

**FORT LAUDERDALE CITY COMMISSION CONFERENCE MEETING
DECEMBER 1, 2009**

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| II-A | Status of Bridges and Proposed Repair Contract | Deferred |
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CITY COMMISSION CONFERENCE MEETING 1:41 P.M. December 1, 2009

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

Also Present: City Manager – George Gretsas
City Auditor - John Herbst
City Clerk - Jonda K. Joseph
City Attorney - Harry A. Stewart
Sergeant At Arms – Sgt. Tim McCarthy

I-G – Solid Waste Disposal Service – Resource Recovery Board – Memorandum of Understanding

Albert Carbon, Director of Public Works, highlighted points in Commission Agenda Report 09-1749. The Resource Recovery Board (RRB) operates incinerators that are over twenty years old. There will be significant capital improvements needed for the incinerators over the course of this memorandum of understanding. As to the \$12 administrative fee that is undefined, there has been discussion about determining if there are any duplicative City services in it that could be removed. For example, the City has its own recycling program and debris management during hurricanes. If the City could negotiate a reduction of \$10 per ton from the \$4 and \$12 pass-through costs, it could realize a savings of approximately \$5 million over a ten year period. There is no reason to believe that savings would not continue. In response to Commissioner Rodstrom, Mr. Carbon advised negotiation with the RRB by Kessler Consulting is one of the options Kessler had in its report. Authorization for Kessler to proceed with those negotiations is on the regular meeting agenda this evening.

In response to Commissioner DuBose, Ed Udvardy, Assistant Director of Public Works, advised if the (residential waste) tonnage decreases, there would be less savings, but greater savings in recycled material. Recycling revenue fluctuates based on the market. Mr. Carbon noted if there is less tonnage taken to the incinerators; payment to the RRB would decrease.

In response to Commissioner Rogers, Mr. Udvardy explained how rates to residents are calculated. Commissioner Rogers was interested in lowering rates.

The following information was provided as a result of questions raised by Vice Mayor Roberts, Commissioner Rodstrom and Mayor Seiler. Mr. Udvardy indicated the \$5 million savings is based upon a \$10 savings from the total (individual) cost. Under the current scenario, there is an estimate \$1 million savings per year. The basis for these estimates was derived from staff, some assumptions by Kessler and consulting with others in the industry. He noted some industry entities with which Kessler consulted. The City Attorney confirmed that the memorandum of understanding (MOU) does not bind the City to any of the specific terms.

Ilene Lieberman, Broward County Commissioner and chair of the Resource Recovery Board, clarified that there is no \$4 fee on top of the \$12 fee. Fort Lauderdale's current tonnage is not 50,000; according to fiscal year 2008, it is 191,981,560, by lowering the

tipping fee to \$49.75 plus the \$12, residents would save \$7.2 million per year. If the interlocal agreement (ILA) is not approved, residents will continue to pay \$98 per ton through 2013 when they could pay \$49.75 plus \$12 per ton starting in 2011 and save \$7.2 million per year.

As to the MOU, Commissioner Lieberman advised that the mayor of Weston who is also a member of the RRB negotiated the terms with Wheelabrator. One term is that if the MOU is approved by January 1, 2010, the City would begin to qualify for a bonus of \$2,338,858.05 based on 2008 tonnage. They intend to use 2009 numbers, but do not believe there will be any great fluctuation. The MOU is not binding until the ILA is approved by June of 2010. The MOU is only binding upon the RRB and Wheelabrator. The City has six months to decide. If the City decides not to proceed, the MOU is not binding. If the MOU is not authorized before January 1, 2010, the City cannot qualify for the \$2 million (bonus).

Commissioner Lieberman indicated that it is a misnomer to call the \$12 an administrative fee. The cities have asked that there be certain facilities available countywide, for example, waste tires and household hazardous materials. Even though the City may have a recycling program, it is using the RRB's Materials Recovery Facility (MRF).

Commissioner Lieberman indicated because of the economy and budget difficulties, she has asked Wheelabrator to accelerate the signing bonus.

Ron Greenstein, executive director of the Resource Recovery Board, clarified that the rate is \$49.75 and the \$12 service fee includes the \$4. It is not true that the system would pay directly for Wheelabrator's costs if a city did not join. As to the 40% service fee increase for capital improvements, there is a change of law provision that was in the current contract which required the system to pick up 100% of any change of law. There has been \$4 million expended over the eighteen years of the agreement. If there is a change in the tipping fee caused by a change of law, RRB and Wheelabrator may walk away. They have asked their federal lobbyists about anything possibly coming along and there is nothing in the next ten years that will change this.

With respect to the \$12, Mr. Greenstein advised that it does not pay for debris management or yard waste programs; they have been asked by some cities to consider including this. The \$12 is an annual figure that will be done by the RRB. He noted the RRB membership.

With respect to the \$2 million signing bonus, Mr. Greenstein advised that the \$49.75 is a 26% decrease in the current disposal rate. The total \$61 rate is a 36% decrease. The system does single stream recycling. At the last RRB meeting, Chair Lieberman made reference to picking up half the cost of containers. One hundred percent of what the City delivers, RRB is paid \$56 per ton.

