

FORT LAUDERDALE CITY COMMISSION REGULAR MEETING
September 15, 2009

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE
September 15, 2009**

Meeting was called to order at 6:01 p.m. by Mayor Seiler on the above date, City Commission Meeting Room.

Roll call showed:

Present: Vice Mayor Bruce G. Roberts
Commissioner Charlotte E. Rodstrom
Commissioner Bobby B. DuBose
Commissioner Romney Rogers
Mayor John P. "Jack" Seiler

Absent: None

Also Present: City Manager George Gretsas
City Auditor John Herbst
City Clerk Jonda K. Joseph
City Attorney Harry A. Stewart
Sergeant At Arms Sergeant Jerry Williams

Invocation was offered by Reverend Michael "Happy" Hoyer of Our Lady Queen of Martyrs, followed by the Pledge of Allegiance led by Doug Sterner.

NOTE: All items were presented by Mayor Seiler unless otherwise shown, and all those desiring to be heard were heard. Items discussed are identified by the agenda number for reference. Items not on the agenda carry the description "OB" (Other Business).

Motion made by Vice Mayor Roberts and seconded by Commissioner DuBose to approve the minutes of the July 21, 2009 Regular Meeting. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

Presentations

1. National Neighborhood Day – September 20, 2009 (PRES-01)

Commissioner Rodstrom presented a proclamation to Doug Sterner, President of the Council of Fort Lauderdale Civic Associations, designating September 20, 2009, as National Neighborhood Day. Mr. Sterner thanked the Commission for the proclamation and commented about the important role that neighborhoods play in the City.

2. American Red Cross – Broward Chapter (OB)

Vice Mayor Roberts presented a proclamation to Alicia Lachewski, Chief Development Officer of the American Red Cross, Broward Chapter, designating the month of September as Fort Lauderdale Preparedness Month. Ms. Lachewski thanked the Commission for the proclamation and explained their mission is to help the community to prepare for and prevent disasters of all sorts.

Mayor Seiler thanked the Red Cross and asked Ms. Lachewski to leave their preparedness information with staff so that it could be included on the City's public service television station.

3. National Mesothelioma Day (OB)

Commissioner Rogers presented a proclamation to Lee Ruble designating September 26, 2009 as National Mesothelioma Awareness Day. Ms. Ruble thanked the Commission for the proclamation and announced their family is supporting a research grant in her father's name, a victim of Mesothelioma. She provided some history regarding this disease.

4. 14^h Annual Achievement of Excellence In Procurement Award (PRES-02)

The City Manager presented an Excellence in Procurement Award to Kirk Buffington, Director of Procurement Services, and commented on the distinction in the United States. Mr. Buffington recognized staff in Procurement Services.

5. Fire Rescue Chief – Retirement (OB)

The City Manager honored James Eddy, Fire Rescue Chief, for his service to the City, and wished him well in retirement. Chief Eddy thanked the Commission for the opportunity to serve the City, and commended the department.

Fiscal Year 2009-2010 Millage Rate and Budget (PH-01)

Motion made by Vice Mayor Roberts and seconded by Commissioner DuBose to defer this item to September 23, 2009 at 7 p.m. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

Sunrise Key Neighborhood Improvement District Millage Rate and Budget – Fiscal Year 2009-2010 (PH-02)

Motion made by Commissioner DuBose and seconded by Vice Mayor Roberts to defer this item to September 23, 2009 at 7 p.m. Roll call showed: YEAS: Commissioner

Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler.
NAYS: None.

Consent Agenda**(CA)**

The following items were listed on the agenda for approval as recommended. The City Manager reviewed each item and observations were made as shown. The following statement was read:

Those matters included under the Consent Agenda are self-explanatory and are not expected to require review or discussion. Items will be enacted by one motion; if discussion on an item is desired by any City Commissioner or member of the public, however, that item may be removed from the Consent Agenda and considered separately.

**Event Agreement – Our Lady Queen of Martyrs Fall Carnival
Closing SW 11 Court (Happy Hoyer Street)****(M-01)**

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Our Lady Queen of Martyrs Church, a parish of Archdiocese of Miami, Inc., for Fall Carnival to be held October 29, 2009 through November 1, 2009 and closing SW 11 Court (Happy Hoyer Street) from SW 27 Avenue to SW 28 Avenue.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1009

**Event Agreement – Winterfest Boat Parade
Closing Sagamore Road****(M-02)**

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Winterfest, Inc. for Winterfest Boat Parade to be held December 12, 2009, 3 PM – 10 PM on the New River and Intracoastal Waterway and closing Sagamore Road.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1229

Event Agreement – Florida Netball Classic Zoneball**(M-03)**

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with 4tors, Inc. for Florida Netball Classic Zoneball on October 18, 2009, 4 PM – 7 PM at Fort Lauderdale Beach Park.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1230

**Event Agreement – 50th Annual Fort Lauderdale
International Boat Show – Closing SE 5 Street and Las Olas Circle (M-04)**

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Yachting Promotions, Inc. for the 50th Annual Fort Lauderdale International Boat Show to be held from 10 AM to 7 PM, October 29, 2009 through November 1, 2009, and from 10 AM to 5 PM, November 2, 2009 at the Convention Center, Bahia Mar, Pier 66, Hilton Fort Lauderdale Marina, Las Olas Marina, Hall of Fame, and DC Alexander Park and closing SE 5 Street and Las Olas Circle.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1231

**Event Agreement – Sunset Blue
Closing NE 33 Street (M-05)**

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with North Beach Restaurants & Shoppes, Inc. for Sunset Blue to be held each Sunday evening from September 27, 2009 through November 29, 2009, 6 PM – 10 PM in the 3300 block of NE 33 Street and closing NE 33 Street.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1232

Event Agreement – Beach Baptism (M-06)

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Flamingo Road Baptist Church, Inc. for Beach Baptism, to be held on September 27, 2009, 5 PM – 7 PM at Fort Lauderdale Beach Park.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1235

Event Agreement – Movies Under The Stars (M-07)

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Las Olas Association, Inc. for Movies Under the Stars, to be held on Fridays: October 2 – October 30, 2009, 8 PM – 10 PM, and November 6-27, 2009, 7 PM – 9 PM, on the Riverside Hotel lawn at East Las Olas Boulevard and SE 8 Avenue.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1249

Transfer Funds - \$9,048.50 (M-08)
**NE 15 Avenue and NE 18 Street Roundabout
Safety Improvements**

Transfer \$9,048.50 from P11236.331-6599, General Fund CIP Holding Account (2007 CIP NE 15 Ave Roundabout Safety Improvement General Holding Account remaining balance is \$70,000), to P11210.331-6599 to restore engineering fees used to fund a City Manager approved change order. All funds are in Fund 331, Subfund 01.

A motion authorizing transfer of funds in the amount of \$9,048.50 – engineering fees for NE 15 Avenue and NE 18 Street Roundabout Safety Improvements.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1162

**Continuing Contract Renewal – Chen and Associates Consulting
Engineers, Inc. – Civil Engineering Services** (M-09)

No initial cost to renew contract. Work is assigned by task order and charged to the individual project per available budget.

A motion authorizing the proper City Officials to execute second one-year extension to Continuing Contract with Chen and Associates Consulting Engineers, Inc. – civil engineering services.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1226

Contract Award – All Florida Contracting Services, LLC - (M-10)
\$33,717 – Lightning Protection For Police Department Building

Please see the funding information provided on the Bid Tab attached.

A motion authorizing the proper City Officials to: (1) award and execute contract with All Florida Contracting Services, LLC., in the amount of \$33,717 – Lightning Protection for Police Department Building – Project 11402A; and (2) transfer funds to fund this contract, 14 percent engineering fees and 10 percent contingencies.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1227

Contract Award – Electrical Contracting Service, Inc. - \$113,647 (M-11)
George English Park Baseball Field Lighting and Related Electrical

Please see the funding information provided on the Bid Tab attached.

A motion authorizing the proper City Officials to: (1) award and execute contract with Electrical Contracting Service, Inc., in the amount of \$113,647 – George English Park Baseball Field Lighting and Related Electrical – Project 10266; and (2) transfer funds to fund this contract, 17 percent engineering fees and 10 percent contingencies.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1247

Task Order 12 – DeRose Design Consultants, Inc. (M-12)
\$25,874 – Fire Station 46 – Structural Engineering Services

\$25,874 is available in P10911.336-6599, Fund 336, Subfund 01.

A motion authorizing the proper City Officials to execute Task Order 12 with DeRose Design Consultants, Inc. in the amount of \$25,874 – Structural Engineering Services for Fire Station 46 – 1550 NW 19 Street – Project 10911.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1260

Task Order 9 – DeRose Design Consultants, Inc. - \$32,984 (M-13)
Fire Station 46 – Mechanical and Electrical Engineering Services

\$32,984.00 is available in P10911.336-6599, Fund 336, Subfund 01.

