

FORT LAUDERDALE CITY COMMISSION REGULAR MEETING
OCTOBER 20, 2009

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE
October 20, 2009**

Meeting was called to order at 6:05 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 Greenlaw

Invocation was offered by Rabbi Schneur Kaplan of Downtown Jewish Center Chabad, followed by the pledge of allegiance led by Richard Mancuso.

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 September 1, 2009 Conference Meeting. Roll call showed: YEAS: Vice Mayor Roberts, Commissioners Rodstrom, DuBose, and Rogers, and Mayor Seiler. NAYS: None.

Presentations

1. Florida City Government Week – October 18-24, 2009 (PRES-01)

Commissioner DuBose presented a proclamation to Averill Dorsett, Director of Human Resources, designating October 18-24, 2009 as Florida City Government Week in the City. Ms. Dorsett thanked the Commission and stated it is important to emphasize services provided by cities and to educate the public on how city government works. She listed the many services provided. Employees will be engaged in educating students.

2. 350 International Day of Climate Change - (PRES-02)
October 24, 2009

Commissioner Rodstrom presented a proclamation to Casey Eckels, former City Recycling Manager, designating October 24, 2009 as 350 International Day of Climate Change in the City.

Casey Eckels thanked the Commission for recognizing the importance of this day and explained the purpose. Science says this is a crisis upon the planet. A local grass roots rally will be held at the Museum of Discovery and Science.

3. Community Appearance Board – WOW Award - (PRES-03)
District I

Vice Mayor Roberts recognized Kathy LaSalle who resides in Imperial Point as the recipient of the Wow Award for District I. Ms. LaSalle thanked all those involved in this nomination.

4. Community Appearance Board – WOW Award - (PRES-04)
District II

Commissioner Rodstrom recognized Ann Stanfa who resides in Victoria Park as the recipient of the WOW Award for District II. Ms. Stanfa thanked the Commission for the award.

5. Commendation – Alex Alghussain (PRES-05)
Fort Lauderdale Student Ambassadors Program

Mayor Seiler announced that this item has been removed from the agenda.

6. Downtown Jewish Center Chabad Day - (PRES-06)
October 20, 2009

Commissioner Rogers presented a proclamation to Rabbi Schneur Kaplan of the Downtown Jewish Center Chabad designating October 20, 2009 as Downtown Jewish Center Chabad Day in the City. Rabbi Kaplan stated their philosophy is to not only enhance the lives of individuals in the Jewish community, but of all human beings and teaching them values for living together in harmony. He thanked the Commission.

Expression of Sympathy (OB)

Mayor Seiler and the City Commission offered an expression of sympathy to Ina Lee and her family on the passing of her parents, Bernard and Lillian Seltzer.

Event Agreement – Croissant Park Block Party (M-06)
Closing SW 14 Street and SW 8 Avenue

Mayor Seiler announced that this item has been removed from the agenda.

Transfer Funds Between WaterWorks 2011 Projects (M-19)

Mayor Seiler announced that this item has been removed from the agenda.

River Bend South I Plat – 2400 West Broward Boulevard (R-01)
Charles B. Ladd – Riverbend South, LLC – Case 1-P-09

Mayor Seiler announced that this item was removed from tonight's agenda at the request of the applicant.

Vacate Right-of-Way – SW 26 Avenue – Case 2-P-09 (PH-02)
Riverbend South LLC – Supervisor of Elections Office

Mayor Seiler announced that this item was removed from tonight's agenda at the request of the applicant.

Rezoning To Community Business With Allocation of (PH-03)
Commercial Flex – 2400 West Broward Boulevard – Supervisor
Of Elections Office – Case 5-ZR-09

Mayor Seiler announced that this item was being removed from tonight's agenda.

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 – FLIFF Closing Night Party (M-01)
Closing 500 Block of SE 6 Street

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Broward County Film Society, Inc. for FLIFF Closing Night Party to be held November 8, 2009, 4 PM – 12 AM, at Cinema Paradiso, and closing SE 6 Street from SE 5 Avenue to SE 5 Terrace, 3 PM, November 8, 2009 to 1 AM, November 9, 2009, leaving garage and condominium access open.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1371

Event Agreement – Christmas On Las Olas (M-02)
Closing East Las Olas Boulevard and Adjoining Side Streets

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Las Olas Association, Inc. for Christmas on Las Olas to be held December 1, 2009, 5 PM – 11 PM and closing East Las Olas Boulevard and side streets from East Las Olas Boulevard to the alley on each side, 12 Noon – 12 Midnight.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1373

Event Agreement – 13.1 Marathon – Closing City Streets Along Route (M-03)

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with U.S. Road Sports and Entertainment of Florida, LLC for 13.1 Marathon to be held November 15, 2009, 5:30 AM – 10:30 AM, beginning on west side of 17th Street Causeway Bridge and ending at Fort Lauderdale Beach park and closing roads along route.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1476

Event Agreement – Cranberry Jam (M-04)

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Covenant House Florida, Inc. for 16th Annual Cranberry Jam to be held November 25, 2009, 6 PM – 12 AM at Fort Lauderdale Beach Park.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1477

Event Agreement – Healthy Lifestyle – Longer Life Health Fair Closing SW 12 Court (M-05)

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Florida Conference Association of Seventh Day Adventists, on behalf of its affiliate Fort Lauderdale Seventh Day Adventist Church, for Healthy Lifestyle Longer Life Health Fair, to be held at the church on November 1, 2009, 12 Noon – 5 PM and closing SW 12 Court, contingent upon City Attorney's Office receiving and approving a validly executed agreement.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1478

Event Agreement – November Fest 2009 – Closing NW 7 Street (M-06)

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Youth For Christ Outreach Ministry, Inc. for November Fest 2009, to be held November 14, 2009, 12 Noon – 3 PM, at 675 NW 22 Road and closing NW 7 Street, from NW 22 Road to western edge of church property.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1479

Event Agreement – Winter Wonderland – Closing SE 5 Avenue (M-07)

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Bova Prime LLC for Winter Wonderland 2009 to be held November 25, 2009, 6 PM – 12 AM, at Bova Prime, 401 East Las Olas Boulevard and closing SE 5 Avenue from East Las Olas Boulevard north to metered parking spaces, 1 PM on November 25, 2009, to 3 AM on November 26, 2009, contingent upon the City Attorney's Office receiving and approving a validly executed event agreement.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1492

Event Agreement – Trick or Treat on 2nd Street- Closing SW 2 Street (M-08)**No budgetary impact.**

A motion authorizing and approving execution of an Event Agreement with Fort Lauderdale Historical Society, Inc. for Trick or Treat on Second Street, to be held October 31, 2009, 7 PM – 12 Midnight and closing SW 2 Street.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1495

Event Agreement – St. Jerome Fall Festival (M-09)**No budgetary impact.**

A motion authorizing and approving execution of an Event Agreement with the Archdiocese of Miami, Inc., on behalf of its parish of St. Jerome Catholic Church for Fall Festival, to be held November 18-22, 2009, on the church property at 2601 SW 9 Avenue, contingent upon City Attorney's Office receiving and approving a validly executed agreement.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1496

Event Agreement – Soaking Wet Car and Ride Showcase (M-10)**No budgetary impact.**

A motion authorizing and approving execution of an Event Agreement with Chow Time Entertainment LLC for Soaking Wet Car and Ride Showcase, to be held November 1, 2009, 12 Noon – 10 PM at Fort Lauderdale Stadium Festival Grounds.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1497

**Grant Application – NFL Grassroots Grant Program -
Croissant Park - \$100,000 – National Football League Youth Football Fund** (M-11)**No budgetary impact.**

A motion authorizing the proper City Officials to apply for NFL Grassroots Grant funding in the amount of \$100,000 from National Football League Youth Football Fund – Croissant Park sports field improvements.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1510

Amend Operating Budget – Transfer - \$150,000 (M-12)
Esplanade Gazebo Replacement at Riverwalk Linear Park

Transfer \$150,000 from P11236.331, General Fund Holding Account Fund Type 30, Fund 331, Subfund 01 to P11231.331-6599, Fund Type 30, Fund 331, Subfund 01. The \$150,000 being transferred from the Holiday Account represents \$100,000 from the 2008 CIP line item – Capital Maintenance and \$50,000 from the 2009 CIP line item – Capital Maintenance. Budget for Capital Maintenance in each respective CIP year was \$100,000.

A motion amending fiscal year 2009-2010 final operating budget by transferring \$150,000 between capital improvement program projects for replacement of Esplanade Gazebo at Riverwalk Linear Park.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1525

Task Order 2 – Kimley-Horn and Associates, Inc. - \$78,940 (M-13)
Executive Airport – Aviation Equipment and Service Facility

\$78,940.00 is available in P11181.468, Fund 468, Subfund 02, Subobject 6599.

A motion authorizing the proper City Officials to execute Task Order 2 with Kimley-Horn and Associates, Inc., in the amount of \$78,940 – Construction Support Services – Executive Airport Aviation Equipment and Service Facility – Project 11181.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1487

Las Olas Beach and Downtown Shuttle – Grant Funding - (M-14)
\$31,154 – Downtown Fort Lauderdale Transportation
Management Association

\$31,154 is available in GBEACHBUS-3199, FTA-Beach Shuttle Program – Other Professional Services, Fund 129, Subfund 01.

A motion authorizing payment of Federal Transit Administration grant funding in the amount of \$31,154 to Downtown Fort Lauderdale Transportation Management Association – Las Olas Beach and Downtown Shuttle administrative services – October 1, 2009 to September 30, 2010.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1391

Reject Bids and Re-Bid – Wastewater Conveyance System (M-15)
Remediation – North of East Las Olas Boulevard Between South
Gordon Road and Intracoastal

No budgetary impact.

A motion rejecting all bids received and authorizing re-bid – Wastewater Conveyance System Long-Term Remediation Program Rehabilitation – Project 11444-N – connections between mainline sewer and laterals north of East Las Olas Boulevard between South Gordon Road and Intracoastal Waterway.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1432

Operating Permit Application - \$10,000 (M-16)
Concentrate Disposal Injection Well – Peele Dixie Water
Treatment Plant

\$10,000.00 is budgeted in PBS670305-3216, Fund 450, Subfund 01.

A motion authorizing payment of \$10,000 to Florida Department of Environmental Protection – operating permit application for Concentrate Disposal Injection Well at Peele Dixie Water Treatment Plant.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1440

NatureScape Irrigation Water Conservation Program - (M-17)
\$49,132.87 – Agreement – Broward County

\$8,892 is budgeted in PBS690692 Subobject 3299, Fund 450, Subfund 01.

A motion authorizing: (1) proper City Officials to execute an agreement with Broward County; and (2) expense of \$49,132.87 over 5-year period – participation in NatureScape Irrigation Water Conservation Program.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1474

Contract Award – Weekly Asphalt Paving, Inc. - \$94,310.90 (M-18)
Executive Airport – Turf Establishment

Please see the funding information on the Bid Tab attached to these minutes.

A motion authorizing the proper City Officials to: (1) award and execute contract with Weekly Asphalt Paving, Inc. in the amount of \$94,310.90 – Executive Airport Turf Establishment – Project 10804; and (2) transfer funds necessary for contract, contingencies, and engineering fees.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1490

Grant Extension – Northeast Area Drainage Improvements - (M-19)
Amendment 2 to Agreement – Florida Department of Environmental
Protection

No budgetary impact. Grant appropriated to and encumbered in P11177.470 \$200,000. Cash match of \$200,000 is encumbered in P11177.470A.

A motion authorizing the proper City Officials to execute Amendment 2 to Agreement with Florida Department of Environmental Protection and all documents necessary for grant extension to May 31, 2011 – Northeast Area Drainage Improvement Grant – stormwater infrastructure for flooding in northeast section of City.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1475

Household Hazardous Waste Collection Event – January 24, 2010 (M-20)

\$1,200 in Sanitation Fund 409, Subfund 01, PBS 090201, Subobject 4352. \$200 budgeted in PBS 090201, Subobject 1501. \$100 in PBS 090202, Subobject 3516.

A motion authorizing Residential Household Hazardous waste Collection Event on January 24, 2010, 8 AM – 3 PM – 101 North Andrews Avenue.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1481

Transfer Funds Between WaterWorks 2011 Projects (M-21)

Please see transfer details attached to these minutes.

A motion authorizing transfer of funds between WaterWorks 2011 projects.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1503

Change Order 4 (Final) – Pavex Corporation D/B/A Ranger Construction South – Executive Airport – Taxiway Alpha Relocation - \$16,079.50 (M-22)

\$16,401.09 \$246.00 is available in P10802.468; \$820,00 is available in P10802.468C and \$15,335.00 is available in P10802.468D all in 6599-468-02 to fund the change order and 2 percent administrative engineering fees.

A motion authorizing proper City Officials to execute Change Order 4 (FINAL) with Pavex Corporation d/b/a Ranger Construction South in the amount of \$16,079.50 – Executive Airport – Taxiway Alpha Relocation – Project 10802.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1507

Change Order 3 – DiPompeo Construction Corporation - \$26,337.78 – Fire Station 29 – 2002 NE 16 Street (M-23)

Transfer \$26,337.78 from P10914.336-6599, Fire Station 54 to P10905.336-6599 all in Fund 336, Subfund 01.

A motion authorizing: (1) Change Order 3 with DiPompeo Construction Corporation in the amount of \$26,337.78 – Fire Station 29 at 2002 NE 16 Street – revisions to original plans – Project 10905; and (2) transfer funds for this change order.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1509

Change Order 1 – Palm Beach Building Group, Inc. - \$24,300 – Joseph C. Carter Park Gym – Pool Building Restroom Renovations (M-24)

\$28,431 is available in P11275.340-6599 to fund the change order and 17 percent engineering fees, Fund 340, Subfund 01.

A motion authorizing the proper City Officials to execute Change Order 1 with Palm Beach Building Group, Inc. in the amount of \$24,300 – Joseph C. Carter Park Gym – Pool Building Restroom Renovation – Project 11275.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1511

Joe DiMaggio Legends Game At Fort Lauderdale Stadium (M-25)
Agreement With South Broward Hospital District

Transfer \$3500 from FD001/9950 Contingencies; Fund Type 01, Fund 001, Subfund 01 to BUS090101/1601 Distributive Labor, Fund Type 01, Fund 001, Subfund 01 and transfer \$7051 from FD001/9950 Contingencies, Fund Type 01, Fund 001, Subfund 01 to BUS090101/3299 Other Services, Fund Type 01, Fund 001, Subfund 01.

A motion allowing City to enter into an agreement with South Broward Hospital District for use of Fort Lauderdale Stadium – Joe DiMaggio Legends game on January 30, 2010.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1534

Greater Fort Lauderdale Sister Cities International, Inc. (M-26)
Agreement – Annual Funding Allocation - \$19,000

Funds available in Fund 001, Subfund 01, GEN010102/Subobject 4207 \$19,000.

A motion authorizing the proper City Officials to execute an agreement with Greater Fort Lauderdale Sister Cities International, Inc. – fiscal year 2009-2010 funding allocation of \$19,000, contingent upon City Attorney's Office receiving and approving the executed agreement.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1414

Qualified Target Industry Program – Home (M-27)
Diagnostics, Inc. - \$5,625

Fund 001, Subfund 01, EDV010101-4299, Other Contribution - \$5,625.00.

