

**FORT LAUDERDALE CITY COMMISSION CONFERENCE MEETING**  
**JUNE 5, 2012**

<u>Agenda</u> <u>Item</u>		<u>Page</u>
	City Commission Reports	8
	1. Shippey House	8
	2. Water Main, Shady Banks	8
	3. Events and Matters of Interest	8
OB	Contribution to Employee Retirement Systems	7
I-A	Broward Complete Streets Initiative	2
I-B	Draft Historic Preservation Ordinance – Historic Preservation Board	2
I-C	New Traffic Control Devices in Municipalities – Proposed Change to Broward County Administrative Code	1
I-D	Code Amendment, Chapter 15 – New Use – Adult Gaming Centers	3
I-E	Florida League of Cities Voting Delegate	3
I-F	Broward County Land Use Plan Flexibility Rules	3
I-G	Sale and Distribution of Herbal Incense Products	4
I-H	Proposed Lien Settlements – Special Magistrate and Code Enforcement Board Cases	5
I-I	Resignation of District II City Commissioner Charlotte E. Rodstrom-Setting Qualification Period, Calling Special Primary and Special Election	5
III-A	Communications to the City Commission and Minutes Circulated For the Period Ending May 31, 2012	6
III-B	Board and Committee Vacancies	6
	City Manager Reports	8
	None	

**CITY COMMISSION CONFERENCE MEETING      1:34 P.M.      June 5, 2012**

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

Also Present:              Assistant City Manager      Susanne Torriente  
City Auditor                      John Herbst  
City Clerk                        Jonda K. Joseph  
City Attorney                  Harry A. Stewart  
Sergeant At Arms              Sergeant Joel Winfrey

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

Diana Alarcon, Director of Transportation and Mobility, advised that the City’s comments were provided to the County. The County redrafted their proposed change to their code which is provided with Commission Agenda Report 12-0119. City Staff does not recommend supporting the change.

At Vice Mayor Rodstrom’s request, Ms. Alarcon outlined the City’s current process. Discussion ensued about a recent installation of a stop sign in Colee Hammock. Vice Mayor Rodstrom referred to the County’s proposed resolution (Exhibit 3 of the commission agenda report), Section 25.128(c), and indicated her belief that the process failed because the City commissioners were not notified in a timely enough fashion. Mayor Seiler pointed out that City Staff was not involved. Ms. Alarcon explained the process today is to work with the homeowners association (Association). If the Association indicates that they do not wish it to move forward, Staff needs to come to the City Commission to request a resolution. Vice Mayor Rodstrom felt it would be better to bring the City district commissioner into the loop early on. She wanted that to be included in the City’s policy. Mayor Seiler felt both the City and County commissioner should be notified. With elected officials being the interface with the citizens, Vice Mayor Rodstrom was concerned that she was not aware of the situation when inquiries were made. Commissioner DuBose thought there had been a violation of home rule and unfunded mandates because the County was requiring that cities have public hearings. The City is capable of handling its own procedure with respect to speed humps, although he understood coordination with the County for signs. Commissioner Roberts agreed; he also would not want another level of bureaucracy to be created. Ms. Alarcon indicated that the City would ask that when the County receives a call from a resident, that it be directed back to the City so that there can be assurance that all parties are in the loop. City Staff is working with the County on this. Commissioner Rogers did not want to make the process political by taking this out of the hands of the professional engineers. He agreed about notice and weigh-in. He did not think the process should be changed.

There was no consensus to accept the proposed addition to the County administrative code. As to the draft letter to the County Administrator (Exhibit 4 to the commission agenda report), Mayor Seiler wanted to revise the letter to add that the City encourages that the process be open and transparent with sufficient notice to all interested parties – stakeholders, including county and city commissioner.

**I-A – Broward Complete Streets Initiative**

Renee Cross of Transportation and Mobility, advised that this initiative started last November. The Metropolitan Planning Organization formed a committee concerning how Complete Streets should look county-wide. Hopefully the City will adopt its own version sometime in the future. Anamarie Garces of Urban Health Partnerships, Inc. reviewed slides on this topic. A copy of the slides is attached to these minutes. She indicated that the Center for Disease Control awarded the Broward Regional Health Planning Council and the Metropolitan Planning Organization (MPO) with a transformation grant for Broward County, the only county in the state.

