, the remaining issues will be discussed. She confirmed that due to notice issues, final approval could not occur tonight.

Commissioner Trantalis made a motion to defer this item until July 11, 2017 with the understanding that there would be no further deferments and was seconded by Vice Mayor Roberts.

**DEFERRED to July 11, 2017**

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

**PH-3**     [17-0533](#)

Quasi-Judicial - Resolution Granting a Waiver of Limitations at 5 Harborage Isle for the installation of two (2) triple mooring pile clusters

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.

Each City Commission member disclosed their verbal and written communications, site visits, and expert opinions received.

Mayor Seiler opened the public hearing.

Mayor Seiler recognized Tyler Chappel, The Chappel Group representing the owner Donald Sussman, 714 East McNab Road, who gave a brief overview of this item. He stated this is a request for waiver of limitations for two sets of triple pile clusters 43 feet from the property. The waiver request is for 18 feet to allow for the mooring of a vessel on the south side of property in Davock Bay.

In response to Mayor Seiler's question, Mr. Chappell confirmed the vote in favor by the Marine Advisory Board was unanimous. At the request of Commissioner Trantalis, Mr. Chappell put up a visual rendering of this request. Questions and comments ensued on the rendering.

There being no one else wishing to speak on this item, Commissioner

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

Commissioner Trantalis introduced the Resolution that was read by title only.

**ADOPTED**

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

**PH-4**    [17-0749](#)

Ordinance Amending Unified Land Development Regulations (ULDR) Section 47-18.43, Liquor Stores and Convenience Stores to Modify Criteria for Permitting Convenience Store, Multi-Purpose within the Northwest Regional Activity Center Land Use Designation - Case T17002

Mayor Seiler opened the public hearing.

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

Commissioner Trantalis introduced the Ordinance for First Reading that was read by title only.

**PASSED FIRST READING**

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

**ORDINANCE FIRST READING**

**OFR-1**    [17-0766](#)

An Ordinance Amending the Code of Ordinances by Repealing Sections Relating to the Engineering Division and Creating a Section Relating to the Appointment of the City Engineer by the City Manager

Mayor Seiler recognized Peter Partington, 1521 NE 53rd Street, who stated he is opposed to this item. He gave an example and two scenarios for his reasoning. Mr. Partington asked if the City Attorney has issued a legal opinion on this matter. City Attorney Everett stated they did not but they have reviewed it. The proposed revised ordinance is in compliance with State Statute. It is an operational, administrative issue about the City Engineers level in the

### Organizational Chart.

Vice Mayor Roberts said he confirmed this in discussions with City Attorney Everett, thanking Mr. Partington for bringing this to the attention of the Commission. He confirmed conversations with City Manager Feldman that this item does not inhibit or interfere with the positions of the City Engineers. City Manager Feldman commented on his position regarding the organizational structure. This item serves to conform Code. Although supervised by Department Directors, he expounded on City Engineers independent authority in the areas of Public Works, Transportation and Mobility, Land Development, and Streets and Sidewalks.

Commissioner Rogers commented on the lack of communication in the past between the Department of Sustainable Development and Public Works. This organizational structure encourages the collaboration. City Manager Feldman confirmed the hiring of additional engineers. He expounded on this topic.

Commissioner Trantalis commented on his concern about non-engineers having the final word on engineering concepts and design decisions, suggesting having Engineers on an even level with Department Heads to allow an increased comfort level for decisions involving engineering. Commissioner Trantalis quoted from emails he received from former City Engineers. City Manager Feldman responded to Commissioner Trantalis's concerns, explaining the history and reasoning for the changes to the Organizational Structure.

Vice Mayor Roberts commented that changes in the Organizational Structure were meant to rectify issues relating to project management, oversight and better lines of communication. He discussed the creation of a Chief Engineer position. Vice Mayor Roberts stated he would vote for this item, requesting City Manager Feldman come back to the Commission with a more appropriate chain of command for future City Managers and Commissions.