A motion authorizing City's portion of payment to Florida Office of Tourism, Trade and Economic Development – Qualified Target Industry Program – Home Diagnostics, Inc. - \$5,625.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1451

Disbursement of Funds – Joint Investigation O.R. 07-91174 (M-28)
Law Enforcement Trust Fund

\$8,487.43 is available in Fund 107 (DEA Confiscated Property) in account GL 219-091174 (Deposits Trust).

A motion authorizing the equitable disbursement of \$8,487.43 with each of the twelve participating law enforcement agencies to receive \$652.87 and Sunrise Police Department to receive \$1,305.74 due to additional assigned agent.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1310

Official Records of Broward County – Recording Fees - (M-29)
\$20,000

This item is budgeted in Fund 001/01 in FIN040201/3216 (costs/fees/permits). There are sufficient funds to cover this estimated annual expenditure of \$20,000.

A motion approving annual expenditure of funds – recording documents in official records of Broward County, estimated at \$20,000 to be paid to Broward County.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1467

Contract Renewals – January, February, March 2010 (M-30)
And November 2009

Funds associated with this item are listed and attached to these minutes.

A motion authorizing extension of listed contracts that expire during January through March, 2010, including a contract from November, 2009 and authorizing proper City Officials to execute all necessary documents, contingent upon each respective vendor agreeing to extension.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1504

CONSENT RESOLUTION

Grant Acceptance – After School Tennis Program - (CR-01)
\$10,000 – United States Tennis Association

Appropriate \$10,000 to Fund 129, Subfund 01, GUSTA09-F741 revenue and expenditure in Subobject GUSTA09-3246, Recreation Programming Fund 001, Subfund 01. Match of in-kind services available in PKR011001-1101, permanent salaries, Fund 001, Subfund 01.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1501

RESOLUTION NO. 09-250

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING ACCEPTANCE OF GRANT FUNDS IN THE AMOUNT OF \$10,000.00 FROM THE UNITED STATES TENNIS ASSOCIATION FOR AFTER SCHOOL TENNIS PROGRAMS; 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, 2009 AND ENDING SEPTEMBER 30, 2010 BY ACCEPTING AND APPROPRIATING SUCH GRANT FUNDS TO FUND 129.

Amendment 9 – Task Order 8 – Camp Dresser & McKee, Inc. - (CR-02)
\$212,230 – Start-Up, Operations, Maintenance Training -
Wastewater Repump Stations A, B & E

Appropriate \$212,230 from Fund 451, Subfund 02, P10550.451-6599, G.T. Lohmeyer R&M/Rebuild/Repl (available balance) to Fund 451, Subfund 01; PBS670503-3199.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1113

RESOLUTION NO. 09-251

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AMENDMENT 9 TO TASK ORDER 8 BETWEEN CAMP DRESSER & MCKEE, INC. AND THE CITY OF FORT LAUDERDALE AND TO AMEND THE FINAL OPERATING BUDGET OF THE CITY OF FORT LAUDERDALE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2009, AND ENDING SEPTEMBER 30, 2010, BY APPROPRIATING \$121,230 FROM FUND 451, SUBFUND 01, P10550.451-6599, G.T. LOHMEYER R&M BUILD/REPL (AVAILABLE BALANCE) AND TRANSFERRING-IN TO FUND 451, SUBFUND 01, PBS670503-3199 FOR CITY PROJECT 10537 REPUMP STATIONS A, B, AND E OPERATIONS/MAINTENANCE AND TRAINING ASSISTANCE.

**Lauderdale Isles Water Management District
Calling Election – One Member of Governing Board
December 8, 2009**

(CR-03)

No budgetary impact.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1491

RESOLUTION NO. 09-252

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, CALLING AN ELECTION TO BE HELD ON DECEMBER 8, 2009 TO ELECT THE GOVERNING BOARD OF THE LAUDERDALE ISLES WATER MANAGEMENT DISTRICT AND CALLING FOR THE NOMINATION OF CANDIDATES FOR SUCH BOARD.

**Executive Airport – Parcel 8AB – KC FXE Aviation Investments, LLC
Assignment, Termination and New Amended and Restated Lease**

(CR-04)

No budgetary impact.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-0811

RESOLUTION NO. 09-253

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO A CONSENT TO ASSIGNMENT OF LEASE AGREEMENT PARCEL 8AB FROM THE 94TH OF FORT LAUDERDALE, INC. WITH SPECIALTY RESTAURANTS CORPORATION AS GUARANTOR TO KC FXE AVIATION INVESTMENTS, LLC AT THE FORT LAUDERDALE EXECUTIVE AIRPORT.

RESOLUTION NO. 09-256

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO TERMINATE THE EXISTING LEASE AGREEMENT PERTAINING TO PARCEL 8AB AND ENTER INTO AN AMENDED AND RESTATED LEASE AGREEMENT WITH KC FXE AVIATION INVESTMENTS, LLC FOR PARCEL 8AB AT THE FORT LAUDERDALE EXECUTIVE AIRPORT.

Amend Operating Budget – Appropriation - \$35,000 (CR-05)
Police SWAT Team Mobile Robotic Surveillance System

Appropriate \$35,000 from FD107, Fund 107, Subfund 01 (undesignated fund balance) to POL080101, Fund 107, Subfund 01, Subobject 6499.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1466

RESOLUTION NO. 09-254

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, 2009 AND ENDING SEPTEMBER 30, 2010 BY APPROPRIATING FUNDS IN THE AMOUNT OF \$35,000.00 FROM THE DRUG ENFORCEMENT ADMINISTRATION CONFISCATED PROPERTY TRUST FUND FOR A POLICE SWAT TEAM MOBILE ROBOTIC SURVEILLANCE SYSTEM.

Grant Acceptance – Bulletproof Vest Partnership - (CR-06)
\$7,710.43 – U.S. Department of Justice

Appropriate \$7,710.43 of Grant Funds to Fund 129, Subfund 01, GBVP13, C205 (Rev), and expenditures in 3949. Also, appropriate \$7,710.43 in City matching funds from Fund 001, Subfund 01, Subobject 9129, and expenditures in GBVP13-3949.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 09-1508

RESOLUTION NO. 09-255

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, 2009, AND ENDING SEPTEMBER 30, 2010, BY ACCEPTING AND APPROPRIATING GRANT FUNDS AWARDED TO THE CITY FROM THE U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE

ASSISTANCE, IN THE AMOUNT OF \$7,710.43 FOR
BULLETPROOF VESTS FOR THE POLICE DEPARTMENT.

PURCHASING AGENDA

295-10349 Home Community Housing Development Organization (PUR-01)

9/01/09 – PH – 08, Program Amendments – CAR 09-1181.

All in Fund 108, Subfund 01, HOPINAXNA 8013, \$66,437.70; HOPINAXNA 8014, \$971.39; HOPINAXNA 8024, \$148,335.08; HO2319/8001, \$74,000.00; HO2519/8001, \$50,217.45; HO2406/8001, \$52,401.53; HO1274/8001, \$99,165.85; HO2011/8001, \$108,472.00. Total: \$600,000.00

Award of HOME Community Housing Development Organization Program funds is being presented for approval by the Planning and Zoning Department.

Recommend: Motion to approve.

Vendor: Housing Enterprises of Fort Lauderdale, Florida Inc.
Fort Lauderdale, Florida

Amount: \$600,000.00

Bids Solicited/Rec'd: 1888/2

Exhibit: Commission Agenda Report 09-1502

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

672-9779 – Bulk Trash Collection Services - Contract (PUR-02)
Assignment and Renewal

\$623,070 is budgeted in Fund 409, Subfund 01, PBS090301-3255.

Assignment and renewal of existing contract for bulk trash collection services is being presented for approval by the Procurement Services Department.

Recommend: Motion to approve.

Vendor: Waste Management Inc. of Florida
Houston, TX

Amount: Per Unit Prices

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1330

The Procurement Services Department has reviewed this item and recommends assignment and renewal of existing contract.

**295-10290 – Reject Proposals and Re-Solicit
Integrated Access Control and Video Surveillance System –
Fire Rescue**

(PUR-03)

No Budgetary Impact.

Reject all proposals for Integrated Access Control and Video Surveillance System for fire stations and Fire Support Services building, re-evaluate specifications and authorize re-solicitation at a later time is being presented for approval by the Fire Rescue Department.

Recommend: Motion to reject and authorize re-soliciting.

Bids Solicited/Rec'd: 1141/5
Exhibit: Commission Agenda Report 09-1389

The Procurement Services Department has reviewed this item and recommends rejecting all proposals and re-soliciting.

Office Copier Plan

(PUR-04)

Contract information for FY 2009-2010. \$3,000 is budgeted in Fund 001, Subfund 01, BLD010101-3304; \$22,500 is budgeted in Fund 581, Subfund 01, BUS 080101-3304; \$4,200 is budgeted in Fund 001, Subfund 01, EDV010102-3304; \$200 is budgeted in Fund 001, Subfund 01, FIR010101-3304; \$4000 is budgeted in Fund 001, Subfund 01, FIR010401-3304; \$28,080 is budgeted in Fund 001, Subfund 01, POL020208-3304; \$3000 is budgeted in Fund 001, Subfund 01, PMM010101-3304; \$3000 is budgeted in Fund 450, Subfund 01, PBS010601-3304; \$4620 is budgeted in Fund 001, Subfund 01, PBS040101-3304; \$4620 is budgeted in Fund 409, Subfund 01, PBS090101-3304; \$1100 is budgeted in PKR011001-334; \$1100 is budgeted in Fund 001, Subfund 01, PKR030501-3304; \$1860 is budgeted in Fund 001, Subfund 01, PKR032901-3304; \$5800 is budgeted in Subfund 001, Subfund 01, PKR033001-3304; \$1300 is budgeted in Fund 001, Subfund 01, PKR060101-3304.

Approval to add and replace leased office copiers during fiscal year 2009-2010 is being presented for approval by the Business Enterprise Department.

Recommend: Motion to approve.

Vendor: IKON Office Solutions, Inc., Malvern, PA
Copyco, Inc. d/b/a Toshiba Business Solutions Florida
Tamarac, FL
Xerox Corporation, Norwalk, CT

Amount: \$88,380.00 (estimated)

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1458

The Procurement Services Department recommends approval from Miami-Dade County Public Schools, Marion County Public Schools and State of Florida contracts.

193-10352 – Police SWAT Mobile Surveillance System**(PUR-05)**

\$35,000 will be available in Fund 107, Subfund 01, POL080101, Subobject 6499 after approval of CAR 09-1466.

Purchase Police SWAT Mobile Surveillance System is being presented for approval by the Police Department.

Recommend: Motion to approve.

Vendor: FSTE LLC d/b/a Fusion Security Solutions
Dallas, TX

Amount: \$35,000.00

Bids Solicited/Rec'd: 514/4

Exhibit: Commission Agenda Report 09-1468

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

503-10358 Officiating Services – Basketball - Adult Leagues and Tournaments**(PUR-06)**

\$21,600 is budgeted in PKR033301 – 3246, Recreation Programming, GF001, Subfund 01.

Contract for Certified Professional Basketball Officials – adult leagues and tournaments is being presented for approval by the Parks and Recreation Department.

Recommend: Motion to approve.

Vendor: Youth Empowerment For A Better Tomorrow, Inc.
Coral Springs, FL

Amount: \$21,600.00 (estimated)

Bids Solicited/Rec'd: 509/1

Exhibit: Commission Agenda Report 09-1498

The Procurement Services Department has reviewed this item and recommends award to the single bidder.

696-10223 – Civil Engineering Consultant Services Continuing Contracts**(PUR-07)**

There is no budgetary impact at this time. Work will be assigned by Task Order and charged to the individual projects per available budget.

A motion authorizing the proper City Officials to execute agreements with Corso Castella Carballo Thompson and Salman, P.A.; Post, Buckley, Schuh & Jernigan, Inc. and CSA Central, Inc. – Continuing Contracts for Civil Engineering Consultant Services.

Recommend: Motion to approve.

Vendor: Corso Castella Carballo Thompson and Salman, P.A.
Coral Gables, FL
Post, Buckley, Schuh & Jernigan, Inc.
Tampa, FL
CSA Central, Inc.
Cincinnati, Ohio

Bids Solicited/Rec'd: 1194.24

Exhibit: Commission Agenda Report 09-1420

The Procurement Services Department has reviewed this item and recommends contract approval to Corso Castella Carballo Thompson and Salman, P.A., Post, Buckley, Schuh & Jernigan, Inc., and CSA Central, Inc.

493-10356 – Corrosion Inhibitor For Water Treatment (PUR-08)

\$38,000 is available in Fund 450 Subfund 01 PBS670305, Subobject 3716.

One-year contract to supply corrosion inhibitor for water treatment is being presented for approval by the Public Works Department.

Recommend: Motion to approve.

Vendor: F2 Industries, LLC
Nashville, TN

Amount: \$37,440.00 (Not-To-Exceed)

Bids Solicited/Rec'd: 504/8

Exhibit: Commission Agenda Report 09-1423

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

702-10381 – IBM Informix Database Software Support – Renewal And Licenses (PUR-09)

\$2,907.41 is budgeted in Fund 001, Subfund 01, POL020602-3401 (Computer Maint.); \$45,373.92 is budgeted in Fund 001, Subfund 01, ITS010301-3401.

Annual renewal of IBM Informix Database Management System software support and licenses is being presented for approval by the Information Technology Services Department.

Recommend: Motion to approve.

Vendor: Alpine Consulting, Inc.
Schaumburg, IL

Amount: \$48,281.33 (not-to-exceed)

Bids Solicited/Rec'd: 1807/9

Exhibit: Commission Agenda Report 09-1379

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

Symantec Annual Software Maintenance and Support (PUR-10)
702-10373 – Reject All Bids and Award Via Federal GSA Contract

\$38,386.26 is budgeted in Fund 001, Subfund 01, ITS010301-3401.

Annual software maintenance and support for Symantec software products – reject all bids under Bid 702-10373 and award via Federal GSA Contract is being presented for approval by the Information Technology Services Department.

Recommend: Motion to reject all bids and award via Federal GSA Contract.

Vendor: Symantec Corporation
Mountain View, CA

Amount: \$38,386.26 (not-to-exceed)

Bids Solicited/Rec'd: 1799/4

Exhibit: Commission Agenda Report 09-1486

The Procurement Services Department has reviewed this item and recommends rejecting all bids submitted and approving purchase from the GSA Schedule 70 contract.

592-8108 – Cyborg Payroll – Personnel – Pension Software (PUR-11)
System – Contract Assignment – License and Support

No budgetary impact.

Assignment of existing contract for license and support of City payroll, personnel and pension software system is being presented for approval by the Information Technology Services Department, subject to execution of assignment by assignor and assignee in substantially the form provided.

Recommend: Motion to approve.

Vendor: Accero, Inc.
Springfield, IL

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1484

The Procurement Services Department has reviewed this item and recommends assignment of contract.

