

Detailed Minutes - Final

City Commission

Lamar Fisher, Mayor
Charlotte J. Burrie, Vice Mayor
Rex Hardin, Commissioner
Barry Moss, Commissioner
Beverly Perkins, Commissioner
Michael Sobel, Commissioner

Dennis W. Beach, City Manager
Mark Berman, City Attorney
Asceleta Hammond, City Clerk

Tuesday, January 10, 2017

6:00 PM

Commission Chambers

City Commission Meeting

CALL TO ORDER

The Honorable Lamar Fisher called the meeting to order at 6:00 p.m.

ROLL CALL

Present: Commissioner Rex Hardin
Commissioner Barry Moss
Commissioner Beverly Perkins
Commissioner Michael Sobel
Vice Mayor Charlotte Burrie
Mayor Lamar Fisher

INVOCATION

Pastor Don Worden of First Baptist Church of Pompano Beach offered the invocation.

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

[17-177](#) Regular City Commission Meeting Minutes of December 13, 2016

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Minutes be APPROVED. The motion carried by unanimous voice vote.

APPROVAL OF AGENDA

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Agenda be APPROVED as Submitted. The motion carried by a unanimous voice vote.

CONSENT AGENDA DISCUSSION

The Commission may pull items from the Consent Agenda. During Audience to be Heard, a person may speak on any item on the Consent Agenda, which has not been pulled.

Mayor Fisher indicated that items 1, 2, 6, 11 and 12 would be pulled for discussion.

A. SPECIAL PRESENTATION

[17-40](#) Markham Elementary School - 50th Anniversary

Mayor Fisher and Dr. Craig Saddler, Principal of Markham Elementary School, acknowledged Markham Elementary School on their 50th anniversary.

C. AUDIENCE TO BE HEARD

Mayor Fisher announced that it was time for “Audience To Be Heard” and offered the following guidelines: Once your name is called, please come forward to the podium in front of the commission, state your name and address for the record. Speakers will be limited to three minutes to speak on any item of concern or interest, including those items pulled from the Consent Agenda. In addition, he asked speakers not to speak on any items on tonight’s agenda, as they will have that opportunity to do so when that item comes forward. Lastly, he requested that speakers refrain from any emotional outbursts in either support or non-support of the speaker’s comments.

The following persons were called to speak:

Issues with Trash Collection, Traffic Gridlock on Atlantic Boulevard and lack of Support for Old Pompano Beach Area - Douglas Matthes, 500 NE 6th Street, Pompano Beach, FL, stated that there are three (3) issues that needed to be addressed. 1) The continuing trash collection disaster; 2) The daily midday gridlock on east Atlantic Boulevard, east of 11th Street, and 3) The lack of support of Old Pompano by the City. Thereafter, Mr. Matthes spoke in detail regarding the three issues, providing a brief history of the status of Old Pompano and the subsequent deterioration. In addition, he described the traffic gridlock and the times they occur.

Mayor Fisher recalled that the City Commission had worked hard with the Old Pompano Civic Association regarding the traffic and the first item was a traffic diverter on NE 2nd Street. In fact, traffic circles were installed throughout, as well as speed humps.

Comr. Hardin confirmed that as part of the plan moving forward there is a \$1.4 million improvement project and numerous things to be done in the Old Pompano area.

Pompano Beach Schools - Patrick Jovanov, 411 NE 18th Avenue, Pompano Beach, FL, requested that the Commission look at the meeting minutes from the Education Advisory Committee meeting held on January 9, 2017. Thereafter, he hopes he can formulate something from those minutes regarding Pompano Beach schools.

Sober Houses - Marty Sachs, 831 S. Ocean Boulevard, Pompano Beach, FL, indicated that the sober houses have become an epidemic at this point. He stated that five years ago, he built a new property on South Ocean Boulevard, called “Barefoot Beach Villas” and four and half years later there are three (3) sober houses next door. He urged the Commission to stop this proliferation and that there must be a cease and desist, as well as a logic explanation of why this is happening in the community. He wanted to know why the Commission has allowed this to happen.

In sum, Mr. Sachs indicated that these houses being allowed to operate in the neighborhoods are detrimental to the neighborhoods on the beach, which they have spent a lot of money to build up the neighborhood. Therefore, he is imploring the Commission to do something legally to stop the continued growth of sober homes in

the community. He offered to assist anybody who is coordinating the efforts for the City to curtail these activities.

Mayor Fisher reminded everyone that a few weeks ago at a previous Commission meeting it was reported that the City Commission's hands have been tied for many years because the sober home business is protected by the American Disability Act (ADA) and by the Federal government. Therefore, local governments are unable to put in place restrictions especially within the neighborhoods. This issue has been an ongoing battle, by not only the City of Pompano Beach but also other cities throughout the County. In fact, there has been somewhat of a breakthrough, because the City has been lobbying the state and federal representatives, which he encouraged everyone to do the same. The state is working to put more restrictive measures in place regarding this issue, and the City is doing all it can to get these measures in place to protect the neighborhoods. Unfortunately, the City cannot enact home rule against the federal government and the State of Florida.

Mayor Fisher requested that the residents exercise some patience because the City is making strides. Housing and Urban Development (HUD) has been working with Congresswoman Lois Frankel and Congressman Ted Deutch and they are making some headway. This has been an issue for the City Commission for quite a while, which has impacted the entire City. In sum, the City is working diligently to resolve the issues involved in the best way and the legal way possible.

Mr. Sachs opined that the City Commission is not doing enough to assist them to get rid of these homes, which has increased greatly and with it petty crimes in the neighborhoods.

Mayor Fisher reiterated that the Commission is aware of the prolific and horrific situations, which is tearing the neighborhoods apart due to some of these sober houses. Therefore, he appealed to the residents to assist in the efforts to get rid of these issues, by lobbying their federal elected officials as well as the state officials, because a number of cities impacted similarly have joined in to get this problem resolved the legal way as well.

Dennis W. Beach, City Manager, indicated that a number of people in the audience is interested to speak on the same subject matter of sober homes and it may be helpful if Robin Bird, Development Services Director, provide a brief description of what the City is doing and how this situation is being moved forward.

Mr. Bird promised to include Mr. Sachs in his distribution of updated reports regarding the matter. Mr. Bird indicated that since December they had established a task force, however, they did not want to reinvent the wheel from Palm Beach County. A state funded task force met and submitted a report to the grand jury. The grand jury report is now with the City's task force who has met with all the enforcement agencies

with the City for idea sessions. Additionally, based on a joint statement that came out of the federal government, something can be done, but it does not specify exactly what can be done. To complicate matters, it also warns to be careful not to step on the constitution.

In sum, Mr. Bird reported that to date, the task force has met twice, and some of the ideas are: 1) To request for the Commission to attend an open public meeting, 2) To implement resolutions for regulations on those houses, 3) Send statements via a letter the City Attorney will formulate to the State Legislature and to the Federal Government listing the various impacts. Therefore, those citizens desirous of participating will need to fill out a form, which will be made a part of the letter. Mr. Bird indicated that nothing has been finalized yet, because the task force must return with a report to the City Commission, which will be prior to the first Commission meeting in February.

Mark E. Berman, City Attorney added that the United States Supreme Court and the Federal District Court had all upheld the rights under the fair housing act, which is governed by HUD and the Department of Justice Americans with Disability Act (ADA) to have people who are in recovery live together as a family. It might not be a well-liked situation; however, the City is “stuck” and will need to abide by this rule. Therefore, the City will need to find a way to work within the construct by the Court system. Accordingly, HUD and Department Of Justice (DOJ) have issued a joint statement providing some more guidelines for a reasonable accommodation to process so that these places wanting to open will have to apply to be authorized to do so and prove what they are doing is what is required of them.

In sum, the City’s task force is in the process of formulating and reformulating the accommodation process. Also, they are working with the City of Delray Beach that also has a big problem, along with other cities experiencing similar issues. This will involve some studies to acquire the facts, and while it will not be instant, they are working on it and hopefully will have something to present as soon as possible.

Mr. Bird reported that he meets with the Broward County Planning Committee, and the coastal cities for the most part are the ones mostly impacted. It is important to keep in mind that these are residential units and are not licensed facilities. If they were, then the City could regulate them. The only requirement is for them to pass a voluntary position. Therefore, there is a need to have some rule to allow cities to require licensing, thus allowing the cities to regulate and limit them. Nevertheless, he is well aware of the frustration on the citizen’s part of the proliferation of these houses.

Comr. Hardin suggested that the task force should start a listing of those residents that want to become part of the effort to restrict the proliferation of these houses. Therefore, from the local level to the federal level we could mobilize the residents to

get some things accomplished. The City Clerk was directed to get a list of the names/addresses/phone numbers/emails of those persons signed up to speak on the matter to Mr. Bird.

Update on Sober Home Recovering Residence in Broward County - Maureen Kielian, ER Program Director, Fellowship Foundation, 1419 NE 57th Street, Fort Lauderdale, FL, indicated that she lives very close to the City of Pompano Beach. Also, she informed that she is involved with the sober home recovery residence issue. She is a part of the Dade and Broward Task Force and they just released the grand jury report and the draft-crafted legislation, which is currently in Senator Jeff Clemens' office and Representative Bill Hager's office. They are awaiting the legislation to come out. However, in the interim there have been arrests. She then provided the public with an update as to what is happening. The economic driver is money, which is generated by billing the insurance companies, and the minimum requirement to bill an insurance company is a physician. There is a physician problem in Broward County, which is similar to the "pill mill" issue. The minimum requirement is a physician, which is a professional regulation, it is not statutory, and they are not doing anything illegal so officers cannot assist in cutting these physicians off. In fact, people are dying in these sober homes because they are encountering all types of abuse. The human injustice in the county is unacceptable and it is a very vicious and deadly cycle that impacts people from the northern states as well as from the southern states.