Commissioner Rogers introduced this item for the First Reading to include the request by Vice Mayor Roberts that City Manager Feldman come back to the Commission with a more appropriate chain of command. The Ordinance was read by title only.

### **PASSED FIRST READING**

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

**Nay:** 1 - Commissioner Trantalis

**OFR-2** [17-0768](#)

An Ordinance Amending Schedule I of the Pay Plan of the City of Fort Lauderdale by Deleting the City Engineer Class

Vice Mayor Roberts introduced this Resolution for First Reading.

Mayor Seiler reconfirmed the introduction of Ordinance OFR-2 on First Reading with the understanding that City Manager Feldman will come back to the Commission with a more appropriate chain of command as requested in the previous item, OFR-1, The resolution was read by title only.

**PASSED FIRST READING**

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

**Nay:** 1 - Commissioner Trantalis

**ORDINANCE SECOND READING****OSR-1** [17-0769](#)

An Ordinance Amending Chapter 6, Animals, Article II, Dogs and Cats of the Code of Ordinances of the City of Fort Lauderdale

Mayor Seiler recognized Nicola Higgins, 2100 N. Ocean Boulevard, who spoke in opposition to this item. Ms. Higgins comments included concern about the extinction of dogs in the next 20 years due to requiring all dogs to be spayed or neutered and measures to prevent breeding purebred dogs. She also discussed the American Kennel Club's (AKC) dogs and attributes of service dogs and purebred family dogs.

Mayor Seiler recognized Dr. Cindi Bossart, President Fort Lauderdale Dog Club and Animal Hospital of Fort Lauderdale, who spoke in opposition to this item. She said there is only one pet store in the City selling dogs. Dr. Bossart also discussed the results of bringing in rescue dogs to the United States from around the world, causing health concerns in dogs and other types of animals. She recommended regulating rescue animals.

Mayor Seiler recognized Don Anthony, 1431 N. Federal Highway, Communications Director for the Animal Rights Foundation of Florida based in Fort Lauderdale. Mr. Anthony spoke in support of this item. He noted that the extinction of dogs as previously mentioned is unrealistic due to a large number of dogs in rescue shelters. Mr. Anthony expounded on the abuse and neglect of dogs from unethical breeders and puppy mills, noting consumers are also victims. He discussed other legislation around the country addressing this issue.

Mayor Seiler recognized Odalys Hayes, 18505 SW 19th Avenue,



Miami, who spoke in opposition to this item, stating she did not believe there is an overpopulation problem, citing statistics and the success of spade, neutering and micro chipping of dogs. Ms. Hayes also expounded on AKC requirements and the need for stronger regulation of the adoption of rescue dogs that should be similar to the sale of AKC dogs.

Mayor Seiler recognized Richard Yenchsky, Show Chair Fort Lauderdale Dog Club, who spoke in opposition to this item, expounding on the annual dog event held in the City. Mr. Yenchsky commented on the need for families to have a choice when purchasing a rescue dog or a dog that is AKC registered.

Mayor Seiler recognized Dr. Donna Watson, Dr. Donna's Pet Foundation, who spoke in support of this item. Dr. Watson thanked the Commission and the City Attorney's Office for their work on this issue, discussing consumer fraud in selling sick and defective purebred dogs. This item also addresses the protection of dogs that are treated inhumanely at all levels.

Mayor Seiler recognized Milena Martinez, Owner, Snoopy Puppies, who spoke in opposition to this item. Ms. Martinez discussed other municipalities' actions on this issue, stating a distinction needs to be made between puppy mills and reputable breeders.

***A copy of Ms. Martinez's statement is attached to these minutes.***

Mayor Seiler recognized Javier Estrade, Owner, Snoopy Puppies, who spoke in opposition to this item. He discussed his viewpoint and concerns about Hallandale Commissioner Michelle Lazarow. Mr. Estrade also discussed the measures taken by his business regarding this item and issues regarding animal activists. He requested the Commission to defer this item to allow for submission of further information.