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

Motion made by Vice Mayor Roberts and seconded by Commissioner Rodstrom that Consent Agenda Items M-03, M-07, M-11, M-12, M-14, M-17, M-19, M-25, M-26, M-30, CR-02, PUR-01 and PUR-02 be deleted from the Consent Agenda and considered separately, and that all remaining Consent agenda items be approved as recommended. Roll call showed: YEAS: Vice Mayor Roberts, Commissioners Rodstrom, DuBose, and Rogers, and Mayor Seiler. NAYS: None.

NatureScape Irrigation Water Conservation Program - (M-17)
\$49,132.87 – Agreement – Broward County

The City Clerk announced a corrected amount of \$49,133.

Event Agreement – 13.1 Marathon (M-03)
Closing City Streets Along Route

In response to Commissioner Rogers, Kiley Lapointe of U.S. Road Sports and Entertainment of Florida, LLC, indicated U.S. Road Sports is a for profit company, but they work with charities who raise money individually.

In response to Commissioners Rogers and Rodstrom, Phil Thornburg, Director of Parks and Recreation, stated there is an application fee, but no revenue is generated for the City. Event holders cover all City costs. If there is an anticipated cost to the City, it will be brought to the Commission's attention generally at a conference meeting.

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

Event Agreement – Winter Wonderland (M-07)
Closing SE 5 Avenue

Commissioner Rogers received his answers under Agenda Item M-03.

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

Grant Application – NFL Grassroots Grant Program - (M-11)
Croissant Park - \$100,000 – National Football League
Youth Football Fund

In response to Commissioner Rodstrom, Phil Thornburg, Parks and Recreation Director, stated this is a matching grant; \$100,000 was approved in the Capital Improvement Plan.

In response to Mayor Seiler, Mr. Thornburg explained this is being done throughout various communities, but there are plans to reach out to several individuals including

those with the Super Bowl Committee. The deadline is October 30, 2009. The monies would be used for field renovations. He did not think a concession stand would qualify; monies have been spent already for the concession stand. In response to Mayor Seiler's suggestion about ingress/egress, Mr. Thornburg thought that might be an acceptable use.

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

Amend Operating Budget – Transfer - \$150,000 (M-12)
Esplanade Gazebo Replacement At Riverwalk Linear Park

Commissioner Rogers questioned whether this is a clear necessity. Mayor Seiler suggested the item be deferred in order to consider other options.

Motion made by Commissioner Rogers and seconded by Vice Mayor Roberts to defer this item.

The Director of Parks and Recreation will followup with Commissioner DuBose concerning his question on the financing.

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

Las Olas Beach and Downtown Shuttle – Grant Funding (M-14)
\$31,154 – Downtown Fort Lauderdale Transportation
Management Association

In response to Commissioner DuBose, Peter Partington, City Engineer, stated the total administrative budget for the Downtown Fort Lauderdale Transportation Management Association (TMA) is approximately \$163,000. He went on to explain the purpose of this agenda item, one specific route. The percentage of that route of the total routes operated by the TMA has been multiplied by the total administrative amount to reach the administrative expense for the one route. The TMA budgeted amount of \$29,448 and this item of two thousand dollars more may be due to the budget being worked out before the exact amount was calculated. Staff is comfortable with \$31,154 from the grant for this purpose.

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

NatureScape Irrigation Water Conservation Program - (M-17)
\$49,132.87 – Agreement – Broward County

Commissioner Rogers pointed out that the cost has doubled in four years. Todd Hiteshew, Environmental Services Manager, indicated that the first agreement was

under-funded. The County is now looking to fund 1.4 FTE's with all local partners, along with an annual expense of approximately \$6,500 to replace a vehicle, fuel costs and insurance. There is also a yearly 5% escalator included. All partners are participating and costs have been allocated across the board. Over the course of the last agreement, approximately 32.5 million gallons of water was saved.

In response to Mayor Seiler, Mr. Hiteshew believed there are twenty participating cities. There is a set \$2,000 cost plus based on population. Only those cities that enter into the agreement would benefit. The South Florida Water Management District is no longer involved. Mayor Seiler was also concerned about the City's obligation doubling. In further response, Mr. Hiteshew believed one city dropped out, but that was factored into calculating the cost.

Mayor Seiler asked for the cost breakdown to be provided to the City Auditor.

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

**Grant Extension – Northeast Area Drainage Improvements
Amendment 2 To Agreement – Florida Department of
Environmental Protection**

(M-19)

Commissioner Rodstrom understood the original projects were abandoned due to objections from residents. She questioned who decided upon alternative projects and why there is no backup information. Albert Carbon, Public Works Director, stated the grant was for the northeast portion of the City. When the NE 17 Street residents objected, staff performed some minor drainage adjustments and have not received any further complaints. Staff then used an existing list of drainage problems and gave attention to the northeast. Commissioner Rodstrom asked about an area in the vicinity of the Galleria Mall; Victoria Park road that has had problems with tidal flooding. Mr. Carbon explained a project was done in that area and another is slated to be done. There is an ongoing list of projects as people bring matters to their attention. Areas are looked at and addressed as funding becomes available. Commissioner Rodstrom wanted information about new projects to be provided to the Commission as a practice. Mayor Seiler requested a copy of the list for flooding as well as tidal. There have been a number of complaints about Las Olas Isles. He was interested in the priority because he was aware of areas other than NE 17 Street with greater complaints. Both Mayor Seiler and Commissioner Rodstrom wanted the list to be scheduled on a conference agenda. Mr. Carbon noted later this year or the first of next year the stormwater master plan would be brought before the Commission where these kinds of policy decisions are outlined.

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

**Joe DiMaggio Legends Game At Fort Lauderdale Stadium
Agreement With South Broward Hospital District****(M-25)**

In response to Vice Mayor Roberts, Cate McCaffrey, Director of Business Enterprises, stated the terms of the agreement have not been specifically determined. One suggestion was that the Joe DiMaggio group would give the City \$5,000. Previously, the Orioles received \$7,500, but in return provided staffing for the event. The \$5,000 would be on the condition that the City would not supply any staff for the event. The final agreement will come back to the Commission.

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

**Greater Fort Lauderdale Sister Cities International, Inc.
Agreement – Annual Funding Allocation - \$19,000****(M-26)**

Commissioner Rogers no longer had any question.

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

**Contract Renewals – January, February, March 2010
And November, 2009****(M-30)**

Vice Mayor Roberts asked about going out to bid on some of the old contracts. Kirk Buffington, Director of Procurement Services, stated staff has decided to re-bid 3-4 contracts. Staff believes the others should be renewed.

In response to Vice Mayor Roberts, Mr. Buffington provided additional background on the holiday lights contract. Commissioner DuBose questioned if it is possible that the lights are being used by others during the course of the year. Mr. Buffington indicated that the City has the exclusive right for the lights when requested and offered to check on the contract language about use during the year. He offered to find out a breakdown on storage, but explained it was not bid that way.

Vice Mayor Roberts pointed out that because prices has decreased for Items 4 and 10 and perhaps this could be achieved on the others. Mr. Buffington indicated the decrease had to do with reduction in usage.

In response to Commissioner Rogers, Mr. Buffington provided additional background about the purchase of hydrogen peroxide in a countywide co-op bid.

In response to Commissioner Rogers, Mr. Buffington indicated it might be helpful to re-bid the recycling contract.

With respect to the holiday lights, Commissioner DuBose could not accept the idea of paying to store something that the City does not own. Don Morris, Beach Community

Redevelopment Agency Director, stated this vendor has also agreed to provide some Super Bowl lighting at no charge. Due to the time sensitivity, Commissioner DuBose consented to the item, but requested a copy of the contract.

At Vice Mayor Roberts' suggestion, Item 5 was removed with direction to re-bid.

In response to Mayor Seiler, Mr. Buffington advised that there are no hourly rate changes for any of the items shown as CCNA (Consultants Competitive Negotiations Act).

In response to Commissioner Rodstrom concerning Item 15 and when the scope could be changed to include pick-up of all palm fronds. Albert Carbon, Director of Public Works, noted the resident feedback from the public hearing on this matter that did not favor such a change. This Item will be re-bid next year. Commissioner Rodstrom explained her recollection was that Royal Palm fronds are too large to manage. When it is re-bid, she wanted it to include all palm tree fronds. She asked to be informed when the item is slated for re-bid.

Vice Mayor Roberts questioned Item 19. Mr. Carbon did not wish to re-bid this until the Resource Recovery Board and interlocal agreement is decided upon.

In response to Vice Mayor Roberts, Mr. Buffington stated that Item 20 is a co-op contract that aggregates volume for the entire county.

Commissioner Rodstrom referred to Items 21, 22 and 23 that are consultant hourly rates and questioned if a lower rate could be achieved. Mr. Buffington offered some background on CCNA contracts and rates. Commissioner Rodstrom asked about Kimley Horn and Keith and Schnars that have several contracts with the City, as to whether they might reduce their hourly rates.

Commissioner Rogers asked about volume by discipline, but Mr. Buffington indicated that data would have to be organized into a report.

Mayor Seiler requested all CCNA items (Items 8, 12, 16, 21, 22, 23 and 26) be removed, staff meet with the Commission individually and place these on the November 3, 2009 agenda.

Mayor Seiler asked about Item 27. Denny Stone, Risk Management, provided additional background on this item. The City pays only \$10,000 of this. It has decreased because there are less employees. It is pass-through, paid by employees. . They are locked into a contract and pay \$1.30 for \$10,000 of management life insurance coverage that is popular with employees. These are pass-thru dollars for employees.

Motion made by Vice Mayor Roberts and seconded by Commissioner Rodstrom to approve the items as presented, excluding Items 5, 8, 12, 16, 21, 22, 23, and 26. Roll call showed: YEAS: Vice Mayor Roberts, Commissioners Rodstrom, DuBose, Rogers, and Mayor Seiler. NAYS: None.

Mayor Seiler noted there is consensus to re-bid Item 5 and for staff to meet with the Commission individually on the others as noted earlier.

Amendment 9 – Task Order 8 – Camp Dresser & McKee, Inc. (CR-02)
\$212,230 – Start-Up, Operations, Maintenance Training –
Wastewater Repump Stations A, B & E

In response to Commissioner Rogers, Paul Bohlander, Assistant Utilities Services Director, stated this amendment is for additional scope of work that addresses the three largest wastewater pump stations in the City that have been rehabilitated. This is for training and an operational manual. Equipment and components were purchased from several manufacturers. Camp Dresser & McKee designed the overall project of \$11.5 million. This was not part of the original contract.

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

295-10349 Home Community Housing Development Organization (PUR-01)

Karen Lamont, 1713 NW 8 Avenue, South Middle River, expressed opposition to this item. They do not want to encourage low-income housing in only one area. She referred to the Housing Authority and improper management of the funding. She commended the Commission on creation of the Green Committee. She was concerned that the RFP did not include any sustainability promotions that could more disposable income into the hands of low-income people.

In response to Commissioner DuBose, Kirk Buffington, Director of Procurement Services, provided more detail as to the scope of services and indicated there was not a sustainability component in the RFP. It could not be added without re-bidding, but he believed it is something that could have been included in the original scope. Ms. Lamont's email to the Commission also spoke about restricting work to local contractors. He noted that the Housing Authority is local. HUD guidelines require open and competitive bidding. There is no provision for local preference, plus there is a City ordinance that disallows it. Jonathan Brown, Housing and Community Development Manager, explained solar panels and water heaters are items that could be replaced, but not unless the items are in need of replacement.

In response to Commissioner DuBose, Mr. Brown indicated that the City does not receive any Section 8 funds. Ms. Lamont understood the recommendation is to Housing Enterprises of Fort Lauderdale which is a branch of Section 8. They do not believe it is being operated efficiently and therefore do not believe additional funds should be awarded. They believe the housing should be made more affordable, otherwise it is not helpful.

Tam English, Executive Director, Housing Authority for the City of Fort Lauderdale, stated he is also the executive director for Housing Enterprises of Fort Lauderdale, Inc. He clarified that Housing Enterprises is not a subsidiary of the Housing Authority. The Housing Authority has Section 8 affiliation. They are prohibited from discriminating against where Section 8 housing would be built. The tenant with a Section 8 voucher has the choice.

Vice Mayor Roberts asked about benchmarks. Mr. Brown explained Housing Enterprises set out in their proposal the number of homes for ownership and rental they would create. Vice Mayor Roberts requested he be provided with the actual numbers.

Commissioner Rodstrom understood adding sustainability features could limit the amount of available funding for rehabilitation of homes, although she also understood the importance. Mr. Brown explained when items are inoperable, they are replaced with energy efficient ones. Specific language will be included in the future. Mr. English added that the replacements will be those with the highest efficiency that can be afforded. The City Auditor explained there is a fine line with rehabilitation projects in balancing the cost and the benefit. Resources are limited.

In response to Mayor Seiler, Mr. Brown indicated that typically no more than 15% of the annual HOME funds allocation. In this case, these funds are dollars not previously expended that are being reallocated. There are equal amounts toward ownership and rental. They hope the rentals would be lease with the option to buy.

Concerning benchmarks, Mr. Buffington indicated that there would be four multi-family rental units and as to ownership, purchase two units that would be sold and the proceeds used to purchase an additional two.

Ms. Lamont emphasized the need for the project to make a difference in people's lives. .

In response to Commissioner Rodstrom and keeping neighborhoods informed, Mr. Brown suggested that he would keep the district commissioner apprised when a home is purchased in their district. In further response, Mr. Brown indicated staff would be making sure that new occupants would be put in contact with the appropriate HUD organizations. Mr. English noted that the Housing Authority has operated a homeownership program in the City for some fifteen years.

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

**672-9779 – Bulk Trash Collection Services
Contract Assignment and Renewal**

(PUR-02)

Kirk Buffington, Director of Procurement Services, confirmed for Commissioner Rogers that this is the same company that bid on the garbage contract in the March timeframe.

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

MOTIONS

**Proprietary – EMS Computer Aided Dispatch
Software Maintenance**

(MD-01)

\$17,968.50 is budgeted in FIR010101-3401, Fund 001, Subfund 01.

One-year contract extension for emergency medical services computer aided dispatch software maintenance is being presented for approval by the Fire-Rescue Department.

Recommend: Motion to approve.

Vendor: Deccan International, a California corporation
doing business in Florida as Deccan International
Corporation
San Diego, CA

Amount: \$17,968.50

Exhibit: Commission Agenda Report 09-1366

The Procurement Services Department has reviewed this item and recommends approving the proprietary purchase.

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

**Proprietary - Financial Management and Budget
Software Maintenance**

(MD-02)

\$163,209 is budgeted in Fund 001, Subfund 01, ITS010201-3401 (Computer Maintenance).

Purchase annual maintenance for Financial Management and Budget Preparation Software (FAMIS/BPREP) is being presented for approval by Information Technology Services Department.

Recommend: Motion to approve.

Vendor: Cogsdale Holdings Ltd. Inc.
Charlottetown, Canada

Amount: \$163,209.00

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1457

The Procurement Services Department has reviewed this item and recommends awarding the proprietary purchase.

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

Proprietary – Nalco PC-1850T Antiscalant - Peele (MD-03)
Dixie Water Treatment Plant

\$123,286 has been budgeted in PBS670305-3719 Fund 450, Subfund 01.

Purchase Nalco PC-1850T Antiscalant for Peele Dixie Water Treatment Plant is being presented for approval by the Public Works Department.

Recommend: Motion to approve.