In sum, Ms. Kielian indicated that this issue is not isolated and everything is being done to resolve the issues and to keep everyone safe. A letter is being drafted to the Florida Surgeon General to address Florida licensed physicians, as well as the Insurance Commissioner of Florida. Notwithstanding, she sent an email to Mayor Fisher today regarding prevention needed in Broward County, the City of Fort Lauderdale has signed supporting the US Department of Justice and a letter was sent to Governor Rick Scott. Finally, Ms. Kielian indicated that there is a resolution already signed by the City of Delray Beach and Fort Lauderdale, which she has forwarded to Mayor Fisher as well. The Sober Home hotline is 1-844-324-5463.

Update on Pompano Beach Arts Foundation Activities - Alyona Ushe, President/CEO, Cultural Arts Creatives, Inc. 1800 NE 6th Street, Pompano Beach, FL, stated Jody Leshinsky and Michael Tipton will also provide more information on the programming. Ms. Ushe provided an update on the initiatives for the Pompano Beach Arts Foundation, which is growing rapidly. In addition to a \$3.00 surcharge required, they have secured a number of corporate sponsorships to the vendors. Therefore, with the Cultural Arts Center coming on board the Foundation will experience further growth. They will provide \$200,000 to this and will expend the endowment significantly. The Board of Directors is working with staff to secure sponsorship, to plan on their first fund raising event, which will take place at the Cultural Arts Center. Finally, Ms. Ushe announced that Novice Johnson will be joining their team in an advisory capacity as a consultant and she will be addressing the Commission later.

Jody Leshinsky, 1801 NE 6th Street, Pompano Beach, FL, announced that there are eight (8) events coming up at the Amphitheater. This weekend Eddie Money with 1,800 tickets sold, the Avett Brothers with 1,700 tickets sold, Leonard Skinner with 2,300 tickets sold, and Willie Nelson with 2,500 tickets sold. Finally, she said they have over 9,400 Facebook likes, a 4.6 rating and their email list has over 25,000 on the mailing list.

Michael Tipton, Director of Cultural Center, and General Manager of the Amphitheater, 1801 NE 6th Street, Pompano Beach, FL, announced that the grand opening is scheduled for the weekend of May 5-7, 2017 for the Cultural Arts Center. Programming will commence and continue until May 2018. Currently they are recruiting volunteers and anyone interested can see him. They plan to have marketing tables at upcoming City events, such as the winter concert series, the Nautical Flea Market, Unity in the Community and Music under the Stars.

Ms. Ushe indicated that they also have a wonderful line up with Creative Alliance, which are resident companies.

Senior Facility - Delores Bullard, Cal's for Hair, 212 N. Flagler Avenue, Pompano Beach, FL, reported that the CRA has been working with her and doing well. They have almost completed the job, which she thanked Comr. Hardin for assisting in this effort.

Additionally, Ms. Bullard indicated that she has been working with the Commission and specifically with former Commissioner Phillips to establish a senior community for the northwest area. However, while she has been sent to some good places, they are all full; therefore, she is still housing two senior citizens. Ms. Bullard asked whether the City would continue to work on the housing project for those senior citizens. She indicated that they were also hoping to ask all the Church ministers to assist in the endeavor to identify and get built a senior facility to house those seniors without a good place to live.

Mayor Fisher indicated that the City will be working on this project as it is one of the priority ones. Also, to the north of Ms. Bullard's store, he indicated that there has been a full approval to build 116 senior affordable housing units, for 55 years and older. Therefore, he directed staff to provide Ms. Bullard with the plans. Funding has been approved and included in the plans are to have some retail facilities to include medical offices.

New Year's Resolution - Vicente Thrower, 1890 NW 6th Avenue, Pompano Beach, FL, stated he wanted to discuss the New Year's Resolution as it relates to community benefits or local preference ordinance. He indicated that this has been under review for approximately two (2) years and requested that it be placed on a priority list. The

business as well as the residential communities has been requesting it and hope the City Commission would support a local ordinance to this effort. He indicated that this ordinance would guarantee stimulus program in the City of Pompano Beach.

Mayor Fisher indicated that Mrs. Dodie Keith, Keith and Associates, had worked on the draft and he would get an update from her to see if staff can get something for the Commission to consider.

Senior Housing - Mr. Thrower indicated that he supports senior living facilities but he would like to see the corridor of the MLK Boulevard improved to entice the young people to come back to the community and participate. He indicated that Mt. Calvary has approximately 10 acres that perhaps the City could solicit to assist with the senior housing.

Unlawful Activities in Community - Jim Valinzo, 808 S. Dixie Highway W., Pompano Beach, FL 33060, indicated he recently purchased a business at 808 South Dixie Highway West called Dixie Cycle, which is a Harley Davidson dealership. He stated that when he purchased the business, he had the mind to improve the area, which he changed both the outside and inside area of the building. However, on a daily basis he has been experiencing prostitutes, drug dealers, cars going the wrong way on Dixie Highway at high speed, syringes left on his property and people urinating on the building. He asked if there are any plans to clean up the area and get some police activities in place. Furthermore, there is a rehabilitation facility close by his store and those residents come in and create fear for his support staff.

Mayor Fisher instructed Major John Hale, Police Chief, Broward Sheriff's Office (BSO) to meet with Mr. Valinzo regarding his concerns to determine how they could assist with the issues on the corridor of Dixie Highway.

Major Hale, BSO, indicated that they have received similar complaints to Mr. Valinzo and reported that Captain Nesbeth, BSO's area II commander met today with the business owner and a plan will be put in place as early as tomorrow for increased enforcement for that area.

Mayor Fisher indicated that perhaps the City's Public Works team could get some signs made for "Wrong Way" to deter that problem of driving up the wrong way.

Sober Homes - Tricia Oliver-Smith, 2900 NE 14th Street, #803, Pompano Beach, FL, stated that she is in real estate and find it disturbing the number of people that are now coming into the City under the umbrella of sober homes. She indicated that for over twenty three (23) years they have not experienced any issues, however, recently, they have experienced people's car being burglarized and damaged. In fact, she discovered that there are five (5) sober homes between NE 14th Street and Atlantic Boulevard. She is aware of the City's effort with this problem and volunteered to get

as many names possible on the mailing list to lobby for a change in the sober homes proliferation.

Sober Homes - Tony Hill, 760 SE 22nd Avenue, Pompano Beach, FL, requested to speak as the last time he was prohibited from speaking on the issue. He said that there is a difference between the task force of the state. There is a distinction between the governance and the management of the sober homes. Also, what the task force is doing in terms of ensuring the homes are operating properly, and they are not abusing the people in those homes. There are zoning issues relating to sober homes. These are two different topics, which he said he had mentioned at the last Commission meeting. He indicated that there are a number of things that the City could get done on the topic of sober homes, which is not being done yet. In sum, he indicated that the City's zoning code is silent on sober homes.

Mark E. Berman, City Attorney, indicated that he could meet with Mr. Hill to go over the joint statements as to what the City can or cannot do as it relates to sober homes.

On Board with Creative Arts Collaborative (CAC) - Novice Johnson, 1576 NW 7th Avenue, Pompano Beach, FL, stated that as a homegrown Pompano Beach resident, she would be using her talents and experiences to work with one of the major record and entertainment companies in the world, which is MCA Universal. Currently, she has the opportunity to work with Creative Arts Collaborative (CAC) and staff to assist in adding to the programming and packages they have in place. She stated that she was instrumental in bringing Mr. Ernie Singleton, former president of MCA to be part of Pompano Beach operation, which is exciting.

Sidewalks - Sarahca Peterson, 305 SW 1st Court, Pompano Beach, FL, stated that she recently became a resident of the City of Pompano Beach, in District 3. She complained that since her residency, she has observed students walking in the street because there are no sidewalks.

Mayor Fisher indicated that the City has a sidewalk program, which there is a process in place for this. Therefore, he requested that Robert McCaughan, Public Works Director meets with Ms. Peterson to discuss the issues for that neighborhood, as well as the lighting issues, she mentioned earlier.

Trash and Recycling Collection - Ms. Peterson asked who was responsible for the recycling collection and was told Waste Management Inc. has contracted with the City. She complained that the trash falls out when picked up, leaving trash scattered in the street.

Mayor Fisher indicated that Public Works Director Robert McCaughan would work with getting this problem resolved as well.

Progress in Pompano Beach - Jeff Strondberg, 3424 SE 12th Street, #F-6, Pompano Beach, FL, thanked Mayor Fisher and the Commissioners for making Pompano Beach to be an incredible place to live. He stated that it is the warmest welcome place, a tree city, it is located near the Atlantic Ocean, has great weather, and has a great Commission and Mayor. In fact, Pompano Beach could be the next Boca Raton or Seattle, or Hong Kong. There is excellent policing, good public transportation, and everyone is friendly to everyone to include pets, elderly, cyclists, children and so forth. Moreover, he enjoys Music under the Stars once a month that the Parks and Recreation Department coordinates.

Finally, Mr. Strondberg encouraged those persons who have complaints regarding the sober homes to Google ADA and make a complaint with the Housing and Urban Development board.

Sober Homes - Rick Riccardi, Treasurer of Florida Association Recovery Residences (FARR), 4829 South Hemingway Circle, Margate, FL. Mr. Riccardi indicated that FARR, which is the certification for sober homes that meet the criteria of the national association recovery residences establishes the criteria for a good sober home. The law was passed to assist those persons needing help to recover from disabilities, which has been proven to work. He provided the statistics on people dying from alcohol and overdoses on drugs, which he said is a serious epidemic. Sober homes is therefore a solution not a problem. He then explained how the process works in the sober homes.

In sum, Mr. Riccardi indicated that sober homes do save thousands of lives. However, what can be stopped are bad houses that are not sober homes any more. By definition, if the City identifies a home that is not being sober and they are abusing the privileges, then the City can do something about it now. He offered his services to assist the City to clean up the sober homes mess.

Improvement in Control of Half Way Houses - Horacio A. Bazzano, 416 NE 11th Avenue, Pompano Beach, FL, stated that he is concerned about the sober homes. He indicated that he is a Psychologist by profession and works with treatment programs in facilities with people with addiction issues. He understands the dynamics between the institution and the half way houses and the impact on the community. He stated that there is a dialog vacuum between the three components involved in this issue, as well as with the client, which is the person recovering. He believes there could be a code of ethics between the participants. Therefore, a code of conduct should be established and everyone understands what is taking place and what are the mutual responsibilities and the role of the community. Mr. Bassano felt a dialog could be established if people are committed and he is willing to volunteer in this effort.

