

**FORT LAUDERDALE CITY COMMISSION CONFERENCE MEETING
October 20, 2009**

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CITY COMMISSION CONFERENCE MEETING 2:04 P.M. October 20, 2009

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

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 – Sgt. Tim McCarthy

I-B – Undergrounding Utility Lines – Special Assessment Program

Peter Partington, City Engineer, provided a brief history of this topic. Currently nineteen neighborhoods have requested consideration for this program. Five have requested to be first: Riviera Isles, Idlewyld, Seven Isles, Las Olas Isles and Harbour Beach. With FPL's program there is a credit of at least 25%. The City is required to be the applicant which places developing consensus and coordination onto the City. He noted criteria for the credit and indicated all, if not, most neighborhoods who have requested to participate in the program would qualify. The credit may be significantly more than 25% because FPL would include the future cost of replacement of overhead lines. Transformers were previously planned to be placed in easements, but now are proposed for the right of way which places responsibility for any relocating in the future on the City. However, it would have been extremely difficult to secure easements from private properties. Staff who handled previous assessments have been disbanded, thus staffing would equate to about \$475,000 annually with the capacity for four or five projects annually. State statute allows up to thirty years for payment. FPL's estimate previously was \$500,000 to \$4 million per mile and \$15,000 to \$25,000 per property, not including AT&T and Comcast that would also have to go underground, and connection of the overhead to a riser below ground. At the time, there was no consensus to reassemble a staff team but to allow neighborhoods to work with FPL directly and to allow use of the right of way. The Commission asked staff to prepare a recommendation to use outside consultants to facilitate the assessment process at no net cost to the City. The consultant cost would be included in an assessment and ultimately reimbursed assuming an assessment was put in place. The Commission subsequently approved an agreement with Keith and Schnars in 2008. They have developed a process. Nothing has been paid to them to date. Keith and Schnars estimates \$130,000 including detailed design and all coordination to the point of public hearing. Most recently Riviera Isles has submitted a written proposal on a process.

Mr. Partington confirmed for Commissioner Rodstrom that upfront costs would be included in the overall assessment costs and reimbursed over a period of as long as thirty years. In response to Mayor Seiler, Mr. Partington was uncertain why previous assessment programs had a maximum repayment of ten years. He believed it was because previous assessments were largely for aesthetics and the cost was significantly lower.

In response to Commissioner Rogers, Mr. Partington believed most of the nineteen neighborhoods would still like to proceed. Commissioner Rogers asked about prioritizing and Mr. Partington indicated it was thought to be first come, first served. Commissioner Rodstrom indicated four or five at a time was when staff would handle it, but with the use of a consultant, she felt all nineteen could proceed. Mr. Partington indicated with minimal reassembled staff, they could handle four or five. He agreed private sector could handle more, but not nineteen at one time.

Commissioner Rogers asked about a percentage threshold before the Commission would approve an assessment. Mr. Partington clarified current policy is for the neighborhood to pay upfront the consultant cost which would be reimbursed if the assessment is put in place. If the assessment is not ultimately approved, the neighborhood is out the upfront cost. Albert Carbon, Public Works Director, stated the Commission would decide on a threshold. In the past, straw polls were used and it was thought a super majority was needed. Mayor Seiler believed this should move forward. The Commission needs to decide upon a threshold. He felt the cost should be estimated upfront and let the neighborhood decide whether to proceed and hire the consultant. Mr. Partington agreed but indicated there would be some staff time involved. Staff would work on a promotional campaign. Commissioner Rodstrom thought that was included in the consultant fee and there homeowner association would also be involved in this part. Mr. Partington explained it has not yet happened because no neighborhood has fronted the money. Mayor Seiler did not think the City has to serve as an advocate, but rather simply provide the cost figure. Mr. Partington explained staff would be involved in providing a true representation upon which people could vote. Without doing a fair amount of design work, only a guesstimate would be possible.

Mr. Partington indicated if a neighborhood agrees to move forward, the next step would be detailed design. The question is whether City staff or a consultant does the design, and how is that paid for. An assessment hearing should not be held without a detailed design. Commissioner Rodstrom explained the upfront costs need to be couched in a reimbursement resolution, so that the money is captured. Then the design is started. The City has never done such a large assessment project. There needs to be serious consideration to structuring the finances and the program itself. Without City participation, there is no discount to the residents.

Commissioner Rogers asked how to overcome the impediment of incurring the expense and the neighborhood then not approving it. Commissioner Rodstrom indicated the neighborhoods are going to have to prove to the City that they have a majority onboard. It would essentially be a straw ballot conducted by the neighborhood. She felt they would like to know a rough estimate. She provided information from Southwest Securities concerning bond programs for undergrounding along with information from Kenneth Cooper, president of Las Olas Isles Homeowners Association, which was entered into the record. The City Attorney stated if a special assessment district is created, it is possible to include the study costs. If it does not proceed to the construction stage, the City would not be able to qualify to assess for a study. The City Manager elaborated on this dilemma in terms of exposure. The policy consideration is whether the Commission is willing to take the risk on the upfront cost.

In response to Commissioner Rodstrom, the City Manager advised that the study cost could be included (in the assessment).

