

FORT LAUDERDALE CITY COMMISSION REGULAR MEETING

June 1, 2010

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE
June 1, 2010**

Meeting was called to order at 6:06 p.m. by Mayor Seiler on the above date, in City Hall, 100 North Andrews Avenue, 1st floor Chambers.

Roll call showed:

Present: Commissioner Bruce G. Roberts
Commissioner Charlotte E. Rodstrom
Commissioner Bobby B. DuBose
Vice Mayor 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 Frank Vetancourt

Invocation was offered by Principal Frank Ahrens, Faith Lutheran Church, followed by the recitation of the pledge of allegiance led by Robert Walsh.

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).

Commissioner Rodstrom requested on page 7 of the April 6, 2010, Conference Meeting reference to auditor be clarified to reflect Ernst & Young (City's external auditors).

Motion made by Commissioner DuBose and seconded by Commissioner Roberts to approve the minutes of the April 6, 2010 Conference Meeting, as amended, April 20, 2010 Conference and Regular Meetings and May 11, 2010 Budget Public Hearing. Roll call showed: YEAS: Commissioner Roberts, Commissioner Rodstrom, Commissioner DuBose, Vice Mayor Rogers, and Mayor Seiler. NAYS: None.

Presentations

- 1. Dillard High School Center of the Arts Jazz Ensemble (PRES-01)
National Essentially Ellington High School Jazz Competition –
2nd Place Winners**

Commissioner DuBose presented a proclamation designating June 1, 2010, as Dillard High School Center of the Arts Jazz Ensemble in the City to Christopher Dorsey, Band Director. He recognized Mr. Dorsey and student band members for placing second out of fifteen finalists in the Essentially Ellington High School Jazz Competition and Festival

held in New York City. Mr. Dorsey thanked the Commission and the community for their support.

Amend Operating Budget – Acceptance and Appropriation - \$250,018 (CR-08)
Organization of American States – Funding Reimbursement

Please see funding information attached to these minutes.

This item was removed from the agenda at the request of the City Manager.

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 – The Midtown Jazz Mingler (M-01)

No budgetary impact.

A motion authorizing and approving execution of an Event Agreement with Sunrealm, Inc. for The Midtown Jazz Mingler to be held July 10, 2010, October 9, 2010 and January 8, 2011, 3 PM – 9 PM, at Provident Park – 1410 NW 6 Street.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 10-0747

Change Order 1 – Ric-Man Construction, Inc. – Add 2 Calendar Days - (M-02)
\$18,260.01 Water Main Improvements – Beach and Northeast Area

Please see funding information attached to these minutes.

A motion authorizing 1) Change Order 1 with Ric-Man Construction, Inc., in the amount of \$18,260.01 – additional improvements to City of Oakland Park water distribution system, repair 6 inch water main and the addition of 2 non-compensable calendar days to contract period – 48-inch Water Main Improvements Phase 2 – Project 10875B and 2) transfer \$18,260.01 to fund this change order and \$2,191.20 to fund 12 percent estimated WaterWorks 2011 fees.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 10-0742

**Change Order 5 – Straightline Engineering Group, LLC - \$28,275 and \$3,393 (M-03)
Reconstruction of Entryway and Road – Shady Banks**

Please see funding information attached to these minutes.

A motion authorizing Change Order 5 with Straightline Engineering Group, LLC, in the amounts of \$28,275 and \$3,393 – annual contract for concrete, stamped asphalt and paving stone repair – reconstruction of the entryway and road – Shady Banks – Project 11417 – 12 percent estimated engineering fees.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 10-0765

**Contract Award – Wrangler Construction Inc. – Entry Monuments - \$54,070 (M-04)
Neighborhood Capital Improvement Program – Progresso Village**

Please see Bid Tab attached to these minutes.

A motion authorizing the proper City Officials to award and execute contract with Wrangler Construction Inc., in the amount of \$54,070 – installation of entry monuments and landscaping – Progresso Village Civic Association, Inc. – Neighborhood Capital Improvement Program – Project 11377.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 10-0761

**Revocable License – Third Avenue Associates, Ltd. (M-05)
Architectural Features in Public Right-of-Way –
301 East Las Olas Boulevard**

No budgetary impact.

A motion authorizing the proper City Officials to execute revocable license with Third Avenue Associates, Ltd. – installation of architectural features on exterior portion of building located at 301 East Las Olas Boulevard.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 10-0713

Affordable Housing – Housing Authority of the City of Fort Lauderdale (M-06)
First Amendments – Conveyance Agreement and Restrictive Covenants

No current year budgetary impact.

Authorize the proper City Officials to execute 1) First Amendment to Conveyance, Development Agreement and 2) First Amendment to Declaration of Restrictive Covenants – eight parcels for affordable housing development by Housing Authority of the City of Fort Lauderdale – Progresso, Home Beautiful Park, Lincoln Park Corrected and Lincoln Park 4th Addition Amended.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 10-0793

CONSENT RESOLUTION

Grant Acceptance – South Middle River Civic Association (CR-01)
Reforestation Project 2009 – 2011 Forest Health Improvement Initiative
Grant Program - \$18,280

Please see funding information attached to these minutes.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 10-0768

RESOLUTION NO. 10-152

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING ACCEPTANCE OF GRANT FUNDS IN THE AMOUNT OF \$18,280 FROM THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES FOR THE SOUTH MIDDLE RIVER CIVIC ASSOCIATION REFORESTATION PROJECT 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 AS SET FORTH IN EXHIBIT A.

Reforestation of Trees – Snyder Park – Kids Ecology Corps (CR-02)
Forest Health Improvement Initiative Grant Program - \$18,300

No budgetary impact.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 10-0770

RESOLUTION NO. 10-153

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, SUPPORTING THE REFORESTATION OF TREES AT SNYDER PARK PROJECT TO BE COMPLETED BY PARTNERS IN ACTION, INC. D/B/A KIDS ECOLOGY CORPS (KEC) THROUGH GRANT FUNDING IN THE AMOUNT OF \$18,300 FROM THE 2009-2011 FOREST HEALTH INITIATIVE GRANT PROGRAM.

Amend Operating Budget – Appropriation - \$65,406.88 (CR-03)
Purchase Replacement Timekeeping Clocks

Please see funding information attached to these minutes.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 10-0675

RESOLUTION NO. 10-154

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING 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 AS SET FORTH IN EXHIBIT "A" AND PROVIDING FOR AN EFFECTIVE DATE.

Amend Operating Budget – Appropriation - \$3,500 (CR-04)
Community Appearance Board Annual Awards Event

Please see funding information attached to these minutes.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 10-0754

RESOLUTION NO. 10-155

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 AS SET FORTH IN EXHIBIT A AND PROVIDING FOR AN EFFECTIVE DATE.

No Objection to Plat Note Amendment – Satori Gardens (CR-05)
Previously Known as Satori Condominium – 1020 NE 12 Avenue –
Case 9-P-05A

No budgetary impact.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 10-0750

RESOLUTION NO. 10-156

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, EXPRESSING NO OBJECTION TO A CHANGE TO A NOTE ON A PLAT KNOWN AS "SATORI GARDENS" PREVIOUSLY KNOWN AS "SATORI CONDOMINIUM".

Amend Operating Budget – Appropriation - \$25,000 (CR-06)
Donation to Kids In Distress – Pilot Program

Please see funding information attached to these minutes.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 10-0764

RESOLUTION NO. 10-157

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 \$25,000.00 TO ESTABLISH A PILOT PROGRAM FOR KIDS IN DISTRESS.

