

FORT LAUDERDALE CITY COMMISSION REGULAR MEETING
JANUARY 17, 2012

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE
January 17, 2012**

Meeting was called to order at 6:03 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 Romney Rogers
Vice Mayor Bobby B. DuBose
Mayor John P. "Jack" Seiler

Absent: None.

Also Present:	City Manager	Lee R. Feldman
	City Auditor	John Herbst
	City Clerk	Jonda K. Joseph
	City Attorney	Harry A. Stewart
	Sergeant At Arms	Sergeant Nick Coffin

Invocation was offered by Pastor Dan Tennis, Christian Romany Church, followed by the recitation of the pledge led by youth in the audience.

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

Motion made by Commissioner Roberts and seconded by Vice Mayor DuBose to approve the minutes of the December 6, 2011 Regular Meeting. YEAS: Commissioner Rogers, Commissioner Roberts, Commissioner Rodstrom, Vice Mayor DuBose, and Mayor Seiler. NAYS: None.

Presentations

1. PUBLIC WORKS – 2011 DISTRIBUTION SYSTEM OF THE YEAR AWARD (PRES-01)

Rick Ratcliffe, Chair, Florida Section of the American Water Works Association (FSAWWA), presented the 2011 Distribution System of the Year Award for outstanding performance in the areas of water quality; operation records; maintenance procedures; professionalism; public relations; customer service; safety programs; emergency preparedness; and cost connection control program to Mark Darmanin, Distribution and Collection Systems Manager. Mr. Darmanin was honored to receive this award. He expressed gratitude to Julie Leonard, Assistant Utilities Services Director, Operations; Albert Carbon, Public Works Director; Jose DiCienzo, Distribution and Collection Supervisor; and Keith Hutchison, Distribution and Collection Supervisor. He elaborated

upon the Distribution and Collection staff's extensive duties and noted their admirable performance.

2. FORT LAUDERDALE FIREFIGHTERS GIVING BACK DAY – (PRES-02)
JANUARY 21, 2012

Commissioner Roberts presented a proclamation to Arlene Cohen, City of Fort Lauderdale firefighter, declaring January 21, 2012, as Fort Lauderdale Firefighters Giving Back Day in support of Arlene's Levee Ride at Markham Park benefitting Derek Avilez, city of Hollywood firefighter. Ms. Cohen thanked her co-workers and the Arlene's Levee Ride committee members. She invited the public to attend the upcoming event.

SITE PLAN LEVEL III REVIEW - ATLANTECH PLAZA - 6451 NORTH (R-01)
FEDERAL HIGHWAY - CASE 32-R-11

No budgetary impact.

Motion made by Commissioner Roberts and seconded by Commissioner Rodstrom to defer this item to February 7, 2012 (request of Applicant). Roll call showed: YEAS: Commissioner Rogers, Commissioner Roberts, Commissioner Rodstrom, Vice Mayor DuBose, and Mayor Seiler. NAYS: None.

REPEAL OF EARLY COST RECOVERY FLORIDA STATUTE (R-03)
ELECTIRC UTILITY CHARGES RELATING TO NUCLEAR POWER PLANTS

No budgetary impact.

Motion made by Commissioner Rodstrom and seconded by Commissioner Rogers to defer this item to February 21, 2012 (request of City Manager; see January 17, 2012 conference meeting). Roll call showed: YEAS: Commissioner Rogers, Commissioner Roberts, Commissioner Rodstrom, Vice Mayor DuBose, and Mayor Seiler. NAYS: None.

GRANT APPLICATION - URBAN WATERS SMALL GRANTS - \$60,000 (M-06)
ENVIRONMENTAL PROTECTION AGENCY

Please see funding information attached to these minutes.

Mayor Seiler announced a correction to this item, that the subject was revised to reflect the following: Grant Application for Urban Waters Small Grants from Environmental Protection Agency, in the amount of \$60,000 with \$2,500 City match and expenditure of \$2,500 City match from the Operating Budget upon award of grant.

GRANT APPLICATION - MEMORIAL WEEKEND BEACH ACTIVITIES – (M-12)
\$20,000 - BROWARD COUNTY CULTURAL TOURISM GRANT PROGRAM

No current year budgetary impact.

Mayor Seiler advised that the funding exhibit is to be removed as it is not applicable until next fiscal year.

OPERATION OF FORT LAUDERDALE STADIUM - TRAFFIC SPORTS (CR-03)
USA, INC. - REVIVAL, REINSTATEMENT AND EXTENSION OF LICENSE
AGREEMENT

Funds available in FD001 PKR061401-3437 contingent upon budget amendment CAR 12-0019. being approved.

Mayor Seiler announced that funding details for this item have been revised in accordance with Memorandum 12-017 which is attached to these minutes.

CONSOLIDATED BUDGET AMENDMENTS (CR-06)

Please see funding information attached to these minutes.

Mayor Seiler announced that Exhibits 5 and 6 of this item have been revised. A copy of the revised exhibits is attached to these minutes.

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 AGREEMENTS AND RELATED ROAD CLOSINGS (M-01)

No budgetary impact.

Event Agreements: 1) A-1 -A Marathon, 2) National Black HIV/AIDS Awareness Day 2012, 3) Food And Wheels Fundraiser, 4) 2012 Fort Lauderdale Greek Festival, 5) Health And Temperance Parade, 6) Katie Leach Campaign Kick-Off Event, 7) 17th annual Las Olas Wine and Food Festival, 8) Mardi Gras, 9) Ride With Heart, 10) Rio Vista Camp Out, 11) Sailboat Bend Centennial House and Garden Tour, 12) Maxim

Super Bowl Party Hosted By Vibe, 13) Walk For The Animals

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0055

TASK ORDER 13 - CSA CENTRAL, INC. - \$13,450 (M-02)
SOUTH MIAMI ROAD SIDEWALK - HARBORDALE ELEMENTARY SCHOOL -
PHASE II

Please see funding information attached to these minutes.

Task Order 13 with CSA Central, Inc. for construction engineering inspection services for South Miami Road Sidewalk Phase II - Harbordale Elementary School - Safe Route to School Project.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0044

TASK ORDER 12 - CSA CENTRAL, INC. - \$17,850 (M-03)
FLAGLER DRIVE GREENWAY AND BICYCLE FACILITIES PROJECT

Please see funding information attached to these minutes.

Task Order 12 with CSA Central, Inc. for construction engineering inspection services for Flagler Drive Greenway and Bicycle Facilities Project.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0048

CHANGE ORDER 5 - VALCOM DESIGN & CONSTRUCTION, INC – (M-04)
ADD 30 WORK DAYS - POLICE DEPARTMENT BUILDING HURRICANE
WIND RETROFIT - \$4,927

Please see funding information attached to these minutes.

Change Order 5 to Valcom Design & Construction, Inc., in the amount of \$4,927, for engineering design fees for curtain wall system required to hurricane-proof Police Department building and the addition of 30 work days to contract period.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0096

**ENCROACHMENT AGREEMENT - PENINSULA ANCHOR BAY APTS., LLC. (M-05)
PRIVATELY OWNED IMPROVEMENTS IN RIGHT-OF-WAY –
2025 SOUTH MIAMI ROAD**

No budgetary impact.