Mr. Greenstein advised that the City is not bound to the second ten-year period. It is a Producer Price Index (PPI) of less than 1%; there would not be an increase to the \$49.75 amount. This was negotiated with Wheelabrator. He referred to Kessler's report and indicated that the net cost per ton over ten years is \$58.67. The non-participating cities currently pay higher for just debris, not including the additional services. He listed some of the rates and noted that Pembroke Pines, Pompano Beach and Hallandale want to talk with the RRB in view of the \$49.75 rate.

In response to Commissioner Rogers, Mr. Greenstein noted the cities that have signed and the number of original member cities.

Eugene Steinfeld, representing the RRB, explained that the MOU is binding upon the County and Wheelabrator, but not upon the cities until they join the ILA pursuant to the interlocal agreements act. The resolution provides it is not binding unless there is a separate resolution approving a new ILA. Cities cannot be forced into the RRB district unless it signs an interlocal agreement. Commissioner Rodstrom provided copies of the resolution as it was not part of the backup.

Mayor Seiler asked for clarification about the Kessler report that indicated Broward County has the highest solid waste disposal cost and RRB disagreeing. Mr. Greenstein indicated the Kessler report indicated \$98 and Palm Beach at \$35. The \$35 rate was for a one-time drive-up at their facility whereas for Broward it was an all inclusive rate. In Palm Beach County, it is about \$114 per ton because the tax bill includes additional disposal fees countywide. There are other examples where a drive-up rate was used. Commissioner Lieberman elaborated upon what is included in the all inclusive rate and indicated the discrepancies in Kessler reporting other area rates. Mayor Seiler asked what is projected administrative and management cost for an independent solid waste program. Mr. Udvardy indicated part of staff's contention has been that the City already provides part of the administrative and generic services provided through the RRB. As to an independent debris hauler, the City is already managing that and accounting for the tonnage that goes to Wheelabrator. The City is managing its own recycling program and its own debris management system. There are some services within the RRB that the City may want to continue with, but the City's overhead and management system for sanitation is already in place. Mr. Greenstein believed of the current \$30 for Waste and Recycling Services, \$12 and \$6 could be removed because the bonds are satisfied and there is no need to hold reserves. They believe it is about \$4 per ton for management. If a member city wants to have a yard waste program, for example, the RRB will share those costs. With respect to recycling, Commissioner Lieberman advised that the City is using the RRB's facility. Commissioner Rogers asked if there is any data from Waste Management to show that the City was getting its full 18% share of the \$12. Commissioner Lieberman indicated that they can provide data of zip codes representing Fort Lauderdale residents use of the services. Mr. Greenstein noted the educational program that is provided to students is another example. The \$12 component has always been meant to be shared at local levels. The RRB dictates how that \$12 is made up. He touched on the recycling program. The RRB district contract pays about \$56 per ton, all of which goes back to the cities. Commissioner Lieberman indicated that Fort Lauderdale has benefited in a number of ways, for example, it has received grant funds from the RRB. She reiterated that if the City does not approve the MOU, it cannot later claim the \$2 million signing bonus. There is six months to decide upon the ILA. It is a two-part process. She went on to note that the number of changes to the law concerning the resource recovery plants have been infinitesimal. Wheelabrator is responsible for upgrades to the plant.

Mr. Carbon clarified that Commissioner Lieberman is correct that the City has 200,000 tons of trash. Much of it is commercial waste; residential is 50,000 tons.

In response to Commissioner Rogers, Mr. Steinfeld indicated the proposal (MOU) is an offer to the cities, Broward County and the (RRB) District. They are trying to gauge who

will be participating. He confirmed that the City can bind the RRB, but the RRB cannot bind the City by the MOU. By the end of June, if 80% of the historical flows under the old ILA do not sign up for the new ILA, both Wheelabrator and the district can walk away. This is why it is binding, but it is not binding. Commissioner Lieberman explained that this reflects a major change in philosophy. She has never understood why members of the district were paying more than non-members; it was because the district had assumed responsibility for repaying the bonds through the tipping fees. This agreement reverses that. If there is a shortfall, there is no obligation in the new agreement. Mr. Greenstein added that Wheelabrator is guaranteeing to the district the entire capacity of the plant of 1.6 million tons. Once that capacity is reached, the district will throw out all of the non-members from the system. Commissioner Lieberman indicated there is a most favored nations clause. Those who are not part of the system will have to pay more which is a major change from the previous agreement. The current disposal rate is \$60 per ton; the RRB is offering \$49.75.

In response to Commissioner Rodstrom, Commissioner Lieberman clarified what is needed at this point is a resolution approving the MOU. She offered the RRB executive director to review and negotiate the services contained in the \$12 with the City.