**City Charter Amendment Ballot Language –
November 2, 2010 General Election Sale of City-Owned Property –
Affordable Housing or Economic Development**

(CR-07)

No budgetary impact.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 10-0784

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE SUPERVISOR OF ELECTIONS TO PLACE A PROPOSED CHARTER AMENDMENT ON THE NOVEMBER 2, 2010 GENERAL ELECTION BALLOT.

This item was deferred to June 15, 2010.

**Amend Operating Budget – Acceptance and Appropriation - \$250,018
Organization of American States – Funding Reimbursement**

(CR-08)

Please see funding information attached to these minutes.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 10-0792

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, ACCEPTING THE AMOUNT OF \$250,018, AMENDING 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 AS SET FORTH IN EXHIBIT "A", AND PROVIDING FOR AN EFFECTIVE DATE.

This item was removed from the agenda at the request of the City Manager.

<p>PURCHASING AGENDA</p>

175-9788 – Employee Benefits Consultant – Group Dental Plan

(PUR-01)

Please see funding information attached to these minutes.

Additional funding – not to exceed \$9,000 – specification review and analysis of employee group dental plan request for proposals is being presented for approval by Finance Department.

Recommend: Motion to approve.

Vendor: The Rhodes Insurance Group, Inc.
Fort Lauderdale, FL

Amount: \$9,000

Bids Solicited/Rec'd: 615/6

Exhibit: Commission Agenda Report 10-0759

The Procurement Services Department has reviewed this item and recommends additional funding allowance.

B-10-45 – Co-Op – Horticultural Chemicals (PUR-02)

Please see Bid Tab attached to these minutes.

One-year contract for purchase of horticultural chemicals is being presented for approval by Parks and Recreation Department.

Recommend: Motion to approve.

Vendor: Various Vendors (see attached)

Amount: \$60,000 (estimated)

Bids Solicited/Rec'd: 25/9

Exhibit: Commission Agenda Report 10-0752

The Procurement Services Department has reviewed this item and recommends approving purchases from the South Florida Governmental Cooperative Purchasing Group.

402-10507 – Demolition Services (PUR-03)

Please see funding information attached to these minutes for Building Department funding details. Other Departments have no budgetary impact. Purchases will be made on an as needed basis and charged to individual budgets per available funds and in accordance with unit pricing.

One-year contract for purchase of demolition services is being presented for approval by Building Department.

Recommend: Motion to approve.

Vendor: The BG Group, LLC, Boca Raton, FL
Demolition Services, Inc., Hialeah, FL

Amount: \$230,000.00 Estimated Annual
Bids Solicited/Rec'd: 1207/10
Exhibit: Commission Agenda Report 10-0733

The Procurement Services Department has reviewed this item and recommends two awards to The BG Group, LLC and Demolition Services, Inc.

Video Security Camera System – Storage Upgrade (PUR-04)

Please see funding information attached to these minutes.

Purchase Dell digital security camera server equipment for video storage purposes is being presented for approval by Police Department.

Recommend: Motion to approve.

Vendor: Dell Marketing Corporation
Round Rock, TX

Amount: \$27,126.78

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 10-0755

The Procurement Services Department has reviewed this item and agrees with the recommendation.

Replacement Kronos Timekeeping Clocks (PUR-05)

Please see funding information attached to these minutes.

Purchase replacement Kronos timekeeping clocks is being presented for approval by Public Works Department.

Recommend: Motion to approve.

Vendor: Immix Technology, Inc.
McLean, VA

Amount: \$65,406.88

Bids Solicited/Rec'd: N/A

Exhibit: Commission Agenda Report 10-0676

The Procurement Services Department has reviewed this item and recommends an award to Immix Technology, Inc. for Kronos Timekeeping Clocks, utilizing the GSA Contract.

403-10508 – Water Distribution System Fittings and Repair Products (PUR-06)

Purchases are made on an as needed basis and charged to the individual operating budgets per available funds and in accordance with established pricing.

Four one-year contracts for purchase of water distribution system fittings and repair products are being presented for approval by Public Works Department.

Recommend: Motion to approve.
Vendor: See Background/Detail, page 2
Amount: \$627,080.00 Not to exceed
Bids Solicited/Rec'd: 808/7
Exhibit: Commission Agenda Report 10-0700

The Procurement Services Department has reviewed this item and recommends four awards to the low responsive and responsible bidders for each group.

703-10532 – Blade Server Equipment – Computer Network (PUR-07)

Please see funding information attached to these minutes.

Purchase Hewlett Packard Blade Server equipment for computer network is being presented for approval by Information Technology Services Department.

Recommend: Motion to approve.
Vendor: CSS, Inc.
Maitland, FL
Amount: \$35,787.24
Bids Solicited/Rec'd: 1467/3
Exhibit: Commission Agenda Report 10-0697

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

The following items were removed from the Consent Agenda:

Motion made by Commissioner Rodstrom and seconded by Commissioner Roberts that Consent Agenda Items M-06, CR-07, and PUR-05 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda items be approved as recommended. Roll call showed: YEAS: Commissioner Roberts, Commissioner Rodstrom, Commissioner DuBose, Vice Mayor Rogers, and Mayor Seiler. NAYS: None.

**Affordable Housing – Housing Authority of the City of Fort Lauderdale (M-06)
First Amendments – Conveyance Agreement and Restrictive Covenants**

In response to Commissioner DuBose, Jonathan Brown, Housing and Community Development Manager, expanded on the need for this item. Parcels C and I are being removed from the agreement for an upcoming project of the Housing Authority. The reversionary clause was amended in order to gain lender approval. The City will be repaid for the cost of the properties granted by the City, instead of the properties. The Housing Authority was unable to develop parcels within the timeframe contained in the agreement. The Housing Authority was to begin the project five months after contract execution of March, 2008. The new deadline for these two parcels is December 31, 2010. The remaining parcels have a deadline of June 1, 2012. Mayor Seiler inquired about what security is in place to ensure the City is paid for the two parcels being removed. Mr. Brown advised if the Housing Authority is unable to develop the properties within the specified timeframe of December 31, 2010, they will pay the value of the properties to the City.

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

Replacement Kronos Timekeeping Clocks (PUR-05)

In response to Vice Mayor Rogers, Kirk Buffington, Director of Procurement Services, explained that the maintenance contract will expire on March 31, 2011. Because the clocks are over ten years old, service is no longer available. Vice Mayor Rogers thought it would be more economically beneficial to replace some, rather than all of the clocks and keep some old ones for spare parts. The clocks could be phased in.

Motion made by Vice Mayor Rogers and seconded by Commissioner Roberts to approve the item as amended to a phase-in approach of two per month. Roll call showed: YEAS: Commissioner Roberts, Commissioner Rodstrom, Commissioner DuBose, Vice Mayor Rogers, and Mayor Seiler. NAYS: None.

<p>PUBLIC HEARINGS</p>

**Application – Beach Boating Restricted Area – (PH-01)
Watercraft Concession Waiver
Ocean Manor Resort Hotel and Condominium – Ocean Parking Valet, Inc.**

No budgetary impact.

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

The Commission announced with whom he/she had spoken with and/or site visits made concerning this matter.

Mayor Seiler opened the floor for public comment.

