

## FORT LAUDERDALE CITY COMMISSION CONFERENCE MEETING OCTOBER 16, 2007

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**CITY COMMISSION CONFERENCE MEETING      1:30 P.M.      OCTOBER 16, 2007**

Present: Mayor Naugle  
Commissioners Hutchinson, Rodstrom, and Teel and Vice Mayor Moore

Absent: None.

Also Present: City Manager – George Gretsas  
City Auditor - John Herbst  
City Clerk - Jonda Joseph  
City Attorney - Harry Stewart  
Sergeant At Arms – C.J. Herbert

**I-A – Proposed Lien Settlements – Special Magistrate and Code Enforcement Board Cases**

**Action:** No discussion

**I-B – National League of Cities Annual Business Meeting – November 17, 2007 – Voting Delegate and Alternate**

At the suggestion of Mayor Naugle, Vice Mayor Moore agreed to serve as the voting delegate and Commissioner Hutchinson agreed to serve as the alternate.

**Action:** Consensus approval to designate Vice Mayor Moore as the voting delegate and Commissioner Hutchinson as the alternate.

**II-A – Excavate Pipe and Locate Influent Sewer Line Leak – Emergency Repairs**

**Action:** No discussion

**II-B – Radio and Telephone Communications Systems – Damages As A Result of Lightning – Emergency Repairs**

In response to Commissioner Teel, Tim Edkin, Information Technology Services Director, said the tower is grounded, but the grounding was done some 40-45 years ago and it is fractured in places. Staff is looking at hiring a contractor to perform an assessment of the grounding to see if some mitigation could be accomplished.

Commissioner Rodstrom asked if that will be done in other areas as well; more preventive instead of an emergency approach. Mr. Edkin replied yes possible and when it makes sense.

**Action:** The Director of Information Technology Services responded to questions.

**II-C – Stormwater – Review of Practices, Procedures and Internal Controls**

Vice Mayor Moore was concerned about the large user issue with Broward County and newly annexed areas. The City Auditor said they looked at the amounts the City receive from the County. The City does not do the billing for those areas that came to the City

from the County. It is done by the County and the City gets a remittance that is supposed to represent the amounts collected on the City's behalf. They attempted to verify the accuracy of such amounts, but were not able to do so. The information provided by the County does not include enough detail to do any sort of testing as to the completeness of that billing system. He has encouraged the City Manager to continue working with the County to secure a more detailed report that would facilitate the Treasury auditing it in some way. It is correct the individual end-user bill from the County could be inaccurate.

Vice Mayor Moore asked if there is some sort of legal footing in connection with obtaining the information. The City Attorney indicated yes. The City Manager confirmed it will be implemented.

Commissioner Rodstrom asked if it would be helpful to meet with the County Auditor. The City Auditor said the report needs to be redesigned to include the requested fields. It is fairly straight forward. The request was made about two months ago.

Mayor Naugle asked about government agencies who have not paid their assessments. He asked if there is a schedule as to which government agencies are not paying such assessments. The City Attorney said the State is not paying. The courts have ruled that the State is immune. He believed historically that the School Board has paid, but the County has not and is claiming the same exemption as the State, but it has not yet been litigated. All cities have this problem. He provided some history on the litigation that commenced in Gainesville concerning the State.

Mayor Naugle commented maybe there could be a class action with other cities. The City Attorney said they are looking at potential remedies.

In response to Vice Mayor Moore, the City Auditor said there is a list of approximately eight accounts and he believed the amount is around \$800,000, dating back to 1993. Vice Mayor Moore felt if the City has to pay any of these entities, the amounts due should simply be deducted from the City's payment to them.

Mayor Naugle thought other cities might take the same approach.

Vice Mayor Moore felt it is disrespectful.

The City Attorney noted on some of these accounts, there is a question of whether or how much they owe. One example is a mobile home park with a lake and there is the question of whether the stormwater applies to the water on a square footage basis. There was disagreement with the State on credits they felt were due with respect to Birch State Park.

The City Auditor felt as much as possible should be pursued, but it does not make sense to carry those on the books for which there is no reasonable expectation of collection.