Mr. Udvardy requested clarification of Section 14 of the MOU. Mr. Greenstein indicated it is referring to the terms of the interlocal agreement. Mr. Steinfeld clarified there will be a new service agreement negotiated. Mayor Seiler explained there is concern over the use of 'the terms hereof'. The City Attorney thought if the terms are different, there could be disqualification. Mr. Steinfeld indicated that these terms will be folded into the ILA, but by the same token it will not stop the City from negotiating; it is only the charges that Wheelabrator will charge the district. Mr. Udvardy explained that staff was directed to negotiate with the RRB. If the MOU is approved with terms, he questioned what staff would be negotiating. Mr. Steinfeld indicated if the MOU is approved, the City will not be able to negotiate a different rate with Wheelabrator. Mayor Seiler explained the concern is the \$12. Mr. Steinfeld clarified the MOU does not bind the \$12. The RRB cannot bind its legislative authority to raise or lower the amount of a fee. Commissioner Lieberman explained the \$12 is not a Wheelabrator issue, but rather a RRB issue. The \$12 is for add-on services based on RRB approved programs and Fort Lauderdale has representation on the RRB. Mr. Carey indicated this clause was included at the request of Wheelabrator. Along with the \$49.75, the County could add to the tip fee and it could become uncompetitive. The purpose was not to bind any entity to the \$12. Mayor Seiler reiterated his concern about 'the terms hereof'. Mr. Steinfeld indicated it is only proposed. He agreed to Mayor Seiler's request for a letter on this point.

The City Manager asked what happens if this is not settled within the six months. Mr. Steinfeld indicated Fort Lauderdale would not be a member of the district; the city would be on its own.

Mayor Seiler opened the floor for public comment.

John Stunson, Oakland Park City Manager, referred to the same open ended issue in Section 18 of the MOU. He suggested the language be revised instead of sidebar letters. Oakland Park will be considering this tomorrow.

Mayor Peggy Noland, City of Deerfield Beach, requested the same letter. Commissioner Lieberman agreed to provide the letter to everyone.

There was no one else wishing to speak.

The City Attorney advised that the resolution will be modified to reflect what is contained in the letter.

Commissioner Rogers asked if there is any analysis of what the City would have paid over the last twenty years if it was not part of the ILA. Mr. Udvardy indicated some information could be furnished. Commissioner Lieberman noted there are three costs to compare. Disposal should be compared with disposal. Hauling is not a part of the RRB agreement but may be a part of others. Then there are adjunct facilities. She wanted their consultant to provide any requested comparison data.

There was consensus approval to place the MOU on the December 15 agenda at the latest.

Mayor Seiler thought there are savings to be realized by eliminating duplication of services. This should be examined and decisions made as to whether the City or RRB is the best provider. If the City provides the service, the RRB will pay for it. Commissioner Lieberman confirmed that would be covered in the \$12.

Mayor Seiler requested that Mr. Greenstein provide a final copy of the RRB response to the Kessler report.

I-A – Operating Commercial Businesses on Public Waterways

Andrew Cuba, Marine Facilities Manager, provided a brief history and highlighted points detailed in the Commission Agenda Report 09-1557. He noted their authorization to operate northeast of the Las Olas Municipal Marina expires tomorrow. Staff has revised its recommendation. Peterson has requested four additional permanent fueling sites.

Amy Huber, representing Peterson Fuel, indicated that Peterson has cooperated throughout this process, but it has lost significant money over the past year as a result of the restrictions. They are facing closing their business if changes are not possible. The Marine Advisory Board has advised on multiple occasions that this matter is outside of the City's jurisdiction. However, Peterson can agree to all of the recommendations except the sticking point of where it can operate. They have asked repeatedly for information about what has happened to bring this about, where are the dangers. They found nothing. Limiting Peterson to one location that is not practical or accessible to boaters has pretty much put it out of business. The City is essentially making Peterson a permanent gas station at a fixed location, which is not what Peterson is or is licensed to do or has been doing for the last ten years. The five suggested locations are where they have been operating without incident. There is one location in the triangle that seems to be of concern. Peterson will limit that location to certain time frames during the year, the boat show. Also, Peterson has agreements with marinas to fuel vessels there and they should be allowed to do so. Peterson has been advised that unless the vessel is a tenant at the marina, it cannot fuel it there. This is something Peterson has been doing for ten years.

Mayor Seiler did not recall that being the Commission's position. The City Attorney explained Peterson would spud down in the waterway, not in the marina. He believed the vessel had to be docked there.

The City Attorney clarified that this is not a Peterson issue, but rather a zoning matter. A fuel truck cannot stop and start fueling on Interstate 595. This issues addresses whether any entity can anchor in the waterway and sell anything. The City is not trying to regulate Peterson's boat or safety matters within their boat. The areas where they have been operating are not zoned commercial and it is a commercial operation.

The following information was provided as a result of questions raised by Mayor Seiler. Robert Dean of Peterson Fuel, advised that about 50% of their revenue is derived from delivering fuel to vessels at residences or other areas. There has been no impact on this aspect. The other 50% has to do with appointments to meet vessels in transit and deliver fuel. Ms. Huber explained the vessels do not want to go to the location north of the bridge. Mr. Dean indicated since the move, Peterson has lost half of that 50% of the business. Fueling vessels at marinas is probably about 10%-15% of the 25%. Ms. Huber pointed out that about half of Peterson's business has been shut down over the past year.