Mayor Seiler recognized Hallandale Beach Commissioner Michelle Lazarow, 2621 NE 10th Street, Hallandale, FL, appearing on behalf of herself, who spoke in support of this item. She thanked the Commission for addressing this item. Commissioner Lazarow commented that real AKC breeders sign a certificate affirming they will not sell to stores. She thanked the City Attorney's Office and Assistant City Attorney Rhonda Hasan for their due diligence on this issue.

Mayor Seiler recognized Dr. Mel Kramer, 2100 N. Ocean Boulevard, who spoke in opposition to this item. He discussed aspects of this

issue relating to human health and zoonotic diseases, human diseases stemming from animals, focusing on influenza. Dr. Kramer requested the Commission table this item for further professional assistance.

Mayor Seiler recognized Courtney Crush, Esq., Crush-Law, P.A., who spoke in support of this ordinance. She commented on the mistreatment of animals at puppy mills specifically relating to dogs sold in retail stores around the country, confirming this ordinance addresses this issue. Ms. Crush recommended the Commission adopt it on Second Reading.

Mayor Seiler recognized Genia Ellis, 429 SE 13th Street, who spoke in support of this item. Ms. Ellis discussed on her personal experience with Australian Shepherds who are and have always been considered family members. She stated reputable breeders do not breed for profit, they breed for show.

Mayor Seiler recognized Charles King, 105 N. Victoria Park Road, who spoke in support of this item, commenting on the large attendance of those in favor at this item's First Reading. He likened the impulse purchasing decision in of puppies from retail stores. He requested the Commission also address the selling of guns at gun shows. Mr. King commented on vetting done by reputable breeders for prospective purchasers.

In response to Commissioner Roger's question, City Attorney Everett confirmed there were no changes to the Ordinance between the First and Second Reading.

Vice Mayor Roberts commented on the need to address regulations relating to animal rescue facilities, confirming the appropriateness of this Ordinance.

Vice Mayor Roberts introduced the Ordinance for Second Reading that was read by title only.

#### **ADOPTED ON SECOND READING**

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

#### **OSR-2 [17-0711](#)**

Ordinance Amending Section 28-209 of the Code of Ordinances Pertaining to Sewer Pretreatment Facility Requirements

Mayor Seiler recognized Charles King, 105 N. Victoria Park Road, who addressed the Commission on this item and his experience with his

rental properties' toilet/sewer problems and the defunding of the Water and Sewer System over the last decade. He also discussed current problems in the areas of Las Olas Boulevard and Flagler Village. He also voiced his concern over drinking water in the City.

In response to Commissioner Trantalis, City Manager Feldman confirmed there are requirements for restaurants to have grease traps. However, there is no current requirement for cleaning grease traps. Vice Mayor Roberts noted grease traps need to be fully clear. City Manager Feldman confirmed.

Commissioner Trantalis introduced the Ordinance for Second Reading that was read by title only.

**ADOPTED ON SECOND READING**

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

**CITY MANAGER REPORTS**

[17-0788](#)

Lease Agreement with Las Olas SMI (Suntex Marina Investors), LLC

City Manager Feldman confirmed this item is on the agenda at the request of legal counsel. They would like to review the lease, pertinent points, and discuss outstanding issues. City Attorney Everett deferred to Assistant City Attorney Lynn Solomon.

Assistant City Attorney Lynn Solomon addressed the Commission on the basic terms of the lease. She discussed key point including:

- The proposed lease is for fifty-years, with five years to build, and will go into effect upon execution. The developer will not take possession until the completion of certain pre-development conditions, one of which is the parking agreement critical to the development and its associated details.
- Assignment by the State of the submerged land lease
- After transfer of control, the City will maintain control of the surface level parking and its revenue until the developer is ready to build, giving sixty- days' notice.