The City Auditor stated the City could pay for the costs and recoup them over the lifetime of the assessment. The auditors (Ernst & Young) had previously objected to special assessment inter-fund loans.

In response to Commissioner Rogers, the City Attorney indicated the Commission could approve an assessment without any neighborhood support, but a benefit analysis would have to be included that could be challenged. Commissioner Rogers indicated the City would ask the neighborhood to secure verifiable consents and decide upon a threshold of neighborhood approval. This would be a way of overcoming the hurdle of not being reimbursed because it would be going forward. The City Attorney agreed that would be the best approach, but indicated there would need to be a cost estimate provided. The whole thing would have to be in place. The City would need to make sure it moved forward.

In response to Commissioner DuBose, Mr. Partington clarified there would not be any assessment by FPL; FPL would reduce the price by 25% plus the cost of future overhead replacement.

In response to Vice Mayor Roberts as to a minimum threshold, Mr. Partington explained that in past assessments, staff was comfortable if there was at least 60% approval. Vice Mayor Roberts wanted some benchmark from other cities perhaps as a safety net.

Mayor Seiler opened the floor for public comment.

Tamara Tennant, president of Riviera Isles Homeowners Association, proposed securing the project cost. She agreed with a 60% threshold. In response to Mayor Seiler, she indicated agreement with 66% also.

Ms. Tennant requested the City pay the upfront cost for the study and then roll that cost into the bond. The process should be easy. If all of the work is done upfront, it will already be known if the percentage threshold could be achieved. The neighborhoods also have the option to outsource the work which she felt could result in a lower cost.

The City Manager stated that preliminary polling would not impose any legal responsibility until the final vote is taken. The City Attorney explained if an ordinance requiring 66% participation is adopted requiring 66% participation and it is not obtained, it would not go forward. The Commission does not have to vote at all, but decide it is a good project. Mayor Seiler felt a threshold needs to be set. Commissioner Rogers suggested the neighborhood submit 66% verifiable petitions and an ordinance be created that would not call for another vote of the residents.

Cyril Spiro, 712 Solar Isles Drive, suggested one vote in the initial petition that would be binding provided the cost meets what is noted in the estimate.

Bill Joiner, 646 Flamingo Drive, thought the \$130,000 engineering work would be typical and not specific to Riviera Isles, so it could be applied to future neighborhoods.

Howard Steinholz, president of Seven Isles Homeowners Association, indicated that they are comfortable with the process presented to them. In a straw survey conducted prior to Hurricane Wilma, there was over 70% neighborhood support. It is critical that the cost be made known to the neighborhoods.

Genia Ellis, president of Harbour Inlet Association and representing Harbor Beach, indicated that the engineering costs vary by neighborhood according to the number of homes and whether the lines are in front or behind the homes. Both neighborhoods have done assessment projects over a ten-year period for some \$3,000 to \$5,000. A determination needs to be made on the threshold as to whether it is of the property owners or the respondents. There are out of town property owners who will not respond. There should not be a penalty in that regard. Mayor Seiler felt it has to be all property owners and a no-response is a no vote. Ms. Ellis indicated that historically those have been treated as a yes vote.

Ray Parker, president of Sunrise Key Neighborhood Improvement District, thought that typically most homeowner associations should be able to pay the upfront engineering cost. He felt it would not be a problem achieving 66% in favor. Since Sunrise Key is a neighborhood taxing district, he asked if the district itself could be assessed. The City Attorney indicated there would need to be an amendment in order to grant them that authority. Some tax issues may be created.

Kenneth Cooper, president of Las Olas Isles Homeowners Association, indicated the biggest barrier has been the neighborhood having to pay upfront. The statute only specifies a majority. He has already submitted signatures of more than 51%. There have been forty meetings on this and it has never progressed. He wanted the Commission to review his draft legislation that tracks the statutes and to adopt it because no progress can be made without legislation in place. He proposed that the residents participate in some of the work, hiring a contractor, to minimize cost. He saw it as a nine-step process that he delineated. He wanted to be authorized to be a part of the legislation review and to use his draft proposal.

Tim Hall of Keith and Schnars, indicated there are essentially two processes on the table which he outlined. The issue is the cost needed to refine the design estimate and have a definitive cost figure. The \$130,000 could be broken into stages and incremental costs. If it does not pass a stage, it would stop.

Commissioner Rodstrom pointed out there will be plenty of opportunity for public hearings.

Mayor Seiler agreed the issue has been outstanding for sometime. He wanted an ordinance to come right back provided the costs could be rolled-in. He preferred a threshold of 66% of all property owners. He could not support neighborhoods overseeing construction. .

Mayor Seiler asked what is the level of City involvement in order to qualify for the discount. John Lehr, representing FPL, indicated there needs to be 100% participation by the neighborhood. There is a homeowner cost to connect from the weatherhead to the underground and this has to be done in order to receive the discount. This cost is estimated between \$2,500 to \$10,000. In response to Vice Mayor Roberts question of City involvement, Mr. Lehr indicated the City needs to execute two documents for the right of way and the conversion.

In response to Commissioner Rogers, Mr. Lehr elaborated upon his experience with undergrounding projects including sixteen miles at Jupiter Island, noting there is nothing

in the magnitude of an entire development. All parties have to be committed, including AT&T, Comcast, the residents and the City. He mentioned two cities are allowing residents to do their own conversions. The City may elect to do some of the work.