Both Commissioners Rogers and Rodstrom did not have a problem with the fueling of vessels at marinas. Sergeant Andy Pallen, Police Marine Unit, explained a citation was issued because they were in the New River. Peterson has never been stopped from going to a marina. Peterson was going to the old Summerfield Marina, which is no longer a marina. The bank that owns the property does not want them at the property. There were complaints from neighbors. Ms. Huber indicated Peterson was not in the New River; but rather at Govan Marina. Mr. Govan advised the Police Department that Peterson was on his property and he had given them permission. Sergeant Pallen contended that is incorrect; there are photographs of vessels clearly being blocked within the New River. They were close to Govan Marina. There was a discussion between the officer and Govan and agreement that Peterson could go to that marina to fuel. The objections are when they are in the waterway in people's backyards and when they are a hindrance to navigation. There are complaints. In response to Mayor Seiler, Sergeant Pallen advised that Peterson has not been cited since the matter was last before the Commission in September.

Commissioner Rodstrom advised that she has not had any complaints. She could see how one location would be limiting. Commissioner DuBose was concerned if they go out of business, the service will cease. Commissioner Rogers pointed out that the issue is commercial business on the water. The City Attorney noted the distinction from chartered boats. Ms. Huber emphasized the difference between Peterson and a hot dog vendor is that it is a federally licensed and regulated operation. They have submitted case law, federal regulations and state attorney general opinions to illustrate why this is different and the City is overstepping. Commissioner Rogers emphasized the City has to think about safety and waterfront residents who may be smelling fumes all day. It is like a gas station in the backyard. Ms. Huber indicated there was one complaint having to do with a very different issue and Peterson immediately resolved it. Sergeant Pallen estimated there have been about twelve in the last year. Ms. Huber disagreed.

Commissioner Rodstrom suggested approving a finite period of time. She felt this is a non-issue. She was grateful that there are still yachts in Fort Lauderdale. She has not received complaints.

Ms. Huber suggested the Marine Advisory Board recommendation be adopted. They requested information and have not received twelve complaints.

Commissioner Rodstrom supported Option 3 for at least one or two years.

In response to Vice Mayor Roberts, Sergeant Pallen indicated the complaints have related to noise, smell and not wanting the vessel in their backyard. Mayor Seiler noted that he has received verbal complaints. There are complaints that have not been formally filed. He has received comments about the unfairness to the gas stations along the waterways that have invested in their properties, pay taxes and hire local people. The key is to find a balance. He did not want several barges spudding down in the waterways. Commissioner DuBose pointed this has been ongoing for ten years; there has been a balance of competition. He agreed with Commissioner Rodstrom. Ms. Huber indicated that Peterson would be happy to furnish all of their licensing and bonding information.

In response to Mayor Seiler, Mr. Dean did not have available the gallons pumped from the fixed location since May 5. He explained their data collection process. The 25% decrease is in gallons.

Commissioner Rodstrom thought there is probably a silent majority of people happy with what has been ongoing for the past ten years. Ms. Huber noted they have been before the Commission and the Marine Advisory Board some eight times and there has never been any one speaking other than one marina. Mayor Seiler pointed out that in the last six months the activity has not occurred.

In response to Vice Mayor Roberts and Mayor Seiler, Mr. Dean indicated they have operated in Miami for four years and there has not been any competition or problem. He went on to note the areas outside of Fort Lauderdale where Peterson operates. Their activities include spudding down. He noted the location of their three vessels.

Commissioner Rogers understood that Peterson would agree to limit to fueling by appointment. He wanted a period of perhaps six months and seek out public input as well as data from Peterson. Commissioner Rodstrom pointed out the number of times this has been on agendas that are publicly noticed. She did not want to delay it any further. Vice Mayor Roberts suggested a one-year period and collect data as suggested by Commissioner Rogers. Mayor Seiler wanted some limitation.

Ms. Huber responded to Mayor Seiler's question about the incident at the old Summerfield Marina. Peterson had always had permission from them and was not aware of the foreclosure. As soon as they were advised, Peterson has not returned. The Police Department did not know initially about the foreclosure as well. Commissioner Rodstrom suggested there be a telephone number where people can ask Peterson to move their vessel or indicate when it will be moving.

Commissioner Rogers emphasized location is important because Peterson wants to fuel two hundred foot vessels. There are safety issues. Mr. Cuba noted the requested sites

and staff concerns. Ms. Huber pointed out there are specific state regulations as to safety on the waterways.

In response to Mayor Seiler, Sergeant Pallen did not know how the City could regulate the appointment fueling. Commissioner Rogers favored appointment only.

Commissioner DuBose felt it is highly unlikely that there will several more businesses come to Fort Lauderdale. Peterson has been operating for some eleven years. He supported a one-year period in the same way they have been operating. He wanted them to stay in business. This is a very unique business. Mayor Seiler favored competition.

Mayor Seiler opened the floor for public comment.

Fred Carlson, resident, commented about his experience with fueling vessels and problems with big boats. He emphasized that convenience is pleasing. He agreed with Commissioner DuBose.