Stephanie Toothaker, representing Ocean Parking Valet, Inc., indicated she had thought until this past Friday that this item was being deferred to June 15 otherwise there would have been more people present this evening to speak in favor. She noted a previous deferral at the request of a concessionaire to the north. She contended that concessionaire's only issue is the competition. Another deferral occurred in order for the Applicants to meet with residents to the south. As a result of concerns expressed by the Ocean Club Condominium, the Applicants are proposing to move the (operation) lane as far north as possible. She displayed an aerial photograph showing locations of Ocean Club, Ocean Manor and Ocean Sky, which is attached to these minutes. The Applicants' intent is to operate a valid reputable business to benefit the Ocean Manor's residents and guests. The Applicants have also entered into a letter of intent, pending Commission approval, to offer passengers of a local cruise line use of the hotel and waverunner concession. She contended that David Nice opposes this application because he operates a waverunner concession immediately to the north. She noted that Mr. Nice operates his concession in a completely different location than was approved by the Commission in the 1990's or earlier. He appears to be operating slightly inside Ocean Manor's property line. She claimed that Bill Isenberg, representing Mr. Nice, told her that he took the concession over from another vendor. She pointed out that this is a code violation. She indicated that they attempted to meet with the Ocean Club Condominium's board of directors, but they were refused. Apparently a small number of Ocean Club residents support this application. She submitted 24 letters and a petition of 142 signatures in support of the application which were made a part of the record. She mentioned that Samantha Gamero and Captain (Anarita) Talerico of Ocean Valet Parking have committed to donate five percent of Ocean Valet Parking's net profits to Kids In Distress for the life of the contract. She also submitted a character reference letter from Patricia Gallagher-Moksol of Kids In Distress Samantha Gamero which was also made a part of the record. She emphasized that this is the Applicants' livelihood. The Applicants have requested the channel be moved as far north as legally possible; to operate only six waverunners; to purchase waverunners with muffling systems; and donate five percent of their net profits Kids In Distress. She believed that some of the Ocean Club residents apparently have personal issues with Mr. Talerico (owner of Ocean Manor Resort Hotel and Condominium) that cannot be addressed, but that is a separate matter from this request.

Captain Anarita Talerico of Ocean Parking Valet, noted her military experience and many in the armed services desire to preserve the American way which includes capitalism. People are working to get through the economic downturn. This business will create jobs and bring more business to the city. Ocean Parking Valet will do their best to reduce noise. She is a returning veteran who desires to live the American way and is hopeful for that not to be taken away.

Frank Talerico, owner of Ocean Manor Resort Hotel and Condominium, advised that he and Samantha Gamero, a partner in Ocean Parking Valet, met with Ocean Club's board president, Ed Jennings and some of the residents. Their main concern was that their beach was being taken over and there was some misunderstanding upon the actual location. They committed to: closing at 5-6 p.m.; having lifeguards on duty; and having new low-noise waverunners. They offered a discount for all Galt Ocean Mile residents. He believes it is a fairness issue. If the building next door was given the right to operate such a rental, it is unfair for Ocean Manor not to be granted the same.

In response to Mayor Seiler, Mr. Talerico verified that he is not an owner of the waverunner business; he owns the Ocean Manor Resort, but supports his sister's venture. Ms. Toothaker indicated that the Applicants need Mr. Talerico's consent to operate behind his hotel, but he is not an owner of the business.

Commissioner Roberts noted that he was unaware of this item being deferred until he saw the hardcopy of the agenda over the weekend and noted there have been some miscommunications. Apparently last Wednesday a meeting was held where the decision was made without his knowledge or concurrence.

In response to Mayor Seiler, Ms. Toothaker clarified that the sole Applicant is Ocean Parking Valet, Inc. The concession would be operated behind Ocean Manor Resort where Ocean Parking operates the valet service. In response to Vice Mayor Rogers, she asserted that the Applicant commits to following the code which states that Commission approval must be sought if more than the stated six waverunners or any other type of watercraft is operated. In response to Commissioner Rodstrom, Ms. Toothaker advised that Mr. Talerico owns a majority of units at the Ocean Manor Resort which is a condominium hotel, but there are other owners as well which she believed are listed on the petition (submitted).

Vice Mayor Rogers referred to the Marine Advisory Board meeting and a question about not checking with the adjacent property owners. Roberto Valencia, architect for the Applicant, clarified that notice was not required, but he spoke to a number of them. He did not address the adjacent building's board of directors. The application was filed approximately eight months ago and issues and concerns were addressed with staff. At the time he met with the Marine Advisory Board, he had not heard of any objections. In response to Mayor Seiler, Mr. Valencia explained that On The Ocean, Inc. is the same corporation as Ocean Parking. Ms. Toothaker believed that the name was recently changed to On The Ocean Valet Parking, Inc., but the entity and the owners remain the same. Vice Mayor Rogers indicated that the liability insurance certificate names Ocean Parking Valet, Inc. and it expires tomorrow. In response to his question, the City Attorney verified that the code does not require insurance agencies to be rated to confirm their solvency. In response to Mayor Seiler, Samantha Gamero verified her signature on the application. She explained that On The Ocean, Inc. is the corporation for a coffee shop in Ocean Manor's lobby. On The Ocean Valet Parking, Inc. is the corporation for their valet services. She is the president of both companies and co-owners them with Ms. Talerico.

Joseph Anza, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

James Hayes, 140 Cypress Club Drive (Ocean Manor), expressed support of the Applicant.

George Gorgarze, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Alex Aswad, representing Ocean Club, reviewed slides concerning this matter. A copy of the slides is attached to these minutes. He emphasized the hazardous nature of waverunners in general and that the buoys are not always effective. He presented a

petition of 85 Ocean Club owners opposed to the application that was made a part of the record.

Henny Orfaly, 4020 Galt Ocean Drive (Ocean Club), expressed concern regarding safety, fumes, noise, and beach overcrowding. She contended that, for five years, she has utilized the police department, code enforcement, building department and fire department in an effort to bring the Ocean Manor into compliance with the City's rules, especially the noise issue. On March 18, 2010, the judge ordered that no music after 11 p.m. but again on the 24th the police were called at 1 a.m. due to loud music. She was opposed to the application. Galt Ocean Mile is becoming too commercialized.

Ron Bibace, 4020 Galt Ocean Drive (Ocean Club), objected to the waiver. He questioned why there was no notice. He claimed that Mr. Valencia told the Marine Advisory Board that there was no objection. Commissioner Roberts made efforts to inform everyone in their building. Subsequent to Mr. Valencia's presentation, their board unanimously opposed the application. He believed that if the opposition of Ocean Club was made clear to the Marine Advisory Board, the recommendation for the waiver might not have gotten this far. It is a privilege, not a right. The major complaint is over-commercialization of the area. The noise and other problems at the Ocean Manor are non-stop and all of the evidence supports the conclusion that Mr. Talerico and his employees cannot be relied upon. Each time there is a court hearing, there is some manner of delay created by Mr. Talerico. He asked the Commission to deny the application.

John George, condominium manager of the Ocean Manor, noted his experience both as a manager and Galt Ocean Mile resident. He is also a war veteran who sustained injuries and believed that Captain Talerico and Ms. Gamero have a right to make a living. Many owners have expressed support of the concession. Competition is good because it serves as a price regulator.

Gerald Guiro, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Michael Garber, 9 North Birch Road, explained that he has patronized the Ocean Manor's tiki bar for several years. He believed the hotel would be closed if it was not in compliance with code and law enforcement. He is a local businessman and believes in a free market society. He felt the Commission should promote competition and new local jobs. He believed the owner of the property to the north where an existing waverunner business exists is denying competition. He thought that mean-spiritedness is the primary reason for complaints from the condominium to the south. The waverunners do not present a hazard; there is an ingress/egress channel. It enhances tourism.