In response to Commissioner Rodstrom, Mr. Lehr indicated in Jupiter, there are 602 homes; there are 20-55 construction workers for FPL only.

There was consensus approval of 66% of the property owners, with the upfront cost in the ordinance so that it would be a reimbursable expense. There would be one vote. The City Attorney indicated he could present an ordinance at the November 17 meeting. Mayor Seiler asked that a copy of the ordinance be provided to the homeowner associations in advance of the meeting.

Commissioner Rogers asked if a fine would be imposed if individuals do not agree to hook-up. The City Attorney explained it is different than WaterWorks 2011 because the overhead line would come down.

Mayor Seiler thought there should be a period of time to wait if someone wants a re-vote.

In response to Mr. Partington, Mayor Seiler felt if a neighborhood achieves the 66%, the City would fund the engineering costs in order to get to the public hearing. Mr. Carbon noted and Mayor Seiler confirmed there would be one vote to start the assessment process and one at the public hearing.

I-C – H1N1 Vaccination Campaign – Public/Private Options

Amy Aiken, Assistant to the City Manager Emergency Manager indicated in the Broward County Health Department's presentation two weeks ago (October 20, 2009), the City was informed that there would be a \$5 reimbursement per shot and the health department would provide all supplies. Revised costs have been furnished in the backup provided the Commission (Commission Agenda Report 09-1529). Other agencies in the county such as the Broward Sheriff's Office are providing vaccinations for their first responders. As that would be something the City has not done in the past, direction on this point is also needed.

In response to Vice Mayor Roberts, Ms. Aiken could not confirm what other municipalities have committed to do. In response to Commissioner Rodstrom, Ms. Aiken stated that the hospital district is also providing and the health department will be providing three pods. Public school students are being vaccinated as vaccine becomes available.

In response to Commissioner DuBose, Ms. Aiken believed that the health department has selected Coral Springs for a pod location, but that is subject to change.

Mayor Seiler did not want to make a policy decision without more information of what other agencies and municipalities are doing. He has spoken to some other mayors and they are indicating no.

In response to Commissioner DuBose, Ms. Aiken stated the City's on-duty paramedic staff could administer the vaccine at no cost to themselves because the health

department would furnish all supplies. She would need to confirm if there would be a \$5 reimbursement.

Mayor Seiler wanted a report of what cities are providing this service.

In response to Mayor Seiler, Ms. Aiken explained because vaccine supply is limited, it is first being furnished to the schools. She did not have a time frame of when vaccine would be provided to a city agreeing to provide it to their first responders. It would then be provided to private health care providers; there is a hierarchy. Vice Mayor Roberts pointed out that first responders are classified as high-risk. He felt the City should move forward with that part.

Commissioner Rodstrom wanted to know how the vaccination locations would be publicized. Ms. Aiken indicated as soon as she has definite information, she will furnish it to the Commission. Mayor Seiler requested Broward Sheriff's written policy.

See below.

I-A – Downtown Development Authority Board Interviews

William Bodenhamer provided an overview of his background, organizations with which he is associated and why he is interested in serving.

Mr. Bodenhamer responded to Commissioner DuBose's inquiry about The Wave and potential expansion into the northwest, indicating that it is really a part of the overall solution for regional transit. The trolley system will transform into a community system. Interstate 595 plus express service must be connected to the downtown bus service. Rates need to be reasonable. Once the Wave is functioning, he felt the west should be considered first for expansion. Employees have to get downtown and it has to be affordable.

With respect to transit, Mayor Seiler asked what cities after which Fort Lauderdale should pattern itself and Mr. Bodenhamer responded Charlotte, San Diego and New York.

The City Clerk confirmed for Mayor Seiler that Mr. Cole did not meet the downtown landowner – leaseholder requirement. Mayor Seiler noted there are six applicants. The City Clerk advised that Ms. Franklin is out of the country so her eligibility has not yet been confirmed. Mayor Seiler wanted to rank the top four at November 3, 2009 meeting. The top ranked individual would get the immediate opening and the next two would fill the vacancies occurring in January.

Mr. Fultz was not present.

Continued on page 10.

I-C – H1N1 Vaccination Campaign – Public/Private Options

See above.

Vice Mayor Roberts pointed out that it is national protocol to vaccinate first responders. Mayor Seiler wanted more clarification in written form. Vice Mayor Roberts wanted to give the first responders authority to get vaccinated. Mayor Seiler indicated they might be able to get vaccinated by another agency such as the hospital district. Commissioner DuBose was concerned if a first responder has to go to a private provider, they may not get it as soon. Mayor Seiler wanted to see the national protocol. Vice Mayor Roberts confirmed that it is national protocol. Ms. Aiken clarified that Center for Disease Control and Prevention (CDC) recommends first responders, pregnant women, school aged children and caretakers of infants under six months of age. As to what other cities are doing with first responders, it is across the board.

The City Manager agreed to get an official response from other municipalities for the November 3, 2009 meeting.