Vendor: Nalco Company
Naperville, IL

Amount: \$123,286.00 (not-to-exceed)

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1444

The Procurement Services Department has reviewed this item and recommends awarding this proprietary purchase.

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

Proprietary – JWCE Channel Monster Replacement Parts (MD-04)
And Service – Lohmeyer Wastewater Treatment Plant

Purchases are made on an as-needed basis and charged to the individual operating budgets within Public Works. The average annual expense for these purchases is \$6,719. Funds for these purchases are budgeted in PBS670502-3404, Fund 451, Subfund 01. The current budget is \$50,000 for these types of purchases.

Purchase WC Environmental repair parts and service for channel monsters at Lohmeyer Wastewater Treatment Plant is being presented for approval by the Public Works Department.

Recommend: Motion to approve.

Vendor: JWC Environmental
Costa Mesa, CA

Amount: Per Unit Prices

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1459

The Procurement Services Department has reviewed this item and recommends awarding this proprietary purchase.

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

Proprietary – Ashbrook Belt Filter Press Replacement (MD-05)
Parts and Service – Lohmeyer Wastewater Treatment Plant

Purchases are made on as-needed basis and charged to the individual operating budgets within Public Works. The average annual expense for this commodity is \$780. Funds for these purchases are budgeted in PBS670502.3404, Fund 451, Subfund 01. The current budget is \$25,000 for these types of purchases.

Purchase Ashbrook Simon-Hartley belt filter presses repair and replacement parts and service at Lohmeyer Wastewater Treatment Plant is being presented for approval by the Public Works Department.

Recommend: Motion to approve.

Vendor: Ashbrook Simon-Hartley, LP
Houston, TX

Amount: Per Unit Prices

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1463

The Procurement Services Department has reviewed this item and recommends awarding the proprietary purchase.

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

Proprietary – EIMCO Replacement Parts - Clarifiers (MD-06)
Lohmeyer Wastewater Treatment Plant

Purchases are made on an as-needed basis and charged to the individual operating budgets within Public Works. The average annual expense for these purchases is \$1,636. Funds for these purchases are budgeted in PBS670502-3404, Fund 451, Subfund 01. The current budget for these types of purchases is \$20,000.

Purchase EIMCO replacement parts for clarifiers at Lohmeyer Wastewater Treatment Plant is being presented for approval by the Public Works Department.

Recommend: Motion to approve.

Vendor: EIMCO Water Technologies, LLC
Salt Lake City, UT

Amount: Per Unit Prices

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1464

The Procurement Services Department has reviewed this item and recommends awarding this proprietary purchase.

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

Proprietary – Seametrics Flowmeters and Replacement Parts – Prospect and Peele Dixie Wellfields (MD-07)

Purchases are made on as-needed basis and charged to PBS670302, Subobject 3404, Fund 450, Subfund 01. The average annual expense for these purchases is unknown because these were installed in 2009. The department has budgeted \$15,000 in PBS670302, Subobject 3404, Fund 450, Subfund 01, for this purpose.

Purchase Seametrics brand flowmeters and replacement parts for Prospect and Peele Dixie Wellfields is being presented for approval by the Public Works Department.

Recommend: Motion to approve.

Vendor: Gilson Engineering Sales of Florida, Inc.
Heathrow, FL

Amount: Per Unit Prices

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1443

The Procurement Services Department has reviewed this item and recommends awarding this proprietary purchase..

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

Proprietary – HYDAC George S. Edwards Replacement Parts - Sand Strainer – Peele Dixie Water Treatment Plant (MD-08)

Purchases are made on an as-needed basis and charged to PBS670302, Subobject 3404, Fund 450, Subfund 01. This equipment was installed in 2006 and warranties have ended. There is no historical maintenance history. The department has budgeted \$12,000 in PBS670302, Subobject 3404, Fund 450, Subfund 01, for this purpose.

Purchase HYDAC, George S. Edwards replacement parts – sand strainer for Peele Dixie Water Treatment Plant is being presented for approval by the Public Works Department.

Recommend: Motion to approve.

Vendor: Controls & Power, Inc.
Birmingham, AL
Amount: Per Unit Prices
Bids Solicited/Rec'd: N/A
Exhibit: Commission Agenda Report 09-1441

The Procurement Services Department has reviewed this item and recommends awarding this proprietary purchase.

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

Proprietary – Cryogenic Oxygen Generation Plant – Parts and Maintenance – Lohmeyer Wastewater Treatment Plant (MD-09)

Purchases are made on an as-needed basis and charged to the individual operating budgets within Public Works. The average annual expense for these purchases is \$90,916.00. Funds are budgeted in PBS670502.3407, Fund 451, Subfund 01 and PBS670502.3404, Fund 451, Subfund 01.

Purchase Air Products and Chemicals, Inc. cryogenic oxygen generation plant repair parts and maintenance services for Lohmeyer Wastewater Treatment Plant is being presented for approval by Public Works Department.

Recommend: Motion to approve.
Vendor: Air Products and Chemicals, Inc.
Allentown, PA
Amount: Per Unit Prices
Bids Solicited/Rec'd: N/A
Exhibit: Commission Agenda Report 09-1462

The Procurement Services Department has reviewed this item and recommends awarding this proprietary purchase.

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

Proprietary – Wallace and Tiernan Replacement Parts And Service – Fiveash Water Treatment Plant (MD-10)

Purchases are made on an as-needed basis and charged to the individual operating budgets within Public Works. The average annual expense for these purchases is \$17,003. Funds for these purchases are budgeted in PBS670302-3404, Fund 450, Subfund 01. The current budget for these type purchases is \$30,000.

Purchase Wallace and Tiernan replacement parts and service for Fiveash Water Treatment Plant is being presented for approval by the Public Works Department.

Recommend: Motion to approve.

Vendor: Water Treatment & Controls Company
Pensacola, FL

Amount: Per Unit Prices

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1445

The Procurement Services Department has reviewed this item and recommends awarding this proprietary purchase.

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

Proprietary – Rotork Valves, Actuators and Replacement Parts – Peele Dixie Water Treatment Plant (MD-11)

Purchases are made on an as-needed basis and charged to the individual operating budgets within Public works. The Rotork valves were installed in 2006 and warranties have ended. So there is no historical maintenance history. Funds for these purchases are budgeted in PBS670302-3404, Fund 450, Subfund 01 and PBS670304-3404, Fund 450, Subfund 01. The current budget is \$30,000 and \$10,000 respectively, for these types of purchases.

Purchase Rotork valves, actuators and replacement parts for Peele Dixie Water Treatment Plant is being presented for approval by the Public Works Department.

Recommend: Motion to approve.

Vendor: Fluid Control Specialties, Inc.
Sanford, FL

Amount: Per Unit Prices

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1446

The Procurement Services Department has reviewed this item and recommends awarding this proprietary purchase.

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

**Proprietary – Robicon Maintenance Service and Repair Parts
Lohmeyer Wastewater Treatment Plant**

(MD-12)

Purchases are made on an as-needed basis and charged to the individual operating budgets within Public works. The average annual expense on these proprietary purchases is \$4,860. Funds for these purchases are budgeted in PBS670502.3407, Fund 451, Subfund 01 and PBS670502.3404, Fund 451, Subfund 01. The current budget is \$7,500 and \$12,500 respectively, for these types of purchases.

Purchase Robicon Perfect Harmony Variable Frequency Drives Maintenance Services and Repair Parts for Lohmeyer Wastewater Treatment Plant is being presented for approval by Public Works Department.

Recommend: Motion to approve.

Vendor: Siemens Energy & Automation, Inc.
Alpharetta, GA

Amount: Per Unit Prices

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 09-1461

The Procurement Services Department has reviewed this item and recommends awarding this proprietary purchase.

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

**Cardinal Gibbons High School – Sports Field Lights
Mediated Settlement Agreement**

(MD-13)

No budgetary impact.

A motion approving Mediated Settlement Agreement between City and Archdiocese of Miami and Cardinal Gibbons High School – installation of light poles on sports fields – 2900 NE 47 Street.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 09-1536

Greg Brewton, Director of Planning and Zoning, provided a history on this matter. This evening has to do with the Applicant moving forward through the dispute resolution process. An amendment to the Unified Land Development Regulations (ULDR) is requested to allow for site plan level III for houses of worship to have the same permitted uses as other CF zoned properties. The agreement includes conditions agreed upon by the School above the norm under the site plan review process.

Mayor Seiler opened the floor for public comment.

James Ambrose, 4720 NE 25 Avenue, indicated one reason he purchased his home in Coral Ridge Estates was it being a quiet neighborhood. The sports field is surrounded by homes. If lights are installed, it will change things considerably. About twenty blocks of homes would be greatly impacted. He presented a photograph showing the lighting which is attached to these minutes. The light structures and the public address system can be seen and heard from the far side of the golf course. Nine-story structures are not compatible in a residential neighborhood. He urged denial.

Judy Ambrose, 4720 NE 25 Avenue, discussed her service to the community on advisory boards. She realized this is a difficult decision. She understood the need to serve the children at Cardinal Gibbons and does not object to the school. There is a difference between an athletic field during the day and one at night. She urged the Commission to enforce the code. She was concerned about property values.

James Colonel, 4320 NE 28 Avenue, elaborated upon the mistake made by the City in issuing a permit to the school. He urged denial. The lights will bring visual blight and impact the residential neighborhood. The City has not heeded the homeowners' efforts to have the lights lowered to the legal limits. He was concerned about property values.

Teresa Shapiro, 4231 NE 28 Avenue, was concerned about the impact on the residential neighborhood. She recommended property be leased from the American Golfers (Federal Highway). She felt the school has outgrown its site.

Jerry Cimino, 4240 NE 28 Avenue, felt this should be a simple issue of legal or illegal. He was opposed to a stadium being in his neighborhood; the light structures qualify the field to be a stadium. He believed those in favor of the lighting are not directly impacted. He was concerned about property values.

Elva Bielejeski, 4141 NE 28 Avenue, discussed the burglaries that have occurred on 28 Avenue and was concerned about the impact from increased traffic. She was concerned about fighting at night games. She pointed out the lack of adequate parking. She urged denial.

Dena Poll, 4300 NE 28 Avenue, indicated this neighborhood was not designed to include a stadium. She noted the three denials by the Board of Adjustment and urged denial.

Pat Curry, 4301 NE 28 Avenue, supported the lights and the high school. They moved to this area because of the high school and knowing of the football field. There are differing opinions on this issue. He pointed out that the lights in the City park next to the school are 65 feet in height. The high school has tried to compromise by limiting the number of nights. The park is open and crowded almost every night. He did not think talk of increased crime is applicable to the high school. He did not think there is a traffic problem.

Judy Avey, 4321 NE 25 Avenue, showed a photograph of the site from the perspective of her home which is attached to these minutes. She noted her community service. She asked the Commission not to approve the agreement until the current light structures meet all City code requirements. Residents were not allowed to participate in discussions on the mediated agreement. She noted the previous denials by the Board of Adjustment.

Bunney Brenneman stated she is a past president of Coral Ridge Isles Homeowners Association, commented about a similar situation between Coral Ridge Isles and Pinecrest School and that there are no problems with the athletic field lighting at that school. It will work if everyone lives up to their promises.

Robert Prager, 4321 NE 28 Avenue, asked the Commission to support the decision of the Board of Adjustment on three occasions and to honor the Unified Land Development Regulations. The mediated agreement does not provide compatibility. He elaborated about issues with noise, traffic and parking. While it has been accepted during the daytime, it will be very disruptive at night with increased attendance. It is dangerous to have ninety foot high structures within sixty feet of a home. The sixty three light fixtures have no hurricane rating at all. The buffer and landscaping strip required by site plan level III has been ignored. He referred to a comment by Board of Adjustment member Shallenberger that mediated agreements with homeowner associations have not worked in the long term. There is no adequate enforceability. The Coral Ridge Country Club Homeowners Estate (Association) does not represent all abutting or surrounding property owners. He urged the Commission to deny this request. He submitted a sound level assessment by Advanced Industrial Hygiene Services, Inc., dated September 28, 2009 and a photograph of the area, which were entered into the record.

George Mihaiu, 600 West Las Olas Boulevard, supported the proposal. Because no one seems to be happy, it may be the right course of action.

John Kelley, 4700 NE 25 Avenue, supported the lights. He commented that the football games are community events. There have been no crime or trash issues. He explained the impossibility of finishing all scheduled games before dark which may be no later than 6 p.m. Athletic programs are open to both sexes and both should be afforded the opportunity to participate for the length of a full game. Additionally evenings avoid high temperatures.

Dan Perry, representing Coral Ridge Homeowners Association, reported a favorable vote of the membership for a compromise. The homeowners, the school, the church and the City get along. It would involve five Friday nights and some games in the winter. He felt it would be an easy issue upon which to compromise. He mentioned how the church and school provide unlimited parking for the City's baseball field attendees. The homeowners raised \$50,000 to enhance the park. The school's capital improvements clearly enhance property values.

Paul Ott, principal of Cardinal Gibbons High School, indicated that the school applied for a permit in good faith as they have always done and have always followed the City's recommendations. The school is a community facility and as such brings people into the neighborhood. The majority of the neighbors are not opposed to the lights. He asked the Commission to work with the school by approving a process to do whatever is legal and provide an opportunity to be heard.

Tucker Gibbs, representing Dr. Robert Prager and Mr. Edward Deeb, indicated these individuals are residents directly abutting the school. He referred to Mr. Curry's comments about the sixty foot high lights at Bayview Park and noted that those lights are permitted according to the zoning code. The issue is whether the lights at Cardinal Gibbons are illegal. They are illegal. The code provides for a height of thirty-five feet,

but two poles are 95 feet high and two are 65 feet high. He referred to comments about an agreement with Pinecrest, but there is no meeting of the minds here. The agreement before the Commission has nothing to do with the neighborhood. Under this mediation, the residents are not considered parties. Negotiations occurred between the City and the school. It is not possible to negotiate away code requirements. The agreement lists five varsity football games and thirty evenings. The issue is not the good works of the school, but a violation of the Unified Land Development Regulations which is why the City required the school to go before the Board of Adjustment for a zoning variance. The Board denied the variance and a subsequent temporary non-conforming use approval application. Dr. Prager and Mr. Deeb object to the settlement agreement. He believed the mediation had nothing to do with whether the school followed the ULDR, but about finding a way to let the school violate the code. He urged the settlement be rejected. Information submitted by Mr. Gibbs is attached to these minutes.

Amy Huber, representing the Archdiocese of Miami and Cardinal Gibbons High School, provided 145 signatures of immediate neighbors in support of the school. She also provided documents that were provided to the Board of Adjustment, which include a letter from Coral Ridge Country Club Estates Homeowners Association, expressing approval, an affidavit from Damian Huttenhoff, Director of Broward County Athletic Association and other documents relating to heat stroke. The petition was made a part of the record and the additional documents are attached to these minutes. She explained the school properly applied for and received a building permit. The school is requesting an agreement with the City to engage in a process that will facilitate a code amendment to allow the school to apply for installation of the lights like every other community facility. The City on its own decided that there is a discrepancy within the community facilities zoning code provision. In 2000 a federal regulation was enacted dealing with religious facilities. The code treats religious facilities differently than other schools. Staff decided to propose an update regardless of this matter. The school decided to submit an application to the Planning and Zoning Board after the code amendment. The overwhelming majority of homeowners in the area and the homeowners association support the school. The school believes it is an asset to the neighborhood. The school believes the agreement addresses all concerns raised this evening. The conditions in the agreement were originally negotiated with the homeowners association and consequently there was dialogue with the neighborhood. These restrictions are not in place on any other public high school or high school within the City or Broward County. Cardinal Gibbons is one of the only high schools in the county that does not have lights and forced to start games at 4 p.m. The lights are not being approved this evening, but rather the process.