Sober Homes - Angela Hill, 760 SE 22nd Avenue, Pompano Beach, FL, stated that she received complaints from people in the neighborhood at the time she had decided to run for office as a commissioner for District 1. Although she withdrew her candidacy,

she promised those people that she would be a voice for the people in the City of Pompano Beach. She has set a goal to be a community activist and a voice for the people who have complained about the sober homes issues along with other grievances with the City.

In addition, Mrs. Hill indicated that SB 60-70 is an amendment so that the Cities can enforce their own zoning codes and Congresswoman Lois Frankel was not involved in this effort. It is important that if the public is concerned about sober homes to contact Ms. Frankel and make their voices heard. She mentioned an incident she learned about that happened in the City of Deerfield Beach regarding an alleged destructive action by a possible sober home resident, because there are quite a number of sober homes located in that City. She ended with volunteering for the betterment of the City.

Sober Homes - Dawne Richards, 3304 SE 4th Street, Pompano Beach, FL, stated that there are several members in the audience that are members of the newly formed PASS (Pompano Advocates for Safe Streets), who are concerned residents and business owners in the City. Their mission is to keep the neighborhoods safe by collaborating with local officials and other organizations in order to protect all stakeholders from unscrupulous businesses. They are present to ask questions and offer suggested solutions both to combat the ever growing prevalence of sober homes, as well as to ensure that the patients of these facilities receive the help they need.

In sum, Ms. Richards indicated that with the help of the Commission and Robin Bird, many of their questions have been answered; however, there are only a few left. They would like some specific guidance from the City as to how they can better participate in better enforcement of existing laws regarding these and other quality of life issues. In addition, she asked if the City has explored engaging lobbyists to assist with this issue, to which the Mayor responded yes. Finally, she asked if Broward County considered some sort of task force as Palm Beach County has done.

Both Mayor Fisher and City Attorney Berman indicated that they are not aware of the County setting this up.

Ms. Richards asked if the City considered a dedicated code enforcement officer to address the concerns.

Mayor Fisher responded that he is not aware of a dedicated officer; however, all code enforcement officers are conscious of the issue throughout the communities.

Ms. Richards indicated that they wanted to reiterate the suggestions made in December and asked whom they could contact as a follow up regarding further information on the issue.

Mayor Fisher responded that Robin Bird, Development Services Director is the contact person.

Ms. Richards asked if a City Tip Line has been considered so that people can report potential violations, concerns, or request information in progress and updates.

Mayor Fisher indicated that is something the City could look into to have Mr. Bird and Mario Sotolongo, Code Compliance Manager to institute. There is code compliance on line already, but it could be tweaked to accommodate this suggestion.

Ms. Richards asked what if any plans are there to move forward with the community liaison advisory board proposed at the November 8, 2016 Commission meeting, which would be beneficial not only for policing but other activities.

Mayor Fisher responded that has not been established because staff and the City Attorney is working diligently with Palm Beach County to avoid re-creating the wheel. In the meantime they are working in collaboration with the other cities involved in this issue.

D. CONSENT AGENDA

1. [17-164](#) Approve ranking order for RFP L-40-16 11 Acre Parks and Recreation Site Development, and authorize staff to negotiate a contract with the highest ranked firm Azur Equities, LLC.
(Fiscal Impact: Revenue contract)

(Staff Contact: Mark Beaudreau)

Comr. Sobel requested pulling the item to bring special awareness to one of the good things happening in the City. He stated that it appears this is a Floridian sports park and residence, in which the City Commission is asked to approve in moving forward to negotiate with the highest ranked developer in order to finance, design, construct, operate, and maintain a soccer track sports complex.

Mark Beaudreau, Recreation Programs Administrator, responded that is correct and explained the public/private partnerships the City is excited to be associated with this project.

Comr. Sobel indicated that it will be a great venture but wanted to discuss it so that suggestions could be included in the contract that will eventually return to the Commission for final approval. It appears that there might be a public land use with the land lease and revenues generated to the City for a maximum of 50 years. Therefore, anything involves the land lease on a long-term basis of public land deserves to be highlighted and discussed prior to the matter advancing.

Mr. Beaudreau explained the land lease criteria for the project, and that it is a 50 year lease with two (2) 25 year lease agreements.

Comr. Sobel understands that the City will authorize the developer not only to build the park but to manage it as well. Also, it states no fiscal impact to the City and that ultimately, the goal is to have revenues generated along with the 48 townhomes. Therefore, Comr. Sobel asked once negotiated, does the City have an approximate time for completion of the project.

Mr. Beaudreau responded there is no time associated, due to the contamination of the site that must be cleared prior to taking care of the other issues, which are currently being addressed. Nevertheless, the developer and his team are excited about the project and wanted to be included in the City's remediation and to partner with the City as well. In fact, the Phase II environmental analysis has been completed. The City will be meeting with the environmental representatives to look at the remediation efforts and a plan will be presented accordingly.

Comr. Sobel asked, who will be bearing the costs for the remediation.

Mr. Beaudreau responded that there is no final cost to date; however, several groups

are involved in ascertaining that information, which is forthcoming. In addition, he said the City would be bearing the costs of the remediation.

Comr. Sobel asked about the plans to attract users of the facility since it is such a unique one for this area.

Mr. Beaudreau presented the conceptual site plan that was also included in the backup information.

Comr. Sobel indicated that Parks and Recreation deserves major kudos for this wonderful project. He is excited about it and asked of the 48 townhomes/apartments that will be built around the Collier City area, what is the vision for the population, that would relate to the sports track or will it be independent of the sports track.

Mr. Beaudreau clarified that the reference to townhomes/apartments is the dormitories associated with the sports track.

Comr. Sobel asked about the requirement of the 2010 Pompano Beach local business goal and the Small Business Enterprise (SBE) goal to be met within this contract. The project requires the developer hires a targeted 10% SBE, which the City needs to ensure the developer is complying with this goal, and asked what kind of compliance follow-up measure is being put in place.

Mayor Fisher responded that there is no mandatory requirement; rather, the current policy is voluntary only for them to survive. However, it cannot be mandatory until the City gets an ordinance in place.

Comr. Hardin indicated that the purchasing department has a tracking mechanism in place when such a commitment is made.

Mayor Fisher provided a brief background on how the project started and how the parcels were provided to assist the youth in the community. He stated that this item is a culmination of the efforts of the Developer, Comr. Moss and the rest of the Commission.

Comr. Moss indicated that the project “is a dream come through” for him as it will bring jobs to the Collier City area during and after construction.

Vicente Thrower, 1890 NW 6th Avenue, Pompano Beach, stated that the project is terrific and he is aware of the Brazilian community located in Vice Mayor Burrie’s District that will enjoy the soccer field along with the children in the Collier City area.

Comr. Moss indicated that the Developer would be offering scholarships to the local community. In fact, they have interacted with the Principal of the Blanche Ely High

School. This promises to be a great project for the youths, as well as to provide them with a place to go and something to do.

Mayor Fisher reiterated the benefits of this project and indicated that with the dormitories being built it will accommodate youths and coaches from outside the area, which could mentor the City's youths.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Approval Request be APPROVED. The motion carried by the following roll call vote:

Yes: Hardin

Moss

Perkins

Sobel

Burrie

Fisher

2. [17-167](#) Approval to award Bid #E-04-17 Construction of Community Park Youth Basketball Court to the lowest responsive responsible bidder, C. Square Development Co., at a cost of \$79,110.00.
(Fiscal Impact: \$79,110.00)

(Staff Contact: Horacio Danovich/Tammy Good)

Comr. Hardin indicated that he noticed in the backup that the major difference between the two responsive bids was for civil work, where one bid had \$17,500 and the other was \$2,500 for the civil work. He asked if this was a reasonable difference for civil work.

Tammy Good, Project Manager, Engineering Department, explained how she analyzed the lump sum price in totality and found both were similar. Nevertheless, she stated that on occasions a contractor may front-end certain items to be paid in a larger sum. However, the internal workings of the line items is up to the contractor, but she does not see any scope being added to the area, therefore, the City would not be bound to any of the unit costs. In sum, they are right on with the lump sums.

Ms. Good informed that the project was competitively bided and there were three bidders. The contractor is available to answer the Commission's questions should they so desire.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Approval Request be APPROVED. The motion carried by the following vote:

Yes: Hardin
Moss
Perkins
Sobel
Burrie
Fisher

3. [17-28](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A LETTER OF AUTHORIZATION AND A NATURAL GAS SALES AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND FPL ENERGY SERVICES, INC; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: \$2,271 annual savings)

(Staff Contact: Robert McCaughan)

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, to APPROVE/ADOPT the item under the Consent Agenda. The motion carried unanimously.

Enactment No: RES. No. 2017-115

4. [17-152](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, REPEALING RESOLUTION NO. 2010-171, AND APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A SHARED PARKING AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND POMPANO TC, LLC; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: Paola A. West/Robin Bird)

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, to APPROVE/ADOPT the item under the Consent Agenda. The motion carried unanimously.

Enactment No: RES. No. 2017-116

5. [17-157](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA AUTHORIZING THE APPROVAL OF A CONTRACT WITH SHIFF CONSTRUCTION & DEVELOPMENT, INC. FOR THE CIVIC CENTER RENOVATIONS AT NORTH POMPANO PARK TO IMPROVE AND RECONFIGURE THE INTERIOR SPACE PURSUANT TO THE PRICING, TERMS AND CONDITIONS AS PROVIDED FOR IN NATIONAL JOINT POWERS ALLIANCE, CONTRACT, IFB #FL06-022912-SCD IN THE NOT TO EXCEED AMOUNT OF \$282,032.48: PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: \$282,032.48)

(Staff Contact: Horacio Danovich/Tammy Good)

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, to APPROVE/ADOPT the item under the Consent Agenda. The motion carried unanimously.