I-D -- Code Amendment – Alarm Response Fee Schedule

Police Captain Eric Brogna reviewed slides on the proposed code amendment relating to the alarm response billing procedures and fee schedule. A copy of the slides is attached to these minutes. He noted that the methodology used to calculate the fees in 2004 is unclear, but it is thought that a benchmark of other Broward communities was used as a median was used. He responded to Commissioner Rodstrom's question as to why the cost for non-residential and residential is different. In continuing with the presentation, he noted that the revenue shown in the slide reflects an 87% collection rate.

Jeff Lucas, Acting Assistant Fire Marshall, continued with review of the slides relating to the Fire Rescue Department.

Commissioner Rogers asked if there are any accounting guidelines relating to this type of assessment. The City Auditor indicated there is no specific methodology; it has to be reasonable. He explained the methodology that was followed, breaking it into components. Commissioner Rogers stated the analysis does not include vehicle depreciation. The City Auditor indicated there is a vehicle use charge in addition to gasoline. There is more detail than what was provided. Commissioner Rogers asked about the lost opportunity cost. The City Auditor indicated that the ordinances does not differentiate between valid and false alarms, so one must not think of this in terms of false alarms. Opportunity costs are not addressed in any cost accounting methodology. There is no opportunity to bill one individual more than another. The cost of providing the service is standardized on an hourly basis.

Commissioner Rogers asked about penalties for defective alarm systems. The City Attorney indicated along those lines there would have to be a quasi-judicial hearing and officers would be taken off the street to testify. Commissioner DuBose asked about an appeal. The City Attorney stated there is no appeal because it is a fee. The City Auditor indicated this would be like every other fee. Commissioner DuBose thought circumstances could arise. The City Attorney noted one example is if a wrong address was used, it would be adjusted. Commissioner DuBose questioned what happens if there is a dispute about the amount of time spent by the responder, for example. Captain Brogna stated there is a mitigation process in place. The City Auditor indicated there needs to be caution about waiving fees because a fee is designed to recover a cost for service. The fee needs to be uniform and equitable across the board. Waiving fees undermines the fee structure's legitimacy.

Commissioner DuBose asked about a fee being challenged on the basis of the time spent. The City Attorney indicated that would not be a valid argument because the fee is set based on a typical response.

Commissioner Rogers questioned the administrative cost to send a bill in comparison with the cost to issue a check. The City Auditor advised that the procurement process is more than just writing a check. He went on to outline the steps. Commissioner Rogers thought the costs are higher than reflected in the backup. He did not think that everything has been taken into consideration. With respect to vehicle and fuel costs, Captain Brogna referred to Exhibit 4 of Commission Agenda Report 09-0729. The City Manager stated that staff followed the City Auditor's guidelines. Commissioner Rogers thought if this is being based on the reasonable man standard, there would be numerous opinions.

Commissioner Rodstrom asked if comparisons had been done with other cities. Captain Brogna indicated there is comparison data from Coral Springs, Davie, Plantation, Parkland, Hollywood and Miramar. He went on to provide more detail verbally as to how Fort Lauderdale would compare with these cities.

The City Auditor stated there are additional costs associated with challenges. A separate fee for such challenges could be included in the ordinance.

In response to Commissioner DuBose, Captain Brogna outlined the process for challenges used in the past. If only costs are included in the fee, then there could be no challenges except something like improper billing.

In response to Commissioner Rogers, Vice Mayor Roberts noted that the collection rate is 87%. The City Attorney indicated that the Revenue Collection office files the liens. Linda Flynn, City Treasurer, did not know the number of liens filed in a year, but went on to advise that liens could only be filed on a property owner, no tenants. When direction is received from the Police Department, a lien is filed regardless of the amount. The City Auditor pointed out that it is not cost effective to file liens on minimal amounts, thus this may be something too consider in the ordinance. Mayor Seiler preferred to leave that discretion to staff otherwise someone may not pay if they know there is a minimum.

Mayor Seiler sought input from the Police and Fire Rescue departments. Frank Adderley, Police Chief, suggested Scenarios 1 and 2 that provide for the first response at no cost. Jeff Justinak, Acting Fire Rescue Chief, preferred Scenario 1. The second consideration is reinstating the ability to collect on residential.

The City Manager referred to issues raised by the City Auditor and asked the Commission to indicate any categories where staff could expand their scope in terms of fees.

Commissioner Rodstrom did not want to charge any more than needed. In response to Commissioner Rogers' question as to justifying the current fee schedule, the City Auditor stated there was no cost study conducted other than a comparison with other local cities. Captain Brogna indicated the fee charged resulted in people fixing their alarm systems. Commissioner Rogers reiterated his position.

Commissioner DuBose favored Scenario 1. It may be possible to include a cost for the sixth call and address everything without increasing the fee. Mayor Seiler agreed and noted the sixth call and more would be assessed at actual cost. The City Auditor pointed out that 100% level of specificity is not required. He felt the categories for which to charge have been captured, but not the exact number of minutes for any given activity.

Jack Lokeinsky, 735 NE 3 Avenue, stated he is a business owner. He pointed out that when the police respond to an alarm, they do not know if the alarm was false. The door could have been shook or a window opened and then closed. He had the alarm sounded once in five years and a week later there was a burglary. He was opposed to being charged for using police services once in five years. He believed the fee already includes all of the cost factors. He was concerned this item was ready to be presented several months ago before the budget was voted on and now the budget has to be adjusted because of a \$500,000 revenue loss.