Authorize City Manager to execute Encroachment Agreement with Peninsula Anchor Bay Apts., LLC. to allow existing privately owned improvements in SE 21 Street right-of-way at 2025 South Miami Road.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0045

**GRANT APPLICATION - URBAN WATERS SMALL GRANTS - \$60,000 (M-06)
ENVIRONMENTAL PROTECTION AGENCY**

Please see funding information attached to these minutes.

Grant application for Urban Waters Small Grants from Environmental Protection Agency, in the amount of \$60,000, with \$2,500 City match and appropriation of \$2,500 City match upon award of grant.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0062

This Commission Agenda Report (12-0062) was revised. See announcement on page 2.

**FUNDS TRANSFER - NW 7 TERRACE SIDEWALK - \$4,000- (M-07)
THURGOOD MARSHALL ELEMENTARY SCHOOL SAFE ROUTE
TO SCHOOL PROJECT**

Please see funding information attached to these minutes.

Transfer \$4,000 from 2012 Annual Concrete Stamped Asphalt and Paving Stones Repair Project 11653 to Thurgood Marshall Elementary School Safe Route to School Sidewalk Project on NW 7 Terrace.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0052

**REVOCABLE LICENSE - PILOT HOUSE CONDOMINIUM ASSOCIATION (M-08)
PRIVATELY CONSTRUCTED IMPROVEMENTS IN RIGHT-OF-WAY –
3100 NE 48 STREET**

No budgetary impact.

Revocable License with Pilot House Condominium Association for installation and maintenance of backout parking spaces, landscape and hardscape improvements, incidental roadway work.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0060

CONTRACT RENEWALS - APRIL, MAY, JUNE 2012 (M-09)

Please see funding information attached to these minutes.

Extension of listed contracts that expire during April, May and June, 2012, including one from February, 2012, and authorizing proper City Officials to execute all necessary documents, contingent upon each respective vendor agreeing to extension.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 11-1902

**CO-SPONSORSHIP - HOME DESIGN AND REMODELING SHOW (M-10)
BROWARD COUNTY CONVENTION CENTER – BANNERS**

No budgetary impact.

Co-sponsorship of Home Design and Remodeling Show at Broward County Convention Center, to allow installation of banners at Sunrise Boulevard and Federal Highway, on May 25-28, 2012 and November 16-18, 2012, subject to availability and permitting regulations.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 11-1825

**EXTENSION TO QUALIFIED TARGET INDUSTRY TAX REFUND (M-11)
AGREEMENT NIPRO DIAGNOSTICS**

No budgetary impact.

Support of application to Florida Department of Economic Opportunity for Economic Recovery Extension of Qualified Target Industry Tax Refund Agreement with Nipro

Diagnostics, Inc. formerly Home Diagnostics.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0031

**GRANT APPLICATION - MEMORIAL WEEKEND BEACH ACTIVITIES – (M-12)
\$20,000 - BROWARD COUNTY CULTURAL TOURISM GRANT PROGRAM**

No current year budgetary impact.

Grant application for Broward County Cultural Tourism Grant funds, in the amount of \$20,000, from Broward County Cultural Division for 2013 Memorial Weekend Beach Activities.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0051

This Commission Agenda Report (12-0051) was revised. See announcement on page 3.

CONSENT RESOLUTION

**AMENDMENT NUMBER ONE - INCLUSIVE MAINTENANCE (CR-01)
MEMORANDUM OF AGREEMENT - SUNRISE BOULEVARD –
FLORIDA DEPARTMENT OF TRANSPORTATION**

No budgetary impact.

Authorize Amendment Number One to Inclusive Maintenance Memorandum of Agreement with Florida Department of Transportation for maintenance of landscape improvements on State Road 838 (Sunrise Boulevard) from east of NE 20 Avenue to Bayview Drive.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 11-1907

RESOLUTION NO. 12-10

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AMENDMENT NUMBER ONE (1) TO THE INCLUSIVE MAINTENANCE MEMORANDUM OF AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) PROVIDING FOR CITY

MAINTENANCE OF LANDSCAPING IMPROVEMENTS
ON STATE ROAD 838 (SUNRISE BOULEVARD) FROM
EAST OF NE 20TH AVENUE TO BAYVIEW DRIVE.

AMENDMENTS - PARKS AND RECREATION RULES AND REGULATIONS (CR-02)

No budgetary impact.

Amendments to Parks and Recreation Rules and Regulations.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 12-0049

RESOLUTION NO. 12-11

A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF FORT LAUDERDALE, FLORIDA, AMENDING
THE PARKS AND RECREATION RULES AND
REGULATIONS.

OPERATION OF FORT LAUDERDALE STADIUM - TRAFFIC SPORTS (CR-03)
USA, INC. - REVIVAL, REINSTATEMENT AND EXTENSION OF LICENSE
AGREEMENT

**Funds available in FD001 PKR061401-3437 contingent upon budget amendment
CAR 12-0019. being approved.**

Authorize revival, reinstatement and extension of license agreement with Traffic Sports USA, Inc., in substantially the form provided, for operation of Fort Lauderdale Stadium - period from January 1, 2012, through April 30, 2012, and amend fiscal year 2011-2012 final operating budget by appropriating \$53,000 from anticipated year end fund balance.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 12-0111

RESOLUTION NO. 12-12

A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF FORT LAUDERDALE, FLORIDA, APPROVING
A REVIVAL, REINSTATEMENT, AND EXTENSION OF
LICENSE AGREEMENT BETWEEN THE CITY OF FORT
LAUDERDALE AND TRAFFIC SPORTS USA, INC. FOR
USE OF THE FORT LAUDERDALE STADIUM,
AMENDING THE FINAL OPERATING BUDGET OF THE
CITY OF FORT LAUDERDALE, FLORIDA, FOR THE
FISCAL YEAR BEGINNING OCTOBER 1, 2011, AND

ENDING SEPTEMBER 30, 2012, BY APPROPRIATING FUNDS AS SET FORTH IN THE ATTACHED EXHIBIT, AND PROVIDING FOR AN EFFECTIVE DATE.

This item (Commission Agenda Report 12-0111) was revised in accordance with Memorandum 12-017 which is attached to these minutes. See announcement on page 3.

**ADVISORY FINANCIAL GROUP, LLC. - QUALIFIED TARGET INDUSTRY (CR-04)
TAX REFUND PROGRAM - ECONOMIC DEVELOPMENT INCENTIVE PACKAGE**

No budgetary impact fiscal year 2011/2012. \$10,500 would be budgeted for each of the next four fiscal years if all hiring requirements are met.

Approval of Advisory Financial Group, LLC. as a qualified target industry business applicant - funds in the amount of \$42,000 are available as local financial support in the Qualified Target Industry Tax Refund Program.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 12-0029

RESOLUTION NO. 12-13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING A REVIVAL, REINSTATEMENT, AND EXTENSION OF LICENSE AGREEMENT BETWEEN THE CITY OF FORT LAUDERDALE AND TRAFFIC SPORTS USA, INC. FOR USE OF THE FORT LAUDERDALE STADIUM, AMENDING THE FINAL OPERATING BUDGET OF THE CITY OF FORT LAUDERDALE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2011, AND ENDING SEPTEMBER 30, 2012, BY APPROPRIATING FUNDS AS SET FORTH IN THE ATTACHED EXHIBIT, AND PROVIDING FOR AN EFFECTIVE DATE.