Enactment No: RES. No. 2017-117

6. [17-158](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, ACCEPTING CONVEYANCE OF REAL PROPERTY FROM 1307 SOUTH WABASH, LLC TO THE CITY OF POMPANO BEACH; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: Paola A. West/Robin Bird)

Vice Mayor Burrie indicated she pulled the item for a resident, Tom Terwilliger.

Tom Terwilliger, Pompano Beach, stated that the item revolve around the property that the City is considering accepting as a gift, which in part is a pedestrian sidewalk to nowhere. He indicated this is for the area around 17th Avenue. Therefore, acceptance of the property will create an ownership liability of 300 feet of land and sidewalk for NE 13th Street down 17th Avenue to a concrete wall. The likelihood of anyone walking on the sidewalk is slim to none. So, he asked why the City would accept this property where the landowner is currently paying taxes. Once accepted the City's tax revenue would be lost. The City will now be responsible for the sidewalk, and if accepted, ownership of the worthless sidewalk would open potential lawsuits for damages of slips and falls and other litigations. Mr. Terwilliger concluded that there is no upside to the City. Therefore, he urged the Commission to stop accepting worthless pieces of properties from developers especially when they go nowhere.

Additionally, Mr. Terwilliger complained about the pedestrian transport to include the motor vehicle problem at the same location, which is at NE 33rd and Federal Highway. He said the Race Track gas station is very noisy and the lighting is disturbing the peace and quiet of the residential neighborhood of Cresthaven. He understands that the City is considering allowing a Walmart grocery store to build on the same property. However, if 33rd Street cannot handle the traffic now, then there is no telling what will happen with additional traffic in vehicles in that area.

Mayor Fisher asked Mr. Bird to respond to the item under discussion and the requirement necessary for the right-of-way.

Robin M. Bird, Development Services Director, stated that all the streets have designations on required west residential street that is 50 feet and the commercial street is 60 feet. The north south streets might be designated as residential streets not required, but the City would still need to require them to build the sidewalk. On the north side, NE 33rd Street is a commercial street at that section, which would remain at 60 feet and they would build the sidewalk for that location. They are required to maintain the swales after they are complete and the City would accept the sidewalks when it is built to City standards.

Mayor Fisher explained that the owner of the property has legal rights for whatever

the property is zoned for even if it is a grocery store. Therefore, the City cannot refuse if the developer meets all the City's standard criteria.

Vice Mayor Burrie noted that the City Commission did not approve or disapprove the gas station, because the property was zoned for it. It did not come before the Commission.

Mayor Fisher as well as Vice Mayor Burrie indicated that they are pleased to see the owner cleaning up the property, as it has been an eye sore for many years.

James Pruden, Esq, 220 South Dixie Highway, Boca Raton, FL, stated that he represents the owner of the property located at 3251-3299 Federal Highway. He indicated that the property has been a blighted area within the community for a long time. Finally, the owner is happy to report that they are redeveloping the property and upgrading the community with two facilities, the Race Track and Walmart, with whom they are still working to utilize the rest of the tract for the Walmart facility. He explained in detail the City's requirement to improve part of the property.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Resolution be **ADOPTED**. The motion carried by the following vote:

Yes: Hardin
Moss
Perkins
Sobel
Burrie
Fisher

Enactment No: RES. No. 2017-118

7. [17-159](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, CHANGING THE DESIGNATION OF A PARK CURRENTLY KNOWN AS NORTH RIVERSIDE PARK TO THE DESIGNATION OF SERGEANT CHRIS REYKA MEMORIAL PARK; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: \$500 paid to City)

(Staff Contact: Robert McCaughan)

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, to **APPROVE/ADOPT** the item under the Consent Agenda. The motion carried unanimously.

Enactment No: RES. No. 2017-119

8. [17-162](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE SANITARY SEWER EASEMENT AGREEMENTS BETWEEN THE CITY OF POMPANO BEACH AND JASON M. ANDERSON, ERIC R. FOUST, KELLY A. PARRISH, AND KEVIN O'NEAL AND MELISSA APOLINARIO; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: A. Randolph Brown)

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, to APPROVE/ADOPT the item under the Consent Agenda. The motion carried unanimously.

Enactment No: RES. No. 2017-120

9. [17-168](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A REVOCABLE LICENSE AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND FLJH, LLC, TO INSTALL AND MAINTAIN A WALKWAY BRIDGE ON CITY PROPERTY ADJACENT TO RESIDENTIAL PROPERTY LOCATED AT 1902 BAY DRIVE; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: Carrie Sarver/John Sfiropoulos)

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, to APPROVE/ADOPT the item under the Consent Agenda. The motion carried unanimously.

Enactment No: RES. No. 2017-121

10. [17-173](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A SERVICE CONTRACT BETWEEN THE CITY OF POMPANO BEACH AND IMAGE JANITORIAL SERVICES, INC., FOR JANITORIAL SERVICES; PROVIDING AN EFFECTIVE DATE.
(Fiscal Impact: \$93,132.00)

(Staff Contact: Robert McCaughan/Harold Beard)

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, to APPROVE/ADOPT the item under the Consent Agenda. The motion carried unanimously.

Enactment No: RES. No. 2017-122

11. [17-125](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPOINTING TONY K. HILL TO THE PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY OF THE CITY OF POMPANO BEACH, AS APPOINTEE OF COMMISSIONER MICHAEL SOBEL, WHICH TERM SHALL RUN CONCURRENTLY WITH THE TERM OF THE MEMBER OF THE CITY COMMISSION; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: Asceleta Hammond)

Comr. Moss indicated that he had pulled the item at the last meeting because of his concern that it was inappropriate for the Commission to appoint someone to a Board who is in litigation with the City. Apparently, there was a procedural problem with the way the Commission handled the item, as per Robert's Rule of Order. Comr. Moss explained that he moved to table the appointment until the litigation was complete at which point the item could be moved forward. So, his position has not changed. He still thinks it is inappropriate to appoint someone who is suing the City to be placed over zoning issues and appointed to the Planning and Zoning Board. Consequently, he suggested that a straight up or down vote be done at this time.

Mark E. Berman, City Attorney explained the different ways the Commission could address this issue. First, there was a motion to table the item, which should have been handled at the same meeting and recalled for a vote. In fact, what is called motion to table is really a motion to postpone. This can be done to a time certain, which is what is normally done for the next meeting, but we refer to it as table. Or, in this case, there is a motion to postpone indefinitely, which kills the main motion for just the duration of the session. So it was not called back, therefore, it died. Therefore, the item is back on the agenda to either be voted on or a motion to suspend the rules to extend postponement beyond the next meeting and make the motion for a period of time until the litigation is over.

Comr. Moss indicated that the best way to handle it is to have a straight up and down vote and if at such time upon the completion of the litigation, Comr. Sobel wants to bring back the item at that time it can be handled accordingly.

Comr. Hardin explained that he was a bit confused because there was nothing in the backup indicating what was going on. Normally, he would take the lead to approve an item, but he was unsure whether he should move to take from the table or to vote on the item.

Tony Hill, 760 SE 22nd Avenue, Pompano Beach restated Comr. Moss's comments regarding the action taken at the previous meeting. Mr. Hill explained that he is not suing the City. He will not be getting any money from it. However, he will get a

hearing at the Zoning Board if he wins the appeal at the Court level. Mr. Hill repeated some of the comments made regarding whether the City has had anyone suing the City yet was appointed to a Board, which at the time there was no such incident recalled. However, Mr. Hill indicated that he found out that this has happened about seven (7) times, over a period from 1999 through to 2004, so the practice to sue the City and sit on boards have taken place at various times. Therefore, he wanted to know if the City Commission would reconsider their action.

In terms of his wife, Angela Hill, she was also voted down and yet she was not a party to his appeal to the zoning board or the Court. Therefore, “guilt by association” would be the reason to deny her. Mr. Hill explained in detail his problem with the City and the hurdles he experienced when he tried to get the Zoning Board to hear his case. Nevertheless, he was referred to Circuit Court, which was not to his liking. He had never asked to go to court about the matter. In fact, after he was denied hearing at the Zoning Board meeting, he said two attorneys contacted him to file a class action suit against the City and he denied their request, because “we love the City and the people” and desires to contribute to the wellbeing of it.

Mayor Fisher assumed that the person Mr. Hill was referencing is M. Ross Shulmister, who did not been serve on a board when he had been in a lawsuit with the City. Actually, he was removed from the Board in the past when he engaged in litigation procedures.

Mark E. Berman, City Attorney stated that he checked into the background regarding Mr. Shulmister and found that at the time he was appointed to the Zoning Board of Appeals his litigation was taking place and he was not appointed to the Board at that time. Initially, he was appointed 12 years prior and during the time that he was litigating, a week later, there was a special city commission meeting to remove him from the board, which majority of the Commission persevered to do so. Therefore, approximately 12 years later after the litigation was concluded he was appointed to the board.

Vice Mayor Burrie stated that the item is to appoint someone to the board rather than to discuss the history of Mr. Shulmister, which has nothing to do with the appointment.

Comr. Hardin stated that for correction purposes, he is familiar with Mr. Shulmister but as stated by Mr. Hill earlier, he is not his attorney nor was he involved in his campaigns.

Comr. Moss reiterated that he stands behind his comments that someone should not be appointed to a Board when they are in conflict/litigation with the City until the issue is settled, which is the reason he brought up the subject. It is not because of the individuals currently involved in being appointed.

Angela Hill, 760 SE 22nd Avenue, Pompano Beach, indicated that her husband owns three (3) businesses in the City and owns a home as well. She indicated that the reason her husband wants to serve on the board is to better the community. However, he is being blocked in a similar way he was blocked from having his voice heard in the Zoning Board of Appeals. The Commission told them that they could be heard at this meeting but they have not been heard to date. She then provided the reasons why the City should consider honoring Comr. Sobel's right to appoint her husband to the board.

Mike Skversky, 1630 SW 5th Avenue, Pompano Beach, FL, asked if Mr. Hill is suing the City, which he was told he is not.

Mr. Berman clarified that the Zoning Board of Appeals entered a decision that the Hill's do not have standing to bring their appeal before the Board. Mr. Hill appealed this to the Broward Circuit Court so that the court may determine if the Board made an appropriate decision that he did not have standing, which is the current status.

