

# City of Fort Lauderdale

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



## Meeting Minutes

**Tuesday, January 24, 2017**

**12:00 PM**

**Joint Workshop with Cemetery System Board of Trustees**

**City Commission Conference Room**

### **CITY COMMISSION WORKSHOP**

***FORT LAUDERDALE CITY COMMISSION***

***JOHN P. "JACK" SEILER Mayor - Commissioner  
DEAN J. TRANTALIS Vice Mayor - Commissioner - District II  
BRUCE G. ROBERTS - Commissioner - District I  
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***

**ROLL CALL**

Present: 5 - Commissioner Bruce G. Roberts, Vice Mayor Dean J. Trantalis, Commissioner Robert L. McKinzie, Commissioner Romney Rogers, 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, and City Auditor John Herbst

Cemetery Board of Trustees Attendees:

Present: Chair Michael Ruddy, Vice Chair Patricia S. Hayes, Richard Kurtz, Dennis Ulmer, Vicki Mowrey, John Sykes, and Mark Van Rees

Not present: William Powell, Myrna B. Pototsky, and Damon R. Adams

**CALL TO ORDER**

Mayor Seiler called the workshop meeting to order at 12:12 p.m.

**No public e-comments were submitted for this workshop meeting.**

**OLD/NEW BUSINESS****BUS-1** [17-0152](#)

Discussion of Operational Audit of the City of Fort Lauderdale Cemetery System and Related Cemetery Perpetual Care Trust Fund

At the request of Mayor Seiler, City Manager Feldman confirmed there was no old business to be addressed. Mayor Seiler stated at this workshop seating had been modified to encourage participation from each Cemetery Board of Trustees (Board) member.

City Auditor Herbst gave a review of his meetings with the Board. He noted they included addressing minor corrections to some of the audit numbers. Additionally, there were issues that will require policy action by the City Commission to resolve, of which included the 19 percent revenue stream from the Cemetery System and whether it should be permanent. At the request of Vice Mayor Trantalis, City Auditor Herbst explained that the City's management company for its

cemeteries, Carriage, is a broker for the cemetery plot interment rights and retains 81% from those sales. The remaining 19 percent was going to the City as revenue. City Auditor Herbst expounded on the City ordinance that addresses the 19% revenue stream. He also noted the importance of the City developing a Master Plan for its cemeteries to address the Cemetery Systems Fund (Fund) and to determine its adequacy and utilization moving into the future. He gave his input on the need to address future changes in how cemeteries area are utilized, industry trends, and the increasing population density within the City.

Mayor Seiler recognized Board Chair Ruddy who thanked the Commission and stating this was the first time many board members have had the opportunity to sit down with the Commission. Chair Ruddy asked City Auditor to confirm that the Fund balance is \$26,000,000 and City Auditor Herbst confirmed.

Chair Ruddy commented that the audit was a favorable experience and a good exercise, noting it was the first audit in many years. He recommended an audit should take place more frequently. He also commented on parts of the 2004 investment policy that needs to be revisited and parts of the policy that should remain.

Chair Ruddy noted that at this time, the Cemetery System is not a burden to the taxpayers of the City. He clarified for Vice Mayor Trantalis that should a capacity issue require the purchase of additional land that consumes the Cemetery Fund balance, the maintenance costs would then fall to the taxpayers. Chair Ruddy stated as a result of the audit, the Board was made aware of City policy and government procedures. He stated this is due to Assistant City Attorney D'Wayne Spence attending the Board's meeting which allowed the Board to be more effective. Chair Ruddy also discussed the mandate for annual continuing education requirements for Board members and requested the Commission fast track this issue. Maintenance issues relating to the contractor, Carriage, were acknowledged by Chair Ruddy. He stated the Board is anxious to correct those maintenance issues through the proper procedures. Mayor Seiler reviewed the issues and Chair Ruddy confirmed.

Vice Chair Patricia Hayes spoke about the history of the Board's actions with respect to Carriage and maintenance issues. She explained its authorization to remediate those needs through Section 12.1 Exceptions and Modifications to the Contract, noting it was not an arbitrary decision by the Board. Mayor Seiler responded stating issues such as routine maintenance should go through the City's process and not be classified as an emergency situation. Further

comments and discussions ensued on this topic.

City Auditor Herbst explained the role of the City Manager as “management” and the City Commission as “governance.” Mayor Seiler asked City Auditor Herbst for a checklist of items to be addressed by the City Commission. City Auditor Herbst explained the process and format of the audit and management’s response, acknowledging the Board’s participatory role.