In response to Commissioner DuBose, Mr. Lokeinsky favored no charge for the first response. He would be concerned about adding more cost factors. It should be reasonable. Because the first is free does not mean the second should be double. It is a fee, not a fine. Only the cost for the service should be charged.

Commissioner Rodstrom agreed with Mr. Lokeinsky. She felt the City should be sensitive to business owners in today's economy.

Mr. Lokeinsky elaborated upon the history of this program.

The City Attorney concurred with Mr. Lokeinsky as to charging for actual cost. The current ordinance is defensible, but charging the actual cost each time is 100% defensible.

Commissioner DuBose wanted to be sensitive to residents and as such questioned the amounts for the third and fourth responses. The City Attorney indicated there is no case law on the subject, but there are many cases that if the cost of the service is charged, it is a fee and more than the cost of service is a tax or a fine. With a fine, there must be a quasi-judicial process for challenges which would mean astronomic personnel costs.

Vice Mayor Roberts agreed with Mr. Lokeinsky and the City Attorney of the first response being free and then actual cost with costs being audited periodically. In regard to the Fire Rescue Department, he felt the same should apply for both residential and non-residential. He recalled originally there were so many false alarms, it was a waste of resources.

Commissioner Rogers felt there is reason to distinguish between residential and commercial. He called attention to the volume of calls for each.

Commissioner DuBose favored Scenario 1 for police provided it is defensible. The City Attorney stated a good argument could be made to support it. Commissioner Rogers concurred, however, he believed the costs are too low.

Mr. Lokeinsky pointed out that under Scenario 1, there is a fee for the fifth response in both residential and non-residential that exceeds the real cost. A general discussion

ensued on this point. Mayor Seiler pointed out that the total cost for five calls does not exceed the actual cost of \$90 per call.

There was consensus approval of Scenario 1 for police. Actual cost to be determined by staff and the City Auditor.

Jeff Justinak, Acting Fire Rescue Chief, recommended Scenario 1. He noted the impact over the period of time language was not in the ordinance and fees were collected totals \$23,000. The anticipated \$7,100 has been budgeted, so there would be no budgetary impact.

In response to Mayor Seiler, Fire Marshall Lucas advised that the fifth call would be \$199.95 for residential and \$411.99 for non-residential. Acting Chief Justinak indicated the numbers at the sixth call forward are insignificant.

In response to Commissioner Rogers, Acting Chief Justinak explained these fees include depreciation and replacement. He was concerned about time taken away from calls for cardiac arrest, etc.

Vice Mayor Roberts favored Scenario 1. Commissioner DuBose pointed out that other cities are offering more calls at no cost. Vice Mayor Roberts drew attention to the budgetary impact. Commissioner Rodstrom only wanted to recover actual costs. Commissioner Rogers was concerned about vehicles not being available for other calls when they are responding to calls where there is a problem with the alarm system. He felt this should be factored into the fee structure.

There was consensus approval of Scenario 1 for fire rescue. The City Auditor added from the fifth call forward, the actual cost will be charged.

I-A – Downtown Development Authority Board Interviews

Continued from page 6.

The City Clerk advised that Mr. Fultz had received some misinformation when he arrived in the lobby. He left and cannot return today. Mayor Seiler suggested that Mr. Fultz may contact the Commission individually.

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

There was no objection.

II-A – Placement of Communication Service Cabinets Within Utility Easement Areas – Zoning Setback Requirements

Bob Dunckel, Assistant City Attorney, provided a brief history of this topic (see Commission Agenda Report 09-1535). Since placement of the cabinets in rear and side yard easements is not permitted in the Unified Land Development Regulations (ULDR), it is consequently prohibited. Staff proceeded to create a regulatory scene permitting them in such easements.

Sharon Liebman, representing AT&T, indicated that AT&T is comfortable with the proposal, except for a couple miscellaneous items. She indicated that AT&T would like the City to move forward as soon as possible, immediately under a trial scenario in order to avoid some legal issues that might occur if it was formally passed.

In response to Commissioner Rogers, Ms. Liebman advised that new cabinets would be placed with existing ones as they will interact with each other. The new cabinets will provide for new and improved services for the residents. There will be landscaping which is provided in the proposed framework.

Commissioner Rogers was concerned about maintenance of the landscaping because there is no irrigation system. Ms. Liebman indicated that AT&T will replace landscaping on a complaint basis. In some cases property owners and homeowner associations have maintained the landscaping. In further response, Ms. Liebman indicated that the cabinets cannot be placed underground. The ordinance and proposal provide for this consideration if it becomes technologically feasible in the future. This was discussed at length in 2007.

In response to Commissioner DuBose, Ms. Liebman indicated the cabinets vary in size; the average is 4 feet in height by 3' x 2'. They are smaller than those discussed in 2007. There is a height limitation provided for. They are being placed in the right of way without incident. Mr. Dunckel indicated the proposal is almost identical to what the Engineering Division is accustomed to now, therefore arrangements have been made for Engineering to continue with the permitting process, including the zoning aspect.