This Commission Agenda Report (12-0029) was revised. See announcement on page 15.

INTERFACILITY TRANSPORT SERVICES BY FIRE RESCUE DEPARTMENT (CR-05)

No budgetary impact.

Authorizing Fire Rescue Department to perform interfacility transport services.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 12-0008

RESOLUTION NO. 12-14

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING A REVIVAL, REINSTATEMENT, AND EXTENSION OF LICENSE AGREEMENT BETWEEN THE CITY OF FORT LAUDERDALE AND TRAFFIC SPORTS USA, INC. FOR USE OF THE FORT LAUDERDALE STADIUM, AMENDING THE FINAL OPERATING BUDGET OF THE CITY OF FORT LAUDERDALE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2011, AND ENDING SEPTEMBER 30, 2012, BY APPROPRIATING FUNDS AS SET FORTH IN THE ATTACHED EXHIBIT, AND PROVIDING FOR AN EFFECTIVE DATE.

CONSOLIDATED BUDGET AMENDMENTS

(CR-06)

Please see funding information attached to these minutes.

Amend fiscal year 2012 operating budget.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 12-0019

RESOLUTION NO. 12-15

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, 2011 AND ENDING SEPTEMBER 30, 2012, BY APPROPRIATING FUNDS AS SET FORTH IN THE EXHIBIT ATTACHED AND PROVIDING FOR AN EFFECTIVE DATE.

This Commission Agenda Report (12-0019) (Exhibits 5 and 6) was revised. A copy of the revised exhibits is attached to these minutes. See announcement on page 3.

CITY MANAGER SIGNATURE AUTHORITY - CHANGE ORDERS
APPROVED BY CITY COMMISSION

(CR-07)

No budgetary impact.

City Manager signature authority on all change orders approved by City Commission.

Recommend: Adopt resolution.

Exhibit: Commission Agenda Report 11-1872

RESOLUTION NO. 12-16

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA GRANTING THE CITY MANAGER SIGNATURE AUTHORITY ON CHANGE ORDERS APPROVED BY THE CITY COMMISSION.

PURCHASING AGENDA

SPORTS FIELD DRESSINGS - \$45,000 (PUR-01)

Please see funding information attached to these minutes.

One-year contract with three, one-year renewal options for purchase of sports field dressings and authorizing City Manager to approve renewal options, contingent upon approval and appropriation of funds.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0047

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

715-10794 - BEACH EQUIPMENT RENTAL FRANCHISE - \$1,072,500 (PUR-02)

\$335,000 is for receipt of revenues in Fund 001, Subfund 01, BUS060101, N341. No expenditures are impacted.

Three-year contract for beach equipment rental franchise on Fort Lauderdale Beach.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0075

The Procurement Services Division has reviewed this item and recommends awarding to the single responsive proposer.

**522-10920 - DODGE CHARGER POLICE PURSUIT VEHICLE – (PUR-03)
\$25,637 - REJECT SINGLE BID AND PURCHASE VIA FLORIDA SHERIFF'S
ASSOCIATION CONTRACT**

Please see funding information attached to these minutes.

Reject single bid and purchase one Dodge Charger Police Pursuit Vehicle via Florida Sheriffs Association Contract.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0058

The Procurement Services Division has reviewed this item and recommends approval of purchase from Florida Sheriffs Contract 11-19-0907.

**522-10921 - CHEVROLET CAPRICE POLICE PURSUIT VEHICLES – (PUR-04)
\$943,239**

Please see funding information attached to these minutes.

Purchase thirty-three Chevrolet Caprice Police Pursuit Vehicles.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0059

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

**824-10871 - TRAILER MOUNTED VARIABLE MESSAGE SIGNS – (PUR-05)
\$37,800**

Please see funding information attached to these minutes.

Purchase three trailer mounted variable message signs.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0026

Procurement Services recommends awarding to the low responsive responsible bidder.

**PROPRIETARY - MAINTENANCE AND SUPPORT - \$16,851.12 (PUR-06)
FIRE STATION ZETRON ALERTING SYSTEM**

Please see funding information attached to these minutes.

Renewal of annual maintenance and support contract for Motorola Zetron Fire- Rescue Alerting System in substantially the form attached.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0043

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

CITY-WIDE HIGH-SPEED WIRELESS DATA SERVICES - \$33,595.01 – (PUR-07)
ONE MONTH SERVICE

Please see funding information attached to these minutes.

Purchase city-wide high-speed wireless services through January 27, 2012.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0046

The Procurement Services Division has reviewed this item and agrees with awarding from the State of Florida contract.

PROPRIETARY - RESIDENT BEACH PARKING CARDS - \$34,020 – (PUR-08)
NOT TO EXCEED

Please see funding information attached to these minutes.

Purchase up to 6,000 pre-programmed resident beach parking cards.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0040

The Procurement Services Division has reviewed this item and recommends approval of the proprietary purchase.

715-10818 - INCREASE EXPENDITURE - GROUNDS LANDSCAPING (PUR-09)
MAINTENANCE - \$20,440 - EXECUTIVE AIRPORT

Please see funding information attached to these minutes.

Increase expenditure for grounds landscaping maintenance additional services on an as-needed basis at Executive Airport.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 11-1887

The Procurement Services Division has reviewed this item and recommends increasing contract expenditure.

**PROPRIETARY - SPEND ANALYTICS SOFTWARE SUBSCRIPTION – (PUR-10)
\$17,976**

Please see funding information attached to these minutes.

Contract for data uploading service and twelve-month subscription to Spend Analytics software, in substantially the form provided.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0025

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

**415-10798 - REJECT BIDS - COMPUTER NETWORK VULNERABILITY (PUR-11)
ASSESSMENT - PUBLIC WORKS UTILITIES BUREAU**

No budgetary impact.

Reject all bids to assess and report on potential vulnerabilities of Public Works Utilities Bureau computer networks.

Recommend: Motion to reject.

Exhibit: Commission Agenda Report 12-0033

The Procurement Services Division has reviewed this item and recommends rejecting all proposals submitted.

**595-10241 - SATURDAY NITE ALIVE SIGNATURE EVENT - \$130,000 (PUR-12)
AMENDMENT AND EXTENSION OF CONTRACT**

Please see funding information attached to these minutes.

Amendment and extension of contract to June 14, 2013, in substantially the form provided, with Wizard Entertainment Inc. to create, operate and promote Saturday Nite Alive signature event co-sponsored by Beach Business Improvement District and Community Redevelopment Agency for beach area.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 11-1868

The Procurement Services Division has reviewed this item and recommends amending and extending the contract.

**PROPRIETARY- FORTY, 2010 EDITION FLORIDA BUILDING CODE (PUR-13)
BOOKS - \$15,202.80**

Funds are available for this purchase in the Certification Training Fund BLD050101-4101.

Purchase forty, 2010 edition Florida Building Code books.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0035

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

**PROPRIETARY - PROVIDE ENTERPRISE SOFTWARE - \$70,000 - (PUR-14)
HOUSING OPPORTUNITIES FOR PERSONS WITH HIV/AIDS**

Please see funding information attached to these minutes.