Mayor Seiler asked City Attorney Everett to comment on the request to have an Assistant City Attorney Spence at the Board’s meetings. Ms. Everett confirmed stating she would like to address this holistically to ensure all of the boards are receiving the assistance they need. Chair Ruddy confirmed their meeting schedule, stating it meets every other month.

Mayor Seiler discussed the 8 hour mandated education requirement. City Auditor Herbst explained the statute requirements and suggested options for meeting this mandate. Vice Mayor Trantalis asked for clarification on the Board’s role in investing. City Auditor Herbst stated the investment managers of the Fund take direction from the Board. Mayor Seiler tasked City Manager Feldman with arranging the required education for the Board. There was consensus on this issue.

Mayor Seiler discussed the maintenance issue and asked City Manager Feldman for his input. City Manager Feldman discussed the history of the maintenance issue with Carriage. He stated the importance of having a level of consistent quality at all of the City’s cemeteries. He proposed having a Master Plan that addresses the maintenance issues.

Mayor Seiler discussed the importance of addressing maintenance issues in the short term. Vice Chair Hayes discussed the Board’s history regarding working with Carriage on these issues and stated that some needed to be addressed by the City Commission. Assistant City Attorney Spence clarified aspects of the City Ordinance relating to this issue, the corresponding contract with the maintenance company, the responsibilities of the Board, and the manner in which the Cemetery Board liaison handled these maintenance issues in the past.

Mayor Seiler asked what needs to be put in place to address maintenance issues. Board Member Mark Van Rees noted the need for a meeting with the contractor, stating the maintenance has degraded dramatically over the past two years, noting specific issues about maintenance staffing. Vice Mayor Trantalis asked if this is due

to a reduction of income from lagging sales. Mr. Van Rees noted the cemetery sales run in cycles, having recently peaked. Mr. Van Rees noted a discrepancy in the accuracy of the amounts going into the Fund which is in need of resolution. The number of management changes with Carriage and the City liaisons were also discussed.

Commissioner Roberts noted the lack of oversight as being a reason for the deterioration of maintenance and other issues noted in the audit.

Board Member John Sykes emphasized the need for a reporting procedure to bring issues to the attention of the Board and stated that a large percentage of the complaints are not received by the Board. Board Member Dennis Ulmer commented on the lack of City staffing at the cemeteries to monitor these issues. Mr. Sykes commented on previous meetings with the personnel from Carriage's headquarter office. Board Member Vicki Mowrey confirmed Mr. Sykes comments on the history of past meetings and the personnel turnover both at Carriage and the City which contributed to the current situation.

Mayor Seiler tasked City Manager Feldman with addressing the following items within 60 days to be presented to the Board at their March 9, 2017 meeting and to the City Commission at its second meeting in March 2017.

- A plan to address the cemeteries' immediate needs
- Schedule a meeting with Carriage
- Determine the proper reporting requirements

Board Member Richard Kurtz commented that the general public should be made aware that they can come to the Board to register complaints. Mayor Seiler confirmed the need for a public complaint reporting system to the management company, the Board and City Staff. Discussions on this issue continued. Mr. Kurtz suggested posting reporting procedures at each of the cemeteries.

Commissioner McKinzie commented on the condition, maintenance issues and lack of standard care.

Mayor Seiler asked City Manager Feldman to come back with a long-term plan for the City's cemeteries maintenance within 120 days. City Manager Feldman stated he would prefer to bring an expert to do a complete review of all the needs of the City cemeteries. He stated this would take 6-8 months, stating there are adequate funds in the Fund to pay for this study. City Auditor Herbst confirmed that this would be an allowable expense. Assistant City Attorney Spence gave his opinion stating more research is needed on this being an allowable

expense.

Commissioner Rogers commented on the need for developing best practices in this area and to determine a correlation between the fund balance and the necessary level of maintenance service.

Commissioner Roberts concurred stating a Master Plan is not just a maintenance issue but a future needs and usage issue. Discussions ensued on the payment for the proposed study. Assistant City Attorney Spence gave his input on the two categories which payment for the study may be an allowable expense.

Board member Vicki Mowrey commented on the Board's rejection of a Master Plan in 2015, stating they did not object to the idea of having a Master Plan. However, they wanted a Master Plan that related to the cemeteries in the City as they currently stand, i.e., the immediate needs. She also discussed the Board's reasoning and the need for a professional opinion as to the ability of the Fund balances to last in perpetuity in order to be able to address and pay for items in a Master Plan. City Manager Feldman expounded on the scope of the Master Plan to determine future needs and addressing the issues raised by Ms. Mowrey.