There was no one else wishing to speak.

The City Attorney advised that it was found after the matter of the permit being issued in error that the City treats community facilities, which are houses of worship, different than any other community facility in the City. His office will be bringing forward a recommended amendment. He elaborated upon two approaches to address this. The agreement puts the process in place, but even without the agreement, the amendment will be presented in the very near future. The agreement provides conditions the school has to meet if a permit is issued. Once the code is amended, the school could apply and the conditions in the agreement would carry forward.

The following responses were provided to questions raised by Mayor Seiler, Vice Mayor Roberts, Commissioner Rodstrom and Commissioner Rogers. The City Attorney provided more history on discovery of the error. Greg Brewton, Director of Planning and Zoning, advised the height restriction in this zoning district is thirty-five feet with the opportunity to go to sixty feet by a site plan level III by the Planning and Zoning Board which is contained in the settlement agreement. He went on to note the height limits for various districts. The City Attorney explained that the amendment will provide for religious institutions to mirror other community facilities including the same height restriction. The site plan level III could be called up by the Commission. Mr. Brewton indicated neighborhood compatibility would be part of the site plan, but there are additional conditions imposed in the agreement.

In response to Commissioner Rogers (Paragraphs 9 and 10) concerning not waiving any legal rights, arguments or positions and a pending writ of certiorari based on the Board of Adjustment's denial, the City Attorney indicated it is inappropriate for such a claim to be a part of a petition for writ of certiorari. The issue was raised in discussions. The agreement calls for that lawsuit to be dismissed. Ms. Huber explained that following the conclusion of these procedures, the appeal could be dismissed. The agreement will stay all current litigation pending the outcome of the City changing the ordinance. Commissioner Rogers was concerned about a potential lawsuit. He wanted a waiver if the agreement is approved. Ms. Huber explained the school could not waive their rights until the City takes some action. No action is being taken tonight. The Commission could deny a code amendment and as such the school needs to be in the same position as today in order to challenge the code. The agreement keeps the City from expending funds in litigation. If the code is amended, the writ of certiorari would be withdrawn. Referring to Paragraph 13, the City Attorney believed it would be withdrawn after the permit is issued.

Mr. Gibbs understood that the agreement does not have specifics for the amendment, just that there would be an amendment addressing the issue (Paragraph 1.a). The City Attorney confirmed that is correct. He will come back to the Commission with two approaches and a recommendation of one. Mr. Gibbs advised that his clients would present proposals also.

Mayor Seiler understood from Michael Morrill, Athletic Director, Cardinal Gibbons High School, in the audience, that generally sports other than football do not have a public address system. In further response, Mr. Brewton noted the public address system restrictions detailed in Condition 7 and it would probably involve ten events although not specified.

In response to Commissioner Rogers, Ms. Huber indicated the school would dismiss the writ of certiorari upon non-appealable, final approval of the ordinance, but there would be no release until the permit is issued. Ms. Huber stated the school could not agree with the dismissal that everything to that point in time is released because there are other legal issues that would not be addressed solely by the code amendment. One issue is equitable estoppel. The school is not asking the City to release all of their legal arguments either.

In response to Mayor Seiler, Phil Thornburg, Parks and Recreation Director, discussed Bayview Park. The lighting direction could be rechecked, but there will be some spillage. Without the school's assistance with additional parking, it would not be possible to hold

events that are now held. There is no formal agreement, but a letter setting forth some sharing that takes place between the City and the school.

In response to Commissioner Rodstrom, Ms. Huber indicated the school's licensed contractor obtained the permit with the belief that it complied with the code. There is a fundamental discrepancy over the definition of structure; the school does not believe that a light pole is a structure. She noted the name of the contractors. There has never been an issue on this point with the City.

Vice Mayor Roberts believed the agreement gives all of the parties the ability to continue to work together. There are more protections.

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

Commissioner Rogers preferred to help raise funds for telescoping poles that would comply with the code than to expend funds on a lawsuit. He wanted an amendment that upon passage of the ordinance, the school would dismiss the writ of certiorari. He offered such an amendment. Vice Mayor Roberts preferred to stay with the original motion and work toward that goal within the terms of the settlement agreement.

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

Mayor Seiler requested that when the ordinance comes forward, the attorneys of record should be notified. The City Attorney noted it will first come to a conference meeting.

RESOLUTIONS

Riverbend South I Plat – 2400 West Broward Boulevard (R-01)
Charles B. Ladd – Riverbend South, LLC – Case 1-P-09

No budgetary impacts.

Applicant: Charles B. Ladd – Riverbend South, LLC
Location: 2400 West Broward Boulevard
Current Zoning: Boulevard Business B-1 and Mobile Home Park MHP
Proposed Zoning: Boulevard Business B-1 and Community Business CB
With allocation of commercial flex acreage
Future Land Use: Commercial, Medium High Residential

Motion made by Commissioner Rodstrom and seconded by Commissioner Rogers to defer this item to November 3, 2009 (at request of Applicant). Roll call showed: YEAS: Vice Mayor Roberts, Commissioners Rodstrom, DuBose, and Rogers, and Mayor Seiler. NAYS: None.

PUBLIC HEARINGS

Vacate Right-of-Way – SW 26 Avenue – Case 2-P-09 (PH-02)

No budgetary impact.

Rezoning To Community Business With Allocation of Commercial Flex – 2400 West Broward Boulevard – Supervisor Of Elections Office – Case 5-ZR-09 (PH-03)

No budgetary impact.

Motion made by Vice Mayor Roberts and seconded by Commissioner DuBose to open the hearing and defer Items PH-02 and PH-03 to November 3, 2009 (at request of Applicant). Roll call showed: YEAS: Vice Mayor Roberts, Commissioners Rodstrom, DuBose and Rogers, and Mayor Seiler. NAYS: None.

RESOLUTIONS

Amendment To Site Plan – Ritz Carlton Hotel – Flag Poles 1 North Fort Lauderdale Beach Boulevard – Castillo Grand, LLC Case 59-R-09 (R-02)

No budgetary impact.

Commissioner DuBose introduced the following resolution:

RESOLUTION NO. 09-244

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING AN AMENDMENT TO A DEVELOPMENT PLAN FOR A HOTEL, MULTIPLE FAMILY, RESTAURANT AND RETAIL USE, OUTDOOR DINING APPROVAL OF SETBACK REDUCTIONS AND YARD MODIFICATIONS LOCATED AT ONE NORTH FORT LAUDERDALE BEACH BOULEVARD, FORT LAUDERDALE, FLORIDA IN A PRD ZONING DISTRICT.

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

PUBLIC HEARINGS

Electric Utility Franchise – Florida Power and Light Company**(PH-01)****No budgetary impact.**

The City Attorney advised that his staff has reviewed about thirty franchise agreements across the state. They chose twenty-six that were with FPL and compared them with the FPL proposed contract. He presented an analysis and matrix. A copy of the analysis is attached to these minutes. The proposed agreement narrows the non-exclusive right granted to FPL in those areas classified as city streets. It narrows the scope of purpose of their non-exclusive right to just supplying electricity.

Vice Mayor Roberts left the dais at approximately 9:30 p.m.

The City Attorney continued that the proposal broadens the standard to which FPL has to adhere from not unreasonably interfering with traffic over public rights-of-way and adds specification to the above-grade facilities consist with the AT&T service cabinets discussed in the conference meeting. It provides for an indemnification of the grantor and adds specificity and breadth to the category of persons indemnified under the agreement. The franchise fee is set at 6%; all other agreements in recent history are at 5.9%. For the grantee's books and records, there is a 180-day window. The agreement also includes records retention and provides for the survival of the audit provision after termination of the franchise. It includes a most favored nations clause which narrows the scope of additional benefits to FPL if the clause is activated and entitles the City to any larger franchise fee provided to another entity by FPL. No buy-out provision has been provided in the last twenty years. The City's agreement contains a buy-out provision. Section 11 is a legislative, regulatory action, and no other modern franchise agreement contains such a significant a departure from the FPL franchise agreement originally proposed. Only Fort Myers and Naples contain a provision for undergrounding facilities. There is also a provision for renewable energy. No other agreement contains language acknowledging the importance of such. The agreement also allows the City to generate electricity for City facilities. The agreement provides for smart grid technology. No other FPL franchise acknowledges the advent of such.

Vice Mayor Roberts returned to the dais at approximately 9:33 p.m.

The City Attorney continued that the agreement provides an infrastructure hardening which acknowledges the importance of the hardening existing infrastructures in the municipality.

Commissioner DuBose left the dais at approximately 9:35 p.m.

The City Attorney believed the proposed franchise agreement is as good or better than any other in the state. He recommended it.

In response to Commissioner Rogers, the City Attorney indicated in terms of back and forth with FPL, he could not remember after the twelfth. The City proposed a ten-year term that lasted through the eleventh draft. In the negotiations, the City traded the buy-out provision for a thirty-year term versus ten years.

Mayor Seiler opened the public hearing.

Nancy Cross, 717 SW 14 Avenue, polled the audience on their approval of FPL's service and whether to grant a thirty-year contract. Although most do not believe FPL is doing a great job, the proposal is a thirty-year contract. She did not think a thirty-year contract should be awarded. People want clean and renewable sources of energy. She polled the audience on undergrounding utility lines.

Commissioner DuBose returned to the dais at approximately 9:36 p.m.

Dan Lindblade, president of the Greater Fort Lauderdale Chamber of Commerce, indicated that the chamber represents approximately 95,000 employees in the greater Fort Lauderdale area. He complimented the City Attorney on their work in negotiating an outstanding agreement, mentioning the most favored nations and municipalization clauses. He also remarked about FPL being an outstanding corporate citizen. He recommended approval.

Vicki Eckels, 917 SE 14 Street, felt the agreement is less than stellar. With respect to the renewable energy option, she felt it is nothing more than what has been the law since 2008, net metering. The smart grid energy option would be done at the residents' expense and is another way in the short term for FPL to maximize profits for peak uses. In the long-term, it could be useful to promote energy conservation. The best effort language in many areas of the agreement falls short on substance. As to the future, there are no benchmarks or opportunity to play a role in deciding where the City's energy would come from at a time when renewable sources will be more diverse and cost effective. This agreement saddles the City with the excessive cost of nuclear and concentrated solar farms. Franchise fees are not paid from FPL profits, but rather it is collected from the residents. The most favored nation clause only provides a way to collect more from the residents. She questioned why a declaratory action has not been filed to ensure continued collection and payment of the franchise fee so that the Commission may thoughtfully consider this matter. She urged the Commission to not approve the proposed agreement.

Emmett McTigue, 515 Mola Avenue, supported the agreement.

Rob Kornahrens of Advanced Green Technologies, indicated they are one of the largest solar distributors in the world. He believed FPL provides good rates to the City. He commented that FPL is a leader in solar and wind in the country. He indicated that he does work for FPL. He urged the Commission to review the facts.

Doug Blevins, 2125 NE 5 Avenue, Wilton Manors, elaborated upon reasons why he would not favor municipalization. He went on to note FPL's involvement in renewable energy sources across the country. He wanted FPL to be held accountable to looking at programs for the future. He felt a thirty-year term is too long. He felt the buy-out option would work in the City's favor. He urged approval.

Carol Fletcher, 645 SW 6 Avenue, felt a thirty-year term is excessive.

Kevin Buckley, 2100 South Ocean Lane, commented that FPL is not a perfect science, but he would not support municipalization.

Karen Unger, 912 Ponce de Leon, favored continuing the franchise with FPL. It is a good corporate citizen. She was impressed with their response to environmental ideas and that FPL is one of the lower cost providers of electricity in Florida. She pointed out the value that FPL adds to the community. She did not support municipalization. She urged renewal of the franchise agreement.

David Rose, 701 SW Coconut Drive, acknowledged the hard work of the City Attorney, but felt it should be rejected. He did not feel the agreement provides sufficient ways for the City to deal with changes over time. It does not address power quality or reliability. The hardening language is not adequate. The agreement should adequately address undergrounding. There should be a long-term plan with respect to undergrounding. Visual pollution with respect to utility lines and power station design, for example, should be addressed. Many of the issues say what would be done if implemented. It should be more favorable to the City. He suggested a one-year renewal to allow for more favorable terms on the part of the City.

Mayor Seiler announced that undergrounding will be discussed by the Commission at its second meeting in November.

Julie Cobb, 3100 North Ocean Boulevard, commented that electricity was returned after a recent hurricane in three days. She felt FPL should be allowed to do what they do and the City to address basic services.

Matthew Schwartz, representing Sierra Club, remarked of the term length and did not think the agreement allows for the City to opt out in the future. He felt FPL insisting on the agreement being executed by October 29 is heavy-handed. He remarked there are thousands of people concerned about global warming and do not see nuclear energy as a solution. The money being invested in Turkey Point belongs to the residents. Time does not permit delineating all of the environmental impacts of Turkey Point and Everglades National Park. FPL is the number one contributor to political candidates in Florida.

Terri Murru, member of the Utility Advisory Committee, felt there needs to be enough objective information to make this decision. She noted there will be speakers who benefit from FPL. The Utility Advisory Committee voted unanimously that additional information on this matter is needed. The investment is \$1 per rate payer. She urged the Commission to make such a miniscule investment compared to a \$10 billion decision.

Raymond Parker, member of the Utility Advisory Committee, indicated that he was not present the evening of the committee's unanimous vote. He believed the alternative to the agreement is municipalization. He questioned whether the two greatest reasons to go to municipalization would be lower and stable rates. There are thirty-three municipalities that have their own power distribution network and some generate their own power however FPL is less expensive. Over the last nine years, water rates have increased a little more than twice the amount that FPL has increased electricity rates. With municipalization, the City would lose the 25% FPL discount toward undergrounding. The proposed agreement has many concessions that other cities do not have. Individuals may install their own renewable power sources. Net metering is available. The City has the right to provide power to all of its facilities. The City cannot provide

power to the residents but that is beyond possibility anyway. The City will also save consultant fees.

Madelene Otero, 2542 Flamingo Lane, urged not to approve the agreement without first completing phase three of the feasibility study as the Utility Advisory Committee unanimously recommended. She commented about the electricity being unavailable for days after a recent hurricane and consequently favored undergrounding. She believed the cost for undergrounding by a municipal system would be markedly less. She referred to FPL's argument that the increase would be more than offset by a drop in fuel costs it did not mention that the same drop in fuel costs would be experienced by other systems. In addition, she questioned how fuel costs have changed in just the last eighteen months. She was concerned about a thirty-year agreement. She questioned removing days of no service after hurricanes in the reliability statistics.

John Aurelius, 2864 NE 24 Court, supported the proposed agreement. There are faults with FPL, but those have to be addressed on a state level. He pointed to the reasons set out by Ray Parker. The citizens want strong, effective electrical service that only FPL can deliver.