Vice Mayor Moore asked about the management comments and Recommendation 9. The City Auditor explained in general where management concurs with the recommendation, they are agreeing to implement it. Where they have taken exception, sometimes it is to the conclusion of fact, sometimes to the materiality and sometimes to the nature and substance of the recommendation itself. In this particular instance,

management's response indicates that they disagree as a point in fact with the conclusion. The amount involved is not material enough to go back and argue it any further. In moving forward, it will be done differently so he does not believe it is an issue.

Vice Mayor Moore further said even if the amount is not significant, there has to be a practice for the future that there is a level playing field as to procedure to be followed. He asked when they as policymakers will be able to understand what the policy is to be.

Allyson Love, Director of Office of Management and Budget, said that in terms of the indirect charge, it is a percentage. She did not believe because of the dollar amount, it would change the percentage. They will be reviewing this for next year. In general, she does not agree there is any double-charge.

Mayor Naugle did not believe the Commission needs to resolve every conflict between the Auditor and the administration. If the Auditor thought it was important, he would bring that to their attention. Vice Mayor Moore indicated he would like to know the policy that will be deployed. The City Auditor said that with every audit, they will perform a six-month follow-up to see if the recommendations have been implemented and so forth.

With respect to the six-month followup, the City Manager said that in some cases there will not be any follow-up because they do not agree. In this case, if there is any change, it would be brought to the Commission's attention. There will be in two categories: areas where they agree with what is said; and areas where management does not comply and the Auditor still believes it is the right course. The Commission then can decide.

The City Manager believed that the process has been working well. Professionals disagree from time to time, but everyone is being treated with respect.

Commissioner Teel believed this is the first time that the stormwater accounts have been audited. The City Auditor concurred and thus it was an opportune time. From an operational perspective, it is well run. They followed crews around and made sure that individuals are being charged correctly and that the rates are reasonable. There is a good comfort level with the Stormwater Enterprise Fund. The only item they felt was important is on this evening's agenda, the Stormwater Master Plan. When setting rates it is important to look strategically at the long-range needs of the system on a city-wide basis.

Mayor Naugle thought the City is moving forward with things that will reduce stormwater pollution tremendously. For example, the industrial areas to the north and west that have been on septic tanks.

**Action:** Mayor Naugle asked about governmental agencies that have not paid their assessments. The City Auditor felt outstanding balances for cases the City does not believe are collectable should eventually be removed from the books. The City Attorney indicated that his office is looking at potential remedies. Vice Mayor Moore felt any amount the City may owe an agency should be subtracted. There should be respect between governmental agencies and staff should work to raise such awareness.

**III-B – Board and Committee Appointments**

Audit Advisory Board

**Action:** Deferred.

Aviation Advisory Board

**Action:** Deferred.

Board of Adjustment

**Action:** Deferred

Cemeteries Board of Trustees

**Action:** Deferred.

Community Appearance Board

**Action:** Deferred.

Community Services Board

Commissioner Teel recommends the appointment of David R. Maymon to the Community Services Board.

**Action:** Formal Action To Be Taken At Regular Meeting.

Economic Development Advisory Board

**Action:** Deferred.

Education Advisory Board

**Action:** Deferred.

Historic Preservation Board

**Action:** Deferred

Insurance Advisory Board

**Action:** Deferred

Marine Advisory Board

**Action:** Deferred.

Nuisance Abatement Board

**Action:** Deferred.

Parks, Recreation and Beaches Advisory Board

**Action:** Deferred.

Unsafe Structures and Housing Appeals Board

**Action:** Deferred.

Utility Advisory Committee

**Action:** Deferred.

**II-D – Annual Audit Plan – Fiscal Year 2007-2008**

The City Auditor indicated that his office conducted a city-wide risk analysis and looked for items not examined recently, areas of great complexity or by their nature, carry additional risk. He provided a brief overview.

The City Auditor proposed a quarterly report to the Commission on a subject of the Commission's choosing.