Mayor Seiler recommended a broader initial assessment of what the Master Plan should include with the Board making its recommendations as to priorities. This will allow for a comprehensive understanding in order to make an informed decision as to the Funds resources and how to move forward. Mr. Ulmer asked City Manager Feldman to speak to the necessity for a Master Plan to bond the future purchase of more land. City Manager Feldman explained the need for a Master Plan should the City need to purchase more land in the future via financing.

Vice Chair Hayes commented on the need for confirmation that the Fund balance will adequately fund the needs of the cemeteries in perpetuity before paying for a Master Plan, stating this could be done by an actuary similar to how the City of Austin handled this type of situation. Further discussion continued on the need to simultaneously prepare a Master Plan and estimating the long-term capital needs for the Cemetery System in perpetuity to allow for an informed decision.

Mayor Seiler confirmed that Assistant City Attorney Spence would give a legal opinion on the ability of the Fund to pay for a Master Plan tailored to the cemeteries. Chair Ruddy stated that the Board is not against having a Master Plan. He commented on the cost and the scope of a Master Plan, the need for parameters to keep costs down, and the legal ability to expend funds for a Master Plan.

Mayor Seiler suggested the Board review and approve the proposed Master Plan draft and present their recommended modifications for the Master Plan to the Commission so the solicitation can move forward with the Request for Proposal (RFP) process. In the interim, a legal opinion can be prepared.

Mr. Sykes stated that the standard of maintenance in the management contract is not being met and discussions about the contract continued. Mayor Seiler confirmed there is an understanding about how to address the short-term maintenance issue.

Mayor Seiler asked the Board's liaison, Stacey Spates, Parks and Recreation Department, about the maintenance issues. Ms. Spates stated that Carriage has not been cooperative and commented on the current relationship with the contractor. Mayor Seiler asked if the issue of cause to terminate had been considered. It was noted that the contract with Carriage expires on September 30, 2017. Mr. Sykes raised the issue of Carriage's lack of accounting for contracts, stating the questions presented to Carriage have not received a response.

Mayor Seiler noted Carriage's response lacked an adequate response to specific audit issues. City Auditor Herbst confirmed Carriage was in attendance at the first discussion with the Board but Carriage had not sent him a response.

Assistant City Attorney Spence expounded on the way Carriage interacts with the City's structure. He stated that Carriage responded to the Board on aspects of the audit rather than following City procedures. Assistant City Attorney Spence also read from the Carriage contract language about how interactions for corrective measures should be handled and the need for City approval regarding staffing issues.

Mayor Seiler stated to Ms. Spates that the Cemetery Board needs to be made aware of every issue regarding the cemeteries. Assistant City Attorney Spence noted that Carriage's turnover in staffing may have led to maintenance issues. Commissioner Roberts asked if Carriage is in breach of their contract and further discussions continued on this possibility. Mayor Seiler said the City Attorney's Office needs to do the necessary research to determine if this is the case.

Vice Chair Hayes stated now that the Board and the Commission are fully aware of the issues relating to Carriage, Carriage needs to be informed about their need to step-up or be terminated. Chair Ruddy

commented on the need to be pragmatic on this issue noting the issues involved in the last RFP process.

Commissioner Roberts asked about Carriage's compliance with the five Capital Improvement Projects in the new contract, noting that this would be clear evidence of a breach of contract.

Mayor Seiler confirmed for Vice Mayor Trantalis that the information discussed today would be available on the City's website.

City Auditor Herbst reviewed the audits findings and recommendations as noted in the item backup. The findings and recommendations that have not been resolved were discussed.

Mayor Seiler stated any proposed contract changes should go before the Board for a recommendation, a review by the City Attorney's Office, and then to the City Commission for a vote.

City Auditor Herbst discussed revenue issues with Carriage as dictated by the contract and the manner in which Carriage handles the financing of items. Additional discussions on this topic continued. Members of the Board commented on their understanding of Carriage selling internment rights, not the land, and a second internment right should be considered part of the City's receipt of the 19 percent. It was noted that this is not being done.

Mr. Van Rees read from the contract regarding the revenue to the City. City Auditor Herbst stated the contract is silent on the issue of second rights, time payment plans, etc. In response to Commissioner Rogers' question, City Auditor Herbst stated the additional revenues to the City could not be calculated due to the lack of supporting documentation and records. Mayor Seiler confirmed that everyone was in agreement on this issue. Mayor Seiler stated Assistant City Attorney Spence may need to be involved in addressing this issue.