Vice Mayor Roberts agreed with Commissioners Rodstrom and DuBose. As to regulation of appointments, he would be agreeable to requiring the schedule be faxed every morning and there be spot checks. He supported one year.

In response to Commissioner Rodstrom, Sergeant Pallen advised there are eight marine patrol employees and a total of ten including those in the office.

Sergeant Pallen and Mr. Dean responded to Mayor Seiler's inquiry about what happened recently at Marina Bay.

A brief discussion occurred as a result of Commissioner Rogers' suggestion of Jungle Queen's location wherein there was a comparison with Govan and another incident near Govan where Peterson believed their vessel was on Govan property. This area is very narrow. There have been accidents. In response to Mayor Seiler, Sergeant Pallen had no objection to the Govan location if the boat was on the Govan dock. The triangle would be the next best location however Commissioner Rogers indicated that is where he has received complaints. Mayor Seiler wanted to identify three locations, but there was not a majority support.

Vice Mayor Roberts wanted by appointment only and spot check monitoring by the Police Department for one year. He emphasized that Peterson must comply with the restrictions. Sergeant Pallen recognized that there will be appointments made in the afternoon. Both Commissioners Rodstrom and DuBose were in support. Commissioner Rodstrom clarified it is not limited to three locations. The City Attorney understood it is status quo and by appointment for a year.

Mr. Dean indicated Peterson's vessels are constantly moving and go back to the marina every evening.

Commissioner Rodstrom requested a contact telephone number for Peterson be furnished to the Commission.

I-B – Short-Term Rentals – Residential Property

Mayor Seiler opened the floor for public comment.

Eugenia Ellis, representing Harbor Inlet and Harbor Beach property owners associations, advised these neighborhoods continue to experience an increase in very short-term rentals of residential properties, some as short as over night. In this economy houses are empty and people are looking to recover revenue. Houses are being rented out for weddings for example but the same quality of life issues are not being maintained the same as it would be if the next door neighbor was having the event. There is no objection to renting a residence for a week for an event, for example, provided there are regulations and proper zoning. There are not enough clear guidelines on the record for Code Enforcement to do anything.

Dwight Ledbetter, 209 SE 21 Street, indicated he is a yacht captain. Yacht captains never know how long they will be in one area, therefore it is difficult to eliminate short-term rentals and not think about the marine industry. The real estate industry has been badly impacted and eliminating short-term rentals will further hamper that industry. He is part owner of Neptune Group Accommodations. Neptune along with Smart Move are the preeminent crew housing operators in the City. There are more crew houses in Fort Lauderdale than the rest of the world combined. This is because Fort Lauderdale is the yachting capital of the world. Applying ordinances from other areas would do a great disservice to the yachting industry. In his discussions with icons in the marine industry, he found unanimous opposition to any ordinances that would hamper or limit short term rentals and concern over business going elsewhere.

Joe Amorosino, president of Lauderdale Beach Homeowners Association, indicated they are a single family neighborhood. He went on to comment about his experience working with Boston University and Boston Police Department. The number one complaint had to do with neighborhoods contiguous to the university where students lived. People want quiet at night in order to sleep well. Currently there is nothing preventing a one day or one night rental. There was a recent wedding that went all day and night. There were people urinating on the lawn. The City has done a great job addressing Spring Break. There are homes for rent in his neighborhood and last year there was four weeks of Spring Break there. The police have higher priorities than to respond to calls about teenage drinking. The situation has magnified in the last four or five years.

Ron Mastriana, resident of Lauderdale Beach, explained that weekly and weekend rental of homes in the beach area is overboard. Requirements need to be established. He advocated a three-month timeframe or a requirement of twice a year. At the wedding mentioned previously, there was no valet parking so the entire street was cars. The band continued until 1 a.m. He believed that 17th Street is having the same problem. He suggested that boating crews rent the multi-family units along the beach area. Some crews stay on the boat. He would not appreciate five crew members renting next door. It does not make sense in single family neighborhoods.

Roz Isakowitz, Smart Move Accommodations, indicated her business does short and long term rentals. The short term rentals are never shorter than three days. They cater to the yachting industry and crew members as well as people studying at the maritime schools. They have house rules for tenants. She believed they provide a vital service to the yachting industry which is a major industry in Fort Lauderdale. Smart Move is not

renting million dollar beach front homes. She thought it should be policed by homeowner associations. She understood the need for some kind of regulations but care should be taken as to the areas to which they apply.

D. J. Parker, 209 SE 21 Street, indicated she is a partner of Mr. Ledbetter of Neptune Group Accommodations, noted they directly support five maritime schools. The typical stay is one week and could be here as long as six months. She emphasized this is not a blanket issue. She elaborated upon their proactive approach to attending to the management of their properties. On any given week, there could be 2,000 students. She referred to Harbor Beach neighborhood and indicated her belief that this is more of a neighborhood problem than a citywide problem. Tourism is the number one income in this area, but the marine industry is a close second. She hoped the City can find a way for it all to work together.

John Torregrosa, 2909 Center Avenue, explained his concern about not knowing the people who rent short-term. It is a safety issue. He wanted the City to impose a minimum time frame.