Ms. Garces responded to Mayor Seiler's question about the AARP's involvement (Slide 5, entitled Complete Streets: Focus on Moving People). In response to Vice Mayor Rodstrom, Ms. Garces indicated that funding is incorporated into the current funding mechanisms. Funding to build any of the features would come from the City's General Fund. In response to Commissioner Rogers, Ms. Garces advised that the Center for Disease Control funded \$1 per capita; she believed the grant amount was about \$8.8 million for a five-year period and \$70,000 for this project. The grant has five different strategic directions, three of which are mandatory. Broward County selected the three mandatory and one optional strategy. Complete Streets is optional; the healthy and safe physical environment section of the grant. The amount of funding allocated to this component is much less than the other areas. This program will be finished with performance measures and any implementation training likely by January. Smart Growth Partnership is in the grant for three years to provide technical assistance for municipalities to be able to incorporate this in their plans, zoning and project applications. It will occur through Broward Regional Health Planning Council who has contracted to Smart Growth Partnership. The MPO will remain very involved. Commissioner Roberts explained these are essentially guidelines for future implementation wherein the MPO will be integrally involved. City Staff will also be involved with respect to technical advice. He envisioned seeing some of these concepts on the City's streets in perhaps two years. He stressed the importance of developing multi-modal transportation in core pockets of the city. In response to Commissioner DuBose, Ms. Garces advised that the MPO's technical advisory committee meets with Complete Streets monthly. Several City Staff members have participated. Ms. Cross noted that work is underway to update the long range transportation plan to 2040. Ms. Garces confirmed that Complete Streets would be captured in that plan. The livability studies being conducted by the MPO incorporate the Complete Street concepts. It is not new; rather this guidance document will assist with how to look at how to incorporate these elements into a project. Actually this is all occurring because of the MPO.

**I-B – Draft Historic Preservation Ordinance – Historic Preservation Board**

Anthony Fajardo of Sustainable Development, highlighted the chronology of this item as outlined in Commission Agenda Report 12-0952. In response to Mayor Seiler, Mr. Fajardo advised that the Board has been provided with all of the backup except the staff analysis (Exhibit 2) that was not available until this agenda was published. Mayor Seiler wanted the Board to have review time. Dave Baber, Broward County Historic Preservation Coordinator, indicated that he has been helping with this endeavor for the past couple years. He agreed that there has not been time to analyze the information before this meeting. He wanted an opportunity to meet with staff. Susan McClellan, chair of the Historic Preservation Board, emphasized that the proposal represents something that is really active throughout the state.

This item was deferred while members of the Historic Preservation Board decided upon the amount of time needed to review the draft with staff.

Continued below

#### **I-D – Code Amendment, Chapter 15 – New Use – Adult Gaming Centers**

The City Attorney provided the following responses to the Commission's questions: This ordinance regulates; it does not prohibit. Standards as far as distance separation and zoning districts in which they would be permitted would not apply to existing businesses, assuming that they are valid today. The intent is for existing businesses to have to comply with requirements in the ordinance as noted in Section 15-157(b) within sixty days of the ordinance's enactment. One example is consumption of alcohol. Existing businesses will have to obtain a license. The draft is composed from what staff thought was good in other jurisdictions.

There was consensus approval.

#### **I-E – Florida League of Cities Voting Delegate**

In response to Mayor Seiler, Commissioner DuBose indicated that he is not granted a vote at this level for his position as president of the Broward League of Cities. Mayor Seiler asked the City Manager to determine if a delegate as well as an alternate could be submitted. With his attendance in his capacity with the Broward League, Commissioner DuBose agreed that if he could serve as an alternate, it would give assurance that the City would be represented at this particular meeting. There was consensus approval for Mayor Seiler to continue to serve as the voting delegate and Commissioner DuBose as an alternate if permissible.

#### **I-B – Draft Historic Preservation Ordinance – Historic Preservation Board**

Continued from top of this page

There was consensus approval to defer this item to August 21, 2012. Commissioner Rogers requested the information provided include a side-by-side comparison with existing and proposed.

Mayor Seiler opened the floor for public comment.