Commissioner Rogers asked about provisions for uniform color and so forth. Mr. Dunckel advised that the ordinance calls for the color scheme to be harmonious with surrounding landscaping. Ms. Liebman advised the cabinets come standard from the manufacturer in beige, although green might be possible in certain circumstances. Changing the outer surface of the cabinet could void the manufacturer's warranty.

In response to Commissioner DuBose, Ms. Liebman stated the cabinets are part of a network upgrade. They interact with existing cabinets and need to be as close as possible to the existing cabinets.

Mayor Seiler asked about some cabinets that have outlived their purpose and have not been removed. He wanted unused cabinets removed at AT&T's expense. Vic Beninati, representing AT&T, thought it best to handle one case at a time. Mayor Seiler wanted to get a current inventory in order to assure unused cabinets are removed. Mr. Beninati offered to follow up on the cabinet mentioned by the Mayor.

Commissioner Rogers asked about maintenance of the landscaping around the equipment. Peter Partington, City Engineer, stated the ordinance places responsibility for maintenance on AT&T. He had been informed by Mr. Beninati that AT&T is entering into a contract to monitor the landscaping. In some cases a homeowner association might be willing to accept the maintenance responsibility. They are most always in the loop on applications.

Vice Mayor Roberts liked this direction and asked about a timeline. Mayor Seiler suggested a trial. Vice Mayor Roberts agreed that was his thought as well. It would accommodate residents in his district to move forward.

Mr. Dunckel offered to resolve the glitches and then start the trial. Mayor Seiler indicated if there is a problem, the Commission should be informed immediately otherwise a report should be provided sometime next year. He agreed that staff should implement the program using this proposal without moving forward with a code amendment. A decision on the code amendment would be made in the future after results of the trial are known.

Mayor Seiler noted the cabinet that may not be in use is about the 2600 block of Bayview Drive.

II-B – Local Bills To Be Filed With Broward Legislative Delegation and Subsequently The Florida Legislature

Kathleen Gunn, Assistant To The City Manager, displayed a map depicting remaining areas for annexation in Fort Lauderdale (Broadview Park, Roosevelt Gardens, Franklin Park, Boulevard Gardens, Washington Park and three enclaves of NE 62 Road and Dixie Highway, Andrews Avenue and Cypress Road and Prospect Field). Broward Legislative Delegation has a deadline of October 22, 2009 for requests for a local bill for annexation. Staff is in the process of completing the fiscal impact analysis and wanted to see whether the Commission would like to get some sort of placeholder with the economic impact statement submitted later.

Mayor Seiler noted it has been indicated that it would be revenue neutral. If it can be confirmed by March, then they could move forward, otherwise the City would ask the Delegation not to move the placeholder or shell bill. The areas have no municipal government representation.

Mayor Seiler and Commissioner DuBose responded to Commissioner Rogers' question as to why they have not been annexed.

There was a consensus to submit a shell bill to hold the City's place for annexation of these areas. .

Ms. Gunn advised after the financial analysis is completed, it will be provided to the Commission. She also noted there will be public hearings also.

Mayor Seiler wanted the County to be informed that the City would like them to expedite preparation of the pertinent data in order for the City to make an educated decision.

Ms. Gunn noted annexations are effective September 15th, regardless of the year.

Mayor Seiler stated that he attended a recent Florida Inland Navigational District (FIND) hearing. He noted the City is losing boats due to channel depth. He wanted to see the City and local private marinas piggyback on FIND's dredging projects. If seagrass is destroyed, it has to be replaced. However, in Broward it is difficult to find another location to plant seagrass. He pointed out the significant expenditure at Pier 66 for seagrass mitigation. There was discussion at the hearing about creating an economic zone and mitigating to a greater extent if allowed to do so in other areas of the state. He wanted to file a shell bill on this. He had requested the marine industries to get involved.

Commissioner Rogers agreed it would be beneficial to take advantage of available FIND funding. Commissioner Rodstrom commented that the City does not have a proactive dredging program and any improvement would be helpful. Mayor Seiler commented that FIND is essentially taking money from this area and dredging elsewhere.

There was consensus to proceed with filing a bill to hold a place for the City. Mayor Seiler asked Ms. Gunn to contact Frank Herhold, Executive Director, Marine Industries Association of South Florida.

In order to meet the Thursday deadline, Mayor Seiler indicated if there are any other bills that should be filed, commissioners should contact Ms. Gunn and the Commission be informed afterward. There are no limitations on local bills if the topic qualifies to be classified as a local bill.

In response to Commissioner Rogers' question concerning transportation, Mayor Seiler mentioned a resolution that will be coming forward concerning support of Tri-Rail. He wanted to do something with the east tracks.

III-A – Communications To City Commission and Minutes Circulated For The Period Ending October 15, 2009

And

III-B – Board and Committee Vacancies

Beach Redevelopment Board

- 1) A motion was passed requesting that the property located** at Sunrise Boulevard and A-1-A, formerly known as the Holiday Inn, receive as much attention as possible by the city and the City Commission so that it is able to open in a timely fashion.

Mayor Seiler agreed the City should do whatever possible for this corner of A-1-A and Sunrise Boulevard. Greg Brewton, Director of Planning and Zoning, indicated that staff met with representatives. He offered a verbal status of plans for a site plan application relating to interior renovations and recapturing the same use. Staff does not anticipate any problems. Mayor Seiler wanted to assist them with opening in time for the Pro Bowl and Super Bowl. Mr. Brewton understood that they were not expecting to be able to make that deadline.