Assistant City Attorney Solomon confirmed she had provided a redlined draft of the lease to counsel for the developer, stating he is currently out of town and she has not received his comments on the

most recent draft document. She intends to present this to the Commission at its July 11, 2017, Commission Meeting, expounding on additional details to be negotiated.

Assistant City Attorney Solomon stated resolution of the following issues need to be resolved:

**Commission Fee to be Paid to CBRE**

Assistant City Attorney Solomon expounded on the issue of the commission paid as listed in the Request for Proposal (RFP), noting the Suntex response to the RFP was different than what was listed in the RFP. Commissioner Trantalis confirmed Suntex disagrees with the required commission payment. In response to Mayor Seiler, Assistant City Attorney Solomon stated this issue just recently surfaced. She deferred to David Filler, Vice President Las Olas SMF, LLC (Suntex) on this issue.

Mayor Seiler recognized Mr. Filler who confirmed they are very close to resolving this issue with CBRE, stating Suntex gave full disclosure on how they calculated the commission, expounding on this point. In response to Mayor Seiler's question, Mr. Filler confirmed there were no discussions with Suntex following the submission of their RFP response regarding the commission. Mr. Filler said no one raised the issue of the commission fee payment until well after the awarding of the bid to Suntex. He stated they are still willing to work with CBRE to remedy this issue for the benefit of all stakeholders.

Mayor Seiler recognized Lee Ann Korst, on behalf of CBRE, who addressed the Commission in support of this item. Ms. Korst confirmed Mr. Filler's comments, stating Suntex submitted a fee in their RFP response. At the time the bid was received by CBRE, they reached out to Staff to point out the difference in the commission fee calculation submitted in the RFP, in the October 2017 timeframe. They did not reach out to Suntex until February 2017, confirming they have been working since that time to resolve the fee issue and to move the project along successfully. Ms. Korst confirmed they are close to resolving the commission fee issue, confirming Mr. Filler and CBRE's Senior Managing Director from South Florida met yesterday.

In response to Vice Mayor Roberts's question, City Auditor Herbst discussed his involvement in this matter, stating he focused only on City revenue. He did not focus on the fee being paid from Suntex to CBRE. He explained his understanding was based upon correspondence from CBRE in February 2017 about the commission fee. He said the original structure for the commission fee was based

on a thirty-year lease, not a fifty-year lease. This required a recalculation of the baseline. CBRE has accurately recalculated the fee, incorporating the fifty-year lease adjustment, explaining details regarding a cost of living increase/inflationary factor and has advised CBRE. It will slightly change the fee from their initial calculation by an approximate factor of \$100,000 to \$150,000 or approximately 10 percent.

### **Sale of Membership Interest in the Company**

Assistant City Attorney Solomon stated Suntex owns approximately 38 facilities around the world. Suntex's position is that should they decide to sell their entire portfolio, the Commission would not have approval rights. She confirmed City Manager Feldman's recommendation for some criteria and standards for a successor, confirming this will be her response to counsel for Suntex.

Mr. Filler discussed Suntex's recent portfolio purchase of Lagerhead Marinas, ten marinas in the State of Florida, in addition to making a \$400,000 contribution to the Sea Turtle Foundation. In this type of situation, having to go before ten City Commissions for each transaction would have been prohibitive and onerous. He discussed due diligence by the City Manager as to the financial capacity of purchasers. Should Commission approval be a requirement, it would impact Suntex's decision.

Mayor Seiler asked for input from the City Manager and City Attorney for reasonable compromise language. City Manager Feldman recommended putting in criteria for administrative approval. Should the criteria not be met, it could go before the governing body. Mr. Filler stated he would agree to this language. Commissioner Trantalis commented on the objecting criteria not being adequate due to its subjective nature, expounding on this point. The City should be able to know and approve their partners. Mr. Filler stated, in his experience of selling over 70 marinas, it has never gone to a political vote. If this had been the case, Suntex may have walked away, explaining the onerous nature of this requirement.