Mr. Amorosino pointed out that the people who are renting are not paying any license fees or taxes. Many of these homes are homesteaded. It should be regulated.

Mr. Ledbetter understood that it is difficult to write an ordinance without seeming discriminatory. He agreed that short term rentals and crew houses have no business in million dollar neighborhood, yet there is a yachting industry that needs to be served. This relating cottage industry for crews has flourished only because of the demand.

There was no one else wishing to speak.

The City Attorney advised that staff has looked at this problem for several years. He discussed the Castro case wherein it was found that they were advertising and they were charged with operating a commercial venture in a residential neighborhood. They ultimately appealed to circuit court and lost. He would not recommend anything shorter than thirty days. He preferred to continue with the same enforcement efforts, although Code Enforcement has to do more work to prove the cases.

Commissioner Rodstrom asked about permitted uses and zoning categories and whether it is happening in the same zoning districts. Greg Brewton, Director of Planning and Zoning, believed it boils down to the activity occurring in the structure rather than the zoning classification. RS-4.4, for instance, is single family only; no multi-family uses are permitted. However, it is a matter of using a single family home for something other than single family. The question becomes whether it is being used as single family. It appears to be an event activity.

Mayor Seiler did not want to prohibit crew members who are in fact using the structure as a single family home. The City Attorney raised the constitutional issue of equal protection. He went on to point out if the house was owned by a corporation, someone could stay in it everyday and it would not be a short-term rental.

In response to Commissioner DuBose, Mr. Brewton indicated there is no restriction in the Unified Land Development Regulations as to the number of people in a single family structure.

Commissioner Rogers wanted a balance, as he recognized both sides. Because the City has had a test case, it is a matter of enforcement. He was concerned about unintended consequences of anything that may be drafted. Vice Mayor Roberts agreed. He did not want to lose any ground with the court case already won; enforcement is an integral to preservation of the community. He wanted to enforce what is already on the books. Perhaps, a committee should be created to brainstorm a solution. In response to Commissioner Rogers, the City Attorney indicated he did not find any case where a neighborhood came up with a course of action; it was rather the neighborhood encouraging the governing body to enact some ordinance. When the ordinance was enacted, they were sued. There were some wins and some losses.

Vice Mayor Roberts felt the Commission should direct Code Enforcement to enforce what is in the code now. The homestead issue is another avenue. The City Attorney indicated short-term rentals less than six months were reported to the State because they are required to pay a 6% bed tax. Those that were homesteaded were reported to the Property Appraiser. The only success has been the Castro case.

Commissioner Rogers asked about a distinction of vacation. The City Attorney indicated that would not solve the wedding use.

Mayor Seiler felt the enforcement already ongoing should be strengthened. He agreed a task force should be formed with people knowledgeable of the issue. He preferred task force as it is less formal. The City Attorney did not see any difference between a committee and a task force. Regardless of the name of the group, the same rules will apply. Mayor Seiler suggested a composition of two by each member of the Commission. The City Attorney agreed to bring this back at the next meeting (December 15). Mayor Seiler asked research be conducted as to what other Florida cities have done.

In response to Mr. Mastriana, the City Attorney confirmed that rental of a house as a hotel room for short periods of time is a commercial venture and not a single family use. Staff would check for advertisements. Mr. Mastriana offered to furnish cases to be investigated.

Commissioner Rogers raised the issue of renting homes during the Super Bowl event.

Commissioner Rodstrom wanted time to raise items under Commission Reports.

EXECUTIVE CLOSED DOOR SESSION WAS HELD AT 4:27 P.M.

The City Commission shall meet privately pursuant to Florida Statutes 768.28 regarding:

Ira Jones, Jr. (Vehicle Liability Case VA GL 08-053)

MEETING RECONVENED AT 4:36 P.M.

I-C – St. Patrick’s Day Parade and Festival

Don Morris, Director of the Beach Community Redevelopment Agency, provided a brief history as detailed in the Commission Agenda Report 09-1730.

Chris Wren, representing Fort Lauderdale St. Patrick's Day Parade and Festival, Inc. and executive director of the Downtown Development Authority, described the event on March 13, noon to 9 p.m. with a parade at 2 p.m. The theme is authentic and family. Mayor Seiler thanked Mr. Wren and others who are helping with this event.

Mayor Seiler wanted to make sure every school band in the city is involved.

The following information was furnished by the City Attorney and City Auditor in response to questions concerning members of the Commission soliciting money for the event. Individual commissioners may raise money for the City to be earmarked for the St. Patrick's Day parade and festival. It is a City sponsored event. Checks would be made payable to the City. The City would transfer the money to the 501(c) (3) (non-profit corporation) for the expenses. Commissioners may use their title and solicit on behalf of the City for the event because it is a City event. Donations would be tax deductible. There is no distinction between gift and donation. The City Attorney was requested to furnish this information in written form.