Ed Strobel, 11 Fort Royal Isle, discussed the non-exclusivity clause and indicated he did not think it would actually provide for non-exclusivity. There are several best-effort clauses. He felt the City deserves better than best-effort. He felt the most-favored nations clause could be better. FPL has provided low costs but he did not think one should expect future prices to be the same as past prices. Within ten years there will be an energy renaissance that will provide many opportunities for changes. He recommended delaying the agreement in order to look at possible changes and some middle ground. He provided suggested a list of changes to the contract that is attached to these minutes.

Jennifer Green, resident of Tamarac, felt a thirty-year agreement would provide FPL a carte blanche ticket to do whatever they want with consumers. She urged the Commission not to approve the agreement.

Patricia DuMont, 1531 SE 13 Street, was not present, but entered a statement in favor of the proposed agreement that is attached to these minutes.

Kevin Songer, president of Galt Towers, 4250 Galt Ocean Drive, supported the proposed agreement. He felt that FPL has been responsive. He understood residents have alternative energy sources, such as solar. The residents of Galt Towers do not want any uncertainty with their electricity.

Gary Hecker, 641 SW 6 Avenue, referred to the City's annual a water quality report. He felt the same should be done for other utilities. He supported completing phase three of the feasibility study. Residents would like to have control of rates, undergrounding and the ability to take advantage of technology advances just over the horizon. FPL does not care about Fort Lauderdale other than for the money it gets. He urged more time be secured in order to negotiate a better deal.

Karen Lamont, 1713 NW 8 Avenue, did not support the proposed agreement. She felt the City should be looking forward toward solar and not backward to nuclear. People in her area cannot afford any rate increase. There needs to be more control over rates. If

the City is responsible for utility poles when they fall down, she did not see much difference from municipalization.

Fred Carlson, 625 Orton Avenue, urged there be an ongoing program to accomplish undergrounding methodically. He was concerned about an increased franchise fee that takes money from citizens. It is a hidden tax. FPL gives charitable donations out of money received from the consumers. There is no control over outrageous salaries.

Robert Alcock, 1045 NW 2 Avenue, was concerned about climate change and rising sea levels which could severely impact Fort Lauderdale. He questioned the long term of the agreement. The solar industry is presently going through radical changes; there are unknowns. He wanted to make sure the City could take advantage of various options in the future in regard to renewable energy sources. He urged the Commission to make sure it has all of the information.

Bill Savarese, 1700 NE 17 Terrace, noted that undergrounding is only one part of the contract and currently, FPL requests a fee for the proposal. Most of the cost is absorbed by the residents, but the lines become FPL property. He was also concerned about so many best efforts clauses and the lack of certainty. He was concerned about rushing into a thirty-year agreement.

Ruth Von Spalding, 806 SW 16 Street, wanted to look to the future and what people have to cope with. She felt it is too dangerous to enter into a thirty-year contract. She suggested a five-year term.

Art Seitz, 1905 North Atlantic Boulevard, opposed a thirty-year term. He suggested discussions with Winter Park, Gainesville, and Jacksonville.

Bunney Brenneman, chair of the Utility Advisory Committee, noted the hard work of the committee, the amicable agreement reached with FPL and their recommendation to the Commission from August 25, 2009, that the Commission fund and move forward with phases two and three of Power Services scope of services as soon as possible. The vote was 11-0. She urged the Commission to listen to the committee.

Aram Falsafi, 1101 North Victoria Park Road, indicated that he is an electrical engineer, working in the technology sector. He commented that probably ninety percent of what he uses in his job did not exist in 1996 when he graduated. He was concerned about a thirty-year term. He believed clean energy will go through changes in the next few years similar to what has happened with technology. If there are savings in the future, in the case of a thirty-year agreement, those dollars will go to FPL. He asked about rates over the years. He did not think one could compare water rates over a period of time with electricity because water production is not going through the same revolutionary change and resource availability is different. He opposed the agreement, but if it is considered, he suggested a three-year term.

Cara Campbell, 641 SE 6 Avenue, discussed plans of Progress Energy and FPL to build nuclear energy plants. The cost will be passed along to consumers. Even if rates are low, she was concerned about pass-throughs. She referred to a letter (July 8, 2009) from Don McClosky, FPL lobbyist, that attempted to undermine the City of Winter Park taking control of their energy distribution. She read a letter written in rebuttal that was made a part of the record. She pointed out that the City of Parkland chose not to renew

their franchise agreement. It might be time for this Commission to be concerned about what is best for the residents and not give priority to maximizing revenues, employee salaries and FPL profits. Foregoing the franchise fee could be considered a tax relief. A thirty-year agreement with a regressive company that does everything possible to stop energy conservation would not be wise. She urged the Commission not to approve the agreement.

Mara Shlackman, 2100 South Ocean Drive, indicated that she is an attorney and believed FPL's threat not to collect the franchise fee if the agreement expires is a hollow threat. She referred to Florida Power Corp. v. Winter Park and Florida Power Corp. v. Belle Air Florida Supreme Court cases, where the court held a utility must continue collecting the paying the franchise fee during a hold-over period where the city continues to maintain the rights of way and the utility continues use them and benefit from being the sole electrical provider. She also referred to a 2008 South Daytona action against FPL where FPL agreed to continue paying the franchise fee. She further referred to a May, 2009, memorandum from the phase one feasibility study consultant, Schef Wright (Young van Assenderp) advising an assistant city attorney that pursuant to the Winter Park and Belleair cases, FPL would be required to continue collecting and paying the franchise fee as long as negotiations were ongoing on the renewal or a buy-out. She felt under this case law, even if negotiations reached an impasse, it is likely FPL would still be required to collect and pay the franchise fee. She concluded that as of May, 2009, it would be prudent to file a declaratory judgment injunctive relief. It is not too late to do so, so that the fee could continue to be paid while the phase three feasibility study is done. She was opposed to the franchise renewal without the phase three feasibility study unanimously recommended by the Utility Advisory Committee.

Paul Renneisen, 3111 NE 57 Court, felt it would be excellent to provide for the opportunity to municipalize this service over the next ten to fifteen years. He was opposed to bringing fear to this argument. The City has the strength to negotiate with FPL. There are people in the audience who cannot afford to pay their electricity bill. He suggested the Commission consider a one month franchise fee rebate. He wanted an agreement negotiated that would be a model for the nation. He wanted a one-month delay and a better rate negotiated.

William Goetz, member of the Utility Advisory Committee, referred to the non-exclusionary clause of the agreement. He believed there are several provisions in the agreement that make the non-exclusivity moot. Section 9(a) of the agreement prohibits the City from entering into an agreement with another entity to provide electricity. Section 9(b) allows the City to purchase electricity from another provider for its own use only after FPL is given an option. It does not require FPL to match the quality or source of that electricity, such as solar. He did not think a third party could compete on these terms. He noted the most chilling provisions concerning non-exclusivity are Sections 11 (Legislative or Regulatory Action) and 14 (Competitive Disadvantage; Termination by Grantee), which he expanded upon. There is no provision that allows for the agreement to be in effect while the City challenges FPL. FPL's determination controls and as such, it may terminate the agreement and withhold franchise fees solely at its own discretion. These sections block competition for distribution or supply of electricity. He also discussed Section 12 (Default by Grantee; Forfeiture). He was concerned about the difficulties in having adequate time to discuss this matter with the Commission. They (Utility Advisory Committee) were refused the opportunity to talk with the negotiating team. He believed the Utility Advisory Committee was unintentionally misled and blind-

sided by the negotiating team. This could possibly also be happening to the Commission.

Trevor Underwood, 2425 Sunrise Key Boulevard, provided and entered into the record a Handbook of Issues and Responses. He noted that commissioners have indicated they do not want to be in the energy distribution business and cannot afford to purchase the distribution assets and underground the lines. He provided an overview of his assistance to the Utility Advisory Committee and noted it cumulated in his presentation presentation to the Commission on May 15, 2007 and hiring of Power Services to provide a three-part review of available options. Phase three included a feasibility study on undergrounding. He proposed the City establish an independent municipal utility distribution authority to municipalize and underground the local distribution systems for electricity, telephone, internet access and cable services that would ultimately be rented to competing service providers, and to establish an independent municipal electric supply utility to purchase electricity from the wholesale market and then supply it to residents. Existing distribution assets would be purchased by the municipal electric distribution authority under an option in the existing franchise agreement. The purchase would be financed by bonds issued by the authority and secured on the distribution assets and guaranteed rental income. The authority could continue to collect the 6% franchise fee and the 10% utility tax. This could be achieved at no cost to the City, nor would it affect the bond rating. Availability of the required financing has been re-confirmed by a major financial institution. The underground lines would be owned by the municipal distribution authority and not FPL. He believed the Commission should not approve the agreement without at least completing phase three of the feasibility study as unanimously recommended by the Utility Advisory Committee. The Commission should this evening approve and fund phase three at a cost of \$135,110.

Earl Rynerson, 438 NE 8 Avenue, opposed the agreement. He saw it as a shotgun marriage. He was disappointed that the agreement is essentially what other cities in the state have implemented. He was concerned the City has not listened to the Utility Advisory Committee. He felt this is an issue about keeping the City's options open, understanding possible benefits in the future and making an informed decision. He offered the idea of hiring a consultant, taking more time to review options and possibly showing others that the City can be forward thinking.

Raymond Dettmann, 1900 South Miami Road, noted that once the agreement is executed, there will be no leverage for thirty years. He discussed his previous experience with FPL and soot from its plant falling on his roof. At the time FPL only did what was ordered the EPA. He emphasized the need to find more healthy ways to produce power. Quality of life is a bigger issue than signing the agreement now. He felt the Commission should defer it and get more information. The citizens pay the franchise fee. He questioned what FPL pays.

Chris Chiari, member of the Utility Advisory Committee, indicated that he does not believe all of the facts are known. He noted the committee has asked that phases two and three of the feasibility study be done. A review of the municipal option is needed, including the value of the infrastructure and this agreement to FPL. The franchise fee could be collected by the City; it is not the driving issue of whether to municipalize. He felt a partnership with FPL is possible but the agreement needs to respect that it is a partnership. He suggested the agreement be approved for two or three years in order to first get questions answered. He wanted the favored nations clause to also cover

renewable energy. Simply because FPL contributes to the community is not a justification for making a thirty-year commitment.

Emmett Kater, 2051 NW 28 Terrace, discussed how things have changed over the years. He noted that FPL does not own all of its nuclear plants in Florida. He felt that should be clearly communicated to the City. He was concerned with new digital meters being installed in the City and how they can be monitored and manipulated by FPL. He believed digital meters will result in higher costs. He urged the Commission to consider whether there should be a commitment for a period of thirty years. He suggested looking at Jacksonville's inhouse operation. He did not think FPL should be given everything they want.

J. D. Camp, 1620 NE 5 Court, conveyed what had happened at his home after Hurricane Wilma. FPL made repairs and brought power back to the block, but did not fix the line to his residence which resulted in a power surge. The power surge damaged his appliances. FPL read to him from documentation that FPL was not responsible. He went on to discuss how it was ultimately resolved and his exchanges with the insurance carrier. Language in the agreement should protect the residents.

Andy Ziffer, 525 SW 5 Street, acknowledged the community work of Lynn Shatas of FPL. He did not think this matter has anything to do with undergrounding, solar renewables or the citizens, but rather purely politics. He was concerned about future rates and commented that past performance does not guarantee future results. He suggested the agreement provide that FPL will maintain the lowest rates at 100 kilowatts and third lowest at 2500 kilowatts, and that the agreement will terminate if FPL fails to do so. He urged the Commission to represent the City. FPL should earn the City's business. He suggested a five-year contract or a two to three year renewal. He opposed the agreement. He asked that phase two (feasibility study) be completed. He asked for rebuttal time after FPL representatives speak. Information provided by Mr. Ziffer was entered into the record.

Ray Del Papa, 1605 SW 25 Street, questioned a thirty-year term. He noted it will be passed along to the next generation. He urged the Commission to take time and make the right decision.

Don McClosky, representing FPL, elaborated upon the years that he has resided and raised a family and conducted his business in Fort Lauderdale. He indicated even if he was not being retained by FPL he would oppose municipalization because of the risk and monetary investment involved. He did not think bonding would be possible without putting the City's credit at risk. Negotiations have been underway for four months. Staff has reviewed thirty some franchises. It is not possible to negotiate from the dais. Thirty-three municipalities have municipalized, but FPL's rates are lower than any of them. He pointed out that the Winter Park case is totally different than Fort Lauderdale's circumstances. He provided some background on the case.

Rod Macon, representing FPL, indicated the proposed agreement includes terms that are more favorable than what has ever been offered to a city. He referred to some items recommended by the City's consultant on this topic. The consultant recommended a buy-out provision but indicated that FPL was not likely to agree, however, FPL has agreed to it and Fort Lauderdale is the first city to be offered this in almost twenty years. The consultant recommended changes to the way the franchise scope is defined. FPL

agreed to it. The consultant suggested not allowing FPL to place electric facilities in other public places and that FPL had never agreed to such a modification in their experience. FPL agreed to it. The consultant recommended giving the City the right to transmit power to other City facilities. Although the standard franchise form does not contain such a provision, FPL agreed to it. The consultant made other recommendations relative to rates, severability, termination rights, a most favored nations clause and an audit provision and in every case FPL agreed to the modifications. With respect to the thirty-year term, he pointed out that this is a non-exclusive franchise. It does not prevent other competitors or from residents taking advantage of new technologies. It provides a guaranteed revenue that is bondable and assurance to FPL to make necessary capital investments. He believed the proposal is fair and balanced.

Jim Blosser, representing FPL, reviewed the history on this topic over the past two and a half years. The terms are the most favorable in Florida. Thirty years is a necessary period in order to make the kind of capital investment in technology requested by many speakers this evening. FPL has the ability to change with the time. He recommended the City approve this agreement tonight and move forward with undergrounding.

There were no additional speakers wishing to speak.

Commissioner DuBose commented that this is the biggest and one of the most difficult items this Commission has had to address. The majority of people at District III discussions do not favor municipalization. People did raise the term issue. He wanted everyone to know that they have been heard. He intends to always heed what he hears from his constituency.

Vice Mayor Roberts believed there is some misunderstanding over jurisdiction of some of the issues. He agreed there are genuine concerns, but the Public Service Commission has a lot of control. He felt the City Attorney did an outstanding job. He felt this Commission got into discussions at a late stage and did not have all of the information that should have been available to them when the phase one feasibility study was considered. At that time he had also been concerned about a thirty-year term. He understood FPL's concerns about capital investment, therefore he supported a thirty-year term with five-year benchmark renewables.

Commissioner Rogers discussed a personal experience with an outage at his home. His primary concern is the term, although he understood FPL's position. He felt the City Attorney did an outstanding job. He supported ten years. He referred to the Public Service Commission's jurisdiction and questioned how many benchmarks are possible.