John Milledge, representing Downtown Development Authority, advised that there are several issues on which he would like to comment, but many may go away. With an entirely new historic district, it would trigger the Bert J. Harris Act.

#### **I-F – Broward County Land Use Plan Flexibility Rules**

Jim Koeth, Sustainable Development, highlighted the chronology of this item and details about this concept contained in Commission Agenda Report 12-1022. He confirmed that the City is supposed to send recommendations to Broward County on the most equitable approach in its view and options. The City operates under the standard flexibility zone system. It has the option of moving to a unified flexibility zone system that is being used currently by Oakland Park and Pompano Beach. Multiple zones would collapse into one where allocation of the flexibility could be targeted. Areas who do not want to be in a flexibility zone could be excluded. The maximum is 5,000 units. Fort Lauderdale has 18,000 now. Coral Springs at 7,500 is the only

other municipality with more than 5,000. Staff is suggesting that the City recommend the maximum be eliminated from the rules or some sliding scale formula be applied.

Commissioner Rogers asked about vested rights. The City Attorney advised that the City is subject to the County's land use plan and as such he felt they can simply change the rules. Commissioner Rogers asked about the WAVE project. Mr. Koeth noted that the County is only asking for the City's comments. He explained that in the downtown there are separate units in addition to flex units. By unifying a flex zone, units from outlying areas could be applied to a targeted area. Commissioner Roberts concluded if those in the downtown could be collapsed, the City already has a lot of flexibility with the current system. Vice Mayor Rodstrom noted that there is unlimited height in the downtown that could provide the density needed to support the WAVE. Mayor Seiler wanted to keep options open for the future. Commissioner DuBose reasoned with Fort Lauderdale being the county seat, a change could adversely impact the county as a whole. Mr. Koeth clarified that staff is not recommending the City move to the unified flex zone system, only that the option be made available, but without the maximum.

There was consensus approval.

### **I-G – Sale and Distribution of Herbal Incense Products**

Mayor Seiler indicated that this is a growing problem that will soon become a crisis. He wanted to get in front of the issue and prohibit it. The City Attorney explained that it is a problem of enforcement similar to airplane glue. Brad Weissman, Assistant City Attorney, advised that the Federal Drug Administration (FDA) does not have any regulatory authority over these products and elaborated upon how the manufacturers are getting around the FDA regulations. People are using the products for something other than the intended purpose. Although a state statute was enacted, the compounds are being changed to avoid the statute designed to regulate them. Sunrise is imposing fines on establishments who sell the items so that it is no longer economically feasible. Sweetwater has enacted a criminal statute enforceable by law or code enforcement who have the authority to seize the product. However, he does not see any authorization for code enforcement officers to seize it. Part of the problem is that ingredients are not shown on the package. Sweetwater speaks of the substances replicating the effects of a mind-altering drug. He did not see how this could be tested from a prosecution standpoint. Mayor Seiler recognized that there will be obstacles, but he wanted the City to be as aggressive as possible. Commissioner DuBose agreed. It is a life safety issue. There should be an educational component and a partnership with the business community. Commissioner Rogers suggested exploring a public nuisance approach. Commissioner Roberts elaborated upon how people are reacting and irreparable impact on the body and brain. He also favored an extremely strong approach. Until it can be regulated in another way, he suggested the products be required to be kept under lock and key to make it more difficult to sell. Commissioner DuBose commented on the League of Cities involvement on this topic and emphasized the need for all parties to partner in finding a solution. Commissioner Roberts was willing to take the chance of a lawsuit in this case. Mayor Seiler stressed the urgency of the matter and reiterated his desire for the City to get in front of it similar to what was done in the case of pain clinics. The City Attorney indicated an ordinance would be presented for August 21.

Mayor Seiler opened the floor for public comment.

Charles King, 105 North Victoria Park Road, supported moving forward even if it is challenged in the court system. He also recommended opening a dialogue with the business community.

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

Concerning Case 4, CE06111276 – 3665 SW 12 Place – U.S. Bank N.A. Trustee c/o J.P. Morgan Chase Bank, property owner (Bank) – The City Auditor pointed out that a case was brought to the Code Enforcement Board after the Bank acquired the property through foreclosure. In other words, the liens were accumulating while the property was in the Bank's hands. It did pass through a number of banks before reaching J.P. Morgan Chase Bank. He felt the recommended settlement amount is too low and there is not enough information in the backup concerning the convoluted chain of title.

