

FORT LAUDERDALE CITY COMMISSION CONFERENCE MEETING
MARCH 20, 2012

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CITY COMMISSION CONFERENCE MEETING

2:00 P.M. March 20, 2012

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

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 Mark Renner

EXECUTIVE CLOSED DOOR SESSION WAS HELD AT 2:02 P.M.

**The City Commission shall meet privately pursuant to Florida Statutes 286.011,
regarding the following:**

- 1) Henry and Andrea Bonner v. City of Fort Lauderdale Case 08-037302 (05)**

CLOSED DOOR SESSION ENDED AT 2:35 P.M.

City Commission Reports

E911 Call Taking and Dispatch Services

Commissioner Roberts reported that Broward County will discuss this subject on March 27.

27 Avenue and Davie Boulevard and Broward Boulevard in front of Melrose Manor; new McDonalds Restaurant and Dollar General Store

Vice Mayor DuBose indicated that residents are concerned there was no advance notice. There should be advance notice to neighborhoods as a matter of procedure. The City Manager offered to look into the circumstances, but noted a factor is whether a development is allowed by right. Greg Brewton, Director of Sustainable Development, advised that Development Review Committee (DRC) agendas are sent to neighborhood association presidents and posted on the City's website. Also, when an applicant appears before the DRC, staff strongly encourages them to meet with the most impacted neighborhood association in the area. He believed that the McDonalds would not have called for a DRC review, but simply a building permit, thus there would not have been any notification. In response to Commissioner Rodstrom, Mr. Brewton advised that any environmental issues would be handled through the permitting process. Vice Mayor DuBose suggested that at a minimum the district commissioner(s) be apprised.

West Side of 28 Avenue and Broward Boulevard; WaterWorks 2011 Staging Area

Vice Mayor DuBose indicated that Melrose Manor neighborhood association president has reported that WaterWorks 2011 trucks are using this staging area for work outside of the city limits. Truck traffic has actually increased. He asked the City Manager to followup with Broward County.

Human Trafficking

Vice Mayor DuBose discussed the Broward League of Cities' concentration on this issue including the training of municipal employees who are routinely in the field. He suggested their public service announcement could be posted on the City's website. He emphasized the need to raise the awareness level as it is a growing serious problem.

Vandalism, South Middle River Park

Commissioner Rodstrom requested increase park ranger attention to this area to address vandalism.

Beach Lighting

Commissioner Rodstrom requested a status report on this topic. The City Manager advised it is on schedule for the April due date. Mayor Seiler had received calls concerning the lights being on during the day. He requested a copy of the status report as well.

Affordable Housing Project on Andrews Avenue, Progresso Point

Commissioner Rodstrom indicated that the developer of this project has inquired about partnering with the Community Redevelopment Agency for purchase of the privately owned small triangular parcel to the north. Mayor Seiler noted it would have to be maintained as a park.

South Federal Highway Repavement Project

Commissioner Rogers provided a verbal status report on the project. There are 103 remaining project days. The contractor has assured it will be completed by the end of July. A construction open house will be held March 27 at the library on the next phase. Mayor Seiler asked a staff representative attend and provided a written status report to the Commission. The City Manager advised that he has confirmed that the contractor has not requested additional time and Florida Department of Transportation is not inclined to do so if requested.

Events and Matters of Interest

Members of the Commission announced recent and upcoming events and matters of interest.

I-A – Undergrounding of Overhead Utility Lines – Idlewyld, Riviera Isles, Las Olas Isles and Seven Isles – Special Assessment Program

The City Manager provided a verbal status report contained in Commission Agenda Report 12-0583 and indicated that the program is at a point where a decision on proceeding needs to be made. From the very preliminary estimate (\$2,600), a petition would be circulated to affected property owners. Seventy percent of the property owners would need to agree. There are two issues: 1) more concrete number and 2) methodology to parse the number to each parcel to tie the cost to the benefit for special assessment purposes. This would necessitate a much larger cost. He suggested there be one assessment district comprised of the four neighborhoods, using the ballpark cost

of \$312,000. If the petition is unsuccessful, there is no way to recapture that investment. The neighborhoods are also concerned about whether the seventy percent is achievable. The expense has to do with there being a lot of conflicts in the streets. Of the \$312,000, about \$65,000 has to do with methodology – varying property size.