Commissioner Rodstrom appreciated the deferral that allowed for more time. Generally when a thirty-year term is given, specific capital improvements are provided, but they are not noted. She believed the City will be burdened with the cost of some things such as smart grid and the nuclear power plant. She did not think renewables were sufficiently addressed. She liked having a two-year contract on her cellular telephone so that it is state of the art. She was concerned about the environment. It is unacceptable that hardening has not started until the last four years. As to limitations relating to the Public Service Commission, she questioned how hard FPL will work with the City. Those points have not been negotiated. She did not feel the City could handle municipalization at this time, but may be able to in the near future, yet with a thirty-year term it will not be

possible to take advantage of those changes. She wanted the agreement to be the best for the people.

Mayor Seiler thanked everyone for their work on this. He reviewed the history and noted the previous Commission did not want to proceed with municipalization or funding additional studies. He was impressed with the knowledge of the speakers. He emphasized that the agreement is non-exclusive. The scope has been narrowed to electricity and electrical services. There is nothing the City can do that would impact the nuclear issue; it is a Public Service Commission decision. Rates are set by the Public Services Commission. FPL has the lowest rates in Florida. He felt options for renewable energy and the best rates are what most constituents want. He has received emails on both sides; many people in favor are not present. He wanted the most favored nations clause to apply to all issues. The City Attorney responded to his questions as follows. FPL would own what is done with respect to undergrounding as FPL would be responsible for repair and maintenance. The Public Service Commission (PSC) approval as to undergrounding and the 25% credit is tied-in. PSC has exclusive jurisdiction over undergrounding, reliability and rates. Smart grid technology has been approved and it is being installed for usage monitoring to be able to provide better service and possibly change rates to recognize off-peak hours. Rates, however are controlled by the PSC. Mayor Seiler did not think this is a great agreement. He referred to positions taken by the former Commission and his concern about spending more money on a consultant. He reiterated his desire for the most favored nations clause to apply to all issues. The City Attorney noted the City has already obtained some things that other cities do not have and in order to get something else, FPL will want quid pro quo. They will look at those cities with a most favored nations clause and what they gave up to get it. Staff went through this analysis and chose the rate of the franchise fee. The City Attorney confirmed the Mayor's understanding that the City's requests for undergrounding shall be implemented by FPL which was inserted at Vice Mayor Roberts' suggestion. In further response, the City Attorney advised if the state or federal government imposes a certain level of renewable energy, it would not pre-empt this agreement. Only Section 11, Legislative or Regulatory Action, would apply where it puts FPL at a competitive disadvantage only relating to franchise fees. Assistant City Attorney Dunckel believed if standards were promulgated by either the state or federal government, the City would be the beneficiary.

Motion made by Commissioner Rodstrom to revisit the franchise agreement in five years. Vice Mayor Roberts also wanted five years, but did not think it will be practical. He suggested ten years with an option to extend to thirty-years. Commissioner Rodstrom asked for clarification. The motion died for lack of a second.

In response to Commissioner DuBose, the City Attorney provided insight into the negotiations concerning the term, indicating that the City started at ten years and expected to end at twenty to twenty-five. Ultimately, the City traded the buy-out provision for the thirty-years. Commissioner DuBose asked if the City could lose something by returning to a term of five or ten years. The City Attorney stated there is a possibility. FPL has thirty days to accept or reject. The expiration is on the 29th. FPL could take the position that there is no ordinance in place, therefore no franchise fee is owed. The City would have to file for a declaratory judgment. There may be other options, but the City would probably end up in litigation. In response to Commissioner Rogers, the City Attorney indicated there is language that provides for consistency in payment during the transition. Commissioner Rogers asked about how it would play out

if something is changed now. The City Attorney explained that he accepted this task in June and it took most of the time until the last hearing to complete the negotiations. There was not a great deal of direction. It was assumed that because it passed on first reading most of it was acceptable. Going from thirty to five years is more than a tweak. Commissioner Rogers asked about the feasibility of benchmarks every ten years for example. The City Attorney emphasized the agreement is only about use of City rights of way and compensation to the City for that use. FPL could still use the right of way without a franchise. Staff started with what the City consultant provided with respect to terms. He believed they got 99%. The City will not know if FPL would accept a term change and if FPL does not accept it, there will be litigation. Commissioner Rogers felt it is somewhat of a moving target in terms of who gets the last say. The City Attorney indicated if the ordinance is not passed or substantial deviations are made, he has an emergency ordinance for adoption extending the current agreement for six months. He did not know if it would prevail in any litigation.

In response to Mayor Seiler, the City Attorney clarified the agreement is about use of the right of way and that the City would not provide power to anyone other than the City.

The City Attorney suggested the ball be put in FPL's court. There is a fair amount of bonding done for twenty years, therefore the Commission may wish to consider a twenty-year term. The emergency ordinance should be adopted and FPL would have thirty days to accept or reject. Mr. Macon stated twenty years would probably not be acceptable. The term is important to FPL. All franchises in Florida are thirty years. At the end of negotiations, he recalled three items on the table: 6% versus 5.9%, buy-out option and term. FPL gave those two items for the thirty years.

Vice Mayor Roberts was still concerned about the term. Commissioner DuBose was concerned about potential litigation.

Motion made by Commissioner DuBose and seconded by Commissioner Rogers to approve the agreement as presented.

Commissioner Rogers did not favor municipalization at this time. He also struggled with the term. He was basing his decision on the lowest rate and best service. He hoped FPL would continue to be a responsible corporate citizen. He did not want to litigate. He was elected to be concerned about a fiduciary relationship the Commission has with their funds.

Vice Mayor Roberts was opposed to municipalization. Mayor Seiler did not think any commissioner has supported municipalization.

Commissioner DuBose introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-09-26

AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSIONS 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: Commissioners DuBose and Rogers and Mayor Seiler. NAYS: Vice Mayor Roberts and Commissioner Rodstrom.

RESOLUTIONS

Appeal – Historic Preservation Board – Case 9-H-05
Demolition – 215 SW 7 Avenue – Sailboat Bend Historic District

(R-03)

No budgetary impact.

Applicant: CVM 1 REO LLC
Location: 215 SW 7 Avenue
Zoning: Downtown Regional Activity Center – Arts and Sciences RAC-AS

Commissioner Rogers requested an additional thirty days to reach a solution.

Motion made by Commissioner Rogers and seconded by Vice Mayor Roberts to defer this item to November 17, 2009.

In response to Mayor Seiler, Terrence McGuire, representing the Applicant, stated that CVM is the owner of the subject property. He went on to state that a hearing was held on September 15 at which time this item was deferred to this evening. The Applicant believes there is no substantial competent evidence to support the Historic Preservation Board's decision. He did not see that a further delay would serve any purpose. The Commission has already voiced a concern that the board's decision might have violated legal due process. The Applicant is seeking a certificate of appropriateness this evening in order to proceed with demolition.

Debbie Farmer, CVM 1 REO, LLC Permit Expediter, recalled the item was deferred for thirty days, but it has now been two months. She did not support another deferral.

In response to Mayor Seiler's question concerning a letter, dated March 6, 2009, indicating that Ms. Farmer has no authority to act on behalf of CVM, Mr. McGuire clarified Ms. Farmer is not the final decision maker in this matter. In further response, Commissioner Rogers indicated that he has spoken with the owner twice.

Commissioner DuBose asked if the Commission could legally continue to defer. The City Attorney believed the time frame had to do with the Commission determining whether to hold a de novo hearing, which has been made. The assigned attorney is out of the country. Greg Brewton, Director of Planning and Zoning, stated there is no time frame within which a decision has to be made.

Dave Parker, president of Sailboat Bend Civic Association, commented about the neglect and the possibility of saving the house. Thirty more days is all that is being asked. It has historical value and means something to the neighborhood. It is part of the historical district. He elaborated upon the neighborhood's efforts to preserve the site and keep it clean.

Ms. Farmer noted that vagrants are being attracted to the site because of the structure.

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

Downtown Development Authority – Levy of Ad Valorem Taxes (R-04)
Fiscal Year 2009-2010

No budgetary impact.

Vice Mayor Roberts introduced the following resolution:

RESOLUTION NO. 09-245

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, LEVYING AN AD VALOREM TAX FOR FISCAL YEAR 2009/2010 ON BEHALF OF THE DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF FORT LAUDERDALE, FLORIDA, PURSUANT TO CHAPTER 346, LAWS OF FLORIDA.

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

Conveyance of Property To Community Redevelopment Agency – Mixed-Use Redevelopment – 1534 NW 6 Street (R-05)

If approved, budget amendments and appropriations reflecting the transfer from City to the CRA in the amount of \$3,185.45 (acquisition costs) will be required.

Alfred Battle, Community Redevelopment Director, indicated this is part of the final steps of completing terms of a development agreement with Mount Olive Development Corporation for construction of their mixed-use building. Properties for HOPWA housing will also be renovated along with Mount Olive's offices being relocated.

In response to Mayor Seiler, Mr. Battle advised this property was acquired by tax deed and described surrounding properties that are not in the Community Redevelopment Agency (CRA). The subject property is a sliver. It was thought the best way to dispose

of it would be to allow the CRA to encourage development. The adjacent property owner brought forward a proposal. There is really no other use for it.

Commissioner DuBose introduced the following resolution:

RESOLUTION NO. 09-246

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PURSUANT TO CITY CHARTER SECTION 8.02, DETERMINING AND DECLARING ITS INTENTION TO CONVEY CERTAIN PUBLIC PROPERTIES TO THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY AND DESIGNATING A DATE AND TIME FOR A PUBLIC HEARING UPON SUCH PROPOSAL.

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

Community Bus Services – Public Transportation Services Agreement

(R-06)

Please see the funding information attached to these minutes relating to the City's \$280,000 commitment.

Vice Mayor Roberts indicated there have been many changes in the program working toward making it self-sustainable and viable. He referred to Exhibit 1 to the Commission Agenda Report 09-1391 and indicated he would like to fund the \$68,000 from the noted available \$77,000. There is an unpaid balance of \$44,000+- from two years ago owed to a small businessman (Limousines of South Florida). This individual has worked with the City, Broward County and the Downtown Fort Lauderdale Transportation Management Association, Inc. (TMA) to keep the routes operating. He elaborated that the TMA owes this individual \$300,000 and he has agreed to a re-payment plan. He wanted to take \$39,948 from the Fund Balance to pay that debt. This allows the Galt Mile and Northwest Progresso routes to be funded for another full year. Included in these figures is the \$50,000 loan from the Downtown Development Authority. Also included is the County's willingness to contribute \$38,250 if earmarked for a specific route. Northwest Progresso consistently has the highest ridership routes and the Galt Ocean Mile second or third throughout the year. There is a TMA meeting tomorrow morning.

In response to Commissioner Rogers, Peter Partington, City Engineer, noted the \$38,000 funding from Broward County, but it must be used only for the Northwest Progresso and it must operate for the year. He clarified the distinction between the two tables in Exhibit 1 has to do with a full year funding and only four months funding.

In response to Commissioner DuBose, Vice Mayor Roberts explained this provides a one-year breather; there is a three-year business plan proposed to make the TMA viable on its own. This should not be necessary again.

Dialogue between Commissioners Rogers and DuBose ensued concerning the United Residents Council (URC), the Housing Authority, the County's stipulation of a fixed route, an issue of ridership and the lack of data and anticipated decrease in gasoline cost. Commissioner DuBose felt this route is used by the elderly and less mobile therefore it should be included. Commissioner Rogers wanted to make sure it will work.

Mr. Partington advised that with respect to the URC service, the County is requiring a fixed route. It is not viable if supported only by the \$15 per hour from the County. The County will continue the \$15 per hour funding for six months to establish ridership. City staff believes it is not financially viable without some City funding. For a full year, \$30,000 is needed in addition to the County's contribution of \$38,000. Mayor Seiler believed this is a dangerous precedent. In response to Commissioner Rodstrom, Mr. Partington reviewed the recommendation, noting the funding would be reviewed annually. Irvin Minney, Broward County Transit, advised the URC program was changed to a fixed route to align with all of the community bus programs. Ridership is unknown at this point. It would be free whereas there is a fee for Broward County Paratransit and individuals must be eligible to use it.

In response to Mayor Seiler, Mr. Minney noted the previous ridership for this program (URC). Discussion turned to what would be necessary to break even and impact to ridership if a fare was imposed. Mr. Partington indicated it would be dangerous to assume that ridership would be maintained if a fare was imposed.

In response to Mayor Seiler, Mr. Minney advised that the Northwest Circulator route incorporates part of Lauderdale Manors which is one of the most successful in the county. Mayor Seiler suggested incorporating the URC route into it. Commissioner DuBose offered insight into the URC program, emphasized the need and explained it is not simply a ride.

Motion made by Commissioner DuBose and seconded by Vice Mayor Roberts to authorize funding in the amount of \$55,000 from the Fund Balance for the Northwest Circulator and the Galt routes for one year, and the URC for six months.

Commissioner Rodstrom wanted to be mindful about using the Fund Balance. She noted recent budget amendments. Vice Mayor Roberts agreed, but noted the additional positions that were eliminated. Mayor Seiler recalled the City assuming responsibility for a school resource officer that was cut by the County. He was concerned about such a shift of the tax burden from the County to the City. He noted that it was previously acknowledged that the routes could not be sustained. Commissioner Rogers explained that he and the Vice Mayor are comfortable that the TMA has a plan with a realistic budget. The TMA has said if this does not work in twelve months; that is it. In order for it to work, there has to be a partnership. The DDA and the County both have contributed. He only wanted to give the URC program six months. Vice Mayor Roberts agreed that they have reached a level of comfort with the TMA but not yet with the URC. They are working on it. The request is for another year of a life line. Commissioner DuBose emphasized if the City does not intercede, the program will cease. He suggested six months. Both Mayor Seiler and Commissioner Rogers wanted to know who would step in. He reiterated the need. It is Fort Lauderdale residents, so the City has some responsibility.

Mayor Seiler was still concerned about the lack of oversight. He questioned if the City would have to be responsible if Medicaid was cut. In response to Mayor Seiler, Mr. Partington explained the City's involvement with the URC program. City staff, Kevin Walford, is responsible for monitoring. Mr. Walford responded to Mayor Seiler's question concerning insurance expenses; it is paid from the \$15 per hour rate, ownership of the program vehicles, maintenance and repairs, and his role generally. Mr. Partington clarified the URC must meet all of its obligations out of the \$20 hourly rate which would include repairs and maintenance. It has been determined that this rate is just about enough for the program to be viable. It is financially challenged.

In response to Mayor Seiler, Mr. Partington and Mr. Walford outlined the URC staffing level, salaries and days of operation. The total cost is approximately \$7,500 per month. Mr. Walford responded to Commissioner Rogers' question about the number of people that represent the URC and whether they are capable of this function. Mr. Partington advised that City staff ensures that the money contributed by the City is justified and the service is being offered. There are issues with their bookkeeping and other aspects which is not helped by their shortage generally. The County is anticipating the City to assure that all administrative obligations are met as delineated in their agreement, which has always been the City's obligation. Commissioner Rogers was concerned about the track record and wanted to make sure the operation is being looked after.

Commissioner DuBose felt that previously because it was being funded by the County, the City was simply paying invoices as they were submitted, but the City now needs to get its arms around it just as is being done with the TMA. He believed it is a vital service.