A motion authorizing the proper City Officials to execute Task Order 9 with DeRose Design Consultants, Inc., in the amount of \$32,984 – Mechanical and Electrical Engineering Services for Fire Station 46 – 1550 NW 19 Street – Project 10911.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1261

Amendment 3 – Task Order 04-06 – Hazen and Sawyer, P.C. (M-14)
\$11,626 – South Andrews Avenue Water Main Improvements

\$13,100 is available in Fund 482, Subfund 01, P10815.482-6599 for this task order and 12 percent estimated WaterWorks 2011 fees; EP02797.

A motion authorizing the proper City Officials to: (1) execute Amendment 3 to Task Order 04-06 with Hazen and Sawyer, P.C., in the amount of \$11,626 – engineering services associated with South Andrews Avenue Water Main Improvements – Project 10815.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1228

Amendment 3 – Task Order 04-10 – Hazen and Sawyer, P.C. - (M-15)
\$20,662.06 – Large Water Main River Crossing – Central River Area

Appropriate \$24,000 from Water and Sewer Revenue Bonds to Fund 482, Subfund 01, P10814.482-6599; EP02842.

A motion authorizing the proper City Officials to: (1) execute Amendment 3 to Task Order 04-10 with Hazen and Sawyer, P.C., in the amount of \$20,662.06 – additional design engineering services – Central River Area – Large Water Main River Crossing – Project 10814; and (2) appropriate \$24,000 to fund this amendment and 12 percent estimated WaterWorks 2011 fees.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1093

Task Order 09-09 – Hazen and Sawyer, P.C. - \$225,813 (M-16)
NW 2 Avenue Water Tank Rehabilitation Design

Transfer \$253,000 from P11197.454-6599, Water and Sewer Fund Recap, to P11405.454-6599, all in Fund 454, Subfund 01.

A motion authorizing the proper City Officials to: (1) execute Task Order 09-09 with Hazen and Sawyer, P.C., in the amount of \$225,813 – engineering services associated

with rehabilitation of NW 2 Avenue Water Storage Tank – Project 11405; and (2) transfer \$253,000 to fund this task order and 12 percent estimated WaterWorks 2011 fees.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-0959

Task Order 2009-180-043 – Craven, Thompson & Associates, Inc. - (M-17)
\$26,124 – Dixie Wellfield – Raw Water Main Replacement

Appropriate \$29,300 from Water and Sewer Revenue Bonds to Fund 482, Subfund 01, P11484.482-6599.

A motion authorizing the proper City Officials to: (1) execute Task Order 2009-180-043 with Craven Thompson & Associates, Inc., in the amount of \$26,124 – survey services – Dixie Wellfield – Raw Water Main Replacement – Project 11484; and (2) appropriate \$29,300 to fund this amendment and 12 percent estimated WaterWorks 2011 fees.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1107

Termination of Revocable License – Zom Flagler Village L.P. (M-18)
NE 4 Avenue and NE 5 Avenue Construction

No budgetary impact.

A motion authorizing the proper City Officials to execute a termination to an existing revocable license agreement with ZOM Flagler Village L.P. for temporary closure of NE 4 Avenue and NE 5 Avenue during construction.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1291

Change Order 1 – Architectural Graphics, Inc. - \$28,858.30 (M-19)
Executive Airport – Landside Signage

\$5,771.66 is available in P10825.468, Fund 468, Subfund 02, Subobject 6599, \$23,086.64 is available in P10825.468A, Fund 468, Subfund 02, Subobject 6599.

A motion authorizing the proper City Officials to execute Change Order 1 with Architectural Graphics, Inc., in the amount of \$28,858.30 and the addition of 132 calendar days to contract period – Executive Airport Landside Signage – Project 10825.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1243

Change Order 4 – Acupower, Inc. – \$10,504.93 (M-20)
Executive Airport – Security Improvements

\$10,504.93 is available in P10965.468C, Fund 468, Subfund 02, Subobject 6599.

A motion authorizing the proper City Officials to execute Change Order 4 with Acupower, Inc., in the amount of \$10,504.93 – Security Improvements at Executive Airport – Project 10965.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1244

Change Order 3 – Pavex Corporation D/B/A Ranger Construction (M-21)
South Executive Airport Taxiway Alpha Relocation –
Credit (\$347,735.54)

\$4,346.69 credited to P10802.468, Fund 468, Subfund 02, Subobject 6599 (credit is to EP03407-01); \$17,386.78 credited to P10802.468C, Fund 468, Subfund 02, Subobject 6599 (credit is to EP03407-02); \$326,002.07 credited to P10802.468D, Fund 468, Subfund 02, Subobject 6599 (credit is to EP03407-03).

A motion authorizing the proper City Officials to execute Change Order 3 (FINAL) with Pavex Corporation d/b/a Ranger Construction – South, in the credit amount of (\$347,735.54) – Executive Airport Taxiway Alpha Relocation – Project 10802.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1246

Change Order 2 (Final) – Man-Con, Incorporated - \$8,926.12 (M-22)
Sanitary Sewer and Water Main Improvements – Southside School

Transfer \$9,640.21 from P11197.454, Water and Sewer Fund Recap. To P10777.454 to fund the Change Order and 8 percent engineering fees. Engineering fee services on this project consist of 5 percent inspection, 2 percent administration and 1 percent purchasing (all in Fund 454, Subfund 01, Subobject 6599).

A motion authorizing: (1) Change Order 2 (Final) with Man-Con, Incorporated, in the amount of \$8,926.12 – Sanitary Sewer and Water Main Improvements Southside School Utility Construction – Project 10777B; and (2) transfer funds to fund this change order and 8 percent engineering fees.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1250

Annual Dockage Lease Agreement and Sightseeing and Charter Operations – Tiki Ship, LLC – North Side of New River Northwest of SE 3 Avenue Bridge (M-23)

\$37,595.04 is for receipt of revenue only in the FY 09-10, General Fund 001, Subfund 01, BUS020103-K184, Commercial Yacht Fees. No expenditures impacted.

A motion authorizing: (1) proper City Officials to execute dockage lease agreement with Tiki Ship, LLC for dockage on the north side of New River northwest of SE 3 Avenue bridge – Fiscal Year 2009-2010 ; and (2) day and evening sightseeing and private charter operations.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1255

BankAtlantic Bancorp, Inc. – Direct Cash Incentive - \$50,000 (M-24)

Fund 001, Subfund 01, EDV010101-4299 – Other contributions - \$50,000.

A motion authorizing payment in the amount of \$50,000 to BankAtlantic Bancorp Inc. – fourth year payment pursuant to terms of Direct Cash Incentive Grant Agreement.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1265

Annual Dockage Lease Agreement – Apex Marine, LLC South Side of New River Riverwalk – Private Vessel Storage (M-25)

\$118,625.00 is for receipt of revenues only in FY 09-10 General Fund 001, Subfund 01, BUS020103-K184, Commercial Yacht Fees. No expenditures are impacted.

A motion authorizing the proper City Officials to execute dockage lease agreement with Apex Marine, LLC for private vessel storage in conjunction with a repair and maintenance facility – south side of New River Riverwalk between SW 1 Avenue and the SE 3 Avenue Bridge – Fiscal Year 2009-2010.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1245

Annual Dockage Lease Agreement and Sightseeing and Charter Operations – Harbor Tours, Inc. – North Side of New River Riverwalk

(M-26)

\$37,595.04 is for receipt of revenues only in FY 09-10, General Fund 001, Subfund 01, BUS020103-K184, Commercial Yacht Fees. No expenditures impacted.

A motion authorizing: (1) proper City Officials to execute dockage lease agreement with Harbor Tours, Inc. for dockage on north side of New River Riverwalk – Fiscal Year 2009-2010; and (2) day and evening sightseeing and private charter operations.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1248

Annual Dockage Lease Agreement and Sightseeing Charter Operations – Carfi Enterprises, Inc. – South Side of New River Riverwalk

(M-27)

\$65,248.20 is for receipt of revenues only in FY 09-10, General Fund 001, Subfund 01, BUS020103-K184, Commercial Yacht Fees. No expenditures impacted.

A motion authorizing: (1) proper City Officials to execute dockage lease agreement with Carfi Enterprises, Inc. for dockage on south side of New River Riverwalk – Fiscal Year 2009-2010; and (2) day and evening sightseeing and private charter operations.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1252

Annual Dockage Lease Agreement and Sightseeing and Charter Operations – Sightseeing Cruises, Inc. – Northeast Side of SE 3 Avenue Bridge

(M-28)

\$24,374.76 is for receipt of revenue only in FY 09-10, General Fund 001, Subfund 01, BUS020103-K184, Commercial Yacht Fees. No expenditures impacted.

A motion authorizing: (1) proper City Officials to execute dockage lease agreement with Sightseeing Cruises, Inc. for dockage on northeast side of SE 3 Avenue bridge along New River Riverwalk – Fiscal Year 2009-2010; and (2) day and evening sightseeing and charter operations.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1256

**Facility Use Agreement With Calvary Chapel Church, Inc.
Temporary Use of Old Fire Station 88 – Executive Airport**

(M-29)

No budgetary impact.