Michael Deladonne, 1200 NW 4 Avenue, desired to have fun events at the beach. He expressed support of the Applicant.

Patricia Moskol, 1079 Tyler Street, Hollywood, Florida, spoke of Samantha Gamero's character and community involvement. She expressed support of the Applicant.

George Guiniaridze, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Melissa Ruiz, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Ruth Wolff, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Jerry Nobile, 4040 Galt Ocean Drive (Ocean Manor), indicated that he likes the way the Ocean Manor is operated. He does not hear any noise at night, despite the fact that his unit is located directly over the tiki bar. He felt the waverunner business is good for young people.

Arturo Bisbao, 260 SE 5 Avenue, Pompano Beach, expressed support of the Applicant.

Mathieu Laporte, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Bill Isenberg, representing Atlantic Beach Club, contended that their reasons for objecting go beyond competition and personalities. An important reason the application is before the Commission is the unanimous approval of the Marine Advisory Board. It is not mandatory to notify the neighbors, but he believed it was a matter of credibility. He presented dialogue that he indicated was from the Marine Advisory Board (MAB) meeting and pointed out that Mr. Valencia confirmed certain properties (two properties abutting Ocean Manor) do not object. A copy of this dialogue is attached to these minutes. Had the MAB known that they had been given an incorrect answer, this matter would not have moved forward to the Commission. Mr. Isenberg displayed and provided an aerial photograph. A copy of the photograph is attached to these minutes. The Atlantic Beach Club currently has its concession at 4060 Galt Ocean Drive (Ocean Sky). There are buoys marking the channels. He noted that the channels depicted on the map are not exactly to scale. The channels are too close together. He elaborated upon the distance or travel box that the waverunners stay within and existing obstacles. They must stay within sight distance which is about a quarter mile. With another concession, the permitted travel boxes will overlap. Waverunning can be highly dangerous. There are valid safety reasons against this application.

In response to Mayor Seiler, Mr. Isenberg stressed that waverunners must stay a significant distance away from the pier. The waverunners must stay within sight distance which is approximately one-quarter mile; therefore, the pier does not come into play. In response to Vice Mayor Rogers, Mr. Isenberg confirmed that there is no legal travel box requirement; it is a safety measure. He did not know of any industry standard as to the number of waverunners operating in a particular area.

David Nice, president of Atlantic Beach Club, noted his experience as a business owner. He has never had an accident or incident since he has been president of the company. He believes that competition breeds productivity, but there is a major safety issue with two waverunner lanes being so close together. Atlantic Beach limits their operation to eight waverunners at one time. In response to Mayor Seiler, Mr. Nice advised that Atlantic Beach has 26 waverunners at two locations. Typically eight waverunners are kept at this location, but the numbers change with the season. To his knowledge, there is no restriction as to the number of waverunners at this location. He has been in business at this location for eleven years. James Harrison originally obtained a waiver at this location in 1988 and sold it to him in 1999 or 2000. Upon taking over the business, Mr. Nice indicated he worked with Jamie Hart (Marine Facilities) and

completed a new application. He was not aware of any limitations with respect to lanes and distances. Everything on the original waiver has remained the same. He was unaware of the application having any limitations regarding lanes and distances. The lane existed when he took over the business. It is twenty-five feet marked with six buoys. Approximately a year ago, Marine Patrol wanted to adjust the buoys to go further out to sea, but there was no direction given about north and south placement. He is unaware of the channel being in an improper spot on the property. It is on the south side of the Ocean Sky property. He guessed there is approximately 150 feet of ocean frontage. Commissioner Roberts noted that the original application showed that the lane and the alley should be in the exact center of the property. Mr. Nice pointed out that may have been part of the application process because the survey indicates that it is proposed. It happens to be at the steps to the beach which makes sense. In response to Commissioner Roberts, Mr. Nice indicated that he has received no complaints related to noise or pollution. He noted the business has had numerous city and state inspections and confirmed his possession of all required licensing. In response to Vice Mayor Rogers, Mr. Nice indicated that idle speed only is allowed in the lane within one hundred feet of the shoreline. He felt that most customers obey the rules. The most waverunners Atlantic Beach has allowed in the travel box is ten, but he has realized it is too many to manage. He was unaware of an industry rule specifying a ratio of chase waverunners to operating waverunners. His rule of thumb is a chase waverunner if there are six or more waverunners. In response to Mayor Seiler, Mr. Nice advised that he has a written lease and pays rent to Ocean Sky Hotel and Resort. The current lease will expire in two or three years.

Paul Cahaly, general manager of Ocean Sky Hotel and Resort, informed Mayor Seiler that the property is approximately 200 feet wide. The concession utilizes approximately 50 to 75 feet. He noted his experience working with Mr. Nice for the last ten years, expressing trust in him. Ocean Sky is unfamiliar with the Applicant and concerned about the safety issue. In further response to Mayor Seiler, Mr. Cahaly advised that he did not attend the MAB hearing and was not given notice of it, nor was Mr. Nice. Mr. Nice mentioned that certain MAB members told him they would have voted differently if they knew about the concession immediately to the north.

Shaena Clement, 1518 NE 51 Street, noted her experience as a full-time employee of the Ocean Manor. The Pelican Grand Beach Resort does not allow public use of their beach or outdoor amenities. She thought this could be a reason why there has not been a concern about their competition.

Rogério Aguiar, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant. If safety is their concern, he wondered why Ocean Club has not already complained when the waverunner business was established.

Joe Nazario, 150 SE 11 Street, Pompano Beach, expressed support of the Applicant.

Brittney Kramer, 450 SE 1 Avenue, Pompano Beach, expressed support of the Applicant.

Mike Cantrell, 1518 NE 51 Street, noted his experience as a full-time employee of Ms. Talerico's and Ms. Gamero's valet company. He thought that the waverunner concession would provide more jobs for local youth to help pay for their education.

Deb Bovasso, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Farid Ahmed Amin, 21426 Glades Street, Port Charlotte, expressed support of the Applicant.

Anna Hamis, 4620 Bougainvillea Drive, Lauderdale-by-the-Sea, expressed support of the Applicant.

Pino Trafficante, 3250 North Palm Aire Drive, Pompano Beach, expressed support of the Applicant.

Matthew Joseph Pedro, 4620 Bougainvillea Drive, Lauderdale-by-the-Sea, expressed support of the Applicant.

Gerard Hennessy, 1200 NE 17 Court, noted he is a disabled veteran. He questioned if Mr. Nice's application shows that his concession should be located in the center of the property. He thought that Mr. Nice's location at the southernmost point of the property is an encroachment on the Ocean Manor, but did not think there would be a problem if each operates to opposite property lines. He expressed support of the Applicant.

In response to Commissioner Roberts, Ms. Toothaker verified that the map she presented shows the City-approved location for the lane that was requested by the owner prior to Mr. Nice. In response to Vice Mayor Rogers, Ms. Toothaker explained that if the waiver is approved, the Applicant would obtain the required insurance for the waverunner business. She confirmed that Ms. Gamero and Captain Talerico have reviewed the expenses and believe this would be a successful business. They are familiar with liability issues because of their valet business and are willing to indemnify the City of any liability.