1) Annual renewal of Provide Enterprise software licenses, maintenance, support and training, 2) purchase additional licenses and 3) contract amendment for additional services - Housing Opportunities for Persons with HIV/AIDS grant program.

Recommend: Motion to approve.

Exhibit: Commission Agenda Report 12-0036

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

**ADVISORY FINANCIAL GROUP, LLC. - QUALIFIED TARGET INDUSTRY (CR-04)
TAX REFUND PROGRAM - ECONOMIC DEVELOPMENT INCENTIVE PACKAGE**

No budgetary impact fiscal year 2011/2012. \$10,500 would be budgeted for each of the next four fiscal years if all hiring requirements are met.

Pursuant to the email provided to the Commission, the City Clerk announced a correction to the funds appropriation for this item that funds exist in EDV010101-4299 Other Contributions.

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

TASK ORDER 13 - CSA CENTRAL, INC. - \$13,450 (M-02)
SOUTH MIAMI ROAD SIDEWALK - HARBORDALE ELEMENTARY SCHOOL -
PHASE II

Commissioner Rodstrom noted her intent to abstain from voting.

Motion made by Commissioner Rogers and seconded by Commissioner Roberts to approve the item as presented. Roll call showed: YEAS: Commissioner Rogers, Commissioner Roberts, Vice Mayor DuBose, and Mayor Seiler. NAYS: None. Commissioner Rodstrom abstained. A memorandum of voting conflict is attached to these minutes.

522-10921 - CHEVROLET CAPRICE POLICE PURSUIT VEHICLES – (PUR-04)
\$943,239

Charles King, 105 N. Victoria Park Road, noted that he is a resident and landlord in Victoria Park. He opposed this item because the burglary rate has been unaffected by the number of police vehicles. He pointed out that two of his tenants were recently robbed. He contended that 80 percent of the City's police force live outside of the city. They have an incentive to live outside of the city. They want to live elsewhere because of the City's substandard schools. He advocated for charter schools in the area. He was concerned about losing the City's middle class. He elaborated upon the benefits of having police living in the community. He thought a police force that lives outside of the community is more likely to go on strike.

Commissioner Roberts clarified that this item is for the purchase of new vehicles, according to the City's fleet plan. Under the personally assigned vehicle program (PAV), the vehicle lifespan has been extended from six to seven years. Some vehicles being replaced with this purchase are ten years old. He reasoned that a pool car system would require 70 to 100 cars that require replacement every two to three years, versus seven years or \$4.7 million versus the proposed cost of \$943,239. Therefore, this item is cost effective. He noted a recent study conducted by Florida Gulf Coast University that illustrated the efficiency of the PAV program. This program was selected because of the time consuming nature of the (pool vehicle system). The amount of required equipment for police officers has significantly increased. The PAV program allows for quicker deployment in emergencies. He went on to clarify that PAV is a tri-county program that includes Palm Beach, Broward, and Miami-Dade. Police officers who live in southern Palm Beach county or northern Miami-Dade county pay \$55 per pay period for gas; and those living in northern Palm Beach or southern Miami-Dade pay \$65 per pay period. He thought that any discussion relative to the rate for officers living in Broward County should be included in collective bargaining. The PAV program is utilized by about 80

percent of Florida's law enforcement agencies. He thought it benefits neighborhoods to have these marked vehicles and officers in residence, regardless of their jurisdiction. He stressed that the proposed will provide savings over the long-term.

Commissioner Rodstrom pointed out that she offered a \$100 discount to a police officer on a rental property because he will park a marked vehicle on the premises. She suggested that Mr. King spearhead such an initiative. Mr. King thought the City should provide the subsidy. Mayor Seiler stressed that this Commission has taken a very conservative approach, with a 4.11 millage rate. It is the second lowest of the twenty-five largest cities in the state. Perhaps, this matter could be addressed in collective bargaining, but he did not intend to raise the millage rate for such a subsidy. Commissioner Rodstrom felt this responsibility lies with all community members.

Mayor Seiler explained that the School Board of Broward County's (School Board) millage rate is substantially higher than the City's, and comprises about one-third of each resident's taxes, versus the City's one-fifth which has no allocation for schools. Being that the City is the School Board's largest tax-paying block, it would be fiscally irresponsible for the City to increase taxes in order to start a charter school system. He suggested that Mr. King contact his School Board representative and attend their meeting. In agreement with Commissioner Roberts, he felt the proposed item affords the City efficiency and savings.

In terms of the program's merit, Commissioner Rogers deferred to Commissioner Roberts' expertise. He referred to the Vehicle Replacement Analysis (VRA) provided at his request. It is a detailed scoring guideline in graph form that is based on factors such as the vehicle's age, mileage, and reliability based on maintenance and repair. He noted this purchase was budgeted. As to the VRA scoring, Vehicle 10 (V9229) in Exhibit 1 scored 28; and a score of 28 or higher denotes immediate replacement. Being that the mileage is only 62,000, he thought this is borderline, even though it is over nine years old. Also, Vehicle 30 (V9369) scored 28 on the VRA, but the mileage is only 68,000. He thought the lifespan of these vehicles could be extended for another year as most of the vehicles to be replaced are nine years old and have close to 100,000 miles.

Vice Mayor DuBose recalled that the Commission has previously addressed the fleet plan in detail. The City Manager confirmed that the proposed is consistent with the Commission's adopted five-year fleet management plan which is updated each year. As for (VRA) scoring, even if this item is approved, there is still a four to six month lead time before these vehicles are received, outfitted and deployed which will add to the existing age and mileage. A nationally accepted scoring rubric is utilized for consistency. A score of 28 requires immediate replacement; a score of 23 to 27 requires replacement during the current fiscal year. So, any vehicle scoring 23 or above should be replaced during the current fiscal year. There are many vehicles with a score of 23 to 27 that have been pushed beyond their useful life. The concern is for these vehicles to be able to perform in emergency response situations, and not only on patrol. Other than Vehicles 10 and 30, Commissioner Rogers supported this item. If there is a delay perhaps it should be factored in. Commissioner Roberts pointed out that the budget lifespan of these vehicles is seven years, and all but four extend well beyond the minimum lifespan of 93 months. There are other factors besides mileage to consider, such as maintenance records and long-term safety which will be compounded by the significant time needed to prepare new vehicles for service. He agreed that the Commission's scrutiny of (vehicle) purchases over the past three years has been beneficial and allowed for

savings, but he wanted to move forward with this item as presented. Mayor Seiler indicated that the additional four to six months preparation time will place (Vehicles 10 and 30) past the threshold. Commissioner Rogers suggested they be replaced last. The City Manager indicated that one purchase would be issued for all 33 vehicles. In response to Mayor Seiler, John Rencher, Fleet Manager, explained that it would take four to five months before all of the vehicles are street-ready. The City Auditor remarked that, historically, the Commission was provided a copy of the evaluation material (VRA), but there has been a shift in practices. Going forward, he encouraged staff to include the VRA because it is useful in evaluating each purchase, and there are changes that take place from the time the fleet plan is approved to the time, six months to one year later, that vehicle purchases are brought forward. In response to Mayor Seiler, Mr. Rencher explained that the vehicles to be replaced as shown in Exhibit 1 were chosen last February, and the mileage reading is approximately one month old. He pointed out that one hour of idling is equivalent to the wear-and-tear of driving 33 miles. Police cars have extremely high idle time. In order to calculate the actual wear-and-tear mileage the mileage would be multiplied by a factor of 1.35. Discussion ensued as to when the VRA scoring sheets were prepared for Commissioner Rogers. In response to Mr. Rencher, Mayor Seiler and Commissioner Rodstrom confirmed their desire for staff to individually brief the Commission on these matters in the future. Mr. Rencher explained that these vehicles are vetted when the fleet plan is created, and, at that point, a pre-determination is made as to what their status will be when the purchases are actually made. He noted that there are other vehicles that also qualify (for replacement), but, due to budgetary constraints, these were determined to be in immediate need of replacement. In response to Mayor Seiler, the City Manager noted that the vehicles will be replaced based upon their score, so the two vehicles with the lowest score will be replaced last.