Mr. Wren hoped to have a balance at the end of this event to use as seed money next year. He hoped this to be an established event. He asked the Commission to publicize it and offer any information on any organization that might be a part of the event. Mayor Seiler noted that next year the event will be within ten days of the centennial and as such the parade will serve as the City's centennial parade also. He sought the Commission's assistance in encouraging participation by the high schools as well as little league.

There was no objection to placing the request for authorizing a \$20,000 donation on the December 15 regular meeting agenda.

Mayor Seiler noted the downtown garages are being requested to offer assistance on event day in order to get vehicles off the street. Diana Alarcon, Director of Parking and Fleet Services, indicated she will be meeting with garage representatives on this. In response to Commissioner Rodstrom, Mr. Wren indicated as many trolleys as needed will be used.

I-D – City's State Lobbyist Contracts

Kathleen Gunn, Assistant To the City Manager, advised that in 2005 the City entered into two-year agreements with Lewis, Longman & Walker and CLD & Associates with three, one-year extension options. Two extensions have been exercised.

Mayor Seiler advised he requested this be placed on the agenda. He elaborated upon the variety of changes being made by cities. The agreements expire December 19.

In response to Vice Mayor Roberts' question as to measuring effectiveness, Mayor Seiler indicated that it is very subjective. Commissioner DuBose asked about effectiveness of the current lobbyists. Ms. Gunn felt both have been quite effective, although she mentioned the difficulty with appropriations in the last few years. She is in constant communication with both lobbyists during the session on several issues. It is good to have coverage on both sides. The lobbyists are accessible at all times; they get the City appointments with elected officials as well as administrators of state agencies. It is difficult to measure quantifiably. These lobbyists are well known.

In response to Commissioner Rodstrom, Ms. Gun advised the cost is \$55,000 per lobbyist.

In response to Vice Mayor Roberts, the City Manager advised that an RFP could be done or they could go to a month to month arrangement until a decision is reached. Renewal is on the regular meeting agenda this evening. Vice Mayor Roberts suggested a month to month arrangement and do an RFP to see the responses. The City Attorney explained a problem with an RFP at this time is that issues where lobbyists are needed has already begun. Mayor Seiler disagreed.

Ms. Gunn noted the federal and state legislative package will be presented on December 15. She could send that information to the elected officials and work with their staffs. It is not the same as representation in Tallahassee, but during the interim, the elected officials would know what Fort Lauderdale wants.

Chris Lyon of Lewis, Longman & Walker, introduced Terry Lewis and indicated they along with Lori Killinger and Jim Linn in the firm represent the City. He explained that Linda Cox represented the City for many years and came to Lewis, Longman & Walker in 2005, bringing Fort Lauderdale as a client. They work as a team. In 2009 the community budget issue request system where the State essentially funds local projects was shut down because of the economic woes. Prior to that time, they were able to secure \$2.25 million for the River Oaks stormwater project and Florida Recreation Assistance Program (FRDAP) grant funding for parks. Even though there was no money to secure, Lewis, Longman & Walker saved the City money. The Isham claims bill was killed which resulted in a savings of \$1.2 million. Lewis, Longman & Walker does more than legislative work; they monitor agencies and rules. When the City had issues with sea turtles, they were able to get City officials in front of the secretary of the Department of Environmental Protection and executive director of the Fish and Wildlife Commission. With respect to the federal stimulus bill, they were able to get City officials in front of the secretary of the Department of Transportation and the Governor's chief of staff. These are examples that come to mind. They are prepared and gearing up for the upcoming session. A special session has been called to begin on Thursday regarding commuter rail. Tri-rail issues will be involved in that special session.

Terry Lewis of Lewis, Longman & Walker, indicated the firm is fifteen years old. There are thirty-eight lawyers in four offices around the state. Legislation is a full-time practice for the firm at any one time. They represent more than a hundred different public entities around the state. As to those examples cited by Mr. Lyon, he noted that Carol Duncanson was a part of the effort.

Carol Duncanson indicated she was a twenty-seven year resident of Broward County, but has recently moved to Tallahassee. She noted her experience, including appropriations and indicated she has been a lobbyist for fourteen years. Her clients include public interests and health care. She went on to explain the thinking behind her joining Linda Cox in representing the City in 2005. They are continuing to work on the Isham claims issue on a regular basis.

In response to Mayor Seiler, it was noted that the fees of \$55,000 each has not changed since 2005. Ms. Duncanson indicated she has not been asked by another city to negotiate the fee. Mr. Lewis advised the Lewis, Longman and Walker reduced their fee by 20% as a result of a request by West Palm Beach.

Mayor Seiler elaborated upon the attributes of having a lobbyist. There are four new commissioners. In order for the City's lobbyists to be effective, they need to get to know the Commission.

Mr. Lewis noted that a weekly legislative report is sent to the City.

Commissioner DuBose agreed with Vice Mayor Roberts to send this out to RFP and change to a month to month basis. Commissioner Rogers did not want to lose the opportunity of having a voice during the special session.

In response to Commissioner DuBose, Kirk Buffington, Director of Procurement Services, advised that an RFP could be released within the next couple of days, but things naturally slow down during the holidays. He did not think an award recommendation could be made until the end of January and into February.