Commissioner Rodstrom said she is specifically interested in the pension unfunded liability and asked if that could be included for general employees as well as police and fire. The City Auditor said the unfunded liability is being amortized over a thirty-year period which is built into the current actuarial report. It is part of why the contribution as a percentage of covered payroll is so high. There is a plan in place to address the \$100 million of unfunded liability. It is being funded on an annual basis. It is not a desirable level of unfunded liability to carry; roughly at 73% for general employees. The nation-wide average of municipal funding levels is about 86%. This represents a cost because the actuaries are anticipating the City would have a 7.75% rate of return on all system assets. If that dollar amount is not there, it is essentially an IOU from the City. The City is also paying 7.75% into the fund that is not otherwise being earned. Again, it is built into the annual payment.

In response to Vice Mayor Moore, the City Auditor explained he will assign one auditor to be the lead auditor on each audit. Presently, they are doing audits of the tuition reimbursement plan and the parking system concurrently. Some audits may be attacked as a team project because of their size and scope.

Vice Mayor Moore asked if there is any particular order that the audits will be done. The City Auditor said they will begin with the payroll process because the payroll payoff portion is already completed. There is no anticipated order for the others.

In response to Commissioner Rodstrom, the City Auditor briefly explained the audit process, noting a draft report is reviewed with the City Manager and his staff. Then a final report is prepared and submitted to the City Manager and his staff. They have two

weeks to one month to respond. It is then put into a final format and presented to the Commission.

With respect to the quarterly reports, the City Auditor asked for a consensus on what topics to investigate. Mayor Naugle asked for the City Auditor to develop a list from discussions with the Commission and place it on a conference agenda under conference reports.

**Action:** At the City Auditor's suggestion, there was consensus for the City Auditor to meet with each member of the Commission individually, develop a list of potential reviews and present it at a future conference meeting. The Commission will reach consensus on which he should undertake. There will be a quarterly conference agenda item to review the results.

#### **IV – Commission Reports**

Commissioner Teel thanked the City Auditor for attending and speaking at her district meeting.

##### 34<sup>th</sup> Street; Galt Ocean Mile; Developer Agreement

Commissioner Teel noted that underground wiring for 34<sup>th</sup> Street in the Galt Ocean Mile area is almost complete, along with special lighting and landscaping pursuant to the developer agreement.

##### WaterWorks Audit

Commissioner Rodstrom asked if there is going to be Commission discussion regarding the WaterWorks audit. Mayor Naugle said perhaps it will be on the list of choices for a presentation to be made to the Commission.

##### Citizens Police Review Board

Commissioner Rodstrom said a member of the Citizens Police Review Board indicated a letter was sent out. She asked if anything is being done about it. The City Attorney said it is the second or third time he has the letter. He responded to the first two and now he is waiting for Commission direction. It was not his intention to respond.

In response to Commissioner Rodstrom, the City Attorney said the Board has a description of what they should be doing. Mayor Naugle said the Commission appreciates their work.

##### Broward County Workshop; Transportation

Commissioner Rodstrom referred to the County's transportation workshop and understood there is no rail stop planned for City Hall. Commissioner Teel indicated that was never mentioned at the workshop.

Mayor Naugle felt the Commission needs a presentation on this.

Utility Cabinets

Commissioner Rodstrom inquired about the status of undergrounding utility cabinets. Peter Partington, City Engineer, said that staff has developed a scope of work with Power Services. He believed it will be brought to the Commission at the second meeting in November.

In response to Commissioner Rodstrom, the City Attorney said the ordinance is ready. Mr. Partington understood the ordinance proposes a maximum cabinet size. He believed the Commission gave direction to look into the feasibility of requiring undergrounding of the cabinets and that is the purpose of the study. The City Attorney indicated that landscaping and graffiti maintenance has not yet been added.

Commissioner Teel was concerned about the distance of 25 feet between cabinets in the ordinance. There may be several in a long block.

**Action:** Commissioner Rodstrom asked about the status of regulations for utility cabinets. A discussion on the status of the matter followed. Commissioner Teel was concerned about a separation of 25 feet between the cabinets; she thought it should be a great distance.