- 2) A motion was passed requesting that the CRA property on** the corner of Sea Breeze and Las Olas Boulevard, currently in litigation with the Palazzo development, have new sod installed regardless of the cost because it is one of the gateways to the beach on Las Olas Boulevard and that this project be made priority.

In response to Mayor Seiler, Don Morris, Beach CRA Director, stated an estimate was received from the Parks and Recreation Department to install sod and irrigation for about \$16,000 with \$4,400 yearly maintenance. CRA funding could be used. Mayor Seiler asked that staff proceed.

- 3) **A motion was passed that DC Alexander park be included** and discussed by Sasaki (consultant assigned to Beach Master Plan) now with thought toward what would be done with this key parcel.

Mr. Morris advised that D.C. Alexander Park is included in the Beach Master Plan. The City Attorney responded to questions about the deed restriction that it be for a public park. Commissioner Rogers wanted to capture the park into the Swimming Hall of Fame redevelopment. The City Attorney indicated there could be some problems and cited one would be use for a parking garage. Wayne Jessup, Deputy Planning and Zoning Director, explained that the master plan is sensitive to what is happening with the Swimming Hall of Fame; the idea is to integrate it so the two work together.

Code Enforcement Board

The Board asked the City Commission to fill the two open alternate positions on the Code Enforcement Board.

Although Don Larson has applied for Code Enforcement also, there was consensus at the suggestion of Vice Mayor Roberts to appoint him to the UnSafe Structures Board. At the suggestion of Commissioner Rogers, there was consensus to appoint Paul Dooley to the Code Enforcement Board as an alternate.

Mayor Seiler asked the City Clerk to contact Mr. Schultz to see if he is interested in serving as an alternate on the Code Enforcement Board.

Cemeteries Board of Trustees

Mayor Seiler recommended Jonathan Pearson to the Cemeteries Board of Trustees.

Nuisance Abatement Board

Vice Mayor Roberts recommended that Ryan Saunders be moved from an alternate to a full member on the Nuisance Abatement Board.

Budget Advisory Board

- 1) **A motion was unanimously passed 1) requesting a budget** workshop among the board, Office of Management and Budget staff and the City Commisison on November 3, 2009 or November 17, 2009, prior to the conference meeting for clear guidance on the City Commission expectations for the board regarding fiscal year 2010-2011 budget.

Mayor Seiler asked arrangements be made for November 17, at noon.

Cemetery System Board of Trustees

- 1) **The Board supports the current investment policy for the** Cemetery Perpetual Care Trust Fund, and asked that Mr. Miller's

hypothetical comparison of the Perpetual Care Trust Fund under the two investment policies be provided to the City Commission.

2) The Board wants all City cemeteries to be able to offer as many memorialization options to families as possible

3) The Board holds firm that they want to maintain the current investment policy for the Perpetual Care Trust Fund.

Commissioner Rogers was concerned about the contradiction between the City's investment policy and that of the board. The City Auditor also had the same concern. He was informed the rationale was to generate more money. However, according to state statute, return is the least important factor; safety and liquidity are first. Cate McCaffrey, Director of Business Enterprises, indicated that staff intends to present a recommendation to the Commission. Commissioner Rodstrom agreed it should be safe and liquid. Mayor Seiler wanted to wait for the recommendation.

Mayor Seiler pointed out that the board wants to offer more memorialization products. He has heard from funeral homes that feel like they are competing with the City. He was sensitive about government competing with the private sector. The City's cemetery system has a very defined role. Ms. McCaffrey stated the City's cemetery has a 25% discount for City residents. The private sector may have been addressing the mausoleum being built at Lauderdale Memorial Park. In response to Mayor Seiler, Ms. McCaffrey went on to explain what is done with cemetery product sales and how the City's contract with Carriage Services for operation of the cemeteries works. Mayor Seiler did not feel it is fair for the City to essentially endorse Carriage Services branching into other areas. He wanted to address this when staff returns with a recommendation.

Marine Advisory Board

Commissioner Rodstrom recommended Lisa Scott Founds be reappointed to the Marine Advisory Board.

Community Services Board

Commissioner Rogers recommended Jeanine Richards and Nadia Locke to the Community Services Board.

Northwest Progresso-Flagler Heights Redevelopment Advisory Board

Motion approved unanimously to recommend to the City Commission that NE Street and the existing Sistrunk Boulevard should go by one name, Sistrunk Boulevard, from Federal Highway to the city limit going west at the time of the completion of the new road work.

Police & Firefighters' Pension Board

1) Chairman Dew has addressed Commission/Mayor on Pension Ordinance amendments including: reinstatement of COLA clause, removing remarriage penalty for widows,

refining language for Police O/T, extending trustee term to 4 years.