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

Mayor Seiler asked previous briefing practice and providing the Commission with Vehicle Replacement Analysis (VRA) for vehicles be reinstated

RESOLUTIONS

SITE PLAN LEVEL III REVIEW - ATLANTECH PLAZA - 6451 NORTH FEDERAL HIGHWAY - CASE 32-R-11 (R-01)

No budgetary impact

Applicant: New Boston Atlantech L.P.
Location: 6451 North Federal Highway
Zoning: Boulevard Business B-1
Future Land Use: Commercial

Recommend: Open hearing, close hearing, introduce resolution.

Exhibit: Commission Agenda Report 12-0063

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING A DEVELOPMENT PLAN WITH FLEX ALLOCATION TO CONSTRUCT A RESIDENTIAL BUILDING WITH MULTI-FAMILY RESIDENTIAL UNITS, PARKING GARAGE AND RETAIL USE, LOCATED AT 6451 NORTH FEDERAL HIGHWAY, FORT LAUDERDALE, FLORIDA IN A B-1 ZONING DISTRICT.

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, DENYING A DEVELOPMENT PLAN WITH FLEX ALLOCATION TO CONSTRUCT A RESIDENTIAL BUILDING WITH MULTI-FAMILY RESIDENTIAL UNITS, PARKING GARAGE AND RETAIL USE, LOCATED AT 6451 NORTH FEDERAL HIGHWAY, FORT LAUDERDALE, FLORIDA IN A B-1 ZONING DISTRICT.

This item was deferred to February 7, 2012. See motion on page 2.

ELECTRONIC MESSAGE CENTER SIGN - CASE 20-R-11A (R-02)
BROWARD COUNTY CONVENTION CENTER –
1950 EISENHOWER BOULEVARD

No budgetary impacts.

Applicant: Florida Department of Transportation and Broward County Convention Center
Location: 1950 Eisenhower Boulevard
Zoning: Boulevard Business B-1

Recommend: Introduce resolution.

Exhibit: Commission Agenda Report 12-0077

The Commission announced with whom he or she had spoken with and/or site visit(s) made concerning this matter.

Commissioner Rodstrom introduced the following resolution:
RESOLUTION NO. 12-06

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING A DEVELOPMENT PERMIT TO CONSTRUCT AN ELECTRONIC MESSAGE CENTER SIGN FOR THE

BROWARD COUNTY CONVENTION CENTER ON
PROPERTY LOCATED AT 1950 EISENHOWER
BOULEVARD IN A B-1 ZONING DISTRICT.

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

REPEAL OF EARLY COST RECOVERY FLORIDA STATUTE (R-03)
ELECTIRC UTILITY CHARGES RELATING TO NUCLEAR POWER PLANTS

NO BUGETARY IMPACT

Recommend: Consider resolution.

Exhibit: Commission Agenda Report 12-0122

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, URGING THE PUBLIC SERVICE COMMISSION TO DENY APPROVAL OF ANY FURTHER "EARLY COST RECOVERY" AND URGING THE FLORIDA LEGISLATURE TO REPEAL THE "EARLY COST RECOVERY" STATUTE RELATING TO ELECTRIC UTILITY CHARGES FOR THE SITING, DESIGN, LICENSING, AND CONSTRUCTION OF NUCLEAR PLANTS; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was deferred to February 21, 2012. See motion on page 2.

BOARD AND COMMITTEE APPOINTMENTS (R-04)

No budgetary impact

Recommend: Introduce resolution.

Exhibit: Commission Agenda Report 12-0070

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

- Beach Redevelopment Board Daniel S. Matchette (Mayor Seiler)
Bradley Deckelbaum (Vice Mayor DuBose)
Aiton J. Yaari (Commissioner Rogers)
- Board of Adjustment Donna Guthrie (Consensus/Alternate)
- Cemetery System Larry M. Ott (Mayor Seiler)
Board of Trustees Jonathan Pearson (Mayor Seiler)
Delores Sallette (Vice Mayor DuBose)
Jimmy Witherspoon (Vice Mayor DuBose)
Damon R. Adams (Commissioner Roberts)
- Community Appearance Board Carol Cappadona (Commissioner Roberts)
- Fire-Rescue Facilities Bond Issue Frederick H. Nesbitt (Commissioner Roberts)
Blue Ribbon Committee June D. Page (Commissioner Roberts)
Frank B. Anderson, Jr. (Commissioner Rogers)
- Historic Preservation Board Richard P. Schulze (Commissioner Roberts)
- Nuisance Abatement Board Dale Hoover (Consensus)
D. Ryan Saunders (Consensus)
Cindy Smith (Consensus/Alternate)
- Visioning Committee Dan Lindblade (Consensus)
Wiley D. Thompson, III (Commissioner Rogers)

Vice Mayor DuBose introduced the following resolution:

RESOLUTION NO. 12-07

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

OPPOSING DESTINATION RESORT CASINOS IN FLORIDA

(R-05)

NO BUDGETARY IMPACT

Recommend: Consider resolution.

Exhibit: Commission Agenda Report 12-0132

Vice Mayor DuBose questioned the last whereas clause language, reject any and all expansions of gambling in the State of Florida, in that it was to be revised based on previous discussion. Mayor Seiler noted that it was removed from that part of the resolution that states the City's position. The City Attorney explained that the bill (Senate Bill 710) also applies to internet cafes, not just destination resort casinos. As currently written, (the bill) will outlaw internet cafes statewide. So, the purpose for including this language was to address the expansion of gambling in the state, including internet cafes and, specifically, destination resort casinos in Fort Lauderdale. Mayor Seiler suggested a revision so that it would read, reject any legislation which would legalize so called "destination resort casinos" in the City of Fort Lauderdale, Florida. Commissioner Rogers wanted the language to remain unchanged. He agreed with the City Attorney that the bill addresses a plethora of gambling issues, and he thought it will send the wrong message if the whereas language is not included. Vice Mayor DuBose thought the prior consensus was to send a strong message with a focus on destination resorts and casinos, not on the broad issue of gambling in general. Mayor Seiler felt it is important that there be full Commission support of whatever position is decided upon. The City Manager clarified that the internet café matter was already addressed by the Commission, with direction to draft an ordinance. In addition to the previously mentioned whereas revision, Mayor Seiler suggested that Section 1 be revised to read: That the Florida legislature is hereby urged to reject any legislation to legalize so called "destination resort casinos" in Fort Lauderdale, Florida.