Mr. Skversky indicated that he could not understand why the Commission could not vote up or down to appoint the Hill's.

Mayor Fisher reiterated for the record that this is not Mr. Shulmister's hearing. However, when Mr. Shulmister served on the board he did not have any litigation or action against the City. When he did, the City Commission at that point removed him one week later until the litigation was completed. He is currently sitting on the board, and he has not been engaged in any litigation with the City.

Tom Terwilliger, 3160 NW 1st Avenue, Pompano Beach, stated that staff runs the City on a day-to-day basis. He said that sometimes people do make mistakes and alleged that if a staff member makes a mistake it gets hushed up by fellow employees. He debated that the Hill's suffered what they considered to be an injustice of staff. Therefore, they should not be considered bad people because they are protecting their rights and the rights of every day citizens.

In sum, he stated that it appears unfair for the City, whether it is a commissioner or staff member who does not like a citizen to try and block that fellow citizen's appointment and ultimately the donation of their time to serve on a board/committee that would benefit all citizens. He indicated that the Hill's are fine upstanding citizens of the City, and should be allowed to volunteer their time to the City. Therefore, he urged the Commission to ratify the appointment of both Mr. and Mrs. Hill to serve Pompano Beach and its citizens.

Comr. Sobel apologized to Mr. Shulmister for his name being mentioned in this matter. His name is a by-product of Comr. Moss' original motion, which had to do with conflicts of interest and lawsuits. However, it is important to understand that Mr. Hill

is qualified to be on this board. Furthermore, Comr. Sobel indicated that he is well positioned to appoint whomever he deems fit and appropriate on behalf of the residents of District 1, who elected him to the position.

There is no written policy supporting what Comr. Moss did at the prior Commission meeting. There are criteria for serving on the board and not having sued the City is not one of those written policies. He reiterated what was experienced at the last meeting, which was a violation of due process and the resident's constitutional rights. In addition, he was unaware of the underlying issues that involved Mr. Hill supporting Comr. Moss's opponent in the last election. In reality, there is no lawsuit, but there was a motion to table contingent upon a non-existent event.

In sum, Comr. Sobel indicated that the City Attorney had opined prior to the nomination that there was no conflict of interest from a legal or factual basis, with regard to whatever procedural appeal Mr. Hill had taken to be on the Zoning Board of Appeals. There is a fictitious creation of fact and law that was improperly put before the Commission last time, and there was no opportunity for the public to be heard or to clarify the facts. As well as there was no opportunity for the Hills to be heard. This is not the way the government is supposed to function. Therefore, he stated that he is proud to nominate Mr. Hill who will do a great job, as he is very qualified to serve on the board. He urged the Commission to support his recommendation to appoint him and if Comr. Moss could reconsider his position and support this recommendation as well.

Comr. Moss stated that he was unaware that Mr. Hill supported his opponent, but it does not matter, as the Hill's do not live in his district. Nevertheless, he takes great umbrage that Comr. Sobel is suggesting that he has it "in for people" that he does not know. He finds it insulting, and "will keep it in mind as we move along for the next two (2) years in support of things in your district."

Comr. Perkins asked if Mr. Hill is suing the City of Pompano Beach.

Mr. Berman responded that Mr. Hill has filed an appeal, which is a legal action. He is not suing the City in terms of seeking damages or money, rather he is seeking a resolution, and he is appealing a decision. Therefore, it is a type of lawsuit but it is in the form of an appeal. In sum, there is no conflict of interest as the appointment is for the Planning and Zoning Board not the Zoning Board of Appeals.

Comr. Perkins indicated that she is in favor for anyone who wants to volunteer his or her time to the City as long as there is no legal conflict of interest.

A motion was made by Commissioner Hardin, seconded by Commissioner Perkins, that the Resolution be ADOPTED. The

motion carried by the following vote:

Yes: Perkins

Sobel

Burrie

Fisher

No: Hardin

Moss

Enactment No: RES. No. 2017-123

12. [17-140](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPOINTING ANGELA HILL TO THE COMMUNITY DEVELOPMENT ADVISORY COMMITTEE OF THE CITY OF POMPANO BEACH, AS APPOINTEE OF COMMISSIONER MICHAEL SOBEL, FOR A TERM TO BE CONCURRENT WITH THE TERM OF THE APPOINTING OFFICIAL; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: Asceleta Hammond)

Comr. Moss indicated that he pulled the item and his reason remains same as the previous item. He noted that Ms. Hill came before the Commission and represented herself as a party as to what is going on so regardless, of whether her name is included or not she serves as a part of it. Therefore, his position is the same as it was regarding her husband.

Comr. Hardin reiterated his last comments regarding information not clear in the backup to explain what is being done.

Mark E. Berman, City Attorney, indicated that he appreciated Comr. Hardin's comments and explained that he had communicated with the Commissioner who had made the motion as well as informed the Mayor. In addition, he had responded to the inquiry as to the procedures the Commissioner from the district requested that the matter be reviewed. Should something like this happen again, which has not happened before, he would make sure to reach out individually to each commissioner to ensure they are fully informed prior to the meeting. Therefore, he apologized for any inconvenience caused.

Angela Hill, apologized for her outburst and stated that it is difficult being in the position she is in and to feel that she is not getting a fair opportunity to represent herself. Ms. Hill provided some background information regarding her qualifications and their ownership of businesses and homes in the City of Pompano Beach. She indicated that she is passionate about the City because she loves the City. She can appreciate the Commission's time spent, with not much monetary reward, and she would like to be on the same side as the Commission. She does not want to be seen as an adversary and all they, as a couple, wanted is "to have a fair shake and a fair hearing." She thanked the Commission for appointing her husband and hopes they will also appoint her as well. She promised to do everything in her capability to represent the people of the City and to give of herself to the City.

Pat Ivory, 2350 NE 14th Street, Pompano Beach, stated that he is shocked that one commissioner would threaten another commissioner that something would happen in

the next two and half years, which was uncalled for and embarrassing.

Dawne Richards, 3304 SE 4th Street, Pompano Beach, stated that she is disappointed in some of her fellow residents and was unaware that there is a civil right to serve on boards, because she has applied to serve on several boards and has not been “picked.” Nevertheless, she trusts the Commission to make the right decision. If a particular commissioner did not make the right decision then there is a tool at their disposal every two (2) years. Therefore, she hopes the situation gets better.

A motion was made by Commissioner Sobel, seconded by Commissioner Hardin, that the Resolution be ADOPTED. The motion carried by the following vote:

Yes: Perkins

Sobel

Burrie

Fisher

No: Hardin

Moss

Enactment No: RES. No. 2017-124

13. [17-170](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPOINTING ANDY CHERENFANT TO THE CULTURAL ARTS COMMITTEE OF THE CITY OF POMPANO BEACH, AS APPOINTEE OF COMMISSIONER MICHAEL SOBEL TO COINCIDE WITH THE TERM OF THE APPOINTING OFFICIAL; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: Asceleta Hammond)

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, to APPROVE/ADOPT the item under the Consent Agenda. The motion carried unanimously.

Enactment No: RES. No. 2017-125

E. REGULAR AGENDA

14. [17-73](#) Summary Activity Report of Internal Audit projects for 13 month period from October 2015 through November 2016.

(Fiscal Impact: N/A)

(Staff Contact: Barbara DeLeon)

Barbara DeLeon, Internal Auditor, reported on the highlights from the internal audit activity. She also requested the Commission's feedback on whether they are doing a good job on the activity report and welcome any suggested changes.

Ms. DeLeon stated that the activity report was for 13 months, from October 2015 to November 2016. A total of 13 projects were worked on, which amounted to a total of \$68 million. The activity report has a summary and provides the scope and the standards for which the work was rated. There are risk ratings given as to the risks to the City with the need to contain the risk, as well as to lower the risk by audit recommendations and by getting them implemented, which makes for a better City.

The audit is conducted when they meet with various members of staff on a daily basis from the line manager to the City Department director. Thereafter, the auditor conducts an "exit conference" when all the draft findings and recommendations are listed. This will provide everyone with the results, to ensure that staff did it correctly, to get the recommendations implemented, and lastly, to determine the target date of when it will happen. In the event, not all the recommendations are implemented then they have to know why. It is not dismissed, and a good explanation must be provided to the auditor, which is included in the audit report.

Ms. DeLeon indicated that the report provides all the recommendations and it shows whether the corrective action has already taken place. Some projects were selected while others were chosen or requested to be done. Several projects have a low risk, which is good. In the event the risk rating is not green or low in the beginning at the end of the audit when a sit down is involved and all the corrective implementations are discussed, to include target dates, then the project will go back to low, which is an acceptable risk.

Additionally, Ms. DeLeon stated that several projects listed in the report have already gone before the Commission as agenda items. A lot of work has been done for the 2015 single audit, similar to what is being done for the 2016 single audit. There are various parts, agreements, as well as cloud computing agreements when some IT functions are outsourced to vendors. An audit was done this year of the cloud computing applications due to the increased use by the City. Ms. DeLeon then provided a detailed description of what is involved in cloud computing applications. The recommendations in this area is to lower the risk with the City, resulting in departments obtaining the submission of service operations control reports by independent CPA's to tell the City whether they have an unmodified or clean opinion

on other controls. Finally, Ms. DeLeon indicated that several of the other projects have been in the City's Strategic Plan.

Mayor Fisher announced that Ms. DeLeon will be retiring from the City in March of this year. Therefore, on behalf of the Commission he thanked Ms. DeLeon for her 30 plus years of serving the City of Pompano Beach.

Ms. DeLeon thanked everyone that she has worked with to include past and present commissioners, managers, and fellow peers. She said it has been a delight to be able to serve the City.

Vice Mayor Burrie recalled when Ms. DeLeon came to work for the City she was the City Clerk at the time, which was a very long time ago.

Tom Terwilliger, 3160 NW 1st Avenue, Pompano Beach, thanked Ms. DeLeon for her services. He noted that the City has many construction projects, which use a Guarantee Maximum Price (GMP), and asked how much of an observation does the auditor see in the pricing of the City's GMP's.