Jeremy Zubkoff, 4020 Galt Ocean Drive (Ocean Club), noted there are safety concerns with two waverunner concessions operating closely together and the placement of one is adjacent to a bar. He felt the waverunners create noise that annoy residents. He did not receive notice of this application. There have been issues with the tiki bar at Ocean Manor. Commissioner DuBose asked who is allowed to use the waverunners at Ocean Sky. Mr. Zubkoff believed anyone from the public may rent them. There is no real need for the waiver because anyone staying at the Ocean Manor can use the waverunners at Ocean Sky. The Ocean Manor is a condominium whereas the Ocean Sky is a hotel. By allowing this concession, all of the current and future condominium owners will be bound by this..

In further response to Commissioner DuBose, Ms. Toothaker advised that the property to the north of Ocean Manor asked the Applicant to disallow waverunner use for anyone other than Ocean Manor guests and residents, but they did not consent to such a condition unless imposed by the City Commission.

George Maringer, a director on Ocean Club's board of governors, read a written statement in opposition to the application which is attached to these minutes. He believed that because of the additional congestion, people will be forced to use Ocean Club beach. He was concerned about use of the cabana to the east will be used for gasoline storage and potential other areas.

In response to Commissioner DuBose, Mr. Maringer explained that when the waverunners at Ocean Sky are in full operation, the noise level is exceedingly high on his balcony and inside his residence. Fumes and pollution created by the fuel are visible and permeating. He was told that waverunners must be drained of all fluids daily, and he wondered where those fluids would go. He believed there is both an environmental and safety issue. In response to Commissioner DuBose, Mr. Nice explained how his business manages fuel, noting fuel is only stored for the day that could be 60-70 gallons kept on a truck in the alleyway.

In response to Commissioner Rodstrom, Mr. Maringer verified that he does not desire to have an increase in waverunners.

Ms. Toothaker advised that information about fuel storage by Mr. Maringer is not accurate. She went on to also to explain how the Applicant plans to manage fuel. The maximum amount permitted pursuant to code is 25 gallons. They will conform to all regulations. In response to Commissioner Rodstrom, Ms. Toothaker advised the Applicant would be able to store off-site if the City wishes.

Scheherazade Rebeca Farraro, 4040 Galt Ocean Drive (Ocean Manor), noted her life-long residency at Ocean Manor. She claimed that the residents at Ocean Manor are like a family. For a number of years, the residents of the building next door have complained about almost everything that happens at Ocean Manor. She expressed support of the Applicant. She believed that the Ocean Sky is concerned about losing business because the Ocean Manor is popular. She did not think the waverunners would bother residents of the Ocean Club.

Maryann Guiro, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Rebeca Leon, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Jen Diamonds, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Vanessa Ruiz, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Lee Stempler, 4040 Galt Ocean Drive (Ocean Manor), expressed support of the Applicant.

Charles Caico, president and board member of Ocean Manor, expressed support of the Applicant.

Violeta Grimaldo, 2900 NE 30 Street #1-F, expressed support of the Applicant.

Darwin Dviedo, 2900 NE 30 Street #1-F, expressed support of the Applicant.

Mayor Seiler asked Mr. Valencia if he told the MAB that the neighbors supported the application. Mr. Valencia claimed that the MAB minutes are clear about his statements. ,

Mr. Valencia noted that he answered the question regarding notification by saying he had not heard any objections. There was no requirement for notification to the neighbors. Mayor Seiler asked if Mr. Valencia had any indication from either property that the official position was no objection when he advised the MAB that the abutting properties did not have an objection. Mr. Valencia verified that he did not have any indication. Mayor Seiler inquired why he did not tell the MAB that he did not ask them if they objected. Mr. Valencia noted that he spoke to several people and there were no objections, however he did not speak to anyone at Ocean Sky or Ocean Club. Mayor Seiler advised that the most troubling aspect of this application is that facts were misrepresented to the MAB. He thought Mr. Valencia's actions were improper. Mr. Valencia contended that he had communications in the form of letters of support. This application has been under discussion with the City for some eight months. Ms. Toothaker clarified that Mr. Valencia was asked a double question by the MAB that inquired if any of the neighbors were contacted and if they objected. His response was that they do not object. He should have said that he was not contacted by anyone who objects. Mayor Seiler felt that his response implied that the properties were notified. Ms. Toothaker agreed. He reiterated concern about untruthful testimony before a City board. He was unsure what the MAB would have done if they were made aware of the fact that no one was noticed and given opportunity to object. In response to Mayor Seiler, Andrew Cuba, Marine Facilities Manager, confirmed his attendance at the MAB meeting and that the minutes are accurate. In response to Commissioner DuBose, the City Clerk verified that the minutes are summarized. In response to Mayor Seiler, Mr. Cuba reiterated that indication of there being no objections from the neighbors as reflected in the minutes is accurate. He advised that a copy of the agenda is mailed in advance to homeowner associations as listed on the City website, not condominium associations. For this instance it would be the Galt Mile Association. Customarily the agendas are mailed on the Friday before the Thursday meeting, posted on the City website and at City Hall.

In response to Commissioner Rodstrom, Mr. Isenberg indicated that Ocean Sky was not noticed and he could produce a letter from the attorney representing Ocean Sky. He asserted that he viewed the videotape of the MAB meeting, and the question and answer in the minutes are verbatim. Commissioner Rodstrom felt Mr. Valencia's response needed to have been different.

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

Commissioner Roberts pointed out that his experience as police chief has shown some disruptions in neighborly attitudes between Ocean Manor and surrounding condominiums. Therefore, he wanted to ensure that the community was noticed of any new operations at the Ocean Manor. He was concerned about the Applicant's credibility and how their operation would be operated. He emphasized the Commission's efforts to foster economic competition and business. The issue is about quality of life and safety. He believed that one waverunner operation in this area is enough. He planned to ask staff to review the current operation as to adhering to regulations.

Vice Mayor Rogers elaborated upon the code relating to consideration of a waiver. He thought Mr. Valencia could have answered the MAB's question much differently. Notice

is important and part of due process. The MAB input is important. He is concerned with safety. Unless there are expert guidelines brought forth, the Commission must use common sense. He thought that fourteen waverunners could be reasonably operated within the area. He recognized that they may cause noise, but they are already operating in the area. He thought that the competition issue should be considered.

Commissioner DuBose agreed that part of the issue is related to competition. In terms of safety, he also agreed with Vice Mayor Rogers. Ocean Sky's lanes are not in their original placement, so there is some space to adjust the lanes. Regarding quality of life, he pointed out that this is a public beach. He expressed his inclination to support the waiver.

Commissioner Rodstrom believed that it is a safety issue, rather than competition. There is also issue with noise and quality of life. She felt that two side-by-side businesses of this type will multiply existing problems such as noise. She did not want to exacerbate the problem; therefore, she was opposed to the application.

Mayor Seiler elaborated upon standards the Commission is mandated to consider when making this determination. He was not overly concerned about safety. His main concern is whether the application is incomplete in a material respect. There was no discussion before the MAB that there is another operation in the area. The MAB recommended placement of buoys 75 feet apart, which he believed is about half the width of the property. Therefore, a good portion of the property must remain an ingress, egress lane. The 75 feet is three times the size of the 25 feet next door that leads him to believe that the MAB was totally unaware of the concession next door. He also mentioned MAB's direction for signage to warn the public. He thought there is a material omission as to the MAB making a decision under this assumption. He could not support the application. Commissioner DuBose thought the MAB was aware of the nearby concession because the minutes reflect discussion about waverunners on the beach. Mayor Seiler disagreed. He thought the reference to waverunners was about them being on the beach elsewhere.