Stephanie Toothaker, representing J. P. Morgan Chase Bank, advised that the house has been demolished to bring it into compliance. The property value is about \$15,000. It has passed through six banks. She has been working on this matter since J.P. Morgan Chase took title in 2010. It was determined it would be less expensive to demolish the house in order to bring it into compliance. An application was filed with the City some time in 2010. The City is not satisfied with the chain of title. In response to Commissioner Rogers, Ms. Toothaker indicated that the property has been sodded. Commissioner Rogers felt the Bank has already had to bear the demolition and attorney costs and so forth. In response to Commissioner Roberts, Ms. Toothaker believed that fines were accruing at \$250 per day per citation and recalled there were nine citations. In further response to Commissioner Rogers, Ms. Toothaker believed the Property Appraiser valued the property at \$50,000 when there was a house on the property. There is a \$7,000 contract pending now for the land only. Commissioner Roberts felt this is an unusual situation. Commissioner Rogers recognized that the fines exceeded the property's value.

There was consensus approval as recommended for all cases contained in Commission Agenda Report 12-0914.

**I-I – Resignation of District II City Commissioner Charlotte E. Rodstrom – Setting Qualification Period, Calling Special Primary and Special Election**

The City Attorney indicated that the charter requires that after the vacancy occurs on November 20, an election must be held within sixty days. Staff needs to coordinate with the Supervisor of Elections as to a date that the election can be held. A primary would need to be called for some time between November 20 and January 19. The election must be held within forty-five days after the resolution calling the election. If there are more than three candidates, there would be a primary and a general election two weeks later. The Supervisor of Elections is finding it difficult as to a time that an election could be conducted. Staff is waiting to hear whether they can conduct elections that are two weeks apart because of the absentee ballots and other issues. The general election would probably violate the charter but meet all of the statutory requirements which trump local laws. Once the options have been provided, the Commission will be informed. The same scenario occurred in 2000. The City contracted to have elections on December 5 and 19, within the two-week period. However, this supervisor of elections has indicated because of the November election, an election could not be held before December and she is still contemplating the request for another election within two weeks afterward. In 2000, there ultimately was no need for a second election, but the City had an agreement with the supervisor of elections at the time to hold that second election if necessary. The City Clerk added that the Supervisor of Elections is concerned about the timeline associated with mailing ballots overseas.

**III-B – Board and Committee Vacancies**

Commissioner Roberts noted that E. Birch Willey reached the term limit for service on the Board of Adjustment, but agreed to continue his service by rotating his membership with a senior alternate member who wishes to be a full member. Question arose as to whether the memberships could be rotated without reappointment, given that Mr. Willey's term limit is reached. The City Clerk indicated that she would rotate the memberships, thereby assigning alternate membership to Mr. Willey.

Aviation Advisory Board	Mark Volchek (Mayor Seiler – Reappointment) Avery A. Dial (Vice Mayor Rodstrom – Reappointment) Stephen Stella (Vice Mayor Rodstrom – Reappointment) Ron Carlson (Commissioner DuBose – Reappointment) Linda Iverson (Commissioner Rogers – Reappointment) Patrick Kerney (Commissioner Rogers – Reappointment)
Board of Adjustment	Sharon A. Zamojski (Consensus – Full Member - New) E. Birch Willey (Consensus – Alternate Member – New)
Citizens Police Review Board	Ted Fling (Vice Mayor Rodstrom – Reappointment)
Community Appearance Board	Beatriz J. Martinez (Commissioner Roberts – New)
Education Advisory Board	Franco Evan Ripple (Vice Mayor Rodstrom – Reappointment)
Marine Advisory Board	Jimmie Harrison (Vice Mayor Rodstrom – Reappointment)
Performing Arts Center Authority	Barbara H. Jones (Consensus - Reappointment)
Planning and Zoning Board	Michelle Tuggle (Commissioner DuBose – Reappointment)
Visioning Committee	Leigh R. Kerr (Mayor Seiler – New)

Note: Please see regular meeting item R-07.

Note: The City Commission recessed at 5:29 p.m. and reconvened at 7:50 p.m in the City Commission meeting room on the first floor of City Hall.