Commissioner Rogers commented on the need for oversight. He suggested, after the City Manager's approval of meeting established criteria, there would be the ability to have a Call-Up Proviso. It would require three Commission votes to request further review, commenting this works in the Planning and Zoning arena. Mr. Filler confirmed the control of over 60 percent of Suntex assets by governmental entities, both coastal and lake assets. The Army Corps of Engineers (Corps) is their biggest landlord. They frequently require a 25-year lease and a

capital contribution of \$20,000,000 - \$25,000,000. It is an administrative process for the Corps that addresses the lessee's ability to make lease payments and be a good tenant. Further discussions continued on this topic.

Mayor Seiler recommended, in addition to City Manager Feldman approving the threshold criteria requirement, City Auditor Herbst would confirm and make his recommendation. Should the criteria and recommendations not be met, it would be called-up before the Commission.

Commissioner Trantalis stated he could not agree to this, expounding on this issue in the private context and further discussions continued. He requested the Commission reserve the right to call-up this issue should it decide to review it notwithstanding Staff's position.

In response to Mayor Seiler's question, Mr. Filler confirmed Suntex currently owns 40 plus marinas. Mr. Filler confirmed no transfer of ownership decisions are contemplated at this time. However, the possible business plan going forward may include:

- Continuing to purchase more marinas and possibly to go public as a Real Estate Investment Trust (REIT) structure, that would have a carve out that would not require a change of control
- Other public REIT's possibly joining a future Suntex public REIT

Mr. Filler reiterated that other large municipalities do not require this type of political approval because it becomes too onerous, expounding on the need for balance.

Commissioner Rogers reiterated the need for three Commission votes for a call-up. Further discussions continued. Mayor Seiler confirmed the issue of protecting the financial assets of the City. However, there is no need to micro-manage, stating this would be a deterrent for other entities to do business with the City especially as it relates to lenders.

Assistant City Attorney Solomon clarified should Suntex become a public entity, there are no approval rights by the City. If they transfer the leasehold interest, the City has approval rights, confirming criteria. This issue only goes to the sale of the controlling membership interest should the tenant sell their entire portfolio, an assignment of the entity or leasehold interest. If they sell this one asset, they must come back for consent. Assistant City Attorney Solomon confirmed discussions with legal counsel for Suntex on this issue involves the sale of the entire portfolio. Further discussions ensued on these issues,

hypothetical future scenarios, and the timing element.

Mr. Filler confirmed he is working towards doing the right thing and to the mutual benefit of all stakeholders.

Commissioner Trantalis confirmed these discussions had given City Manager Feldman the proper direction for ironing out these issues. Mayor Seiler stated he believes the Commission issue will resolve itself. Should it not, he requested Mr. Filler advise the Commission as soon as possible.

Commissioner Rogers raised a point similar to the Bahia Mar issue with Assistant City Attorney Solomon regarding language that gives the City Manager authority to sign an application for a permit. Assistant City Attorney Solomon confirmed. He asked the rights of the leaseholder to modify the current site plan, citing the possible building of more than what the City has requested, i.e., adding density. He confirmed there should be oversight of this issue.

Assistant City Attorney Solomon confirmed the Plans and Specifications must come back to the City Commission for approval. There is a provision that allows them to make alterations. Commissioner Rogers recommended substantial alterations need to be precisely defined, so it does not have to come back to the Commission.

Mayor Seiler confirmed a significant substantive alteration would need Commission approval. She confirmed she would need to review further and would provide a legal memo on this issue to the Commission.

Mayor Seiler recognized Paul Chettle, 200 S. Birch Road, who recognized and thanked Ryan Henderson, Assistant to the City Manager, for the helpful, open line of communication between the Office of City Manager and the Presidents of the six building associations surrounding the project. He also thanked Suntex, Public Works, and the City Manager's Office for a favorable resolution to Pump Station D-31. He discussed the recent meeting with Commissioner Trantalis and the Boards. Mr. Chettle pointed out a vulnerable period during the Suntex process regarding the Boat Show's exhibition space in and near the Las Olas Marina should there be a change of ownership. He stated the residents are very pleased and had positive, constructive meetings with Suntex. Mr. Chettle expounded on the input at the meeting from the President of the adjacent Building Association impacted most by the proposed restaurant. Hopefully, the language discussed regarding this issue

can be incorporated, confirming Suntex has been very cooperative.