Commissioner Rodstrom introduced the following resolution:

RESOLUTION NO. 10-151

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PURSUANT TO CITY CODE SECTION 8-174 DENYING A WAIVER TO OCEAN MANOR RESORT HOTEL AND CONDOMINIUM ASSOCIATION AND OCEAN PARKING VALET, INC., A FLORIDA CORPORATION D/B/A OCEAN RENTALS TO OPERATE A MOTORIZED WATERCRAFT CONCESSION WITHIN THE BEACH BOATING RESTRICTED AREA DEFINED IN CITY CODE SECTION 8-171 SUBJECT TO CERTAIN TERMS AND CONDITIONS.

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

RESOLUTIONS

Lot Clearing and Cleaning – Special Assessment Liens for Associated Cost (R-01)

No budgetary impact.

Commissioner Rodstrom introduced the following resolution:

RESOLUTION NO. 10-148

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, MADE PURSUANT TO CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, ASSESSING AGAINST THE PROPERTIES DESCRIBED IN THE SCHEDULE ATTACHED HERETO THE COST AND EXPENSE OF LOT CLEARING AND IMPOSING A SPECIAL ASSESSMENT LIEN AGAINST EACH PROPERTY FOR THE ASSESSED AMOUNT, AND DIRECTING THE PROPER CITY OFFICIALS TO RECORD A NOTICE OF SPECIAL ASSESSMENT LIEN IN THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

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

Northwest Commercial Redevelopment Project (R-02) **First Amendment to Agreement, Lease and Memorandum of Agreement**

No budgetary impact.

Mayor Seiler opened the floor for public comment.

Mickey Hinton, 713 NW 19 Avenue, encouraged the Commission to move forward with this project. He contended that Mr. Jones and his son have worked diligently and the bid they were awarded should not be changed.

There was no one else wishing to speak.

Bob Dunckel, Assistant City Attorney, explained that staff has created a first amendment that reconciles the terms of the lease with Save-a-Lot and the terms and conditions originally set forth in the development agreement. The development agreement has also been amended to allow for a bifurcation of the property conveyance. There will be a conveyance of phase one with performance standards that must be met in a timely fashion before phase two can be purchased.

Mr. Dunckel responded to Vice Mayor Rogers's question about assignment from Milton Jones Development Corporation to MJDC AOA, LLC.; it will be presented at a future date. Vice Mayor Rogers recalled his objection to MJDC AOA, LLC because the City does not have information regarding their finances and ability to perform. Mr. Dunckel indicated when the firm financing commitment is provided, they will prove their capacity. He recalled what had occurred with the Regal Trace development. The development agreement requires a payment and performance bond which ensures there will be a qualified contractor in place. In further response, Mr. Dunckel advised if the City agrees to this, they have agreed to the bifurcation. A value assigned to the property has to do with HUD. As to a clause in the amendment stating that the developer can exit the deal at any point before a financing commitment is obtained, this applies to the event that HUD would require repayment of the \$4.82 million. The City would have required the developer to pay. The clause addresses the developer's ability to opt out of the transaction rather than pay \$4.82 million. If this occurs, the City could re-advertise and not be bound by the CDBG (Community Development Block Grant) regulations. In further response, he explained the amendment requires the City to return to HUD for another approval, however, the City amended the CDBG action plans to allow a mixed use development. Vice Mayor Rogers thought the City's plan is not HUD approved because it is phased and the developer has a right to opt out of the residential. Mr. Dunckel clarified the opt-out only applies if HUD requires the City to repay the \$4.82 million. If the developer does not get a firm financing commitment by month 55, the contract is automatically null and void. Typically the Commission has granted extensions if the developer is close to securing a commitment. Vice Mayor Rogers thought that without the residential piece it would no longer be mixed use and would not meet HUD requirements. Mr. Dunckel explained that the City would then re-advertise or pay HUD and create a plan that does not include mixed use depending on the marketplace. Vice Mayor Rogers was concerned about the bifurcation issue and about waiting four and a half years for the residential phase as it is an integral part of the entire development. He believed the residential market is now awake. Mr. Dunckel explained that, without bifurcation, it is unlikely that the developer will get the firm financing commitment for both phases. Vice Mayor Rogers pointed out that he has not been informed of that issue. Sean Jones, representing Milton Jones Development Corporation, explained that the current market including residential is still under pressure. In response to Vice Mayor Rogers, Mr. Jones confirmed that Milton Jones has applied to lenders for the entire project. The mixed use piece will be affordable housing. Certain types of affordable housing financing become available at specific times of the year. Milton Jones is experienced in these funding avenues and he believes their application will be viewed favorably, though it is a competitive process. Tax credit markets are starting to open again. The 55-month waiting period for the residential component will give the market time to recover. Some dialogue occurred on similar projects now underway. The window for the next tax credit application would be April, 2011. There is a process and certain criteria must be in place in order to get a financing commitment. Milton Jones has not obtained a commitment because it has not yet received the Commission's approval. He maintained that the 55-month period for phase two is necessary to obtain financing for that part of the project. Vice Mayor Rogers expressed concern that the developer would not face any repercussions for a decision to back out of phase two. Mr. Jones emphasized Milton Jones's diligence, reputation and commitment to the community. He urged the Commission to move forward with the project. Milton Jones will endeavor to obtain the financing but it is not solely in their control. There is no reason for them to delay it. There are only certain periods in a year when one may apply for this type of

financing. Vice Mayor Rogers suggested a provision be added requiring submission of the developer's application upon Commission approval. Mr. Jones claimed that could not be done because the site plan has not yet been approved. They will apply when they have all of the ingredients and the windows open. Vice Mayor Rogers indicated he could live with the timeline being site plan approval. Mr. Jones indicated it is not only the site plan. Regardless of whether everything is in place, Vice Mayor Rogers wanted Milton Jones to apply at the minimum and demonstrate they are ready to go. He was familiar with many contracts that require financing application within a specified period of time. In response to Commissioner DuBose, Milton Jones, representing Milton Jones Development Corporation, explained that there is a development review process to get certain rights to the property, despite Commission approval. There is a call-up opportunity. The delay is not the fault of the developer; it is their attempt to get everything to align. The projected completion date for Save-a-Lot is May, 2012. Sean Jones confirmed that they will begin the development review process for the second phase while completing the first phase in August, 2012. Commissioner DuBose pointed out that he was never in favor of the residential phase, nor the bifurcation. The original intent was commercial only. He thought it may nevertheless be fifty-five months before the project reaches that point. He questioned if something could be added to the amendment to make sure they are actively pursuing the residential once this part is done. Milton Jones emphasized the importance of completing this correctly. He felt this would impose undue pressure. They will move as quickly as possible. Vice Mayor Rogers maintained his request is simply to make application, however, Milton Jones wanted to submit an application the first time that would be assured of approval. Mayor Seiler pointed out the original deal was not two phases, however, Milton Jones referred to the present economy.