A motion authorizing the proper City Officials to execute a Facility Use Agreement with Calvary Chapel Church, Inc. for use of Old Fire Station 88 at the Executive Airport – September 15, 2009 to December 31, 2009.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-0799

CONSENT RESOLUTION

Naming of Park At 1611 SW 9 Avenue – Gore Betz Park

(CR-01)

No budgetary impact.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1001

RESOLUTION NO. 09-217

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING THAT "RIVER OAKS PARK" BE RENAMED AS "GORE BETZ PARK."

**Grant Acceptance – After School Archery Program - \$500
National Recreation and Park Association**

(CR-02)

Appropriate \$500 of grant funds to Fund 129, Subfund 01, GARCH09-N968, revenue and expenditure in 3934 recreation equipment & supplies, no matching funds required.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1254

RESOLUTION NO. 09-218

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING ACCEPTANCE OF GRANT FUNDS IN THE AMOUNT OF \$500.00 FROM THE NATIONAL RECREATION AND PARK ASSOCIATION (NRPA) FOR THE AFTER SCHOOL

ARCHERY PROGRAM AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL NECESSARY DOCUMENTS TO RECEIVE SUCH GRANT FUNDS AND AMENDING THE FINAL OPERATING BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008 AND ENDING SEPTEMBER 30, 2009 BY ACCEPTING AND APPROPRIATING SUCH GRANT FUNDS TO FUND 129.

Grant Acceptance – Shade Trees At Joseph C. Carter Park - (CR-03)
\$2,500 – Florida Department of Agriculture and Consumer Services

Appropriate \$2,500 for trees to GPLANT09-C593 Fund 129, Fund Type 10, Subfund 01, revenue and expenditures \$2,500 to GPLANT09-3913 Horticultural Supplies, Fund 129, Fund Type 10, Subfund 01.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1278

RESOLUTION NO. 09-219

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING ACCEPTANCE OF GRANT FUNDS IN THE AMOUNT OF \$2,500 FROM THE FLORIDA URBAN AND COMMUNITY FORESTRY GRANT PROGRAM FOR THE JOSEPH C. CARTER PARK SPORTS FIELD SHADE TREE INSTALLATION AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL NECESSARY DOCUMENTS TO RECEIVE SUCH GRANT FUNDS AND AMENDING THE FINAL OPERATING BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008, AND ENDING SEPTEMBER 30, 2009, BY ACCEPTING AND APPROPRIATING SUCH GRANT FUNDS TO FUND 129.

Amend Operating Budget – Appropriation and Transfer - (CR-04)
\$100,000 – Playground Replacements – Floyd Hull Stadium
And Melrose Park

Appropriate \$50,000 from PKR033001-3999, Fund 001, Subfund 01 to P11559.331-6599 Construction, Fund Type 30, Fund 331, Subfund 01. Appropriate \$20,000 from PKR 033001-3999, Fund 001, Subfund 01 and appropriate \$30,000 from PKR033001-6599, Fund 001, Subfund 01 to P11558.331-6599 Construction, Fund Type 30, Fund 331, Subfund 01.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1124

RESOLUTION NO. 09-220

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE TRANSFER AND APPROPRIATION OF \$100,000 FOR THE REPLACEMENT OF TWO PLAYGROUNDS, ONE AT FLOYD HULL STADIUM AND ONE AT MELROSE PARK, AND AUTHORIZING THE PROPER CITY OFFICIALS TO AMEND THE FINAL OPERATING BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008 AND ENDING SEPTEMBER 30, 2009 BY TRANSFERRING AND APPROPRIATING SUCH FUNDS TO FUND 001.

Amend Operating Budget – Appropriation - \$172,998 (CR-05)
Police Bomb Squad Robot

Appropriate \$172,998 from FD107, Fund 107, Subfund 01 (undesignated fund balance) to POL080101, Fund 107, Subfund 01, Subobject 6499.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1258

RESOLUTION NO. 09-221

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO AMEND THE FINAL OPERATING BUDGET OF THE CITY OF FORT LAUDERDALE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008 AND ENDING SEPTEMBER 30, 2009 BY APPROPRIATING FUNDS IN THE AMOUNT OF \$172,998.00 FROM THE DEA CONFISCATED PROPERTY TRUST FUND TO PURCHASE A POLICE BOMB SQUAD ROBOT.

Community Bus Services – Interlocal Agreement - (CR-06)
Broward County

Appropriate \$188,962.80 to Fund 129, GSHUTTLE 10, Subobject 3299 (TMA Bus Routes FY 10) and \$69,120 to Fund 129, GURC, Subobject 3299 (URC BUS FY 10).

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1258

RESOLUTION NO. 09-222

A RESOLUTION OF THE CITY COMMISSION OF THE CITY

OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO AMEND THE FINAL OPERATING BUDGET OF THE CITY OF FORT LAUDERDALE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2008, AND ENDING SEPTEMBER 30, 2009, BY APPROPRIATING FUNDS IN THE AMOUNT OF \$258,082.80 AND APPROVING AN AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY FOR COMMUNITY BUS SERVICES.

City Clerk – Compensation

(CR-07)

CLK010101-3210 Clerical Services.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1303

RESOLUTION NO.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING FOR AN INCREASE IN THE COMPENSATION PAID TO CITY CLERK.

PURCHASING AGENDA

695-10262 – Pay By Phone Parking Payment System

(PUR-01)

No budgetary impact.

Three-year contract to provide pay-by-phone metered parking payment services is being presented for approval by the Parking and Fleet Services Department.

Recommend: Motion to approve.

Vendor: Verrus Mobile Technology, Inc.
Vancouver, BC Canada

Bids Solicited/Rec'd: 899/6

Exhibit: Commission Agenda Report 09-1110

The Procurement Services Department has reviewed this item and recommends awarding to the first-ranked proposer.

Vehicle Replacements

(PUR-02)

\$60,309 is budgeted in Fund 583, Subfund 01, PAR030101, 6416.

Purchase two vehicle replacements identified in 2008-2009 Fleet Plan and approved in 2008-2009 Fleet Services Capital Budget is being presented for approval by the Parking and Fleet Services Department.

Recommend: Motion to approve.

Vendor: Maroone Ford, LLC
Ft. Lauderdale, FL
Wesco Turf, Inc.
Lake Mary, FL

Amount: \$60,309.00

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1159

The Procurement Services Department has reviewed this item and recommends award from the State of Florida Contract and Bid Award 592-10321.

Vehicle Replacements – Bids 592-10293 and 592-10301 (PUR-03)

\$133,847.70 is budgeted in Fund 583, Subfund 01, PAR030101, 6416.

Purchase two vehicle replacements identified in 2008-2009 Fleet Plan and approved in 2008-2009 Fleet Services Capital Budget is being presented for approval by the Parking and Fleet Services Department.

Recommend: Motion to approve.

Vendor: Various (see attached)

Amount: \$133,847.70

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1257

The Procurement Services Department has reviewed this item and recommends award to the low responsive responsible bidders.

Vehicle Replacement – Bid 592-10344 (PUR-04)

\$97,711 is budgeted in Fund 583, Subfund 01, PAR030101, 6416.

Purchase one vehicle replacement identified in 2008-2009 Fleet Plan and approved in 2008-2009 Fleet Services Capital Budget is being presented for approval by the Parking and Fleet Services Department.

Recommend: Motion to approve.

Vendor: Orlando Freightliner, Inc.
Apopka, FL

Amount: \$97,711.00

Bids Solicited/Rec'd: 361/9

Exhibit: Commission Agenda Report 09-1266

The Procurement Services Department has reviewed this item and recommends award to the low responsive and responsible bidder.

Two Vehicle Replacements – Bid 592-10345

(PUR-05)

\$317,689.84 is budgeted in Fund 583, Subfund 01, PAR030101, 6416.

Purchase one vehicle replacement identified in 2007-2008 Fleet Plan and one vehicle replacement identified in 2008-2009 Fleet Plan and approved in 2008-2009 Fleet Services Capital Budget for a total of two vehicle replacements is being presented for approval by the Parking and Fleet Services Department.

Recommend: Motion to approve.
Vendor: Rechten International Trucks, Inc.
Miami, FL
Amount: \$317,689.84
Bids Solicited/Rec'd: 458/4
Exhibit: Commission Agenda Report 09-1267

The Procurement Services Department has reviewed this item and recommends award to the responsive and responsible low bidder.

Vehicle Replacement – Bid 592-10342

(PUR-06)

\$69,759 is budgeted in Fund 583, Subfund 01, PAR030101, 6416.

Purchase one vehicle replacement identified in 2008-2009 Fleet Plan is being presented for approval by the Parking and Fleet Services Department.

Recommend: Motion to approve.
Vendor: Orlando Freightliner, Inc.
Apopka, FL
Amount: \$69,759.00
Bids Solicited/Rec'd: 285/7
Exhibit: Commission Agenda Report 09-1263

The Procurement Services Department has reviewed this item and recommends award to the low responsive and responsible bidder.

Laboratory Testing Services

(PUR-07)

\$55,000 is budgeted in FY 2009-2010 – PBS670601, Fund 450, Subfund 01, Subobject 3199 (contingent upon adoption and appropriation of the FY 09/10 budget).

One-year contract for laboratory testing services is being presented for approval by the Public Works Department.

Recommend: Motion to approve.