Mr. Kurtz asked about an issue relating to an outside vendor installing a head stone and Carriage charging the vendor a perpetual care fee had been included in the audit. City Auditor Herbst stated it was not. Mayor Seiler stated the City needs to look into reporting activities by Carriage moving forward, with the assistance of the City Attorney's Office.

City Auditor Herbst commented on the area of the audit addressing nonadherence to the City's rules and regulations on the limit of selling more than six grave sites. Chair Ruddy stated that it should come through the Board for approval. City Auditor Herbst noted the issue is

large purchasers who are residents and receive a 25 percent discount are reselling internment rights to non-residents. Assistant City Attorney Spence stated that Carriage is not abiding by these rules. Mayor Seiler stated that the policy approved needs to be enforced.

Mayor Seiler stated for the liaison that the further defining of issues should be taken to the Board for a recommendation and then to the City Commission.

Mayor Seiler requested a mechanism to allow for the recording of every resale of rights be reported to the Board.

City Auditor Herbst discussed how the City's Ordinance speaks to the subject of the 19% revenue to the Trust versus the corpus and the effects on the Cemetery System's Rules and Regulations (Rules and Regulations). He commented on a Master Plan being able to address this issue or that it can alternatively be addressed by the Commission through reconciling the ordinance with the Rules and Regulations. Mayor Seiler gave direction stating this should be reviewed by the Board, reviewed by the City Attorney's Office, and a recommendation brought to the Commission.

City Auditor Herbst commented on the contract for the investment of Fund utilization has an active management style, noting the Commission's desire to go with passive management. He noted the investment manager can manage the Fund passively. Discussions continued on the investment guidelines for this Fund. City Manager Feldman noted the good job the Board has done. He noted the largest factors involved in active management versus passive management are the amount of fees charged, recommending the use of passive management. City Auditor Herbst stated every study done indicates that active management underperforms its benchmark. Further discussions and comments continued on aspects of this topic.

City Auditor Herbst discussed the need for a requirement from Carriage for an internal control report, stating this would be included in the next RFP. Mayor Seiler agreed and asked this be reviewed by the Board for a recommendation then presented to the Commission for a vote.

City Auditor Herbst discussed the audit's findings of a lack of inventory records. Mr. Sykes stated that though requested, Carriage has not provided the Board with an inventory for the cemeteries.

Mayor Seiler confirmed there was a consensus on all of the audit findings with the exception of the Fund's investment policy.

Mayor Seiler recognized Mark Hall, CPM, First Vice President, Funeral and Cemetery Trust Services, SunTrust Bank, who addressed the Board and Commission on SunTrust's management of the Fund. He stated, 37 percent of the Fund is passively managed, 71 percent of the equity only portion is passively managed, and the Fund has corporate bond obligations that make up 18 percent of the portfolio. He stated they have done well with a weighted average of a five and one-half year duration and would not recommend liquidating them now. City Auditor Herbst commented on his recommended investment strategy approach. Mr. Hall stated fixed income actively managed mutual funds have performed well in the Fund's portfolio.

In response to Mayor Seiler's question, Mr. Hall stated average expense ratio is 26 basis points. In the overall Fund, the equity is 52 percent with 37 percent being passive.

Commissioner Roberts requested City Auditor Herbst give his recommendations and discussions continued on his recommendation that the Fund be passively managed based on available academic studies.

Mr. Van Rees commented that the Fund has a different investment need than the City. The need is for earnings, not growth due to its perpetual environment, noting the need to spend earnings versus spending capital. Additionally, the public is told the 19 percent revenue is for perpetual care of the rights purchased and stressing the Fund needs earnings as opposed to the need for growth in other funds.

Chair Ruddy requested a formal stated recommendation from the City Commission to allow the Board to meet with Carriage with the full support of the Commission. Mayor Seiler concurred and there was a consensus among the Commission.

Chair Ruddy confirmed two upcoming Special Board meetings. The first one will be a meeting with Carriage and the other will be a meeting to make recommendations regarding the Master Plan. There was a consensus on these Special Board Meetings.

Discussions continued on working towards making the Fund passively managed. City Manager Feldman commented that Mark Hall the Investment Manager for SunTrust has listened to the discussions today and he requested Mr. Hall advise on a plan for the Fund to phase into passive management. This would be presented to the Board for review and then presented to the Commission for a vote. Mayor Seiler confirmed there was consensus on this approach.

**BUS-2** [17-0153](#) Discussion of City of Fort Lauderdale Cemetery System Master Plan

**ADJOURNMENT**

Mayor Seiler adjourned the meeting at 2:09 p.m.