The following responses were provided to the Commission's questions. The \$312,000 would equate to about \$350 per property. Commissioner Roberts pointed out that without real numbers and the estimate is too high, there is a challenge with respect to success of the petition. Commissioner Rogers was interested in the approaches of other cities. Mayor Seiler was concerned about consultant fees and thought \$350 is way too high. He also thought there must be a simpler way. Vice Mayor DuBose agreed. The City Manager clarified that \$312,000 would be for ninety percent design. In response to Mayor Seiler, the City Manager indicated that it could be pared down to sixty percent design, but there would not then be a good ballpark construction number. He recommended ninety percent because the increment between sixty and ninety percent is small. Commissioner Rogers did not think a variance of \$2,000 for example over a twenty-year period would sway a decision. Commissioner Rodstrom pointed out that only perhaps ten percent of the properties would be varied. The City Manager explained that \$100,000 goes to Florida Power and Light Company (FPL) as it is their system that would be put underground. It is a linear foot cost for FPL to provide a cost. Vice Mayor DuBose thought at some point prior to the complete linear footage, there should be sufficient data for a hard figure. Hal Barnes, Assistant To The City Manager, clarified this is the fee that FPL would charge to provide a binding cost estimate; figures provided thus far are preliminary and conceptual. The neighborhoods' concern is the pricing of \$25,000-\$30,000 per household which is higher than anticipated and they fear the petition process will not be successful. The City Manager commented that the cost for projects in Palm Beach County cities has been \$15,000. If a petition with a \$15,000 price is circulated and the actual cost is higher, he questioned whether the City is legally liable. The idea was raised of a second assessment if the actual cost is higher. The City Attorney explained the disclosure would be difficult because it is the same as a non-binding number. The disclosure will have the same impact on the vote. There can only be one special assessment per project. If a special assessment district is created, the City does not have to indicate the amount of the special assessment until time of the project. However, the ordinance indicates the City wants to hold an election to determine with there should be a project because the City wants to have willing participants. Commissioner Rogers pointed out that the residents will have all of the information that is available to the City. Commissioner Roberts wanted something legally defensible to protect the City from cost exposure. Commissioner Rogers pointed out that there would not be a vote on a special assessment until there is first an election. The City Attorney concurred. The purpose of the election is to ensure willing participants. Part of the number is to determine the benefit because a special assessment has to benefit the property. If it is in a protest mode, the question would be the benefit to the property: overhead lines to underground lines, which may not be the cost of installing the underground line. Commissioner Rogers claimed and the City Attorney concurred that regardless of the cost, the City must still address the issue of benefit to the property. The City Attorney noted that the benefit would be identified before the vote.

Mayor Seiler opened the floor for public comment.

John Fitzgerald, member of Seven Isles Homeowners Association, indicated he is speaking on behalf of Seven Isles, Riviera Isles, Idlewyld and Las Olas Isles, presented photographs showing the need for this project that were made a part of the record.

These neighborhoods have been working on this for most of the last three years. Hurricane Wilma left them without power for three and a half weeks. With today's wireless technology, it is hard to believe such wiring for homes. This is a rare opportunity in which four civic associations are willing to spend \$27 million of their own money to upgrade the infrastructure and add such tax base to the City. FPL has indicated this is the highest cost per linear foot based on a current Public Service Commission (PSC) approved tariff schedule. FPL knows it will be substantially lower because they will bid it out. The same applies to the other utilities. Subcontractors need a conceptual plan. Jupiter Island's initial ballpark figure from FPL was \$21 million, which was lowered to \$12.5 million. By using city forces to install empty conduit, the final cost was \$8.5 million or \$12,000 per homeowner. He was opposed to requiring a vote before various questions of homeowners can be addressed because he felt it would be a guaranteed no vote outcome. He elaborated upon the questions that could be directly answered for homeowners if they could meet with the utilities and their contractors. He urged the Commission direct the City Manager to facilitate this project.