Vendor: Genapure Analytical Services, Inc.
Boca Raton, FL

Amount: Per Unit Prices

Bids Solicited/Rec'd: 632/4

Exhibit: Commission Agenda Report 09-1166

The Procurement Services Department has reviewed this item and recommends awarding to the low responsive and responsible bidder.

Change Order 1 – Door Systems of South Florida, Inc. - (PUR-08)
\$15,947.25 – Fire Stations 3, 29, 47, 49 and 54

Redistribute total \$15,947.25 from P10911.336-6599 allocating \$5,315.75 to each of the following accounts: (1) P10905.336-6599; (2) P10916.336-6599; and (3) P10912.336-6599. Also Change Order previously encumbered \$14,590.50 from P10914.336-6599 allocating \$4,863.50 to each of the following accounts: (1) P10905.336-6599; (2) P10916.336-6599; and (3) P10912.336-6599. All in Fund 336, Subfund 01.

A motion authorizing the proper City Officials to execute Change Order 1 to PPO-07008437 with Door Systems of South Florida, Inc., in the amount of \$15,947.25 – Fire Stations 3, 29, 49 – Projects 10905, 10912 and 10916, respectively, and redistribute Fire Station 54 (Project 10914) funds previously encumbered.

Recommend: Motion to approve.

Vendor: Door Systems of South Florida, Inc.
Pompano Beach, FL

Amount: \$15,947.25

Exhibit: Commission Agenda Report 09-1264

The Procurement Services Department has reviewed this item and recommends approving the change order.

482-10007 – Security Guard Services - (PUR-09)
Contract Amendment

No budgetary impact.

Amendment to contract for security services at Public Works is being presented for approval by the Procurement Services Department.

Recommend: Motion to approve.

Vendor: Kent Security Services, Inc..
North Miami Beach, FL
Bids Solicited/Rec'd: N/A
Exhibit: Commission Agenda Report 09-1212

The Procurement Services Department has reviewed this item and recommends amendment to the contract for a reduction in cost.

City Clerk – Compensation

(CR-07)

Mayor Seiler announced that this item has been removed from tonight's agenda.

The following items were removed from the Consent Agenda as recommended:

Motion made by Commissioner Rogers and seconded by Vice Mayor Roberts that Consent Agenda Items M-11, CR-05 CR-06, PUR-02, PUR-03, PUR-04, PUR-05, and PUR-06 be deleted from the Consent Agenda and considered separately, and that all remaining Consent agenda items be approved as recommended. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

Contract Award – Electrical Contracting Service, Inc. - \$113,647

(M-11)

George English Park Baseball Field Lighting and Related Electrical

Betsy Dow, a resident of Middle River Terrace, indicated that she had confirmed with the Parks and Recreation Director that for the benefit of residents who border on the north, that the field lights could be turned off at 9 p.m. with use of a timer for the benefit of residents. There could be a potential parking crunch if Bayview School and the baseball and soccer leagues all have events at the same time. She suggested use of parking lots at George English Park, the school and the boat ramp.

Motion made by Commissioner Rogers and seconded by Vice Mayor Roberts to approve the item as presented. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

Amend Operating Budget – Appropriation - \$172,998

(CR-05)

Police Bomb Squad Robot

In response to Commissioner Rodstrom, Mayor Seiler indicated the City already has a truck and trailer for transport of the robot.

In response to Commissioner Rodstrom, Police Chief Frank Adderley, advised that Broward County has two such robots. Commissioner Rodstrom was concerned about duplicating services. She preferred considering other uses for these funds. Chief Adderley explained the impact of not having this equipment with respect to loss of certification by the FBI. This would be a replacement robot. Currently, the City has a robot on loan from the City of Miami.

Vice Mayor Roberts emphasized it is imperative to have this equipment in order for the department to maintain their standing with Homeland Security. Funding is from the Law Enforcement Trust Fund with a current balance of about \$3.4 million. He noted the source and statutory requirements on use of the funds. He noted other items funded by this fund. The robot is also used for SWAT scenarios. Chief Adderley noted statistics on calls where the robot is used. Vice Mayor Roberts pointed out that the equipment will last for years.

Commissioner Rogers felt use of the trust funds should come to the Commission for prioritizing.

Commissioner Rodstrom pointed out that Broward County would respond and therefore Fort Lauderdale citizens would be protected. She wanted to make sure there is clear direction to the City Manager to place the topic of use of Law Enforcement Trust funds on a conference agenda.

Mayor Seiler agreed there should not be duplication of services, but he did not favor the City having to borrow equipment for disaster preparedness day. He felt it is a good use of these funds, however he also supported Commissioner Rogers' suggestion to prioritize uses of the Law Enforcement Trust Fund with the caveat that the Police Chief provide a recommendation.

Motion made by Vice Mayor Roberts and seconded by Commissioner DuBose to approve the item as presented. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: Commissioner Rodstrom.

**Community Bus Services – Interlocal Agreement -
Broward County**

(CR-06)

In response to Commissioner Rodstrom, Albert Carbon, Public Works Director, explained the City's resolution would be sent to the County which will result in return of the interlocal agreement. He elaborated upon funding the City will receive from the County. In October, the City will decide which services to provide and vote on the routes and funding at a future meeting. He further explained how adjustments will then be made in the funding. Local option gas tax funds may be used for this purpose. This action does not bind the City to come up with additional funding at a future point.

Motion made by Commissioner Rogers and seconded by Vice Mayor Roberts to approve the item as presented. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: Commissioner Rodstrom.

Vehicle Replacements

(PUR-02)

Marc Dickerman, 1417 SW 2nd Street, thanked the City for using a Fort Lauderdale dealership.

This item was removed from the consent agenda by Commissioner Rodstrom. Staff responded as follows to questions raised by Commissioners Rogers and Rodstrom. Concerning the 2001 Chevrolet 3500 Cart Repair Truck, Diana Alarcon, Director of Parking and Fleet Services, discussed the dramatic increase in operating and maintenance cost as well as down time. Albert Carbon, Public Works Director, explained the vehicle's function. Ms. Alarcon explained if the vehicle breaks down there is no way to provide service. Staff believes the peak point has been reached.

Commissioner Rodstrom agreed with Commissioner Rogers that it is less expensive to pay the maintenance than purchase another vehicle. She wanted to defer purchase where possible.

Vice Mayor Roberts pointed out the down time and impact on operations. He noted the reductions in vehicles to be purchased that have been made and that further reductions have been made. Ms. Alarcon elaborated upon the reductions and other cost saving measures made. Vice Mayor Roberts commented about the elimination of positions forced consolidation of some operational efforts and the need for equipment in order to get things done. It is not strictly a matter of maintenance costs.

Commissioner DuBose agreed with Vice Mayor Roberts. He appreciated staff's due diligence.

Mayor Seiler thanked staff including the City Auditor for all their hard work and effort. He believed the vehicle needs to be purchased. He also was concerned about downtime.

Motion made by Commissioner DuBose and seconded by Vice Mayor Roberts to approve the item as presented. Roll call showed: YEAS: Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: Commissioners Rogers and Rodstrom.

Vehicle Replacements – Bids 592-10203 and 592-10301

(PUR-03)

This item was removed from the consent agenda by Commissioner Rodstrom. Staff responded as follows to multiple questions raised by the Commission and particularly concerns of Commissioners Rogers and Rodstrom.

Diana Alarcon, Director of Parking and Fleet Services, advised that about 80% of Fleet Plan monies come from the General Fund. She explained that the low bidder was not awarded for the Cab & Chassis with Crane Utility Body & Crane BID #592-10301 because the low bidder did not meet specifications as detailed in the bid evaluation provided to the Commission. Mayor Seiler pointed out that the 2003 GMC Cab Forward Utility Body with Boom Crane vehicle would be charged to the Enterprise Fund and not the General Fund. Ms. Alarcon noted the escalating maintenance and down-time costs for the 2003 GMC Cab Forward Utility Body with Boom Crane vehicle. Both Ms. Alarcon and Phil Thornburg indicated factors to decide upon replacement of this vehicle (2000 Ford F-250 Pickup Truck with Dump Body) are borderline, however, Mr. Thornburg explained in order for employees to work smarter a larger vehicle is needed. It was also pointed out that there have been staff reductions and scope of work has expanded; crews are doing more with the vehicle. The vehicle could be kept another year, but the work will not be as efficient and the diesel engines will change that will result in an

additional \$8,500 for replacement next year. Ms. Alarcon said that all vehicles being replaced are examined for another use and if that is not the case, they are auctioned.

Commissioner Rogers did not support the 2000 Ford F-250 Pickup Truck with Dump Body. He wanted to separate it out from the vote.

Commissioner DuBose was comfortable with the item as presented. Vice Mayor Roberts agreed with Commissioner DuBose. He noted the fleet reductions already made, reductions in personnel and reorganizing that is occurring.

Phil Thornburg, Parks and Recreation Director, explained this item is borderline, but to work smarter a larger vehicle would work better. Due to reduction in staff, crews are doing more work with the vehicle. If they wait to replace the vehicle, it would cost approximately an additional \$8,500 due to a change with respect to diesel engines.