Mr. Dunckel suggested a requirement or performance standard for the developer to apply for financing in month 37 which would be in alignment with tax credit financing. Month 37 is May of 2012 which is the approximate completion date of Save-a-Lot. Sean Jones committed to applying by month 37. He reiterated there is certain financing available at certain times of the year and in order to score for that financing, certain things have to be in place. There is nothing that can be done to accelerate it. Vice Mayor Rogers questioned what would prevent Milton Jones from applying at the next tax credit financing cycle. Sean Jones advised that the tax credit financing window is currently on hold. Vice Mayor Rogers did not have a problem if it is a legal impossibility; but objected to asking for two years. Sean Jones indicated there would need to be an application process made available by the state in 2011 and Milton Jones has completed the development review process and certain other elements are in place so they can score well. Vice Mayor Rogers pointed out there is one on the calendar for December of 2010. Sean Jones did not believe the cycle is necessarily guaranteed. Milton Jones believed that if there is no market for it, the application process would be a waste of time and money. He contended that some issues with the first phase are still being addressed. He thought that the Commission may desire to use another developer for the residential phase. He emphasized the need to first concentrate on the grocery store - phase one. Vice Mayor Rogers recalled previous discussion at the conference meeting and concern about the bifurcation. The project approved by HUD was mixed use. He wanted them to move forward with applying for financing as soon as practical. Milton Jones explained it has been difficult to attract retail to this area in this economy. There are still issues to address with phase one. He did not want to be forced to apply for financing until it could be done correctly. In response to Vice Mayor Rogers, Sean Jones advised that Milton Jones wishes to develop the residential component and as long as it is practical, they

will apply. Certain things have to be in place. Mayor Seiler felt the Commission is supportive, however, in April it was not to be a phased project. He supports the project. The City would like to see a successful retail project. The question is how to expedite the other part of it so that a project that the City never thought would be phased, would have a minimal phasing period. He reiterated Vice Mayor Rogers' request to apply so that if the market starts to turn, the process would be speedier. The issue is submitting an application for the next cycle and limiting the phasing. Sean Jones was agreeable to such an amendment as set forth by Mayor Seiler. The item was momentarily deferred while staff met with Messrs. Jones.

Continued at the bottom of this page.

Board and Committee Appointments

(R-03)

No budgetary impact.

With respect to Vice Mayor Rogers' vacancy on the Planning and Zoning Board, Vice Mayor Rogers believed it best to leave the vacancy unfilled until after the vote on First Presbyterian Church. He was uncomfortable with making an appointment and having that individual review the recording of the board's previous deliberations. Commissioner Rodstrom announced that Mike Moskowitz is serving at will on the Planning and Zoning Board until he is reappointed. Mayor Seiler encouraged the two members of the Commission with pending appointments to do so.

The City Clerk drew attention to current alternates on the Board of Adjustment for the Commission's information in considering filling the full-member vacancies. Karl Shallenberger has served as an alternate the longest period of time. Mayor Seiler felt he should be moved into a full member position. She also noted an email from Fred Stresau. Vice Mayor Rogers confirmed that Mr. Stresau is also interested in serving as an alternate and nominated him.

With respect to other consensus appointments, the City Clerk advised that A.J. Yaari has been recommended to the Beach Business Improvement District Advisory Committee by the Beach Redevelopment Board. In response to Commissioner Rodstrom, the City Clerk advised that this particular position is a recommendation by that board.

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Northwest Commercial Redevelopment Project

(R-02)

First Amendment to Agreement, Lease and Memorandum of Agreement

Continued from the top of this page.

Mr. Dunckel announced the inclusion of an additional clause in the first amendment requiring the developer to apply for financing with the Florida Housing Finance Corporation on or before the deadline for the next available cycle, but no sooner than April 1, 2011. This will be a performance standard. The developer would risk losing

phase two if it is not met. In response to Vice Mayor Rogers, Alfred Battle, Northwest Community Redevelopment Director, advised that there is no cycle for this year and applications are typically due in April. The closest date the application cycle may open is 2011. In response to Vice Mayor Rogers, the item was momentarily deferred to determine whether the 'no sooner than' proviso should be removed.

Continued on page 27

CITIZEN PRESENTATIONS

Cynthia Bucholtz – Baker Act Procedures

(CIT-01)

Ms. Bucholtz advocated for prevention of unjustified detaining of people under the Baker Act. She summarized her written statement on this topic which is attached to these minutes. She claimed that police or a Henderson Mental Health Crisis Unit must respond to a call claiming someone is in danger of harming themselves. She contended that some sound-minded people are being detained. In order to prevent this, there must be a sufficient number of Henderson Mental Health Mobile Crisis Response Teams available for evaluation because they provide a psychologist and police officer. She claimed that the number of Baker Acts is reduced when these mobile units are utilized. More Henderson-trained crisis intervention police officers are needed. She indicated that only one hour of the City's 40-hour mandatory crisis intervention police training includes Baker Act. She strongly encouraged appropriate measures be taken to prevent sound-minded people from being detained under the Baker Act.

Al Calloway – Comcast Cable Television – Relationship among City, Broward County, and We The People

(CIT-02)

Mr. Calloway claimed that, except for BET (Black Entertainment Television), there is no black programming on cable television. People with low and fixed incomes usually have basic cable which provides little diversity. There is a proposed merger of Comcast and NBC Universal, but there are no African-American owned channels on this national platform. He referred to licensing approvals and wondered who guards the right for minority communities to access cable television. He requested a meeting with staff and Comcast to discuss licensing agreements and minority programming. He noted a restraint of trade lawsuit intended to stop the Comcast merger. He noted his experience and credentials in communications and as a minority activist. He indicated that Comcast will broadcast from a digital platform and will have an unlimited channel capacity. Some channels must go to minorities, particularly black communities. In response to Mayor Seiler, the City Attorney advised that the state pre-empted the City's regulation of cable franchises approximately a year ago. He believed cable franchises are now regulated by the Florida Department of Agriculture and Consumer Services. Mayor Seiler offered to provide Mr. Calloway with details on this change or that he speak with the Director of Information Technology Services.

**Sadler L. James – Aquatic Complex Bid Response and
Bahia Mar PUD Project**

(CIT-03)

Mr. James wished to discuss another issue. He indicated that he would e-mail his comments on the International Swimming Hall of Fame and Bahia Mar to the Commission. He believed the Planning and Zoning Board recently had difficulty reaching a decision due to lack of a quorum. He contended that Michael Moskowitz told a number of people that he and Commissioner Rodstrom planned his absence to deny a quorum. He was concerned about such interference in a quasi-judicial issue if it is true. He also recalled his appearance before the Commission on October 6, 2009, concerning Commissioner Rodstrom speaking before the board at that time. He had requested information under the open records act and Mayor Seiler had directed that the (City Attorney's) written opinion would be delivered to him. Nothing has been provided. He believed the City is in default. The written opinion as well as records from Commissioner Rodstrom have not been furnished. Further he wanted the Commission to look into Mr. Moskowitz's denial of public due process. Apparently the denial of a quorum was so that the Commission would have to make an appointment to the board.

Mayor Seiler advised that any public record request he received has been forwarded. He asked that his original request be forwarded to him and he would follow-up. Mr. James asked about investigating Mr. Moskowitz's actions. In response to Mayor Seiler, the City Attorney indicated that he did not believe it is the Commission's role. In response to Mr. James, Mayor Seiler emphasized that he would never advise a citizen against filing a complaint of which he feels lawfully entitled. In response to Mayor Seiler, the City Attorney was not aware of any procedure in place to respond to the question, but offered to look at it. Mayor Seiler indicated that he has no experience with such an issue. Mr. James asked Commissioner Rodstrom if she had discussed with Mr. Moskowitz the idea of not attending the meeting. Commissioner Rodstrom did not appreciate the comments and Mr. James' being rude and abrasive. She indicated there was a reason that she spoke with Mr. Moskowitz and she had planned to discuss it during the conference meeting but time did not permit. When the Commission returns to the conference meeting, she would raise the issue.