Howard Steinholz, president of Seven Isles Homeowners Association, indicated there are over three hundred homeowners in this association. They are requesting the Commission allow for these improvements at the homeowners' expense. He displayed large versions of the before and after photographs presented by Mr. Fitzgerald.

Side Spiro, member of Riviera Isles Homeowners Association, noted in the recent municipal election there was a nine percent turnout, yet this will require a seventy percent positive vote. Less than fifty percent of Riviera Isles' residents are fulltime. It would be more equitable to require seventy percent of those who vote.

Mary Fertig, member of Idlewyld Improvement Association, noted the time that this has been in discussion and the reasons for underground utilities that are articulated in the ordinance. It will be difficult to justify to homeowners that the original estimate has doubled. The City and the Improvement Association differs as to the number of homeowners in Idlewyld. She asked that the seventy percent number be revisited. She advocated for the program and indicated that the safety reasons alone will be compelling enough for the City to underground utilities citywide over a period of time. She asked what would be the exposure to neighborhoods who proceed now if the City decides to underground utilities in other neighborhoods in the future. She did not think twice as much money is a good faith estimate to present to residents. In order to present a proposal to residents, they need to know the cost, how long will homeowners have to pay for it, how and to whom.

Tamara Tennant, president of Riviera Isles Homeowners Association, indicated that the estimate for Riviera Isles is \$25,000-\$31,000. Having begun to speak with residents, she did not think anyone is willing to sign a petition, even though they think the cost might be less. An accurate number is needed. They believe it is a win win for the neighborhood and the City as it increases property values and City revenues. She believed the entire city should have underground utilities. The program should be configured so that it will benefit the entire city.

Ken Cooper, member of Las Olas Isles Homeowners Association, referred to the proposed three amendments to the undergrounding ordinance handout provided by Commissioner Rodstrom, dated March 19, 2012, and attached to these minutes. He was concerned about the seventy percent requirement and pointed out some thirty percent of the homes are for sale. It would be more palatable to require seventy percent

of those who vote. Secondly, construction plans are needed. Because FPL has prepared a preliminary estimate, he believed FPL has drawn plans and done calculations. He also believed the other utilities have done the same. What is needed now is for the City to advance funding to get have the plans stamped by an engineer and the plans can be given to an authorized FPL contractor for a firm bid. He believed it will be in the range of \$10,000 to \$15,000. The third and last issue is what would be the exposure to neighborhoods who proceed now if the City decides to underground utilities in other neighborhoods in the future. Property values and revenues will increase with the residents bearing the burden. He advocated moving forward now.

Charles King, 533 Riviera Isles Drive, advocated moving forward with this program. He pointed out that people deciding where to buy can compare Fort Lauderdale with Weston, for example, where the utilities are underground. He believed it is worth as much as \$30,000.

There was no one else wishing to speak.

Mayor Seiler indicated after more thought, he believes it should be seventy percent of those who vote. However, there should be a provision for absentee voting. Commissioner Rogers emphasized the importance of notice. Commissioner Rodstrom agreed with seventy percent of those who vote. In response to Vice Mayor DuBose and Mayor Seiler, the City Attorney explained that the Commission has the authority to impose the special assessment based upon benefit to the property without a vote. However, this does not mean that someone will not challenge the City on allocation of the benefit – benefit analysis. The vote is only binding on the basis of the Commission exercising its authority to impose the special assessment. Discussion ensued concerning the question of whether it should be a seventy percent of the homeowners or seventy percent of the homeowners who vote wherein Mayor Seiler pointed out that if people do not object to the program, they will not vote and Vice Mayor DuBose commented that people may not vote because they do not think it will make a difference. Vice Mayor DuBose wanted the issue to be well vetted because the same arguments used to validate seventy percent of the homeowners are being used for seventy percent of those who vote. Commissioner Rodstrom elaborated upon the educational campaign that will be launched by the City as well as residents going door to door. The ballots will be handled directly by the City. The new ad valorem tax will benefit the entire city. Because of the Save Our Homes cap, Mayor Seiler thought the values may not rise that much. Commissioner Roberts commented that the percentage of those who vote is used for other City programs. Mr. Barnes indicated for speed hump installations, those who respond are counted. Based on the fact that this approach is used for other City programs, Commissioner Rogers expressed agreement with the change to seventy percent of those who vote.