Motion made by Commissioner Rogers and seconded by Commissioner Rodstrom to approve the 2003 GMC Cab Forward Utility Body with Boom Crane to be replaced by the vehicle from Rechten International, as presented. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

The other vehicle was not approved.

Vehicle Replacement – Bid 592-10344

(PUR-04)

In response to Commissioner Rodstrom, Diana Alarcon, Director of Parking and Fleet Services, stated this is a General Fund vehicle. Commissioner Rodstrom was not supportive.

Ms. Alarcon provided an overview of the facts surrounding this item and efficiencies and staff reduction achieved. In response to Commissioners Rogers and Rodstrom, Phil Thornburg, Director of Parks and Recreation, elaborated upon the staff reduction and how a different approach to the work with this equipment will allow the work to get done with fewer employees. The vehicle will be used daily.

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

Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: Commissioner Rodstrom.

Two Vehicle Replacements – Bid 592-10345

(PUR-05)

This item was removed from the consent agenda by Commissioner Rodstrom. Staff responded as follows to multiple questions and concerns of Commissioners Rogers and Rodstrom.

Diana Alarcon, Director of Parking and Fleet Services, advised these vehicles will be charged to the Enterprise Fund. Albert Carbon, Public Works Director, indicated that

parts for the Boom Cranes of the 2001 Freightliner vehicle cannot be obtained. These vehicles are used to maintain the wellfields which are critical to provision of water. Ms. Alarcon noted that down-time on one of the vehicles is significant; the other vehicle is at a breaking point. There was concern that it would follow the same pattern and become significant as well. Plus the Boom Cranes are obsolete, so parts have to be manufactured when needed which increases down-time. Mr. Carbon confirmed that this cost is factored into the water and sewer rate structure.

The City Auditor explained because there were significant concerns from an operational standpoint, he suggested that in the future the actual number of down-time days is provided to the Commission.

Mr. Carbon elaborated upon what the crews do when there is down-time. He went on to discuss the implications of wells being down throughout the year and how long before they are put back into operation. If necessary vehicles could be leased at a greater expense. Generally speaking something would be figured out to make the system work.

Motion made by Vice Mayor Roberts and seconded by Commissioner DuBose to approve the item as presented. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: Commissioner Rodstrom.

Vehicle Replacement – Bid 592-10342

(PUR-06)

This item was removed from the consent agenda by Commissioner Rodstrom. Staff responded as follows to multiple questions and concerns of Commissioners Rogers and Rodstrom. Diana Alarcon, Director of Parking and Fleet Services, responded under PUR-05, that this item will be charged to the General Fund.

In response to Mayor Seiler, Diana Alarcon, Director of Parking and Fleet Services, noted that in the last couple meetings three vehicle replacements have been foregone amounting to some \$440,000 from either the Enterprise or General Fund. Mayor Seiler was concerned about down-time and impact on provision of utility services and employees being able to work. Some vehicle replacement is necessary. He also mentioned some of the vehicles are intended to be used during hurricane recovery. He was concerned about complete dependence on private sector. He felt the City has reached a middle ground on vehicle replacements. Commissioner Rodstrom recognized the progress staff has made in deferring items. However, every penny saved can be used for something else that may be needed more.

Ms. Alarcon clarified that a new truck is not being recommended because there is a new chipper. Phil Thornburg, Parks and Recreation Director, explained the purpose this vehicle serves; it is used daily and has reached life expectancy based on maintenance data. Also, if they wait to replace the vehicle, it would cost approximately an additional \$9,000 due to a change in restrictions on diesel engines. Ms. Alarcon indicated that this vehicle is in very poor condition, therefore maintenance and down-time are expected to increase. In 2010, standards for diesel will change completely; the average cost will be approximately an additional \$8,500-\$9,000 per vehicle. The reason for diesel is the chassis has more horsepower and torque.

Motion made by Commissioner DuBose and seconded by Vice Mayor Roberts to approve the item as presented. Roll call showed: YEAS: Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: Commissioners Rogers and Rodstrom.

MOTIONS

Proprietary – Purchase of Police Bomb Squad Robot

(MD-01)

\$172,998 will be available in Fund 107, Subfund 01, POL080101, Subobject 6499 after approval of CAR 09-1280.

Purchase police bomb squad robot is being presented for approval by the Police Department.

Recommend: Motion to approve.

Vendor: Remotec, Inc.
Oak Ridge, TN (Moving to Clinton, TN)

Amount: \$172,998.00

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1281

The Procurement Services Department has reviewed this item.

Motion made by Commissioner DuBose and seconded by Vice Mayor Roberts to approve the item as presented. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: Commissioner Rodstrom.

Proprietary – Public Safety Computer System Annual Maintenance Renewal

(MD-02)

\$15,442.77 will be available in Fund 001, Subfund 01, POL020602, 3401 FY 09/10, Funding is subject to appropriation of funds in the FY 2009/2010 budget.

Renewal of one-year maintenance service contract for public safety computer system.

Recommend: Motion to approve.

Vendor: Insight Public Sector, Inc.
Tempe, AZ

Amount: \$15,422.77

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1200

The Procurement Services Department and the Police Department recommend approving the renewal of this annual public safety proprietary maintenance contract.

Motion made by Commissioner Rogers and seconded by Commissioner DuBose to approve the item as presented. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

Proprietary – Police Training

(MD-03)

\$139,750.00 will be available for FY 09/10 in Fund 01, Subfund 001, POL020211, Subobject 4116, subject to FY 09/10 appropriation of the budget.

Police 2009-2010 recruit training and mandatory retraining classes are being presented for approval by the Police Department.

Recommend: Motion to approve.

Vendor: The District Board of Trustees of Broward College,
Florida
Fort Lauderdale, FL

Amount: \$139,750.00 (estimated)

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1199

The Procurement Services Department has reviewed this item and recommends issuing a purchase order to The District Board of Trustees of Broward College, Florida.

Motion made by Vice Mayor Roberts and seconded by Commissioner Rodstrom to approve the item as presented. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

RESOLUTIONS

Appeal – Historic Preservation Board – Case 9-H-05

(R-01)

Demolition – 215 SW 7 Avenue – Sailboat Bend Historic District

No budgetary impact.

Applicant: CVM 1 REO LLC

Location: 215 SW 7 Avenue

Zoning: Downtown Regional Activity Center – Arts and Sciences RAC-AS

ALL INDIVIDUALS WISHING TO SPEAK ON THIS MATTER WERE SWORN IN.

Each member of the Commission announced with whom he or she had spoken with and, or site visits made.

Commissioner Rogers did not believe the Commission had voted on there being a departure from the central requirements of law; that vote would need to occur. The City Attorney indicated that is correct a finding has not been made, therefore that paragraph of the resolution is not correct. It could be deleted. In the totality of events, the Commission would determine whether there has been a departure from the law. He had provided a memorandum to the Commission, indicating that there are more considerations in this instance than provided in the historic preservation ordinance, that being the Unsafe Structures Board. Commissioner Rogers noted the owner applied for a demolition permit which required appearance before the Historic Preservation Board and that board ruled it was not appropriate and that is what was appealed. The Commission must now determine whether that was within their rights to do this. If it was not within their rights, the matter is over. If there was a departure from the law, then a public hearing would be held and a determination made. The City Attorney confirmed that is correct, except that concerning the Unsafe Structures Board and the fact that unsafe structures is a public safety issue. Commissioner Rogers thought that could be raised during the public hearing, but procedurally the Unsafe Structures Board ruling is not before the Commission. The City Attorney stated the record reflects that the Unsafe Structures Board has ordered the building to be demolished and because it is contained in the record, the Commission can consider that. The Commission is considering what occurred at the public hearing in the venue below, that being the Historic Preservation Board. Commissioner Rogers believed the appeal comes to the Commission who then decides if they followed the law. If the determination is that they did not follow the law, the Commission is obligated to set a public hearing. The City Attorney explained there is a requirement to consider all laws, not just relating to historic preservation. The Unsafe Structures Board, state statute, county and city code provides for the Unsafe Structures Board to demolish unsafe structures. This is in the record and can be considered by the Commission. Commissioner Rogers agreed, but explained his question is when that is considered. He did not think it is considered until after a vote on whether the Historic Preservation Board ruled correctly. The City Attorney indicated it would be based upon the information presented at that hearing; the unsafe structure issue was presented at that hearing. Commissioner Rogers explained he believes there needs to be two votes. Commissioner Rogers believed it is a two-step process because the owner applied for a demolition permit. The Commission must first consider whether the Historic Preservation Board ruled correctly. The City Attorney did not disagree that it is a two-step process, however, he believed the Commission could consider the fact that the Historic Preservation Board did not consider the public safety issue when they denied the application. Commissioner Rogers did not believe evidence was presented to the Historic Preservation Board that there was an unsafe structure ruling

Carrie Sarver, Assistant City Attorney and attorney to the Historic Preservation Board, clarified that she advised the board that they could not take the Unsafe Structures Board ruling into consideration, but rather only use the criteria outlined in the code to make their determination.