Motion made by Vice Mayor DuBose and seconded by Commissioner Roberts to amend this resolution as noted above. Roll call showed: YEAS: Commissioner Roberts, Commissioner Rodstrom, Vice Mayor DuBose, and Mayor Seiler. NAYS: Commissioner Rogers.

Vice Mayor DuBose introduced the following resolution, as amended:

RESOLUTION NO. 12-08

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, URGING THE FLORIDA LEGISLATURE TO REJECT LEGISLATION TO LEGALIZE "DESTINATION RESORT CASINOS" IN FORT LAUDERDALE, FLORIDA.

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

PUBLIC HEARINGS

**DOCK WAIVER APPLICATION - DISTANCE OF LIMITATIONS –
3081 NE 40 STREET - BRIAN AND KATHLEEN TEDESCHI**

(PH-01)

No budgetary impact.

Applicant: Brian and Kathleen Tedeschi
Location: 3081 NE 40 Street

Recommend: Open hearing, close hearing, introduce resolution.

Exhibit: Commission Agenda Report 11-1893

Members of the Commission announced with whom he or she had spoken with and/or site visit(s) made concerning this matter.

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

Mayor Seiler opened the floor for public comment.

In response to Commissioner Rodstrom, Tyler Chappell, representing the Applicant, explained that he has received correspondence from the adjacent property owners indicating no objection to the proposed dock waiver.

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

Commissioner Roberts introduced the following resolution:

RESOLUTION NO. 12-09

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, GRANTING, SUBJECT TO TERMS AND CONDITONS, A WAIVER OF THE LIMITATIONS OF SECTION 47-19.3.C. D. OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE TO BRIAN S. TEDESCHI AND KATHLEEN TEDESCHI ("APPLICANTS"), FOR APPROVAL TO RELOCATE AND CONSTRUCT A BOATLIFT EXTENDING INTO THE ADJACENT CANAL PROJECTING FROM APPLICANTS' PROPERTY INTO THE INTRACOASTAL WATERWAY (NEW RIVER SOUND), SUCH DISTANCE(S) AND PROPERTY AS BEING MORE PARTICULARLY DESCRIBED BELOW; PROVIDING FOR EFFECTIVE DATE.

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

**APPEAL - PLANNING AND ZONING BOARD DECISION - REZONING – (PH-02)
CASE 3-Z-11 - FIRST EBENEZER MISSIONARY CHRISTIAN CHURCH, INC.****No Budgetary Impact**

Applicant: First Ebenezer Missionary Christian Church, Inc.
Location: 312 NW 7 Street
Current Zoning: Residential Mid Rise Multi-family/Medium High Density RMM-25
Proposed Zoning: Community Facility House of Worship and School CF-HS
Future Land Use: Northwest Regional Activity Center

Recommend: 1) motion upholding Planning and Zoning Board decision and denying rezoning for failure to meet requirements of Unified Land Development Regulations OR 2) motion to hold de novo hearing immediately OR 3) resolution setting de novo hearing within sixty days.

Exhibit: Commission Agenda Report 12-0039

Deborah Rutkowski, Planning and Zoning, explained that the Applicant is seeking to rezone a portion of their property for future use as a school and to increase the size of the worship center. On October 4, 2011, the Applicant came forward to appeal the Planning and Zoning Board's (Board) denial; at which time, the Commission requested that the Applicant return to the Board to determine the reason for the denial. The Applicant is now requesting a hearing be set.

Mayor Seiler opened the floor for public comment.

Dan Fee, representing the Applicant, explained that the original Board hearing in July, 2011 resulted in a motion to approve that did not pass. On October 4, 2011, the Commission asked the Applicant to return to the Board because affirmative action had not been taken. There was no explanation why the motion did not pass and no formal motion to deny. On October 19, 2011, the Board voted to deny the request with the reasoning that Criteria 2 and 3 of the ULDR (Unified Land Development Regulations) (Exhibit 2 of Commission Agenda Report 12-0039) were not met. A copy of the criteria is attached to these minutes. The Applicant believes that the Board departed from the essential requirements of law because that finding was not based on facts in the record. In fact, City staff had indicated that the Applicant complied with Criteria 3 by noting that the character of the area is suitable for the uses permitted in the proposed zoning district and compatible with the surrounding districts which include, both, residential and commercial. Apparently, the Board relied on testimony from laypersons and those in opposition to conclude that the Applicant did not comply with Criteria 3. Also, the Board indicated that Criteria 2 was not met because the rezoning request may constitute a spot zoning. However, there was no testimony in the record related to spot zoning, nor had the Board requested input from staff or the Applicant on this matter. When the Applicant returned to the Board in October, the Board did not reopen the public hearing request or ask input from staff or the Applicant to provide input on their reasons for denial. If input had been requested on spot zoning, he or staff could have pointed out (six) churches in the vicinity that are zoned Community Facility House of Worship and School (CF-HS), but are surrounded by residential and some commercial properties. He requested a de

novo hearing for February 21.

In response to Commissioner Rogers, Mr. Fee explained that the church has been at this location since 1992, and zoned RMM-25 the entire time. The only mention of spot zoning was as a Board discussion item. The (six) churches he mentioned are located in the northwest regional section, and there is one additional church in the Applicant's neighborhood. The Applicant included the intended use as a church/school on the application with a total estimated size of 11,500 square feet. The school and church uses are permitted in that district, but the rezoning is necessary for the expansion because RMM-25 zoning limits the square footage to 10,000.

In response to Commissioner Roberts, Greg Brewton, Director of Planning and Zoning, confirmed that he agreed with the Board's decision that the Applicant had not met Criteria 2 and 3. Furthermore, a public hearing was held wherein the Applicant and members of the public, including the Association (Progresso Village Neighborhood Association), were permitted to speak. In response to Commissioner Rogers, Mr. Brewton confirmed that the (ULDR) does not require a rezoning applicant to have a site plan. He believed the Board understood this, but it is within their discretion to request additional information and he felt they would have liked to have seen a site plan before making a decision. He thought a site plan requirement could be difficult for some applicants. Some Board members were not comfortable moving forward without a site plan because there was such a concern expressed by residents. Commissioner Rogers questioned whether this is a due process issue where the Applicant could have a hearing to address questions regarding use, in lieu of a site plan. Mr. Brewton agreed. The neighborhood impact was the Board's primary concern at both meetings, and the Applicant was given opportunity to address it. Furthermore, it would be a waste of funds for the Applicant to have a site plan drawn without the zoning in place. Commissioner Rogers thought the question is whether it is part of the ULDR zoning requirement for the Applicant to provide the intended use, as long as it is within the requested zoning criteria. Mr. Brewton explained that once a property is rezoned, the owner has a right to utilize it for any permitted use within the given zoning classification. A requirement to do this any other way would constitute contract zoning. Commissioner Rogers thought the limitations for the Applicant would be established by the permitted uses for CF-HS which are school, church, or associated offices. Mr. Brewton indicated that the only allowed uses are those permitted under that zoning classification. A certain level of social service (facility) would also be an allowed use if connected with the church. If the church is presently conducting social services, Commissioner Rogers thought the neighborhood's concern may be related to whether these services are going to be expanded.