- 2) **The Board would like the Commission to review the Pension Protection Act of 2006 (PPA) and the Heroes Earning Assistance & Relief Tax Act of 2008 (HEART) to ensure that the City is in compliance with its provisions.**

Utility Advisory Committee

Motion made by Ms. Murru, seconded by Vice Chair Stresau, that the Utility Advisory Committee strongly recommends to the City Commission that they fund and move forward with Phases II and III of the Power Services scope of services; with the summary of the pros and cons of municipalization of the electrical distribution system versus a renewal of the Franchise Agreement being provided by the consultant as soon as possible. In a voice vote, the **motion** carried unanimously.

Commission Reports

Mayor Seiler indicated he wanted to get started on the visioning process and schedule it for November 17, 2009. He asked the Commission to submit their ideas to the City Clerk before that time.

EXECUTIVE CLOSED DOOR SESSION WAS HELD AT 5:39 P.M.

The City Commission shall meet privately regarding collective bargaining pursuant to Florida Statute 447.605 regarding the following:

Collective Bargaining

CLOSED DOOR ENDED AT 5:44 P.M.

Note: The City Commission recessed at 5:44 P.M. and continued with Commission Reports at approximately 2:32 A.M. in the City Commission meeting room on the first floor of City Hall.

Commission Reports

Iguanas, Las Olas Isles Neighborhood

Commissioner Rodstrom received complaints from the Las Olas Isles neighborhood about Iguanas. She referred to a Broward County resolution on this topic that informs people about discouraging tips. There was no objection to Commissioner Rodstrom bringing forward a resolution for consideration.

Coconut Isle Bridge

Commissioner Rodstrom wanted to discuss Coconut Isle bridge as to repairs.

Upcoming Events

Commissioner Rodstrom announced upcoming events.

Information to Advisory Boards

Commissioner Rodstrom outlined a matter relating to the Planning and Zoning Board, Bahia Mar and the parking study agreed upon by the Commission the day before the board meeting. She questioned how boards are informed of Commission action. Greg Brewton, Director of Planning and Zoning, stated staff is responsible to pass on information to the boards.

City Manager's Employment Contract

In response to Commissioner Rodstrom, Mayor Seiler advised he and the City Manager have agreed to delay a report to the Commission on the manager's employment contract to November 3. All other terms of the contract will remain in effect. The City Attorney advised that he received the letter on Friday. Commissioner Rodstrom requested a copy of the letter.

School Resource Officer, Rogers Middle School

Commissioner Rogers noted that all middle and high schools in Fort Lauderdale, with the exception of Rogers Middle School, has a school resource officer. He provided some background on the students at Rogers Middle School and that there were six arrests in the first six weeks of school. The police are monitoring the neighborhood. The principal has provided for a police detail out of her own budget. There is some funding available through Broward County, but the City would need to supplement it. He believed this will be scheduled at the November 3 meeting.

Commissioner DuBose indicated he met with staff. He agreed there should be equity around the City and this is the only school without a school resource officer.

Riverside Park Neighborhood Bus Tour

Commissioner Rogers announced there will be a bus tour of Riverside Park neighborhood at 5:30 p.m. on Monday.

Gridiron Grill, Pro Bowl

Commissioner Rogers raised a request of John Offerdahl, a former Dolphin football player, who would like to hold a gridiron grill for the upcoming Pro Bowl. Mayor Seiler noted that Mr. Offerdahl would like the City to absorb the event cost. Past policy is that it would have to be pre-approved in the budget; otherwise it should be cost neutral. Commissioner Rogers indicated that Hollywood has made an offer of services and funding.

Phil Thornburg, Parks and Recreation Director, believed Mr. Offerdahl has approached both Hollywood and Fort Lauderdale. Mr. Offerdahl has indicated that Hollywood has made a larger monetary offer. Commissioner Rogers commented that there are a lot of moving parts including a charity and dollars.

Commissioner DuBose wanted more information provided to the Commission. Mr. Thornburg indicated tentative discussions are to hold the event at Holiday Park with 10,000 to 15,000 people. In-kind costs would probably be about \$50,000. The City would also be asked to assume some hard costs of perhaps \$100,000, including entertainment and the stage.

Mayor Seiler indicated it would be twice what has been budgeted for any other event. In all of his discussions on this event, he was told it would be no cost to the City.

Mr. Thornburg responded to Commissioner DuBose's question as to whether there would be a fee, noting some areas would be free. He went on to explain the idea.

Commissioner Rogers thought it would be helpful for the Mayor to discuss it with Hollywood.

Upcoming Events

Commissioner Rogers announced the upcoming Citizens Volunteer Corps clean-up at Tarpon River Park on November 14, 2009 at 8:00 a.m.

Commissioner Rogers indicated he would be unable to attend the upcoming police promotion ceremony and congratulated them. Commissioner DuBose also congratulated them.

Water Taxi Tour; Florida Inland Navigation District

Commissioner Rogers commented about the recent water taxi and the need for the City to pursue funding from the Florida Inland Navigation District.

Upcoming Events

Commissioner DuBose announced upcoming events and commented on others already held.

Chief of Staff, Governor's Office

Mayor Seiler announced that the new Chief of Staff for the Governor is a Broward County resident.

Upcoming Events

Mayor Seiler announced upcoming events. With respect to Veterans Day, he asked the Commission to furnish the names of any veterans organizations that may be invited.

City Manager's Report - none

There being no further business to come before the Commission, the meeting was adjourned at approximately 2:54 a. m.