In response to Mayor Seiler, the City Attorney believed the Commission is in the proper posture because it is the Commission's charge to balance the public interest between the two boards which it has created.

Commissioner Rogers felt the Commission should first determine if the Historic Preservation Board followed their ordinance in terms of their ruling. If the ordinance was followed, the matter is over; otherwise a public hearing can be set to consider all of the

evidence including the Unsafe Structures Board ruling. The City Attorney elaborated on what occurred and that he had concluded that the Commission would balance the two interests. The ordinance is unclear. Commissioner Rogers pointed out it came to the board from the owner who wanted to demolish and not the City, indicating it was unsafe. The two are different. Under this scenario, the City Attorney did not think the Commission could consider both issues. There is no forum for the Commission to address it. Commissioner Rogers disagreed. He believed the board did follow the law. They determined against the demolition because the property, under the criteria, had a contributing factor. Unless proven otherwise, it cannot be demolished. It can reach a point of demolition by neglect where a property is ignored until it reaches such a condition that it no longer has a historic benefit. There is no ordinance that addresses this. Ms. Sarver commented on the uniqueness of this matter. The City Attorney's Office did not want to make this decision on behalf of the Commission.

Mayor Seiler felt an ordinance needs to be written to resolve these conflicts.

Motion made by Commissioner Rogers and seconded by Commissioner Rodstrom upholding the Historic Preservation Board's ruling as they proved the criteria set forth in Section 47-24.11 and there was no substantial evidence disputing it.

Commissioner Rogers reiterated his understanding of the procedure according to the resolution before the Commission. In response to Mayor Seiler, the City Attorney believed the procedure would have been the opposite if this matter was first brought to the Commission by the Unsafe Structures Board. Further dialogue followed of other scenarios.

Ms. Sarver clarified that she wrote the resolution. She was under the impression that a de novo hearing was held on July 21, 2009. As such, the Commission made a determination that there was either a departure from law or competent evidence existed regarding the issue. Mayor Seiler clarified it was deferred and referred to Commissioner Rogers.

In response to Vice Mayor Roberts, Commissioner Rogers indicated that procedurally if the Commission upheld the Historic Preservation Board's ruling, the City would then go to that board and apply for the demolition permit. The City Attorney did not think it matters who is the applicant; the Historic Preservation Board has the same rules and regulations. From testimony, the board knew the applicant had an Unsafe Structures Board ruling to demolish; they were told they could not consider it. Even if the City was the applicant, it is not their charge to make that consideration, it is the Commission's obligation. Under Commissioner Rogers' scenario, no matter what the Unsafe Structures Board says, if you go to the Historic Preservation Board, you lose. Commissioner Rogers continued to contend that it is a two-step process and that the Commission must determine if there has been a departure from the essential requirements of the law. The City Attorney believed the Commission is the only body that can balance those interests and apply the law that should be applied. Commissioner Rogers did not disagree in theory. He pointed to the resolution that sets forth two steps. The City Attorney explained that is because the Commission had already started taking testimony at the last hearing. Normally, the Commission would not have taken testimony, but simply make the determination based on the record. Commissioner Rogers believed he had followed a procedure contained in a memorandum from the City Attorney's Office (not provided in this meeting's backup).

The City Attorney reiterated his advice and explained that such a matter has not come about before.

Vice Mayor Roberts was concerned about not being able to consider state statute and the unsafe structures and Florida Building Code aspect. Therefore, he could not support the motion.

Commissioner DuBose agreed with Vice Mayor Roberts. He was concerned about safety.

Mayor Seiler wanted to address the matter on its merits, but did not think the Commission is in the correct posture to do so. Also, he wanted the ordinance amended to prevent this from occurring again. The City Attorney noted that this has never happened before. He reiterated the issues at hand.

Mayor Seiler pointed out that the owner is not present; he did not think the owner understood.

Commissioner Rogers agreed with counsel of the Assistant City Attorney. The owner could have come forward at that time and requested demolition. Mayor Seiler pointed out that there was already a demolition order; he did not think the owner would think any further case needed to be made. Commissioner Rogers wanted to follow the ordinance, even though he recognized the conflict.

Mayor Seiler wanted to raise questions to the owner concerning demolition by neglect. In response to Mayor Seiler, the City Attorney noted at the last hearing the owner's representative was present. He went on to point out that the current owner did not take the house off its foundation. Mayor Seiler felt the current owner could address the issue of demolition by neglect. He wanted to know if there was a notice other than the deferral. Commissioner Rogers indicated he informed the owner of this hearing.

Roll call showed: YEAS: Commissioners Rogers and Rodstrom. NAYS: Vice Mayor Roberts, Commissioner DuBose and Mayor Seiler.

Motion made by Commissioner Rogers and seconded by Commissioner Rodstrom to schedule the de novo hearing on this matter for October 20, 2009. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose and Mayor Seiler. NAYS: None.

At Mayor Seiler's request, Ms. Sarver agreed to followup on notice to the owner.

In response to Commissioner Rodstrom, the City Attorney assured staff would start work on an amendatory ordinance.

**Dock Permit Application – James L. and Susan L. Greene -
1410 SE 11 Street**

(R-02)

No budgetary impact.

Applicant: James L. and Susan L. Greene

Location: 1410 SE 11 Street

Commissioner DuBose introduced the following resolution:

RESOLUTION NO. 09-214

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING, PURSUANT TO SECTION 8-144 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, THE USE AND MAINTENANCE OF AN EXISTING DOCK AND ADJOINING SEAWALL ON PUBLIC PROPERTY BY JAMES L. GREENE AND SUSAN L. GREENE; SAID DOCK AND SEAWALL LOCATED ON PUBLIC PROPERTY ABUTTING THE RIO CORDOVA WATERWAY ADJACENT TO 1117 CORDOVA ROAD, THE LEGAL DESCRIPTION OF WHICH IS MORE PARTICULARLY DESCRIBED BELOW, UNDER CERTAIN TERMS AND CONDITIONS.

Which resolution was read by title only. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

Board and Committee Appointments

(R-03)

No budgetary impact.

The City Clerk announced the appointees/reappointees who were the subjects of this resolution: Mayor Seiler asked that Bunney Brenneman be reappointed to the Aviation Advisory Board.

Affordable Housing Advisory Committee	Tam English
Aviation Advisory Board	Bunney Brenneman
Budget Advisory Board	Ray Williams
Community Appearance Board	Victor Yue
Complete Count Committee	Bobby Henry
Parks, Recreation & Beaches	Marilyn Markus Bruce A. Quailey Betty Shelley Ed Angelbello Curtiss Berry Mark McCormick

Vice Mayor Roberts introduced a written resolution entitled:

RESOLUTION NO. 09-215

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPOINTING BOARD MEMBERS AS SET FORTH IN THE EXHIBIT ATTACHED HERETO AND MADE A PART HEREOF.

Which resolution was read by title only. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

PUBLIC HEARINGS

**Central Wastewater Region Large User Rate -
Fiscal Year 2009-2010**

(PH-03)

No budgetary impact.

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

Commissioner Rogers introduced the following resolution:

RESOLUTION NO. 09-216

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO SET A RATE OF \$1.28 PER 1,000 GALLONS, DURING FISCAL YEAR 2009/2010, FOR ALL LARGE USER WASTEWATER CUSTOMERS OF THE CENTRAL WASTEWATER REGION, AND AN EFFECTIVE DATE.

Which resolution was read by title only. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: Commissioner Rodstrom.

**Relief From Zoning Requirements For Public Purpose Use –
Case 42-R-09 – Air Conditioning Unit Location & Height –
Lohmeyer Wastewater Treatment Plant**

(PH-04)

No budgetary impacts.

Applicant: City of Fort Lauderdale

**Location: Lohmeyer Wastewater Treatment Plant –
1765 SE 18 Street**

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

Commissioner Rogers introduced the following ordinance on FIRST reading.

ORDINANCE NO. C-09-24

AN ORDINANCE APPROVING THE RELOCATION OF AN EXISTING AIR CONDITIONING UNIT T THE GEORGE T. LOHMEYER REGIONAL WASTEWATER TREATMENT PLANT THAT DOES NOT MEET THE YARD, HEIGHT AND SIZE REQUIREMENTS FOR MECHANICAL EQUIPMENT IN A "U" ZONING DISTRICT AS PROVIDED IN THE UNIFIED LAND DEVELOPMENT REGULATIONS ("ULDR"), WHICH SITE IS MORE FULLY DESCRIBED AS A PORTION OF THE SOUTHEAST QUARTER AND A PORTION OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 42 SOUTH, RANGE 42 EAST, KNOWN AS THE "GEORGE T. LOHMEYER REGIONAL WASTEWATER TREATMENT PLANT" LOCATED AT PORT EVERGLADES, WEST OF EISENHOWER BOULEVARD, NORTH OF SPANGLER BOULEVARD AND SOUTH OF SOUTHEAST 17TH STREET AS A PUBLIC PURPOSE USE; AND GRANTING RELIEF FROM THE ULDR REQUIREMENTS PURSUANT TO SECTION 47-18.26 OF THE ULDR OF THE CITY OF FORT LAUDERDALE, FLORIDA.