Robert Walsh – 5% Raise for Non-Union City Employees

(CIT-04)

Mr. Walsh offered some historical insight on this issue. He believed it is unfair that non-union City employees did not receive the same raise as other employees. What is done for some, should be done for all. He thought the raise is justified. He felt this is a form of discrimination. He also questioned the salary and qualifications of Commissioner Rodstrom's aide. He pointed out that the funds have already been allocated in the budget. It should not be put onto the back burner forever.

Mr. Walsh contended that the matter regarding Mr. Moskowitz is hearsay. He noted his previous comments about care being taken with advisory board appointments. He expressed his desire to serve on the Citizens Police Review Board.

Northwest Commercial Redevelopment Project
First Amendment to Agreement, Lease and Memorandum of Agreement

(R-02)

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Mr. Dunckel announced that the developer would be obligated to apply to the Florida Housing Finance Corporation for tax credit financing on or before the deadline of the next cycle, but no sooner than January 1, 2011. He included the 'no sooner than' wording because that timeline is reflected on the current website; though it is subject to change and the timeline will, most likely, move. Vice Mayor Rogers found that revision acceptable. He inquired about the potential for other types of financing. Sean Jones maintained that they will be flexible and seek all possible financing for both phases, although the state financing would best meet their needs. Mr. Dunckel advised that the 55-month provision was not discussed. If financing is approved, it does not automatically adjust the dates. The understanding is that staff would meet again with Milton Jones if that occurs. Sean Jones confirmed that no approval for financing would be turned down. Mayor Seiler believed if financing is obtained, there is a window by which Milton Jones would be guided. Mayor Seiler felt the Commission has language with which they can live. It would be no sooner than January. He did not want to further negotiate the contract in this forum. He did not believe the contract could be further negotiated in this forum. Vice Mayor Rogers expressed his desire to move forward with the project. Commissioner DuBose agreed, expressing his shared concern regarding bifurcation.

In response to the City Clerk, Mr. Dunckel advised a provision will be added to the first amendment, adding a performance standard requiring the developer to apply to the Florida Housing Finance Corporation for financing at the next available tax credit financing cycle on or before the deadline, but no sooner than January 1, 2011.

Commissioner Rodstrom introduced the following resolution:

RESOLUTION NO. 10-149

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING THE FORM OF A LEASE FOR A GROCERY STORE AND A REVISED CONCEPT SITE PLAN FOR THE NORTHWEST COMMERCIAL REDEVELOPMENT PROJECT AND FURTHER AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT, A MEMORANDUM OF FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT AND A NON-DISTURBANCE AND ATTORNMENT AGREEMENT RELATIVE TO THE GROCERY STORE LEASE.

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

Board and Committee Appointments

(R-03)

Continued from page 24

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

Aviation Advisory Board	Jacqueline “Jackie” Kaht (Commissioner Roberts) Bruce Larkin (Commissioner Roberts)
Beach Business Improvement District Advisory Committee	Aiton J. Yaari (Consensus)
Board of Adjustment	Karl V. Shallenberger (Mayor Seiler) Frederic E. Stresau (Vice Mayor Rogers)
Education Advisory Board	Roland Alexander Foulkes (Commissioner Roberts)
Historic Preservation Board	Philip J. Morgan (Mayor Seiler)
Northwest Progresso Flagler Heights Redevelopment Board	Brice J. Lambrix (Mayor Seiler)

Commissioner Roberts introduced the following resolution:

RESOLUTION NO. 10-150

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

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

**Motion Setting Dates for Fiscal Year 2010-2011
Budget Public Hearings for the City and
Sunrise Key Neighborhood Improvement District**

(OB)

In response to Mayor Seiler, Shonda Singleton-Taylor, Acting Director of Office of Management and Budget, explained that non-ad valorem assessments for Lauderdale Isles and the Beach Business Improvement District will be brought to the Commission at a future date.

Motion made by Commissioner Roberts and seconded by Commissioner Rodstrom setting public hearings on September 7, 2010 and September 21, 2010 at 6 p.m. to adopt a tentative millage rate and budget (September 7) and to amend and adopt a final

millage rate and adopt the final budget by resolution (September 21) (Memorandum 10-139). Roll call showed: YEAS: Commissioner Roberts, Commissioner Rodstrom, Commissioner DuBose, Vice Mayor Rogers, and Mayor Seiler. NAYS: None.

City Charter Amendment Ballot Language – (CR-07)
November 2, 2010 General Election Sale of City-Owned Property –
Affordable Housing or Economic Development

Vice Mayor Rogers thought the language should qualify it as surplus property or properties specifically acquired for the purposes of affordable housing or economic development. Also, he suggested a super-majority or four-fifths vote. Commissioner Rodstrom emphasized that the City's intent should be extremely clear. She could not support the current language. Vice Mayor Rogers believed this is simply a matter of making the process more clear. The City Attorney believed it could be accomplished by adding surplus before real property as well as a four-fifths vote requirement. Commissioner Rodstrom expressed concern about selling property in the current low real estate market. In response to Commissioner DuBose, the City Attorney advised that the Affordable Housing Advisory Committee has not addressed the issue.

The City Auditor elaborated upon the difficulties that have occurred with the City's property acquisitions through HUD and the Community Development Block Grant program (CDBG). The intent is to be able to comply with various grant provisions without an extraordinary mechanism to do so.

In response to Commissioner Rodstrom, the City Attorney indicated that he did not intend to define economic development in the ballot question. Mayor Seiler explained the Commission would make that determination. The City Auditor explained that not all of the funds that come to the Community Development Division through CDBG grants would be used for affordable housing. One example is the Milton Jones' property. Commissioner Rodstrom pointed out that the current language is not specific about what types of property could be sold for economic development. The Bahia Mar property could be sold. In response to Mayor Seiler, the City Attorney advised that the deadline on this matter is June 18. Mayor Seiler agreed with the super-majority vote. He thought the language should be tightened. He wanted leeway for an economic incentive package for example. Commissioner Rodstrom referred to the previous referendum on sale of public property and that this would unwind what the voters already decided. The City Attorney indicated that referendum had to do with parks. During further discussion on the previous referendum, it was noted that it provided for unanimous vote of the Commission. Mayor Seiler and Vice Mayor Rogers suggested unanimous vote be required because it would provide a veto option for each commissioner. Vice Mayor Rogers agreed that the economic development language should be tightened. Commissioner DuBose did not want it to be too constraining. Vice Mayor Rogers referred to the neighborhood stabilization program and accountability challenges.

Mayor Seiler suggested the item be deferred to June 15, 2010, with the Charter Revision Board minutes. Commissioner DuBose reiterated his request for the Affordable Housing Advisory Committee to submit their evaluation of the issue if they meet before June 15. Mayor Seiler also requested it be referred to the Charter Revision Board for their input as well. In response to Mayor Seiler, the City Attorney advised no formal action is

required; this resolution will provide the ballot question to the Supervisor of Elections. An ordinance will also be presented to the Commission before the election.

The item was deferred to June 15, 2010.

Note: The City Commission adjourned the regular meeting at 10:42 p.m. and returned to the conference meeting, beginning with agenda item I-G, from 10:42 p.m. to 11:34 p.m.

John P. "Jack" Seiler
Mayor

ATTEST:

Jonda K. Joseph
City Clerk