Referring to Amendment 2 in the March 19, 2012 handout, Mayor Seiler indicated if these neighborhoods are moved forward, several other neighborhoods could come forward tomorrow and seek what is a free study from the City. He would be agreeable if there is a hold harmless provision. As to Amendment 3 in the March 19, 2012 handout, Mayor Seiler agreed the neighborhoods should receive a credit if the City moves forward with undergrounding citywide at City expense in the future. However, he did not foresee that happening in the next ten years.

The City Manager confirmed for Commissioner Rodstrom that \$312,000 will provide a good estimate for the petition process of 884 homes. He wanted to discuss with the City

Attorney some ideas about recapturing the \$312,000 within perhaps a year and avoiding a petition at that time. Vice Mayor DuBose wanted information on what would be available to the City if a neighborhood decides not to proceed.

Ms. Fertig pointed out that once the study is completed the City will have the benefit of a baseline for the entire city. Mayor Seiler commented that at such time any neighborhood could point out that a precedent has been established and the City must pay for their neighborhood. Neighborhoods may seek such a free study even should they not be interested in going forward. He wanted to see the City Manager's response on this point. Some discussion ensued as to the commitment of these four neighborhoods and the thinking of the eight that chose not to proceed to this point.

There was consensus approval for this matter to be scheduled on the April 17, 2012 conference agenda. Mayor Seiler emphasized that everyone should have plenty of opportunity to vote in the election.

I-B – Red Light Camera Program

The City Manager highlighted the history of this item. He approached the vendor, American Traffic Solutions (ATS), about providing some assistance back to the City for its time and effort in getting this program working in Broward County. ATS has offered a credit to the City of \$230,000 which represents about three times the amount of time the City has put into it. ATS would like to add thirty cameras, extend their contract and work on two provisions relating to moving and discontinuing cameras. With Commission consensus, he will bring this matter to a future regular meeting. Commissioner Rodstrom asked if the \$230,000 credit is contingent upon expanding the number of cameras. Brent Edwards of ATS indicated that he is not in a position to respond for ATS.

Mayor Seiler opened the floor for public comment.

Michael Rajner, 2607 NE 8 Avenue, asked if timing adjustments are made when a school zone is involved. The City Manager advised that Broward County controls the timing of the light changing from yellow to red, using the ITE Manual (Institute of Transportation Engineers) that is based upon speed limits. This program does not affect the time. Traffic signal timing is not adjusted for school zones.

Discussion ensued relating to the timing of traffic signals wherein Vice Mayor DuBose reported that the signalization at the intersection of Oakland Park Boulevard and University Drive has unusually short intervals. Mayor Seiler objected to a massive expansion until there is more experience with what is occurring in the court system. The City Attorney advised that the appellate courts have not yet weighed in, but yesterday a Pensacola County Court found the red light camera statute unconstitutional. The issue has been raised in Broward County and the City has prevailed. In response to Vice Mayor DuBose, the City Manager advised that the accident rate for intersections with and without cameras is about the same. Commissioner Roberts pointed out that while the accident rate could be the same, the question is whether there is a difference in the number of accidents relating to red light running.