Junk Yard Business and Businesses on Sistrunk Boulevard

Vice Mayor Moore presented photographs of a junkyard. There are trucks just outside of the junkyard lined up in front of residential properties. There is nothing in the City's zoning that allows obnoxious uses to be taken to the street, nor is there anything allowing a business to be operated outside of the zoned area of their industrial use; no staging in the street. Industrial storage is occurring on residential property. He does not understand why something is not done. He did not think this business should be given 30-120 days to impact the community. The Commission should give direction to the City Attorney and Code Enforcement to uphold the people's rights. He noted that employees of this business are parking on vacant property that is not owned by the business.

Vice Mayor Moore did not think an occupational license should be issued if the business cannot operate within the property perimeters. There should be a pre-inspection. From Sistrunk Boulevard to Sunrise Boulevard there are other industrial areas and everyone on 5<sup>th</sup> Avenue is operating their business on the city swale and in the street.

The City Attorney explained the City cannot withhold a business license for any reason because it is not a license but actually a tax.

Vice Mayor Moore suggested a management agreement for the operation of a business before a license is issued. The City Attorney said that is not permissible. The City could erect a sign saying, "no standing, stopping or parking." Then, arrests could be made. It could be addressed by prohibiting staging outside of the property.

Michael Maloney, Director of Code Enforcement, said staff has worked in conjunction with the Police Department and Public Services. He believed the City needs a better enforcement mechanism. He believed the City needs a citation ordinance. This is coming before the Commission shortly. On the short term, he could look at the area. The business has been cited for expanding onto vacant property.

Vice Mayor Moore wanted the City to be creative in solving these problems.

Commissioner Teel felt the City should take immediate action in regard to parking on the street. The City Attorney explained the Commission must take action; the area needs to be described and posted.

Commissioner Hutchinson thought staging in the street is prohibited.

The City Manager said staff will look at the area and work with the City Attorney's Office to get signage posted.

Mayor Naugle clarified that signs are necessary for swale parking, but tickets may be issued for parking and stopping on the street.

Vice Mayor Moore referred to the City's management agreement with McDonalds on the beach and questioned why one could not be entered into with these industrial businesses. The City Attorney said that the beach example was a conditional use, which is possible. The property would have to be rezoned in order to impose a conditional use. The business would be grandfathered-in under the old use.

Commissioner Rodstrom felt for a long-range plan to stop this kind of activity, the use must be changed. She mentioned a tattoo parlor just opening on Las Olas adjacent to residential. She questioned why something is not being done about the staging.

Commissioner Hutchinson felt this business is in the wrong location.

Greg Brewton, Interim Director of Planning and Zoning, said there are Code provisions that would alleviate this problem. These properties have been grandfathered in. He provided some history on the matter. Citations could be issued when businesses are operating outside of their main structure. The bigger issue would be to get them out.

Commissioner Hutchinson asked how long before the citation process would be brought to the Commission. Mr. Maloney anticipated a month to six weeks.

**Action:** Vice Mayor Moore was concerned about a junk yard business in an industrial area that is using a portion of the street for staging; industrial storage on residential property; employee parking on nearby residential property. He noted businesses along Sistrunk Boulevard also use the City swale and right of way. There was consensus for the City Manager and City Attorney to work toward proper posting and everything necessary to stop parking on the street. Vice Mayor Moore wanted a creative approach i.e. management agreement or conditional use. The City Attorney explained difficulties with existing uses. The Community Inspections Director noted that a new citation program will be presented to the Commission in about six weeks.

#### Downtown Development Authority; Light Rail Plan

Commissioner Hutchinson believed it is imperative to hold a joint meeting with the Downtown Development Authority regarding the light rail plan because the plan is floating through the State and County. The City needs to review it and be a part of it.

NOTE: The Commission recessed and convened as the Community Redevelopment Agency Board of Directors from 2:34 p.m. to 3:15 p.m.

**Action:** Commissioner Hutchinson requested a joint meeting with the Downtown Development Authority concerning their light rail plan (transportation).

Citizen Volunteer Corps: Bass Park

Vice Mayor Moore applauded the CVC for their work this weekend at Bass Park.

Property Tax Reform

In reference to the State Legislature and property tax reform, Vice Chair Moore felt the City agrees there is something wrong with the system and does not object to a reform package. The Legislature is not offering something that proposes to move away from being so property driven. Senator Geller indicated to him that municipal leaders are not speaking to the legislators.