Which ordinance was read by title only. Roll call showed: YEAS Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

**Vacate Portion of Alley – 1251 North Federal Highway
TSC Lake Ridge, LLC – Case 5-P-09**

(PH-05)

No Budgetary Impacts.

**Applicant: TSC Lake Ridge, LLC
Zoning: Boulevard Business B-1
Location: 1251 North Federal Highway**

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

Vice Mayor Roberts introduced the following ordinance on FIRST reading:

ORDINANCE NO. C-09-25

AN ORDINANCE VACATING, ABANDONING AND CLOSING THAT PORTION OF THE 15 FOOT ALLEY IN BLOCK 2, "LAKE RIDGE ADDITION," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 34, PAGE 14, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LYING NORTH OF THE SOUTH LINES OF LOTS 7 AND 7B OF SAID BLOCK 2, LOCATED SOUTH OF NORTHEAST 13TH STREET WEST OF FEDERAL HIGHWAY, SUCH LAND BEING LOCATED IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

Which ordinance was read by title only.

In response to Mayor Seiler, Greg Brewton, Director of Planning and Zoning, noted the Applicant has agreed to the two conditions added to this request, having to do with ingress/egress to 13 Street being maintained at all times and the landscape buffer along the western portion of the site remain or be replaced with similar material.

Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None. The two items noted above were conditions of approval.

Dock Waiver Application – Distance Limitations
Timothy Ingham and Julie Pabst – 1224 Seminole Drive

(PH-06)

No budgetary impact.

Applicant: Timothy Ingham and Julie Pabst
Location: 1224 Seminole Drive

Motion made by Commissioner Rogers and seconded by Commissioner DuBose to defer this item to October 20, 2009. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

ORDINANCES

Rezoning To Community Facility House of Worship
And School – 620 SE 9 Street – Case 8-Z-09

(O-01)

No budgetary impacts.

Applicant: Evangelical Foundation for Christian Service, Inc.
Location: 620 SE 9 Street

Current Zoning: Residential Single Family/Low Medium Density RS-8
Proposed Zoning: Community Facility-House of Worship and School CF-HS
Future Land Use: Low Medium Residential

ALL INDIVIDUALS WISHING TO SPEAK ON THIS MATTER WERE SWORN IN.

Commissioner Rogers introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-09-23

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE FROM RS-8 TO CF-HS, LOT 5, LOCK 26, "RIO VISTA ISLES UNIT 3," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 7, PAGE 47, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED ON THE SOUTH SIDE OF SOUTHEAST 9TH STREET BETWEEN FEDERAL HIGHWAY AND SOUTHEAST 7TH AVENUE, IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND AMENDING THE OFFICIAL ZONING MAP AND SCHEDULE "A" ATTACHED THERETO TO INCLUDE SUCH LANDS.

Which ordinance was read by title only. title only. Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

Submerged Lands Lease Modification
New River Floating Docks (Memorandum 09-217)

(OB)

Motion made by Commissioner Rogers and seconded by Vice Mayor Roberts authorizing the proper City Officials to execute a lease entitled, Sovereignty Submerged Lands Lease Modification, to increase square footage between the City of Fort Lauderdale and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida modifying the boundaries of the City's submerged land lease to incorporate the proposed sites of the New River floating docks.

In response to Mayor Seiler, Cate McCaffrey, Director of Business Enterprises, stated in order to receive the grant, there is a deadline of September 30, 2009 to obtain the permits. This was unexpected. The size of the docks will require this amendment. The Department of Environmental Protection permit is already in the City's possession, but it is contingent upon this amendment.

Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioners Rodstrom and DuBose, and Mayor Seiler. NAYS: None.

Electric Utility Franchise – Florida Power and Light Company**(O-02)**

Marc Dickerman, 1417 SW 2 Street, requested this item be deferred to provide this newly seated Commission with more review time.

Robert Walsh, 401 East Las Olas Boulevard, was interested in a shorter term of 10-15 years. He did not feel the City should get into the electric business. He referred to Commissioner Rodstrom and the City Manager and a possible conflict resolution meeting. He also encouraged people to speak openly at Commission meetings on matters of concern to them.

Raymond Parker, a member of the Utility Advisory Committee, distributed a letter, dated September 14, 2009, to the Commission and statistical information, which was made a part of the record. He urged approval of this item and outlined his reasons noted in his letter. A copy of the letter only is attached to these minutes.

Bunney Brenneman, Chair of the Utility Advisory Committee, elaborated upon the interest from the community on this matter. She did not feel there is enough information to properly make a decision on renewal versus exercising the buy-out provision. She believed that according to case law, the City has more time provided they are negotiating in good faith. She elaborated on what would occur with the buy-out provision being exercised. She did not believe financing would be dependent on the City's credit nor would it impact the bond rating or the ability to issue bonds. Financing is available. She commented about the cooperation and helpfulness of Florida Power and Light Company (FPL). She encouraged the Commission to follow the Committee's 11-0 unanimous recommendation to move forward with Phases 2 and 3 of the Power Services' scope of services as soon as possible. She provided the City Manager with the name and telephone number of a bank official willing to discuss financing.

In response to Mayor Seiler, the information provided is considered part of the public record even if not announced. Further, Mr. Parker indicated he was not at the meeting when the Committee voted unanimously as noted by Ms. Brenneman.

Ruth Constant indicated she is an employee of Family Success of Broward County and works closely with FPL. She commented on their cooperation and helpfulness with residents. She supported this item.

Terri Murru, a member of the Utility Advisory Committee, emphasized that this is the time for innovation and adaptive leadership. She urged the Commission to obtain objective information. She believed that Mr. Parker has a biased viewpoint. She commented about technology being outdated in less than thirty years.

Linda Carter, 2905 NW 33 Terrace, indicated that she recently retired from Family Success of Broward County. She commented on FPL's cooperation and helpfulness with residents. She supported this item.

Craig Black, 669 West Campus Circle, indicated he is a resident and business owner in this city. He commented on FPL's work with the elderly and helpfulness with residents. FPL frontline employees have gone out of their way with respect to responsiveness. He supported this item.

Mickey Hinton, President of DURRS Homeowners Association, commented on FPL's helpfulness with residents in his neighborhood. He supported this item.

Ronald Perkins, 912 Ponce de Leon, supported continuing the City's franchise relationship with FPL. He was impressed with FPL's responsiveness and their work toward hardening the City's electrical grid. He did not think any governmental entity needs to be in the utility business.

Dan Lindblade, President of the Chamber of Commerce, mentioned an example where power companies, including FPL, helped in restoring electricity to his former Kentucky neighborhood after an ice storm. He went on to elaborate upon FPL being a good corporate citizen. He supported this item.

David Marshall, 1223 SW 5 Court, asked the Commission to make sure it receives all of the information it needs. He was alarmed that eleven members of the Utility Advisory Committee believe more study is warranted. He asked that the public be kept informed on this matter.

William Goetz, a member of the Utility Advisory Committee, felt the matter should be tabled so that it could be evaluated by outside counsel. He questioned FPL's philanthropy in view of their net profit level. He noted various aspects of the proposed agreement that seem to favor FPL. He believed there is disinformation circulating with regard to cost. He offered to furnish background information he has accumulated concerning continuing negotiations beyond the deadline, the cost of undergrounding and a buy-out, and financing.

There were no other comments from the audience.

In response to Mayor Seiler, Albert Carbon, Public Works Director, outlined the history beginning in December, 2006 in connection with municipalization of electricity supply, again in February, 2007, and culminated on October, 2007, in a decision not to move forward with Phases I, II and III scope of services. The City Manager clarified that at the December, 2006 meeting, staff recommended moving forward with the proposal to include municipalization study. There was a great deal of discussion with the previous Commission. It was decided to bifurcate the study, and then to discard the RFPs and start over. After more time and meetings, a decision was reached to not move forward with the municipalization study, but proceed with Phase I and have the receivable due in June, 2009 which happened. The matter was presented to the present Commission in July, 2009.

In response to Mayor Seiler, the City Attorney indicated it would cost around \$700 to \$900 million to purchase FPL's distribution system. Mayor Seiler asked about the cost for generation assets.

Commissioner Rodstrom indicated no cost analysis has been done. She was concerned that background information was not provided to the new Commission. The City Manager's role is to look out for everyone's interests. She found it unacceptable that this information was not provided to the Commission early on. She had serious issues in the new franchise agreement. She wanted information on other options and a cost analysis. She wanted the City Manager to request a one to two year extension for the Commission to make a decision. The City Manager noted that Commissioner Rodstrom

was involved in all discussions involving not having the municipalization study included and voted in favor of bifurcating that element from the study, as well as discarding the RFPs and starting over. Staff goes under the precept that unless the new Commission overrides a decision of the previous Commission, previous direction stands. A Phase I study was authorized and due in June, 2009 with the specific direction that the Commission would review it and determine whether to move forward and finalize a contract or expand the study. Commissioner Rodstrom pointed out the voluminous information regarding this matter she has had since 2006, but there is nothing indicating that this Commission received it. She was very uncomfortable that they do not have the information. It is the City Manager's job to provide the Commission with the information needed to make the right policy decisions. She felt when the Commission first arrived they should have been alerted to this as a big issue. She wanted the City Manager to request more time from FPL.