The City Auditor indicated he had requested that the overall financial impact be assessed, including staff cost in the Police Department and City Attorney's Office. Commissioner Roberts advised the purpose of the program is life safety. The City Auditor explained that the reasoning for his request is that a revenue amount was

budgeted. Commissioner Roberts wanted the cameras at major intersections where he believed more accidents occur. However, he first wanted to look at the data. The number of cameras should be based on need. Cameras could supplement on-the-road staffing. In response to Vice Mayor DuBose, the City Auditor did not think information in ATS's letter (Exhibit 1 to Commission Agenda Report 12-0672) takes into account the 6-7 employees assigned to red light camera review. The City Manager indicated that he has confirmed for the previous fiscal year, there was a surplus including staff costs with fringe benefits and agreed to followup with the City Auditor. Vice Mayor DuBose wanted to see data for the existing cameras before considering adding more. Commissioner Roberts wanted to see all of the information at the same time. Mayor Seiler suggested consideration of perhaps 6-12 additional cameras with the full credit.

I-C – Comprehensive Annual Financial Report – Fiscal Year Ended September 30, 2011

Gracelyn Hodge, Coordinating Partner, Ernst & Young, City's external auditors, indicated provided a summary of the Comprehensive Annual Financial Report (CAFR) and advised that this information was reviewed at length with the Audit Advisory Board. John DiSanto of Ernst & Young, noted their service deliverables on page 3 of the summary attached to these minutes. A significant deficiency in internal controls was reported relating to the calculation of compensated absence balances. This has been a deficiency in previous years as well. A material weakness was reported relating to capital assets that has also been a weakness in previous years. There are no other items reported in their management letter. With respect to fixed assets, the City Manager noted funding was budgeted and staff is in the process of bringing a consultant onboard to assist. With regard to uncompensated absences, there are three systems that do not talk to each other. It is a cumbersome process to calculate the compensated absences value for employees onboard before the current of three payroll systems in the City's history. With the recent departure of 131 employees, it brings the City that much closer to resolution of this issue. There is no quick fix. He does not yet have a solution. Mr. DiSanto noted that this year management tested how close the systems are to each other with respect to estimated liability and found a two percent deviation or \$600,000. The test sampling included thirty employees from all union contracts and all departments. There were differences on almost all of the thirty and gross differences were as high as thirty percent. In response to Vice Mayor DuBose, the City Auditor advised that it was determined there is a module within the current accounting system that can be utilized for fixed assets. The challenge is loading all of the information into the system and then conducting a physical inventory that would be a huge undertaking. The City Manager advised that staff is starting the process. The City Auditor indicated that there are firms that specialize in this endeavor and would be better at it than staff. The City Manager added that it will require a couple years. Doug Wood, Director of Finance, advised that the RFP results have been received but not yet evaluated. Stanley Hawthorne, Assistant City Manager, noted that there is an associated price tag. The City Manager indicated that \$500,000 was budgeted this year to get started; the total cost could be as much as \$2 million. Mr. DiSanto indicated about eight years ago, Atlanta spent \$4 million for such a project. Both Mr. DiSanto and the City Auditor explained that it is not possible to detect any loss. Mr. DiSanto indicated, however, that current year activity can be tested to determine if it is being recorded correctly.

Mr. DiSanto went on to note Ernst & Young noted staff's recasting of fund balance classifications relating to GASB 54 implementation. The City's unassigned fund balance is about twenty percent of total expenditures and the general recommendation by

financial organizations is around fifteen. Ernst & Young confirmed balances with FEMA, but there are still some outstanding worksheets that FEMA is in the process of determining whether they will be accepted.