Ms. DeLeon responded that she has worked with several Capital Improvement Projects (CIP) construction projects, but does not recall immediately the specific projects.

Mr. Terwilliger asked if Ms. DeLeon office supervises/oversees the construction manager to ensure that the contracts stay within the original GMP that was submitted and approved by the Commission.

Ms. DeLeon responded that currently they are working, under the 2016 single audit for one of the big CIP projects, which has not been overrun.

Comr. Hardin indicated that Ms. DeLeon may be checking out a construction project or a CIP, but that is not part of her purview to write over individual projects on a regular basis. To which Ms. DeLeon indicated that she is not staffed to do this. Finally, Comr. Hardin thanked Ms. DeLeon for doing a great job in serving the City.

Comr. Sobel indicated that he was saddened to see Ms. DeLeon's letter of retirement and wished her all the best. He was also sorry he did not get a chance to work with her a little bit longer. Comr. Sobel cited two of Ms. DeLeon's red flags on the budget. For example, the medium risk on the \$9.3 million for the I-Cloud computing service contract and the other was a high risk of financial problem area of \$2.4 million for the Pompano Beach Arts and Bailey Arts Cultural Center. Therefore, for these two high risk areas identified, and overall the \$68 million evaluated internally, asked if there were any areas at all where she ever referred them out to an external auditor (independent CPA) for a more detailed investigation or analysis, due to something she

saw that did not look right.

Ms. DeLeon responded that there has been instances in the past that the City has hired an independent CPA with no conflict of interest and they are not the City's external auditors who opined. She clarified that as an internal auditor she ensures that they comply with the contract. She does tests on a regular basis for fraud and irregularities and if anything were discovered, they would report it. Therefore, at times there would be a collaborative effort with the Commission or the City Administration where they have engaged external auditors. It has not been done for this reporting period because it was not deemed necessary.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Informational Report be ACCEPTED. The motion carried by the following vote:

Yes: Hardin
Moss
Perkins
Sobel
Burrie
Fisher

QUASI-JUDICIAL PROCEEDING

NOTE: Mark E. Berman, City Attorney, advised that items 15 is listed under Quasi-Judicial Proceeding and is quasi-judicial in nature; therefore, anyone who wishes to testify must be sworn in and may be subject to cross-examination by the City Commission or any other interested party. The individuals addressing the City Commission must state his or her name, whether he or she has been sworn, and understands the rules which governs these proceedings. Thereafter, Mr. Berman outlined the order in which they would follow: City staff would make its presentation for each item, followed by the applicant or any other person(s) wishing to speak, closing argument, and the Commission's discussion.

Asceleta Hammond, City Clerk, placed under oath all individuals, including staff, addressing the City Commission in the following matters.

15. [17-166](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING THE FIRE STATION 52 PLAT LOCATED 285 FEET SOUTH OF WEST ATLANTIC BLVD. ON THE EAST SIDE OF SW 27TH AVENUE AT 10 SW 27TH AVENUE; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: Maggie Barszewski/Robin Bird)

Robin M. Bird, Development Services Director, presented the item as a City initiated proposed plat for a 1.093 gross acre property, located 285 feet south of West Atlantic Boulevard on the east side of SW 27th Avenue at 10 SW 27th Avenue. The Plat will restrict the development to 20,000 square feet of fire station use. Currently, there is a 8,179 square foot fire station on the property. At the November 16, 2016 Planning and Zoning Board meeting, it was unanimously approved.

Comr. Moss questioned the reason for the property being platted since there has been an existing building on the property for years.

Mr. Bird responded that it is being rebuilt and the new principle structure has to be on platted property.

A motion was made by Commissioner Hardin, seconded by Commissioner Moss, that the Resolution be ADOPTED. The motion carried by the following vote:

Yes: Hardin

Moss

Perkins

Sobel

Burrie

Fisher

Enactment No: RES. No. 2017-126

END OF QUASI-JUDICIAL PROCEEDING

16. [17-114](#) P.H. 2017-12: (PUBLIC HEARING 2ND READING)

AN ORDINANCE AMENDING CHAPTER 33, "BOARDS AND COMMISSIONS," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 33.130, "NUISANCE ABATEMENT BOARD," BY MODIFYING THE QUALIFICATIONS FOR MEMBERSHIP OF THE NUISANCE ABATEMENT BOARD; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

FIRST READING: DECEMBER 13, 2016

(Staff Contact: Mark E. Berman)

Mark E. Berman, City Attorney, presented the item, which modifies the qualifications for membership for the Nuisance Abatement Board to ease the membership requirements to provide for a greater cross section of the community including local professionals, businesspersons, and city residents. The Commission may nominate a person who does not reside in the City upon certain conditions stated. There have been no changes since the first reading.

Comr. Sobel understood that the goal for lowering the standards for the Board was to make it open to more potential residents because there was some difficulty getting people to serve. However, the language allows people who do not reside in the City to participate on a Board that has the potential to place liens on private properties and to result in loss of homes; he wonders what kind of motivation there would be to those nonresidents who would want to serve on a board of this nature. Therefore, he suggested that the language be modified further, to at least suggest that someone residing outside of the City have some ties to the City such as a business or some other reason. In sum, Comr. Sobel suggested that instead of lowering the standards to attract membership perhaps a more aggressive marketing could be considered among other options to recruit membership.

Mark E. Berman, City Attorney, indicated that his office is willing to work with the Commission in terms of crafting the standards of the ordinance and to modify it as requested. However, he does not see this action as lowering the standard but rather expanding the qualifications criteria to allow more participation. He explained in detail the language to allow an individual commissioner the opportunity to reach further to staff the board.

Mayor Fisher stated that the Commission does not intend to lower the standards and explained the intent. In sum, the goal is to broaden the scope to be able to provide an opportunity for those who could serve well rather than pigeon hole them to something that they would not be able to qualify to serve.

Additionally, Mayor Fisher clarified that there is no loss of homes and explained the process of the liens, which is used to assist with the cleanup of the City.

Comr. Sobel stated that he stands corrected and agreed with Mayor Fisher's comments. He did not intend to convey a lowering of standards and explained that the language was making it more open and less particular. In addition, he explained that he was more thinking of other real property instead of homesteaded properties.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be ADOPTED. The motion carried by the following vote:

Yes: Hardin

Moss

Perkins

Burrie

Fisher

No: Sobel

Enactment No: ORD. No. 2017-12

17. [17-84](#) P.H. 2017-13: (PUBLIC HEARING 2ND READING)
AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE CONTRACTS FOR PROFESSIONAL CONSULTING SERVICES BETWEEN THE CITY OF POMPANO BEACH AND KIMLEY-HORN AND ASSOCIATES, INC., CALVIN, GIORDANO & ASSOCIATES, INC., AND RS&H, INC., FOR CONTINUING CONTRACT FOR TRANSPORTATION ENGINEERING SERVICES FOR VARIOUS CITY PROJECTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

FIRST READING: DECEMBER 13, 2016

(Staff Contact: John Sfiropoulos)

John Sfiropoulos, City Engineer, presented the item, which he indicated at a previous Commission action the ranking order for transportation engineering services was approved. There were eight (8) submittals that were shortlisted to the top three (3). Therefore, the item is to allow staff to enter into contracts with the three (3) shortlisted firms that is Kimley-Horn and Associates, Inc., Calvin, Giordano & Associates, Inc. and RS&H, Inc. The contracts are all the same except for Exhibit B, which is the rate schedule.

Comr. Sobel noted that there is the indication that there is no fiscal impact regarding the contract and asked if that is actually correct. He stated that while staff may not know what the impact will be, there is going to be a significant monetary expenditure when the contracts are signed.

Mr. Sfiropoulos responded that is correct with the master contract, but this allows the City to get into individual work orders depending on the scope, and those will have a fiscal impact. He confirmed that the City has worked before with two (2) out of the three (3) contractors with RS&H being the new contractor on board.

Comr. Sobel asked if the two previous firms that the City worked with have ever met their promises of voluntary goals with regard to hiring Pompano Beach local businesses and small business enterprises.

Mr. Sfiropoulos indicated that it may have been done prior to his coming on board with the City, but he has not verified that they have met their voluntary goals.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be ADOPTED. The motion carried by the following vote:

Yes: Hardin
Moss
Perkins
Sobel
Burrie
Fisher

Enactment No: ORD. No. 2017-13

18. [17-112](#) P.H. 2017-14: (PUBLIC HEARING 2ND READING)
AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF
POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING
THE PROPER CITY OFFICIALS TO EXECUTE A CONSENT TO
ASSIGNMENT OF THE LEASE/CONCESSION AGREEMENT
BETWEEN PG'S ON THE GREEN, INC. AS ASSIGNOR AND GLR
GROUP, LLC AS ASSIGNEE, PROVIDING FOR SEVERABILITY;
PROVIDING AN EFFECTIVE DATE.
(Fiscal Impact: N/A)

FIRST READING: DECEMBER 13, 2016

(Staff Contact: Mark E. Berman)

Meeting went into Recess

Meeting Reconvened

Mark E. Berman, City Attorney presented the item and indicated that there have not been any changes since the first reading. This item will allow Grant Galuppi to assign his business in favor of GLR Group, LLC managed by Lauren and Mark Galuppi. The City will be consenting to the assignment. There are no legal risks to the City, and no release of person or parties currently obligated to abide by the terms and conditions of the Lease and Concession Agreement.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be ADOPTED. The motion carried by the following vote:

Yes: Hardin
Moss
Perkins
Sobel
Burrie
Fisher

Enactment No: ORD. No. 2017-14

19. [17-176](#) P.H. 2017-25: (PUBLIC HEARING 2ND READING)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND GREGORY P. HARRISON; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: \$192,500.00)

FIRST READING: JANUARY 24, 2017

(Staff Contact: Mark E. Berman)

Mark E. Berman, City Attorney presented the item, pursuant to the City Commission's direction to negotiate an employment agreement for the City Manager's position with Gregory P. Harrison. This provides for a five (5) year agreement. Set forth in the agreement are the severance, salary, automobile, and vacation, which are the standards that the City has followed in the past. The remuneration is below what the current City Manager is making, as well as it is below the average in Broward County.