**III-A – Communications to City Commission and Minutes Circulated for Period Ending May 31, 2012****Planning and Zoning Board**

**Motion made by Mr. Witschen, seconded by Mr. Welch,** to encourage the City Commission to call a meeting of interested community groups, stakeholders, and City advisory bodies to further discuss the proposed Urban Agriculture Ordinance. It is hoped that these groups would be able to give the City Commission additional direction on the proposed ordinance by August 2012. In a voice vote, the motion passé 5-1 (Mr. McCulla dissenting).

Assistant City Manager Torriente advised that an ordinance will be submitted for first reading on June 19. This matter went before both the Planning and Zoning Board and the Sustainability Advisory Board. Staff is recommending moving forward so that something can be in place for the rainy season. Mayor Seiler raised the idea of breaking the ordinance into two. Commissioner DuBose asked about comments made at the Planning and Zoning Board level. Jenni Morejon, Deputy Director of Sustainable Development, advised that the issues expressed when the matter was first presented to the Commission are not the same as those being discussed at the board level. The urban farms part would be limited to commercially zoned property. Discussion at the board level is to allow urban farms throughout all districts. If it is found that the program is successful, it could be expanded. Ms. Torriente explained that the Sustainability Advisory Board wants to go further, but is willing to wait, but staff would like to proceed because there are others who want to move forward. Ms. Morejon understood that Planning and Zoning Board indicated they would welcome a joint meeting or a workshop with the Sustainability Advisory Board, but did not speak to delaying the matter going forward. Commissioner Roberts raised the idea of accommodating the Planning and Zoning Board's communication and still move forward. Commissioner DuBose indicated that he got a different understanding. Ms. Morejon indicated that there have been numerous outreach meetings over the course of the year. Discussion ensued about the concern that the proposal is too restrictive wherein Mayor Seiler commented that sometimes perfect is the enemy of good. He preferred to move forward with a good ordinance and fine-tune it. Commissioner DuBose pointed out that there will be two hearings associated with the ordinance adoption.

Commissioner Rodstrom inquired about the Haitian Church in South Middle River that is not commercially zoned. Mayor Seiler indicated it could be addressed in an expansion. Ms. Morejon advised that staff is looking at this. Mayor Seiler believed that Greenville, South Carolina may have legislation on this topic that staff should review.

#### **Non-Agenda - Contribution to Employee Retirement Systems**

In reference to a recent news article on this topic, Mayor Seiler indicated he has requested a workshop be called on this matter.

#### **EXECUTIVE CLOSED DOOR SESSION WAS HELD AT 3:37 P.M.**

**The City Commission shall meet privately pursuant to Florida Statutes 768.15(16), regarding the following:**

**Doniel Acosta v. City of Fort Lauderdale File No's: WC-99-10331 and WC-04-12171**

**Maritime Petroleum Associates d/b/a Peterson Fuel Delivery v. City of Fort Lauderdale Case No.: 10-62463**

**Kathryn Greene v. City of Fort Lauderdale Case No.: 11-61801**

**In addition, the City Commission shall meet privately pursuant to Florida Statutes 286.011(8), regarding the following:**

**BAC Home Loans Servicing, et al. v. City of Fort Lauderdale Case No.: 10-45140, 17<sup>th</sup> Judicial Circuit, Broward County (New River Condos)**

**CLOSED DOOR SESSION ENDED AT 5:16 P.M.**



Note: The City Commission recessed after the closed door session at 5:16 p.m. and reconvened at 8:03 p.m. in the City Commission meeting room on the first floor of City Hall.

**City Commission Reports**

Shippey House

Commissioner Roberts requested a status report on this topic at the June 19, 2012 meeting.

Water Main, Shady Banks

Commissioner Rogers indicated that because of staffing constraints, this project and others cannot be accomplished at this time, he has asked the City Manager to look into soliciting bids and paying for the work from the Water and Sewer Fund.

Events and Matters of Interest

Members of the Commission announced recent and upcoming events and matters of interest, including efforts to secure funding for 13<sup>th</sup> Street and the Middle River - South Middle River - Sunrise Boulevard area.

**City Manager Reports** - none

There being no other matters to come before the City Commission, the meeting was adjourned at 8:29 p.m.