Mayor Seiler recognized former County Commissioner John Rodstrom, 66 Nurmi Drive, who thanked Commissioner Rogers for his input. Mr. Rodstrom commented on the similarity of this item to Bahia Mar, emphasizing the need for the Commission to address any future requests for residential housing or change of use in the Las Olas Marina. Commissioner Rodstrom commented on the need to be proactive regarding protecting the interests of the City and receiving fair market value.

Mayor Seiler asked for clarification from Mr. Filler regarding the transfer of ownership. He asked Mr. Filler to agree that any substantial change in the plans, including plans to modify the use, must come back to the Commission. Mr. Filler confirmed.

Mayor Seiler recognized Charles King, 105 N. Victoria Park Road, who spoke in opposition to this item, asking if the Commission had any conflicts of interest and his concern regarding the vetting of Mr. Filler's comments about marinas in other municipalities.

Mayor Seiler stated for the record the Commission selected Alternative C-3. The plans and specifications for this must be submitted to the Commission in its proprietary approval capacity and has 30 days to approve. The Commission has the authority not to approve amendments differing from what was originally presented in their proposal.

Commissioner Rogers requested clear language stating once it is built, any substantial change would need to come back before the Commission. Assistant City Attorney Solomon referred to Section 12.3 of the agreement dealing with alterations. It allows for and provides the limits regarding any alterations made. She confirmed she would review Section 12.3 to ensure it addresses Commissioner Rogers's concerns. Commissioner Rogers reiterated his concern regarding City Manager Feldman signing off on any permits.

Mayor Seiler confirmed the following by all stakeholders speaking on this item tonight, confirming Assistant City Attorney Solomon would revise the agreement to address and include the following:

- There will be no substantial material changes to the project without Commission approval
- Thresholds for a change on interest and timing, i.e., before or after completion of construction (City Auditor Herbst and City



Manager Feldman to review)

- Issue of commission fee to CBRE

In response to Mayor Seiler's question, City Auditor Herbst confirmed it would be appropriate for him to evaluate any proposed transfers, giving his perspective on a business analysis and financial capability. Mayor Seiler confirmed City Manager Feldman, City Auditor Herbst, and City Attorney's Office should work together to address these issues.

## EXECUTIVE CLOSED DOOR REQUEST

City Attorney Cynthia Everett requested pursuant to Florida Statute, Section 286.011(8)(a), she will be seeking advice on the matters of:

- City of Fort Lauderdale v. Howard S. Sloman, Jr.  
CACE 17-000746 (11)
- City of Fort Lauderdale v. Munaz Enterprises, Inc.  
CACE 07-008660 (12)

During the City Commission Meeting on **July 11, 2017** at a time to be determined.

Present at the attorney-client session will be:

Mayor, John P. "Jack" Seiler  
Vice Mayor, Bruce G. Roberts  
Commissioner, Robert L. McKinzie  
Commissioner, Dean J. Trantalis  
Commissioner, Romney Rogers  
City Manager, Lee R. Feldman  
City Attorney, Cynthia A. Everett  
Assistant City Attorney, Tania M. Amar, and a  
Certified Court Reporter with Daughters Reporting, Inc.

The estimated length of this attorney-client session is approximately twenty (20) minutes.

## ADJOURNMENT

There being no further business before the City Commission at the Regular Meeting of June 20, 2017, Mayor Seiler adjourned the meeting at 8:52 p.m.

\_\_\_\_\_  
John P. "Jack" Seiler  
Mayor

ATTEST:

\_\_\_\_\_  
Jeffrey A. Modarelli  
City Clerk