Tom Terwilliger, 3160 NW 1st Avenue, Pompano Beach, indicated at the last City Commission meeting, there was discussion regarding the potential employment of Mr. Harrison, but the Commission had left it opened to conduct a search for someone else.

Mayor Fisher corrected Mr. Terwilliger's statement that the City Commission did not agree that they would be offering it to anyone else. In answer to Mr. Terwilliger's question for the reason of a second reading rather than a first, there was not enough time to advertise. Consequently, the second reading will be heard tonight and the first reading will be heard in two weeks' time when the contract will be ratified.

Comr. Hardin stated that he looks forward to Mr. Harrison doing a great job in the City of Pompano Beach.

Comr. Moss, Vice Mayor Burrie and Mayor Fisher concurred with Comr. Hardin.

Comr. Sobel indicated that the \$192,500 salary is too low and explained his reasons for the comment. Nevertheless, he stated that the City should be seeking an opportunity to attract the best and the brightest. The average pay for a City Manager in Broward County is \$225,000. In fact, cities in other states of similar size as the City of Pompano Beach pay their City Manager on an average \$300,000 or more. In this particular area and position, it behooves the City to put out an expenditure for the City Manager that would attract all kinds of other options.

Nonetheless, Comr. Sobel mentioned that having worked with Mr. Harrison in a short time; he has grown to know how amazing he is as a City Manager/Assistant City Manager. He is impressed with his abilities to handle certain matters and his diverse resume and background. Therefore, he suggested now would be a good time to put the position out for a public search. He said that because of the way Mr. Harrison is being hired, whether through expediency or a lack of opportunity for public notice or input, does a disservice to him and the residents in the City of Pompano Beach. Comr. Sobel said he wanted to make it clear that Mr. Harrison is eminently qualified to be in the position. However, when it comes to the best interest of the residents of the City, he believes that the City should increase the salary range by at least \$50,000 to \$242,500 and put it out for a public search, which would take a month or two to advertise and interview. This would not jeopardize Mr. Harrison's ability to serve in the position or to be a leading candidate for the position.

In sum, Comr. Sobel stated that transparency is the key to good government and the Commission owes it to Mr. Harrison and the residents to put the position out for a public search. He opined that there are some unique nuances that need to be addressed because this matter should not have taken place under reports at the “dark of night” after a very long Commission meeting. This will be problematic in the future, if the Commission does not rectify the situation now.

In conclusion, Comr. Sobel suggested that the Commission should increase the salary of the position to something consistent with other cities of similar size, budget, and requirements. Also, that a public search should be done while Mr. Harrison continues to do the excellent job he is doing as Acting City Manager. He opined that there is no downside and the City would get the best of both worlds.

Comr. Sobel moved for a motion to consider clarifying the contract terms as to specific responsibilities that are limited with the CRA, increase the potential contract amount, and put out the maximum amount to attract the best and the brightest.

Mayor Fisher indicated that the motion appears to be a bit ambiguous and requested that Comr. Sobel allow for comments on some of the points he spoke on earlier within the motion. Mayor Fisher thanked Mr. Berman for negotiating a good contract, which was similar to the one used with City Manager Beach. In fact, he is saving taxpayers’ dollars regarding the position.

Mayor Fisher indicated that two of the commissioners have not been in office long enough to work with Mr. Harrison in seeing the vision created and what will be done. Mayor Fisher explained the general process, which has always been that under reports any commissioner or the mayor can talk about things, and if support is gained then it would move on to the agenda. This was what happened in this instance. The item is now on the Agenda for the public to be transparent and will be able to speak. Therefore, there will be two opportunities for the public to participate in the discussion one (1) tonight and the other two (2) weeks later. So, there has not been any type of shady or trying to do anything behind closed doors to warrant comments such as “Things were done in the wee hours of the morning” and “the public did not have a chance to talk about it.”

Finally, Mayor Fisher indicated that the contract is for five (5) years with a termination clause; therefore, if the Commission feels Mr. Harrison is not doing his duties there is the right to terminate after six (6) months. He noted that the Commission has always been transparent and he has given everyone the last word to speak on any item they wish to do. However, everyone has an opinion and has the freedom to voice it at the meetings.

Comr. Hardin stated that the City has a great candidate in Mr. Harrison. Nevertheless, he agrees with the Mayor that Comr. Sobel is entitled to his opinion, which he respects. However, no one was cut out of the discussion but as the Mayor explained earlier this is the process to include two hearing.

In sum, Comr. Hardin indicated that the City has a good qualified candidate who is willing to continue with the Commission’s vision set forward. Therefore, for the sake of the continuity of the City, and the momentum currently going, he thinks hiring from within, to take Mr. Harrison and promote him to full City Manager status, is the right thing to do. However, if Mr. Harrison does not do a good job and it does not work out, the Commission, as representatives of the people, can elect to fire him. Notwithstanding, Mr. Harrison is a good candidate and the Commission should move forward with it, which he hopes his fellow commissioners would agree.

Vice Mayor Burrie noted that the Commission has used a number of national searches prior to Mr. Beach. In fact, through one of these searches, they identified a good City Manager who did not turn out to be such a good City Manager for the City. Again, a national search was used for the City Attorney when the prior City Attorney left; however, the Commission selected to promote from within and Mark Berman was selected as City Attorney, which she was happy with the selection. Vice Mayor Burrie explained that to overlook someone in such a high authority and to bring someone else to take the position that the

person was doing a good job, contributes to morale degrading among other things. Mr. Harrison has proved to be a great leader who can get the job done and is an asset to the City of Pompano Beach. If the salary is increased and then put out to bid, then she agrees with Comr. Hardin that you will get the best, and the Commission will be interviewing persons who do not know anything about the City. The momentum is moving forward with the CRA and progressing with the City. Therefore, to hire someone from outside the City at this time would be a detriment to the people.

An extensive debate followed among the members of the commission regarding the various opinions expressed on this issue and the process in place to handle this type of matter, as well as the validity of promoting from within versus going out for a national search.

Comr. Perkins indicated that she had considered doing a one (1) year contract but was surprised that a five (5) year contract has been negotiated for approval. She also expressed that she has been working with Mr. Harrison since November and is still uncomfortable with his lack of response to some of the requests she has made. She mentioned that all districts should be treated the same by the City Manager and felt that she has not been treated the same as the other district commissioners in getting results from Mr. Harrison. Nevertheless, she is open and willing to ensure that the relationship is improved and that she does take the concerns of her district seriously and would want the City Manager to do the same.

Comr. Sobel clarified his motion made earlier by stating, that the City put out for a public search for potential candidates within a given price range for City Manager and that in the process of the search the City Commission appoint Mr. Harrison as Acting City Manager.

MOTION was made by Commissioner Sobel, seconded by Commissioner Perkins. There were 4 Nos and 2 Yes, therefore, the motion FAILED.

Mr. Berman advised that the motion that was on the floor should be amended and voted on and then an amended motion can be voted on. In sum, a motion was made therefore, a motion should be made to amend and if approved then state the new motion and vote on it. The other option is to rescind the motion and make a new motion at this point.

Mayor Fisher repeated that there is a main motion on the floor to approve the contract. However, there is a subsidiary motion to disapprove the contract and go out for a public search

Mayor Fisher pointed out that the first reading will be heard in two weeks for the public to understand that the item will return for the City Commission's discussion.

Comr. Hardin hopes in two weeks the vote would be unanimous.

Commissioner Sobel made a motion, seconded by Commissioner Perkins that the City put out for a public search for potential candidates within a given price range for City Manager and that in the process of the search the City Commission appoint Mr. Harrison as Acting City Manager. The motion carried by the following vote:

No: Hardin

No: Moss

Yes: Perkins

Yes: Sobel

No: Burrie

No: Fisher

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be ADOPTED. The motion carried by the following vote:

Yes: Hardin

Moss

Burrie

Fisher

No: Perkins

Sobel

Enactment No: ORD. No. 2017-15

20. [17-88](#) P.H. 2017-16: (PUBLIC HEARING 2ND READING)
AN ORDINANCE AMENDING CHAPTER 96, "HEALTH AND SAFETY," OF THE CITY OF POMPAÑO BEACH CODE OF ORDINANCES BY AMENDING SECTION 96.58, "MORTGAGEE REGISTRATION REQUIREMENTS," TO MODIFY DEFINITIONS AND REQUIREMENTS FOR REGISTRATION OF PROPERTIES IN THE CITY BY LIENHOLDERS IN FORECLOSURE ACTIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.
(Fiscal Impact: N/A)

FIRST READING: DECEMBER 13, 2016

(Staff Contact: Karen Friedman/Robin Bird)

Robin M. Bird, Development Services Director presented the item which is an ordinance to clarify when properties must be registered, to clarify the responsible party to pay the fee for registration, and to expand the program to include occupied foreclosed properties. A definition of an out of area recipient was added in the language, after Comr. Sobel's inquiry. Therefore, Mr. Bird requested a motion to amend the Ordinance to include the definition language.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be ADOPTED AS AMENDED. The motion carried by the following vote:

Yes: Hardin

Moss

Perkins

Sobel

Burrie

Fisher

Enactment No: ORD. No. 2017-16

21. [17-113](#) P.H. 2017-17: (PUBLIC HEARING 2ND READING)

AN ORDINANCE AMENDING CHAPTER 33, "BOARDS AND COMMISSIONS," OF THE CITY OF POMPAÑO BEACH CODE OF ORDINANCES BY AMENDING SECTION 33.110, "ESTABLISHMENT," TO UPDATE REFERENCES TO THE PROPER CODE SECTIONS; AMENDING CHAPTER 155, "ZONING CODE," BY AMENDING SECTION 155.2203, "ZONING BOARD OF APPEALS," TO INCREASE THE NUMBER OF MEMBERS OF THE ZONING BOARD OF APPEALS AND TO PROVIDE FOR NOMINATION OF A MEMBER BY THE MAYOR, TO INCREASE THE REQUIREMENT FOR A QUORUM AND TO REVISE THE NUMBER OF REQUIRED CONCURRING VOTES FOR APPROVAL OF VARIOUS DESIGNATED MATTERS BEFORE THE BOARD; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

FIRST READING: DECEMBER 13, 2016

(Staff Contact: Karen Friedman/Robin Bird)

Robin M. Bird, Development Services Director presented the item, which grants the Mayor the authority to nominate one (1) regular member to the Zoning Board of Appeals. It also increases the quorum in the super majority approvals by one (1) member. At the December 21, 2016 Planning and Zoning Board meeting the item was unanimously recommended for approval.