The City Manager offered to furnish minutes of previous meetings. He thought the City Attorney was discussing this issue with the Commission as it moved along. Staff was following direction from the previous Commission. The June deliverable was very clear. When the report was received, it was provided to the Commission.

Mayor Seiler understood from the comparison of residential electric rates completed by Florida Municipal Electric Association, Inc. (provided by Raymond Parker) that FPL has the lowest of all municipal rates in Florida and that the average municipal rate in Florida is 30% higher than RP&L.

In response to Mayor Seiler, Mr. Goetz commented that municipalization literature suggests that attorney cost estimates are exaggerated. He thought it would be much less than half of \$750 to \$800 million. He thought reliability between FPL and municipal systems to be about the same. He noted FPL's statistics exclude outages caused by storms and some other categories. Rod Macon, representing FPL, stated that Florida's municipal utilities do not report service liability data. FPL's service reliability is 47% better than the national average and even better in Fort Lauderdale.

In response to Mayor Seiler, Mr. Macon offered more information on smart-grid technology. FPL plans to begin installing smart meters in October in Fort Lauderdale.

In response to Mayor Seiler, the City Attorney noted the proposed revenue and that under the existing franchise.

As a result of questions posed by Mayor Seiler, dialogue ensued concerning municipalization by the City of Winter Park and that it is the only Florida municipality to do so since World War II.

Ms. Murru disagreed with the bond rating information mentioned by Mayor Seiler for Winter Park. She urged the Commission to take more time and secure objective information and not just from special interest groups. Mayor Seiler noted Mr. Parker of the Utility Advisory Committee has provided information. Mr. Parker confirmed that the Florida Municipal Electric Association reported Winter Park's rates to be about 20% higher than those of FPL. Mayor Seiler quoted from the *Orlando Sentinel* regarding Winter Park.

Commissioner DuBose felt there would not even be enough time if the Commission had started review as soon as they took office. The City Attorney responded to his question about what would happen if the renewal does not occur. There would be litigation. FPL has indicated they would stop paying the franchise fee, which is \$1.5 million per month. He believed the City would prevail but the question is how long it would take to do so.

Vice Mayor Roberts reiterated his concern also with the lack of information provided. This is an emergency that could have been prevented. He pointed out that the Commission campaigned on listening to advisory committees and boards. On this issue there was an 11-1 vote on this in the other direction. He was upset with the previous Commission for establishing the committee to work on this and not paying attention to the results. He wanted to hear more from the City Attorney and FPL. For one, he asked if FPL has a buy-out price. He added that he had the same information commented on by Mayor Seiler in terms of Winter Park and service delivery cost in comparison with other municipalities across the state. Mr. Macon indicated an answer on buy-out cost is not easy. During the undergrounding discussion FPL quoted \$500 million which is an estimate.

Commissioner Rodstrom asked about when did FPL last analyze the City's infrastructure. Mr. Macon indicated it is continuous. There are performance indicators on feeders, laterals and substations. FPL could make a presentation on it.

Commissioner Rogers asked about the percentage of the system that has been hardened in the last ten years. Mr. Macon advised that the hardening program began about four years ago; he did not have a percentage. They are doing the most important places first: ports, then hospitals and some major thoroughfares where there are grocery stores, pharmacies and gas stations. It is a system that took eighty years to build; it cannot be rebuilt in a few years. About a third of the city is already underground, so the focus is on the remainder.

In response to Commissioner DuBose, Mr. Macon indicated there is no FPL location that solely serves Fort Lauderdale. He guessed there are about two hundred people that service Fort Lauderdale.

The City Attorney provided an overview of the item before the Commission: There is an indemnification clause. The ad valorem tax credit has been removed and there is now a flat 6%. The City may audit FPL's books and records. There are clauses on a most favored nations, non-compete, buy-out at the end of the contract and infrastructure hardening. Clauses on undergrounding and renewable energy indicate best efforts will be made. There is a section on smart-grid providing for Fort Lauderdale to be first. He indicated undergrounding, renewable energy, smart-grid and infrastructure hardening are included in almost no contracts across the state.

The City Attorney confirmed to Commissioner Rogers that without the renewal, power would continue to be provided, but the franchise fee would be low. Commissioner Rogers indicated that he had asked if FPL would consider extending the contract so the new Commission could get up to date without stopping the fee. The City Attorney stated it was clear there was great resistance to a buy-out clause and continuing the contract for the purpose of acquiring the grid. It was a number of months before Winter Park got a court ruling on collection of franchise fees. He elaborated upon the particulars of the Winter Park case.

Commissioner Rodstrom asked about the City being late to the negotiating table. The City Attorney indicated that investigation into municipalization had been determined by the prior Commission. If that study had been started when the new Commission took office, it would not have been completed in time for these negotiations. The City Manager clarified what was the direction from the previous Commission as to Phase I and the history surrounding this matter in general. Commissioner Rodstrom emphasized that this Commission must make the decision. She did not want to go into the past. She was concerned about the lack of information and the provision of information to the Commission and the public. She felt both the City and FPL are in the service business and partners in this case. She wanted more time from a standpoint other than municipalization.

The City Attorney indicated a decision as to extension rests with FPL. As to municipalization, it would be a year or more and the economic impact would be difficult. He offered examples of some of the challenges.

Commissioner Rodstrom asked if all of the options have been exhausted. The City Attorney pointed to the buy-out clause but also noted a statute that would authorize the City to take utilities by eminent domain. However it is unclear whether it applies to water and sewer only. If that right exists, it could be exercised at any time during the franchise or the legislature could be asked to give the City that right.

Mayor Seiler referred to the web site brought forward by Mr. Parker, publicpower.com (Florida Municipal Electric Association, Inc.) that lists all public utilities in Florida and noted FPL is the lowest in residential rates. He also pointed to and elaborated upon the electric utility deficit in Winter Park (*Orlando Sentinel*) as well as Fitch (bond rating agency) placing it on a watch. He did not see the end game being any more beneficial and questioned spending at least \$250,000 on two additional studies without any more benefit. He also questioned the prospects of securing funding. Copies of the Florida Municipal Electric Association, Inc. rate comparison and Orlando Sentinel article used by Mayor Seiler in the discussion are attached to these minutes.

Vice Mayor Roberts agreed. He commended the City Attorney for his work on this. However he also was concerned about not being provided. He reiterated his concern about the Utility Advisory Committee's frustration.

Commissioner Rogers agreed with Vice Mayor Roberts with respect to the Utility Advisory Committee. However, he felt their efforts have not gone to waste as it is being discussed and he questioned if any other decision would be made even if they could have had more information. He elaborated upon the financial and infrastructure challenges relating to municipalization. Technology is constantly changing. He did not feel he could have supported this without a buy-out clause because the timing could be different. He also pointed to the Winter Park as the only model and the fact that it is not doing well. He was concerned with the public education process that would be required with municipalization. He felt the budget needs more attention and this would take away from that work.

Commissioner DuBose reiterated his concern about the time frame allotted for this decision and that even if information was provided when the Commission took office, there would still be a challenge. These are difficult economic times. He did not want to

embark on something that has the potential to cause financial damage. This would also grow the government. This contract will increase the City's revenue through franchise fees. In the end, he felt the people would be better served by not moving forward with an alternative that would take more money from them.

Commissioner Rodstrom questioned why there was not a public information effort made by City staff in advance. She wanted to defer this item to October 6 to allow the Public Information Office time to put out information to the community on this decision. Vice Mayor Roberts felt this could be accomplished between first and second readings. If necessary, it could be postponed at the next meeting.

Vice Mayor Roberts introduced the following ordinance on FIRST reading:

ORDINANCE NO. C-09-26

AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE ELECTRIC FRANCHISE, PROVIDING FOR MONTHLY FRANCHISE FEE PAYMENTS TO THE CITY, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, INCLUDING PROVISIONS FOR INDEMNIFICATION, MAINTENANCE OF BOOKS AND RECORDS AND THE RIGHT TO AUDIT SAME, MOST FAVORED NATIONS CLAUSE PROTECTING THE CITY; IMPOSITION OF RESTRICTIONS ON CITY COMPETING BY SELLING ELECTRICITY, AUTHORITY OF CITY TO GENERATE ELECTRICITY TO TRANSMIT BETWEEN CITY FACILITIES, PROVISIONS RESPECTING FORFEITURE OF THE FRANCHISE; GRANTING TO CITY THE OPTION TO PURCHASE FACILITIES AT THE END OF THE TERM; AND PROVIDING AN EFFECTIVE DATE.

Which ordinance was read by title only.

Roll call showed: YEAS: Commissioner Rogers, Vice Mayor Roberts, Commissioner DuBose, and Mayor Seiler. NAYS: Commissioner Rodstrom.

Mayor Seiler announced the next reading will be on October 6, 2009.

There being no other matters to come before the Commission, the meeting was adjourned at 10:26 P.M.

John P. "Jack" Seiler
Mayor

ATTEST:

Jonda K. Joseph
City Clerk