Mayor Seiler suggested a one-month until a plan is presented. He wanted to know the actual cost of operation. He noted the County is going to cut funding in six months and it will be the City's full burden. Albert Carbon, Public Works Director, stated that ridership has to meet the County's minimum requirement of 7.1 per hour in order to maintain funding. Mayor Seiler suggested monitoring the ridership for one month. Mr. Carbon thought one month would be a difficult amount of time in terms of measurement. The route is changing. It was previously eight per hour. They hope to build up the ridership once people learn the route.

Mayor Seiler asked if the ridership does not meet the minimum requirement in six months would the funding be completely cut. Mr. Minney indicated he would make that recommendation to the County Commission. In further response, Mr. Minney indicated the service is provided in twenty cities with fifty-nine vehicles in service. All cities are using the same rate of \$15 per hour. He noted the number of route eliminations in past years. Oakland Park lost two routes this year because they did not meet the ridership requirements. Wilton Manors is the only city that did not renew their contract this year.

In response to Commissioner Rogers, Mr. Partington outlined two options being presented by staff. In effect the URC is now a new service. At the public hearing, there was a strong desire for a fixed route. Together with the management challenges, staff is suggesting it probably should not be funded by the City.

Mayor Seiler was concerned about unfunded mandates and setting a dangerous precedent.

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

Motion made by Vice Mayor Roberts and seconded by Commissioner Rogers to approve staff's Option 2, with \$39,948.58 from the Fund Balance to complete the funding process. (Commission Agenda Report 09-1393)

Vice Mayor Roberts indicated this motion would keep the existing routes in service and paying a two-year debt to the vendor, with the caveat that if this does not work after one year, the operation would cease. He indicated that he and Commissioner Rogers, members of the TMA, believes it will be viable within a year. He emphasized that this is a partnership with the County and the Downtown Development Authority.

Mayor Seiler was concerned about the period of one year. He noted when the topic was discussed six months ago; the decision was to not go further than the end of the year. He preferred to put some money toward analyzing if it is feasible to continue. He felt money that the City does not have is being thrown away. He wanted a status in a month. Vice Mayor Roberts indicated there is thinking that the routes will be viable by the end of the year. Even if funding for the vendor is removed, there is sufficient funding for the routes for a full year. This funding is from the City and the County.

Commissioner Rogers noted the funding is from the gas tax, grants and the County. A percent of gas tax funding must be spent on transit. He, along with Vice Mayor Roberts, believe, that in order for transit to be successful, the TMA has to be given the opportunity to develop a plan. The TMA has a plan and there is a new director. A partnership is needed. The funding is available. What is being done above that is paying an old debt. Mayor Seiler thought the City would be paying a debt it does not owe. Mr. Partington explained the funding process for the TMA. He went on to explain the history around the shortage. When it was previously reviewed, staff had determined there was enough gas tax funding to pay the outstanding debt. Both Commissioner Rogers and Vice Mayor Roberts noted the funding is available; it is not being taken from another source.

Mayor Seiler emphasized that the URC overspent the budgeted amount. Vice Mayor Roberts agreed, but indicated that changes are occurring. It will not happen again. Mayor Seiler was not willing to give the TMA a one-year check. Commissioner Rodstrom concurred and went on to note that the routes are not changing. Vice Mayor Roberts reiterated there is enough funding for the routes even if the old debt is removed. Commissioner Rodstrom preferred Option 1.

Commissioner DuBose pointed out with two commissioners on the TMA; the City can provide some direction. He noted over \$63,000 is being expended for two buses to service Las Olas Boulevard on the evenings. Perhaps only one bus could be provided and that funding be used for a route with the highest ridership. He felt this is about providing service. Commissioner Rogers believed it is about making transit viable. Commissioner DuBose felt there is flexibility. He had confidence in the TMA.

RESOLUTION NO. 09-247

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, 2009, AND ENDING SEPTEMBER 30, 2010, BY APPROPRIATING FUNDS IN THE AMOUNT OF \$39,948.58 FOR TRANSPORTATION SERVICES AND APPROVING AN AGREEMENT WITH THE DOWNTOWN FORT LAUDERDALE TRANSPORTATION MANAGEMENT ASSOCIATION, INC. FOR COMMUNITY BUS SERVICES.

Vice Mayor Roberts indicated his caveat is that this must become viable within one year.

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

Commissioner DuBose asked what would happen with the URC. Mr. Partington indicated the URC is already experiencing financial problems. He suggested staff advise them to cease service by Friday. They will bill for the hours operated and the City will reimburse them at \$15 per hour.

Mayor Seiler explained that is why he suggested putting a month in place and try to meet with the County. Commissioner DuBose pointed out that in three days these people will not have any transportation. Mr. Partington explained at \$15 per hour, the URC is losing money for every hour it continues to operate. The City could write to the County, requesting they reconsider, and to Housing Authority, as to whether they would contribute. Mayor Seiler asked that this be done and the service be left in place until the next meeting. He wanted a report submitted at the next meeting (November 3, 2009) and meetings be set with those entities with reports back to Commissioner DuBose and himself as soon as staff is aware of the County's position.

Board and Committee Vacancies

(R-07)

No budgetary impact.

The City Clerk announced the appointees/reappointees who were the subjects of this resolution:

Cemeteries Board of Trustees	Jonathan Pearson
Citizens Sustainability Green Committee	Sally Johnston Rebecca J. Walter
Code Enforcement Board	Paul Dooley (alternate)
Community Services Board	Nadia G. Locke Jeanine Richards
Education Advisory Board	Gwendolyn Dudley
Marine Advisory Board	Lisa Scott Founds

Nuisance Abatement Board	D. Ryan Saunders
Unsafe Structures & Housing Appeals Board	Don Larson

Commissioner Rodstrom introduced a written resolution entitled:

RESOLUTION NO. 09-229

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

PUBLIC HEARINGS

**Rezoning To Parks, Recreation, and Open Space -
2220 NW 21 Avenue – City of Fort Lauderdale –
Osswald Park – Case 9-Z-09**

(PH-04)

No budgetary impact.

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

Commissioner Rogers introduced the following ordinance on FIRST reading:

ORDINANCE NO. C-09-30

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE FROM BROWARD COUNTY ZONING "S-2" TO CITY OF FORT LAUDERDALE ZONING "P;" PARCEL "A," OSSWALD PARK ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 143, PAGE 29, LESS THE TYRONE BRYANT BRANCH LIBRARY, AND LESS THE ADDITIONAL RIGHT-OF-WAY AS DEDICATED BY BROWARD COUNTY RESOLUTION #90-3490 AS RECORDED IN THE OFFICIAL RECORDS BOOK 17975, PAGE 962 AND LESS THE PARCEL OF LAND LOCATED IN THE NORTHEAST CORNER OF SAID PARCEL "A" DESCRIBED IN A QUIT

CLAIM DEED RECORDED IN OFFICIAL RECORDS BOOK 18487, PAGE 171; ALL AS RECORDED IN THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED AT 2220 NORTHWEST 22ND AVENUE, IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND AMEANDING THE OFFICIAL ZONING MAP AND SCHEDULE "A" ATTACHED THERETO TO INCLUDE SUCH LANDS.

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

Dock Waiver Application – Distance Limitations - (PH-05)
Timothy Ingham and Julie Pabst – 1224 Seminole Drive

No budgetary impact.

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

There was no one wishing to speak on this matter.

Cate McCaffrey, Director of Business Enterprises, indicated this item needs to be deferred.

Motion made by Commissioner Rodstrom and seconded by Commissioner Rogers to defer this item until November 17, 2009. Roll call showed: YEAS: Vice Mayor Roberts, Commissioners Rodstrom, DuBose, and Rogers, and Mayor Seiler. NAYS: None.

Dock Waiver Application – Distance Limitations - Lauderdale (PH-06)
Yacht Club, Inc. – 1725 SE 12 Street

No budgetary impact.

Applicant: Lauderdale Yacht Club, Inc.
Location: 1725 SE 12 Street

Mayor Seiler opened the public hearing.

Stephanie Tooththaker, representing the Applicant, outlined the request is to replace existing docks; the footprint will remain the same. All neighbors have been noticed.

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

Mayor Seiler, Vice Mayor Roberts, Commissioner Rogers, Rodstrom and DuBose announced with whom he or she had spoken with and, or site visits made concerning this matter.

Mayor Seiler advised that he is a club member and has spoken with several members. The City Attorney responded to the Mayor’s question that as this is not an equity club, abstention is not necessary. The City Attorney noted he is also a member.

Commissioner Rogers introduced the following resolution:

RESOLUTION NO. 09-249

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, GRANTING A WAIVER OF THE LIMITATIONS OF SECTION 47-19.3 B & D OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE TO ALLOW LAUDERDALE YACHT CLUB, INC. TO CONSTRUCT AND MAINTAIN ELEVEN (11) FINGER PIERS, FIFTEEN (15) MOORING PILINGS ANDS TWO (2) FLOATING DOCKS EXTENDING MAXIMUM DISTANCES RANGING FROM 41.6 FEET TO 63.0 FEET, MORE OR LESS, INTO THE RIO CORDOVA RIVER AND THE INTRACOASTAL WATERWAY FROM THE PROPERTY LOCATED AT 1725 S.E. 12TH STREET, SUCH DISTANCES AND PROPERTY AS BEING MORE PARTICULARLY DESCRIBED BELOW.

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

ORDINANCES

Vacate Portion of Alley – 1251 North Federal Highway (O-01)
TSC Lake Ridge, LLC – Case 5-P-09

No budgetary impacts.

Applicant: City of Fort Lauderdale
Location: Riverland Road and Melrose Park

Commissioner Rodstrom introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-09-27

AN ORDINANCE AMENDING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, BY ESTABLISHING A NEW ARTICLE XV, ANNEXED AREAS, SECTION 47-39, ANNEXED AREA DEVELOPMENT REGULATIONS, AND 47-39A, MELROSE PARK AND RIVERLAND ROAD, TO PROVIDE FOR THE ESTABLISHMENT OF NEW RESIDENTIAL ZONING DISTRICTS WITH IRREGULAR DENSITIES AND IDENTIFYING EXISTING NON-RESIDENTIAL DISTRICTS WITHIN THE ANNEXED AREAS; PROVIDING PERMITTED AND PROHIBITED USES; DEVELOPMENT STANDARDS FOR EACH DISTRICT INCLUDING HEIGHT, SETBACKS, LANDSCAPING, ACCESSORY USES, SIGNS, PARKING, DEFINITIONS, MEASUREMENTS, NON-CONFORMING USES, DEVELOPMENT REVIEW PROCEDURES AND CRITERIA; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

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

Rezoning – Melrose Park – Cases 15-Z-07 and 8-Z-08

(O-02)

No budget impacts.

Applicant: City of Fort Lauderdale
Location: Melrose Park

Vice Mayor Roberts introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-09-28

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE LANDS LYING WEST OF SOUTHWEST 31ST AVENUE (MARTIN LUTHER KING JR. AVENUE), SOUTH OF WEST BROWARD BOULEVARD, EAST OF STATE ROAD 7 AND EXTENDING SOUTH TO THOSE PROPERTIES ALONG SOUTHWEST 121TH STREET (JACKSON BOULEVARD), IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA FROM BROWARD COUNTY RS-4, RD-9, RD-10, RM-10, RM-15, B-2 AND I-1, TO CITY OF FORT LAUDERDALE RS-6.70, RM-12.67, RM-16, RM-33.5, CB, B-1, CF-H, CF-HS AND CF, AND AMENDING THE OFFICIAL ZONING MAP AND SCHEDULE "A" ATTACHED THERETO TO INCLUDE SUCH LANDS.

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

Rezoning – Riverland Road – Cases 14-Z-07 and 9-Z-08

(O-03)

No budgetary impacts.

Applicant: City of Fort Lauderdale
Location: Riverland Road

Richard Reasoner, 3151 SW 20 Street of Riverland Village, used a zoning district map and aerial of Riverland Village in his comments that were entered into the record. He indicated that he met with staff and found the meeting productive. Riverland Village has not been given its own distinction as all of the other communities. He went on to note those distinctions of Riverland Village. He wanted Riverland Village placed in RS-6.85B and RS-6.85C. With respect to grandfathering, he raised concerns about the homeowners who may have to dismantle improvements done years ago in order to obtain a new permit because there is no paper trail. Memorandum 02-1405 needs to be reinstated. For example, the aerial map shows homes with roof covering more than 40% of the lot whereas Section 47-39.A.6 provides for a maximum of 40%. Those individuals, who have been denied permits during the last seven years while this property was in confusion, should be allowed a review and if found to be in compliance at that time, fines be returned and they be allowed to do what was requested.

Commissioner Rodstrom introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-09-29

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE LANDS LYING NORTH OF THE SOUTH FORK NEW RIVER AND NORTH NEW RIVER CANAL LYING WEST OF STATE ROAD 7 AND SOUTH OF THE CORPORATE LIMITS OF THE CITY OF FORT LAUDERDALE AS THEY EXISTED PRIOR TO SEPTEMBER 15, 2001, IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, FROM BROWARD COUNTY RS-3, RS-5, R1-C, RD-10, B-1, B-3, A-3, S-1 AND I-1, TO CITY OF FORT LAUDERDALE RS-3.52, RS-6.85A, RS-685B, RD-12.22, CB, CF-H, CF-HS, CF-S, P AND U, AND AMENDING THE OFFICIAL ZONING MAP AND SCHEDULE "A" ATTACHED THERETO TO INCLUDE SUCH LANDS.

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

Code Amendment – Section 7-32 – Aviation Advisory Board Representation From Cities of Tamarac and Oakland Park

(O-04)

No budgetary impact.

Bunney Brenneman, chair of the Aviation Advisory Board, supported the ordinance in the interests of having good relations with neighboring cities.

Commissioner DuBose introduced the following ordinance on FIRST reading:

ORDINANCE NO. C-09-31

AN ORDINANCE RELATING TO THE FORT LAUDERDALE EXECUTIVE AIRPORT AMENDING SECTION 7-32 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE TO PROVIDE FOR MEMBERSHIP OF NON-VOTING MEMBERS ON THE AVIATION ADVISORY BOARD; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Super Bowl and Pro Bowl 2010

(O-05)

No budgetary impact.

Vice Mayor Roberts introduced the following ordinance on FIRST reading:

ORDINANCE NO. C-09-32

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, DESIGNATING JANUARY 4 THROUGH FEBRUARY 15, 2010 AS A PUBLIC PURPOSE SPECIAL EVENT KNOWN AS SUPER BOWL 2010 IN THE CITY OF FORT LAUDERDALE, PROVIDING FOR A SPECIFIC LIMITED TEMPORARY EXEMPTION FROM SECTION 8-85; ESTABLISHING HOURS, LOCATIONS AND CONDITIONS FOR OPEN CONTAINERS DURING THIS TIME; PROVIDING FOR A LIMITED TEMPORARY EXEMPTION FROM SPECIFIC PROVISIONS OF SECTION 47-22; ESTABLISHING TIME LIMITATIONS, INSURANCE AND INDEMNIFICATION REQUIREMENTS; APPLICATION PROCEDURES AND SAFETY REQUIREMENTS FOR SIGNAGE; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

There being no other matters to come before the Commission, the meeting was adjourned at 2:32 A.M.

John P. "Jack" Seiler
Mayor

ATTEST:

Jonda K. Joseph
City Clerk