In response to Mayor Seiler, Mr. DiSanto advised prior year deficiencies relating to accounts receivable in the enterprise fund areas have been corrected. The management letter comments have carried over. The same findings and issues continue with federal and state grant programs particularly with respect to housing. Overall there has been some progress. Commissioner Rogers asked if there was one thing Ernst & Young would recommend the City do differently what would that be. Mr. DiSanto indicated resources. He believed the grant programs' findings are clearly a resource issue and a challenge in finance, treasury and anything relating to accounting. In today's environment, Commissioner Rogers wanted to find a way to eke out some sort of return on the City's cash. There is a charter restriction on what any single financial advisor can handle. He questioned whether Ernst & Young sees a need to expand upon in order to eke out more interest. Mr. DiSanto advised that Florida statutes relating to investment policy is more restrictive than that of the City. Risk versus reward must be examined and then fitted into the statute framework. Florida is likely one of the most restrictive states. Commissioner Roberts asked about foreseeable issues over the coming five years. Mr. DiSanto indicated that maintaining a strong general fund balance is critical. Using a portion of the fund balance can only survive for so many years. There is a new pension standard that will be effective around 2015 or 2016 that will require recording unfunded liabilities, now in the neighborhood of \$350 million, on the financial statements of the City. Communication will be critical because there is no corresponding offset. A large part of this number is market conditions. The City Auditor noted that GASB also changing the discount rate used to evaluate the unfunded portion of the liability to a municipal bond rate instead of the assumed rate of return on the pension plan which will grow the liability amount. Mr. DiSanto indicated it will also impact annual contributions. Commissioner Rodstrom suggested discussion on this point should occur well in advance of that time.

The City Auditor indicated that this report was thoroughly reviewed by the Audit Advisory Board. Mr. Hawthorne added that the board is in the midst of reviewing the single audit findings. The City Manager indicated that staff has committed to the board that they will regularly report on the status of all findings. The City Auditor believed that the board is a key element of an internal control environment and by having a fairly vigorous one speaks well of the City's controls.

I-D – Proposed Change to Broward County Administrative Code – New Traffic Control Devices in Municipalities

Vice Mayor DuBose indicated that Broward County communicated to the League of Cities that subsequently was sent to all city managers seeking input. Generally he is concerned about any encroachment on home rule. He asked about impact on the City's established process including if a road is within County jurisdiction. The City Manager responded to Mayor Seiler's question about the County's position on this matter. He believed the County would like requests vetted by the municipality that will add another layer of bureaucracy, time and cost. If something is warranted by the traffic manuals and not wanted by citizens, it would put the City Commission in an awkward position. Commissioner Rogers was concerned that the City has no say in the exercise. Commissioner Roberts agreed that he would oppose anything that takes away from home rule. Mayor Seiler questioned how detailed must the City be in a response and

what is the timeline. The City Manager believed the timeline is to present something to the County Commission before the summer break. Vice Mayor DuBose thought the City Manager could communicate the Commission's thoughts on this matter. Commissioner Rogers did not want to change the City's speed hump process. In general, he did not want the City to insert itself in the middle of the process. With respect to liability, the City Attorney indicated that the City would be responsible for maintenance, not planning and the County performs the maintenance.

Note: The City Commission recessed at 5:08 p.m. and reconvened at 9:22 p.m. with the Community Redevelopment Agency Board of Directors and then reconvened at 5:07 p.m. for the executive closed door session.

II-A – Replacement of Elevator Electric Boards – City Park Garage – Emergency Purchase

No discussion.

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

No discussion.

III-A – Communications to City Commission and Minutes Circulated for Period ending March 15, 2012

Education Advisory Board

Motion by Ms. Cirillo, seconded by Mr. Discepola, to invite the City Commissioners of the City of Fort Lauderdale to make an appointment to visit all of the schools in their respective districts, and to visit the Education Advisory Board during the year. In a voice vote, the motion passed 9-1, with Mr. Neunie opposed.

Mayor Seiler drew attention to the board's suggestion for commissioners to periodically visit schools in their districts.

Hal Barnes, Assistant To The City Manager, indicated the board would like members of the Commission to attend a board meeting periodically. They have invited the School Board's superintendent and thought it might be good for members of the Commission to be present at that meeting. Mayor Seiler asked Mr. Barnes to apprise the Commission of that date and properly notice the meeting.

III-B – Board and Committee Vacancies

Note: Please see regular meeting item R-05.

The City Auditor received consensus approval to attend a Pembroke Pines Commission workshop where they will discuss the topic of a commission auditor.

City Manager Reports – None

There being no other matters to come before the City Commission, the meeting was adjourned at 9:27 p.m.