Mayor Seiler summarized the consensus is to convert to a month to month arrangement and issue an RFP with an intended effective date of July 1. The contract award agenda items on the regular meeting agenda will be removed and month to month agreements will be presented for the December 15 meeting.

I-E –Sidewalk Repair – Replacement Policy

Peter Partington, City Engineer, provided an overview of current practice, based on the ordinance, detailed in Commission Agenda Report 09-1515. It is a complaint-based system.

Mr. Partington explained there has been interest in a more proactive approach with the City taking more initiative to find problem areas. There are about 300 miles of sidewalk in the city. If given a fifty-year lifespan, the repair cost would be approximately \$800,000 per year for each of the fifty years. Most of the sidewalk exceeds forty years in age. In response to Commissioner Rodstrom, Mr. Partington confirmed that the \$800,000 is only for repairs. If a proactive method is adopted, an additional inspector would be needed. The salary cost would be approximately \$80,000 per year. If the City is interested in constructing new sidewalks where there are no current sidewalks, a program of \$400,000 per year would produce 4,000 linear feet.

Mr. Partington went on to discuss the interest expressed in the City sharing some of the sidewalk repair cost.

The City Attorney addressed Mayor Seiler's question concerning liability. The proposal encourages the property owner to report needed repairs. In further response, Mr. Partington indicated that liens have been placed, but he was unsure of how many.

In response to Commissioner DuBose, Mr. Partington indicated that the average cost of repairs is \$2,000 or about \$4.50 per square foot .

Commissioner Rogers expressed both desire to move forward, and concern about incurring the expense at this time. In response to Commissioner DuBose, Mr. Partington explained that residential and commercial properties are treated the same in terms of cost and procedure. The prior Commission considered paying fifty percent to, either, homesteaded or residentially zoned properties. If this policy was enacted, the City's cost

would be \$250,000 per year which is in excess of what is collected by the City. In response to Vice Mayor Roberts, Mr. Partington indicated that \$250,000 is currently in the budget for sidewalk repair. An employee would only be needed if current practice was changed to proactive where staff would actively look for problems and fix them at City expense. Commissioner DuBose noted the backup makes reference to there being \$500,000 in the Capital Improvement Program. Albert Carbon, Public Works Director, explained a decision was made in March, 2009, not to do it. The 2009-2010 budget included \$250,000. It was doubled with the projection of collecting \$250,000 from residents to reach the \$500,000.

Commissioner Rodstrom recalled discussion of the previous Commission at a time when the economy was better and local option gas tax was one option. She wanted to make sure staff is pursuing any possible grant funding. Mr. Partington confirmed that he is working on a state funded program for new sidewalks in the vicinity of schools, however, this will not fund repair of existing sidewalks. Mr. Carbon explaining that currently approximately \$1.1 million of gas tax revenue is used for capital projects which are limited to street resurfacing. Even so, this funding is currently insufficient for the resurfacing program. In further response, he advised resurfacing is slated every fourteen years, but it is reviewed annually to see if a street can wait another year. This timeline is typical for South Florida. Mr. Partington responded to her question about the WaterWorks programming funding resurfacing. Mr. Carbon indicated if trenches made in the WaterWorks work begins to fail, it is resurfaced and maintained over the year. During the routine regularly scheduled asphalt program, the entire road would be resurfaced. He did not think this is contributing to the falling behind.

Vice Mayor Roberts requested an analysis of the City's liability.. Mr. Partington agreed to provide an update, though it is not a large sum.

Mayor Seiler asked about an issue with the SE 10 Street sidewalk. Mr. Partington indicated with confirmation to continue with the current policy, staff would bring a resolution before the Commission that includes the SE 10 Street site and a large number of others. A letter will then go to the property owner instructing them to make the necessary repairs or pay the City to complete the repairs or ultimately there will be a lien imposed. Mr. Carbon explained the process is to submit a list every couple months.

In response to Vice Mayor Roberts, Mr. Carbon explained the payment options that are made available. Vice Mayor Roberts suggested offering property owners a payment plan option. Mayor Seiler and Commissioner Rodstrom agreed. There was consensus approval for such a payment option modification to the ordinance. In response to Mayor Seiler, Mr. Carbon noted the interest rate would be based on the WaterWorks program model.

Mr. Partington was able to provide a verbal report of the claims reported by the Risk Manager in January, 2008. He offered to followup with the period of time information. .

Commissioner DuBose questioned what happens with a dispute in which a property owner claims the City damaged the sidewalk or a tree. Mr. Partington explained that if there is a street tree that the City clearly installed within the right of way and it has damaged the sidewalk, the City may pay for it. If the claim is City equipment caused the damage, the City would require evidence. Mr. Carbon noted the avenues available for claims to be made.

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

There was no objection.

NOTE: The Commission recessed and convened as the Community Redevelopment Agency Board of Directors at 5:38 p.m. until 6:04 p.m. and then reconvened in the chambers at 12:46 a.m. Also, the following conference items were deferred: II-A, II-B, III-A and III-B.

There being no further business to come before the Commission, the meeting was adjourned at approximately 5:38 p.m.