Mayor Seiler asked what the Applicant is citing as a departure from the essential requirements of law. Mr. Fee pointed out that the last paragraph of page 3 of the July 20, 2011 Board minutes (Exhibit 3 of Commission Agenda Report 12-0039) depicts staff's assertion that the Applicant complied with Criteria 3. Mr. Brewton indicated that statement has to do with the land use, and any change would be suitable because both residential and commercial uses are allowed in the (Northwest) Regional Activity Center (RAC). Mayor Seiler noted that the language in the paragraph transitions from zoning to future land use designation. Mr. Fee maintained that this passage reflects staff's indication that the proposed zoning district is compatible with the rezoning request. Mayor Seiler disagreed. Mr. Brewton clarified that the existing land use and existing zoning are pointed out when cases are brought before the Board, and a determination is

made whether the proposed is consistent with either of them. In this item, the question brought to the Board was whether the zoning as it exists on the various parcels abutting the property would be consistent. (with the proposed).

In response to questions raised by Commissioner Rodstrom and Mayor Seiler, Mr. Brewton recalled that most of the neighborhood's concern was related to the potential impact on surrounding properties if the rezoning was granted. There was no site plan. Further, he confirmed that the Association also felt the Applicant had not clearly conveyed the potential impact which is reflected on page 4 of the minutes (July 20, 2011; Exhibit 3). Mayor Seiler referred to comments of Doug Sterner, president of Progresso Village Civic Association, on this point (page 4). Being that this is a residential neighborhood with an existing facility in it, Commissioner Rodstrom felt the neighborhood's concern was justified. In further response to Mayor Seiler's question of the Applicant's claim that there was no competent substantial evidence, Mr. Fee reiterated the Board's assertion that the rezoning would constitute spot zoning, although there was no evidence or testimony to this effect. He reasoned that Criteria 2 was met because this property is located in the Northwest RAC which has been undergoing redevelopment for a number of years; the uses are already permitted under the (northwest) regional master plan, land use and current zoning district. The proposed is simply a continuation of further redevelopment in the northwest regional area.

Mr. Brewton presented a map provided as Exhibit 7 of the backup that was also presented to the Board. A copy of the map is attached to these minutes. He elaborated upon why he believed the Board addressed this matter in terms of a possible spot zoning issue. In response to Commissioner Rodstrom, Mr. Fee explained that the proposed rezoning is for the entire shaded parcel, that is 1 ½ acres; the church is located on the western side of the parcel. The church has residential zoning (RMM-25) because it is a permitted use within the zoning district. Mr. Brewton noted that churches were permitted in all zoning districts prior to 1997 when there was a re-write of the ULDR. In response to Commissioner Rogers, he defined spot zoning as changing a property's zoning classification, such that it is inconsistent with the surrounding properties, in order to benefit a particular development. For instance, the proposed item requesting CF-HS zoning would allow a number of uses that are not permitted in the surrounding RMM-25 zoning district. It could be for only a single lot and there is no definition as to the extent that it could expand. Commissioner Rogers noted that the church use is legal in RMM-25 provided it does not exceed 10,000 square feet. Mr. Brewton explained that the idea behind the size restriction is to not allow a church to grow so large that it consumes a residential area. A disproportionately large church can negatively impact a neighborhood. Commissioner Rogers pointed out that the church is located across the street from industrial warehouse zoning (B-3) to the west and extends north to Sunrise Boulevard. Mr. Brewton believed that the area across the street from the lots abutting 3 Avenue is residential. He recalled that some neighbors were concerned because the church serves as a buffer between the commercial and residential. In further response, he explained if this application is denied, the Applicant is not be allowed to re-apply with the same application for two years. If the application is withdrawn, he did not think the same prohibition is applied. On the other hand, a variance would require the Applicant to submit their intentions for the property.

In response to Mayor Seiler, Mayor Seiler asked the Applicant for any remaining comment. Mr. Fee supported staff's comment with regard to Criteria 3. Also, he attached a zoning map (Exhibit 1) to his appeal letter, highlighting a half dozen sites in

the northwest regional area, but the map was not presented to the Board because there was zero discussion on spot zoning during the public hearing. He went on to point out page 4 of the October 19, 2011, Board minutes (Exhibit 6) reflect a Board member Ferber's assertion that the (review criteria language) would have to be stretched in order to rationalize a denial.

Marthamise Francois, spouse of the Applicant, noted that only one house is located across from the lots on NW 3 Avenue, along with a Montessori school, warehouses, and an automotive paint shop. Most of the area surrounding the church used to be vacant lots until homes were built on NW 1 and NW 2. Many church members live in nearby apartments and Lauderdale Manors. She contended that the Association does not represent the majority of the community because most of them reside in the new development on NW 1 and NW 2. Mayor Seiler cautioned that this evening's consideration must stay with the existing record.

Mayor Seiler noted an excerpt from the Board minutes on page 4 (October 19, 2011; Exhibit 6) wherein Vice Chair Hansen expressed his belief that this was clearly a spot zoning request because two lots on the same block were not included in the application. Mr. Fee acknowledged there were Board members that focused on the idea, however there was no evidence to support this assertion and no request for staff or the Applicant to provide input. The appeal letter of November 17 has an attached map, highlighting a half dozen church properties surrounded by residential districts on all sides. He reiterated the hearing was not reopened to allow any presentation. The Applicant was not given an opportunity to rebut this new concept introduced in the Board discussion. Commissioner Roberts pointed out that the churches highlighted on the map are not applying for rezoning. Although Mr. Fee did not know the churches' history, he thought the zoning must have been changed because it currently reflects CF-H zoning. Although these churches probably existed prior to 1997 like the Applicant's church, Mayor Seiler and Commissioner Roberts noted that it is unknown whether any expanded their footprint since 1997. Mr. Fee indicated that a church on the corner of NW 4 and 7 recently expanded and was zoned to CF-H, though he was uncertain exactly when this occurred. He reiterated that there was no discussion or facts in the record relative to spot zoning.

There was no one else wishing to speak.

Commissioner Rogers thought there was a departure from the essential requirements of law in the proceedings appealed. He thought the Board did not provide a basis for their disapproval at the July 20 hearing (Exhibit 3). Also, the Vice Chair's finding in the October 19 minutes (Exhibit 6) regarding spot zoning does not constitute testimony or evidence. Due process requires there to be testimony if the ruling is based on it. He saw no other basis for the ruling which is why the Commission referred it back to the Board. Commissioner Roberts thought the Vice Chair was drawing a conclusion based on evidence that was presented. Commissioner Rogers wanted confirmation of this. If that conclusion is to be made, it should be correctly defined to the extent that there is commercial and residential on the block, and there will be some inconsistencies with a surrounding area whenever a zoning change takes place. He did not feel certain that the Applicant was granted a full and fair hearing. Commissioner Roberts disagreed. Vice Mayor DuBose indicated that he also failed to find any information in the testimony to draw that conclusion.

Motion made by Commissioner Rogers and seconded by Vice Mayor DuBose that there was a departure from the essential requirements of law in the proceedings appealed.