Commissioner Teel said Senator Geller commented on the news today that he still has not received the dollar amounts of how this will impact municipalities.

Vice Mayor Moore asked if this is being monitored so the City could expedite a response. The City Manager indicated staff cannot predict the impact on some pieces like portability, although they know the impact of doubling the homestead exemption. Allyson Love, Director of Management & Budget, said that doubling the homestead exemption would impact the City by about \$4 million and eliminating the senior exemption would mean about \$400,000. The City Manager cautioned these are preliminary figures. They do not know about the caps.

Mayor Naugle noted it is less than 1% of the City's total budget. He did not think it will pass; it is not meaningful; it does not help enough people.

Vice Chair Moore wanted the Commission to consider taking some leadership in guiding them in the right direction as a major city in the state. He wanted to support Senator Geller. He noted the State's mandate last year concerning the City's Fire Pension that meant \$987,000. Yet cities are being told they are overspending.

Mayor Naugle felt there should be at least a 1 cent sales tax for property tax relief. He believed the County's meeting on transportation was to revive sales tax for transportation. Transportation should be funded with a gas tax.

Vice Mayor Moore said many look at sales tax as regressive. He wanted to urge the Legislature to pull away from special session and really look at reform. Anything done during a special session will be knee-jerk.

Vice Mayor Moore reiterated that Fort Lauderdale as a top ten city in the state should say this is what should be considered.

Commissioner Hutchinson felt they need to examine how property is assessed and look at the possibility of a sales tax to get away from taxing property owners to the hilt.

Commissioner Teel felt the opportunity exists with the once every ten-year committee that has been formed. Instead they are waiting for the Legislature to do something. She agreed about the assessments. The Property Appraiser was basing assessments on the false market caused by the property sale flippers. She felt this special committee should be encouraged.

Commissioner Teel asked what is being done by the League of Cities. Vice Mayor Moore said he is asking the City to do something which could have possibly been done through an umbrella organization. He suggested a resolution.

Mayor Naugle pointed out that presently home rule opposes any effort to limit the City's ability to tax.

Vice Mayor Moore wanted to send a message to the Governor and Legislature the City does not believe the methodology presently being discussed is the appropriate way to proceed.

In response to Commissioner Rodstrom as to the basis for the objection, Vice Mayor Moore explained the only issue being raised that will have immediate impact is portability; everything else would take another tax year.

Commissioner Teel indicated that Senator Geller asked the City specifically to comment and he felt it is the polite thing to do; something in writing.

In response to Mayor Naugle, the City Attorney said the Legislature paid for an analysis by a law firm that concluded portability is a questionable constitutionality because of the right to travel. Mayor Naugle was concerned about giving people false hope when something might be overturned.

Commissioner Teel and Vice Mayor Moore noted an overturn is not known until it is tested.

Commissioner Hutchinson agreed the tax structure must be addressed, but it should not be the knee-jerk reaction that has occurred because the original ballot question was challenged.

Vice Mayor Moore wanted to request that the special session cease as it is a rush to judgment. The position would not speak to any particular issue. Mayor Naugle thought that might send the wrong message that the City is not for property tax reform.

Commissioner Teel felt the resolution needs to be specific. Vice Mayor Moore was concerned something would be enacted without the cities' input. Commissioner Teel suggested providing ideas that the City could support. Items suggested were: portability, taxing services with a corresponding roll back, sales tax, senior exemption.

In response to the City Manager, Commissioner Hutchinson said the resolution should encourage looking at various avenues and not speak to adjourning the special session. Mayor Naugle emphasized the City would like meaningful tax reform.

The City Attorney suggested instead of a resolution, the Mayor be authorized to send a letter which could be done within the next day or two.

Mayor Naugle added it should include the desire to maintain home rule.

**Action:** At the suggestion of Vice Mayor Moore, there was consensus approval for the Mayor to send a letter to the State concerning property tax reform, requesting a more careful look at solutions.

**V. City Manager Reports**

None.

There being no further business to come before the Commission, the meeting was adjourned at approximately 3:37 p.m.