As for a determination that there was no competent substantial evidence to support the Board's decision, Commissioner Rogers explained that this point also applies to the Board's spot zoning basis. Commissioner Roberts noted that spot zoning is not the only basis for their decision. Rather, the basis for the denial was that the Applicant did not meet Criteria 2 and 3. He thought this is a matter of neighborhood compatibility. Mayor Seiler elaborated upon the available options.

Commissioner Rogers introduced the following resolution:

RESOLUTION NO. 12-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, REGARDING THE APPEAL OF THE PLANNING AND ZONING BOARD'S DENIAL OF REZONING CERTAIN LANDS LOCATED BETWEEN N.W. 4TH AVENUE AND N.W. 3RD AVENUE, SOUTH OF N.W. 7TH STREET LOCATED AT 312 N.W. 7TH STREET IN AN RMM-25 ZONING DISTRICT (PZ CASE NO. 3-Z-11), MAKING CERTAIN FINDINGS AND SETTING A PUBLIC HEARING TO CONSIDER THE APPEAL BEFORE THE CITY COMMISSION AT 6:00 P.M. ON MARCH 6, 2012.

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

Motion made by Commissioner Rodstrom and seconded by Commissioner Roberts to uphold the decision of the Planning and Zoning Board and deny the application for a rezoning for failure to meet the requirements of the Unified Land Development Regulations. Roll called showed: YEAS: Commissioner Roberts, Commissioner Rodstrom, and Mayor Seiler. NAYS: Commissioner Rogers and Vice Mayor DuBose.

Mayor Seiler thought a variance is an alternative.

**COMPREHENSIVE PLAN - FUTURE LAND USE PLAN MAP AND (PH-03)
TEXT AMENDMENTS - 72.6 ACRE SITE - EAST OF EXECUTIVE AIRPORT**

No budgetary impact.

Recommend: Open hearing, close hearing, introduce on second reading
1) Ordinance C-10-27, 2) Ordinance C-10-28, 3) Ordinance C-10-29 and 4) authorize mitigation contribution and filing of appeal.

Exhibit: Commission Agenda Report 12-0067
The Commission announced with whom he or she had spoken with and/or site visits

made concerning this matter.

Mayor Seiler announced that the Comprehensive Plan Citizen Courtesy Information List is available with the Assistant City Clerk for any citizen who wishes to receive a personal notice on the State's intentions with respect to the proposed amendments.

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

Commissioner Roberts introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-10-27

AN ORDINANCE OF THE CITY OF FORTLAUDERDALE, FLORIDA, AMENDING THE 2008 FORT LAUDERDALE COMPREHENSIVE PLAN FUTURE LAND USE MAP TO CHANGE THE LAND USE DESIGNATION FROM "PARK/OPEN SPACE" LAND USE TO "TRANSPORTATION" LAND USE, FOR A PORTION OF TRACT 1 "F-X-E PLAT", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 119, PAGE 4, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LYING BETWEEN NORTHWEST 12 AVENUE AND NORTHWEST 15 AVENUE, SOUTH OF RUNWAY 8/26 AND NORTHEAST OF RUNWAY 13/31 OF FORT LAUDERDALE EXECUTIVE AIRPORT; AUTHORIZING THE PROPER CITY OFFICIALS TO TRANSMIT THE PROPOSED AMENDMENT TO THE STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS AND REQUESTING THE BROWARD COUNTY PLANNING COUNCIL RECERTIFY THE AMENDMENT.

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

Commissioner Roberts introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-10-28

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING THE 2008 FORT LAUDERDALE COMPREHENSIVE PLAN FUTURE LAND USE MAP TO CHANGE THE LAND USE DESIGNATION FROM "EMPLOYMENT CENTER" TO "TRANSPORTATION" FOR A PORTION OF TRACT 1 "F-X-E PLAT" ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 119, PAGE 4, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA,

LYING AT THE NORTHWEST INTERSECTION OF NORTHWEST 12 AVENUE AND WEST COMMERCIAL BOULEVARD AND LYING SOUTHEAST OF THE RUNWAY PROTECTION ZONE (RPZ) OF RUNWAY 13/31 OF FORT LAUDERDALE EXECUTIVE AIRPORT; AUTHORIZING THE PROPER CITY OFFICIALS TO TRANSMIT THE PROPOSED AMENDMENT TO THE STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS AND REQUESTING THE BROWARD COUNTY PLANNING COUNCIL RECERTIFY THE AMENDMENT.

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

Commissioner Roberts introduced the following ordinance on SECOND reading:

ORDINANCE NO. C-10-29

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING THE 2008 FORT LAUDERDALE COMPREHENSIVE PLAN FUTURE LAND USE ELEMENT TO ADD THE USES PERMITTED IN A COMMERCIAL RECREATION LAND USE CATEGORY TO THE PERMITTED LAND USES IN A TRANSPORTATION LAND USE CATEGORY AND REQUESTING THE BROWARD COUNTY PLANNING COUNCIL RECERTIFY THE AMENDMENT.

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

Motion made by Commissioner Roberts and seconded by Commissioner Rogers to authorize mitigation, contribution, and filing of an appeal. Roll called showed: YEAS: Commissioner Rogers, Commissioner Roberts, Commissioner Rodstrom, Vice Mayor DuBose, and Mayor Seiler. NAYS: None.

The City Manager noted that on February 7, staff will bring forward initiation of a conflict resolution process with Broward County.

ORDINANCES

COMMUNITY SERVICES BOARD - ADDITIONAL DUTIES – CHANGING COMPOSITION OF BOARD - HOUSING OPPORTUNITIES FOR PERSONS WITH HIV/AIDS GRANT PROGRAM (O-01)

No current year budgetary impact at this time.

Recommend: Introduce ordinance on first reading.

Exhibit: Commission Agenda Report 11-1914

Commissioner Roberts introduced the following ordinance on FIRST reading:

ORDINANCE NO. C-12-01

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA AMENDING ORDINANCE NO. C-69-76 WHICH CREATED THE COMMUNITY SERVICES AND FACILITIES BOARD, AS AMENDED, TO CHANGE THE DUTIES AND COMPOSITION OF THE BOARD.

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

VACATION OF RIGHT-OF-WAY - DELETING CONDITION BROWARD HEALTH - 1531 SOUTH ANDREWS AVENUE - CASE 6-P-11 (O-02)

No budgetary impact

Recommend: Introduce ordinance on first reading.

Exhibit: Commission Agenda Report 12-0064

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

Commissioner Rogers introduced the following ordinance on FIRST reading:

ORDINANCE NO. C-12-02

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA AMENDING ORDINANCE NO. C-11-35 VACATING, ABANDONING AND CLOSING THAT 8.5 FOOT RIGHT-OF-WAY LYING ALONG THE NORTH

SIDE OF SOUTHWEST 16TH STREET TO DELETE THE
CONDITION REQUIRING CONVEYANCE OF A
VEHICULAR ACCESS EASEMENT.

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

Note: There being no other matters to come before the Commission, the meeting was adjourned at 8:25 p.m.

John P. "Jack" Seiler
Mayor

ATTEST:

Jonda K. Joseph
City Clerk