Comr. Sobel stated that he would consolidate his comments for items 21 and 22. In sum, with comments made by one of the board members at the last hearing, the passing of the proposed ordinances would be detrimental at times potential to the operation of the committee, particularly, with regard to passing procedural matters. It would be detrimental to the citizens, developers, and it makes it much harder to do business in the City of Pompano Beach. It requires a super majority in all instances with this new quota.

Mayor Fisher clarified that M. Ross Shulmister, a board member, spoke about the procedural issue for zoning not dealing with specific special section, but it would be to move minutes and so forth.

Mark E. Berman, City Attorney confirmed that is correct. In addition, he stated that there has always been a super majority requirement not for everything but for variances, and for special exception. The reasons for that were discussed at the last Commission meeting. In fact, Mr. Shulmister's concern was with moving the number required for a quorum from 4 to 5. Mr. Berman explained the logic for moving it up.

Mayor Fisher indicated that he is trying to figure out the disservice to the citizens and that it would be hard to do business in the City of Pompano Beach. Therefore, it should remain a super majority vote and should not be changed, especially with the Commission's business.

Comr. Hardin indicated that he supports making it easier for business to operate in the City and for many years, the Commission has gone out of its way to make the point known to the community. Therefore, he disagrees with the opinion that this would make it more difficult to do business in the City.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be ADOPTED. The motion carried

by the following vote:

Yes: Hardin

Moss

Perkins

Burrie

Fisher

No: Sobel

Enactment No: ORD. No. 2017-17

22. [17-163](#) P.H. 2017-24: (PUBLIC HEARING 1ST READING)

AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," BY AMENDING SECTION 155.2406, "SPECIAL EXCEPTION," TO MODIFY REQUIREMENTS FOR APPROVAL OF APPLICATIONS FOR SPECIAL EXCEPTIONS; BY AMENDING 155.2420, "VARIANCE," TO MODIFY REQUIREMENTS FOR APPROVAL OF APPLICATIONS FOR VARIANCES; BY AMENDING SECTION 155.2424, "APPEAL," TO INCREASE THE NUMBER OF CONCURRING VOTES REQUIRED BY THE ZONING BOARD OF APPEALS FOR MODIFICATION OR REVERSAL OF APPEALS FROM THE DEVELOPMENT SERVICES DIRECTOR TO CONFORM WITH AN INCREASE IN THE NUMBER OF BOARD MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: Karen Friedman/Robin Bird)

Robin M. Bird, Development Services Director presented the item, which is a companion item to item 21. In addition, at the December 21, 2016 Planning and Zoning Board meeting the item was unanimously recommended for approval.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be APPROVED FIRST READING.. The motion carried by the following roll call vote:

Yes: Hardin
Moss
Perkins
Burrie
Fisher

No: Sobel

23. [17-139](#) P.H. 2017-18: (PUBLIC HEARING 2ND READING)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 132, "PUBLIC PEACE AND SAFETY," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 132.12, "DISORDERLY CONDUCT," BY MODIFYING LANGUAGE TO BETTER DEFINE CONDUCT WHICH WOULD CONSTITUTE A VIOLATION; TO FURTHER PROVIDE FOR AN EXEMPTION FOR CONSTITUTIONALLY PROTECTED ACTIVITY; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

FIRST READING: DECEMBER 13, 2016

(Staff Contact: Mark E. Berman)

Mark E. Berman, City Attorney presented the item, which is an ordinance to make the language clearer in what would constitute as disorderly conduct under the City's code. It replaces antiquated language, which needed to be refreshed to better protect the citizens and the City.

Comr. Sobel commended the City Attorney's Office for the clear, concise, and easy to understand language, which will assist law enforcement.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be ADOPTED.. The motion carried by the following roll call vote:

Yes: Hardin
Moss
Perkins
Sobel
Burrie
Fisher

Enactment No: ORD. No. 2017-18

24. [17-138](#) P.H. 2017-19: (PUBLIC HEARING 2ND READING)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 132, "PUBLIC PEACE AND SAFETY," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY REPEALING SECTION 132.15, "UNLAWFUL ASSEMBLY"; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

FIRST READING: DECEMBER 13, 2016

(Staff Contact: Mark E. Berman)

Mark E. Berman, City Attorney presented the item, which recommends repealing Section 132.15 of the ordinance because almost the exact language already exists in the state statutes. It is superfluous and over the years, any action of this nature has been filed under the state statutes and not the City. Therefore, there is no need to have it in the Code of Ordinances as it is duplicitous and places the City in a position to defend a section of the code, when there is no need. Therefore, it is in the City's best interest to remove it from the Code of Ordinances.

Vicente Thrower, 1890 NW 6th Avenue, asked for clarification of what the code means.

Mayor Fisher stated it does not mean you cannot assembly; rather, it is a state statute that overrides the City's Ordinance.

Mr. Berman explained that it is a state statute that addresses unlawful assembly and what would be unlawful assembly for various purposes such as riots, without causing disorders, etc. It currently exists in the state statutes so the City has no need for it in its code. It is better to have a consistent standard to cite, so in the event it is challenged the Attorney General's Office of the State of Florida would handle it instead of the City Attorney's Office, saving the taxpayers thousands of dollars.

Ernestine Tai, 657 NW 21st Avenue, Pompano Beach, requested clarification on unlawful assembly. She asked who would be responsible for follow up with the State regarding the matter.

Mr. Berman responded that in the event there is a violation, under state law, the police would file the charges and the State Attorney's Office would prosecute it and it would go through the State's court system as opposed to the County court system under municipal prosecution.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be ADOPTED.. The motion carried by the following roll call vote:

Yes: Hardin

Moss

Perkins

Sobel

Burrie

Fisher

Enactment No: ORD. No. 2017-19

25. [17-146](#) P.H. 2017-20: (PUBLIC HEARING 2ND READING)

AN ORDINANCE AMENDING CHAPTER 34, "CITY POLICY," OF THE CITY OF POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 34.107, "POSITION CLASSIFICATION PLAN," BY CREATING THE POSITIONS OF CONTRACT MANAGER, HVAC TECHNICIAN AND FIRE INSPECTOR II, BY RETITLING THE POSITION OF FIRE INSPECTOR TO FIRE INSPECTOR I; BY RECLASSIFYING THE POSITIONS OF DEPUTY CITY MANAGER AND FIRE MARSHAL, BY DELETING THE POSITION OF ASSISTANT TO CITY MANAGER; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: \$123,359)

FIRST READING: DECEMBER 13, 2016

(Staff Contact: Ed Beecher/Bobby Bush)

Ed Beecher, Human Resources Director presented the item, which is the second reading of an ordinance to modify Section 34.107 Code of Ordinances Position Classification Plan. This method is used when changes are made to the position classification plan. It is ministerial in nature to amend the code to accommodate the Commission's approval as part of the 2017 budget process. No changes have been made since the first reading.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be ADOPTED.. The motion carried by the following roll call vote:

Yes: Hardin

Moss

Perkins

Sobel

Burrie

Fisher

Enactment No: ORD. No. 2017-20

26. [17-156](#) P.H. 2017-21: (PUBLIC HEARING 1ST READING)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE CONTRACTS FOR PROFESSIONAL CONSULTING SERVICES BETWEEN THE CITY OF POMPANO BEACH AND KIMLEY-HORN AND ASSOCIATES, INC., AND HDR ENGINEERING, INC. FOR CONTINUING CONTRACT FOR ENGINEERING SERVICES FOR THE MUNICIPAL AIR PARK; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: John Sfiropoulos)

John Sfiropoulos, City Engineer presented the item that will allow the City to enter into contract with the top two ranked firms for Municipal Airpark professional services, namely Kimley-Horn and Associates, Inc. and HDR Engineering Inc. The contracts are similar with the exception of the rate schedule listed as Exhibit B.

Comr. Sobel indicated that this is another umbrella contract with annual renewals of one (1) year up to five (5) years. Therefore, he asked why not approve it on a case by case or contract by contract basis.

Mr. Sfiropoulos responded that it is for the approval of the professional consultant in general. In addition, Florida State Statutes govern the City through the CCNA guidelines, therefore, we are not permitted to enter into any work orders with professionals over \$35,000 without having a continuing services contract in place. Therefore, this item will permit the City to enter into individual work orders with consultants.

Dennis W. Beach, City Manager added for each time the City goes through the process for these types of contracts, there would be a continuous state of advertisement taking proposals, evaluating proposals and bringing contracts to the Commission for approval. Therefore, staff uses a master contract, from that enters into smaller contracts, and brings them back to the City Commission for consideration. This can be done without going through 90 days through 120 days of process.

Comr. Sobel asked why then does the City put out in the bidding process a requirement, in this case a 15% local business goal and 15% small business enterprise goal, even though it is voluntary, and make it for each proposal a requirement. Since the contractor must respond to meet the goals, he asked why not insist that the consultants with each new contract and the smaller contracts provide documentation that they have hired the appropriate quota of Pompano Beach small/local businesses.

Mr. Sfiropoulos responded he would explore the topic further with the purchasing department. However, he read Article 7, which states, "The consultant is encouraged to seek small business enterprises and to utilize businesses physically located in the City of Pompano Beach, with a current business tax receipt." In addition, Mr. Sfiropoulos indicated the action word is "encouraged," so, even if the City determined that the consultant had not complied with the optional action to utilize local businesses, the City is not permitted to hold that against them; therefore, he is unsure how that would be enforced.

Comr. Sobel stated he understand the aspects but questioned the reason of placing it in the Request for Proposal (RFP) since it is not enforceable and it will not be monitored or to hold the contractor to that

action. Therefore, Comr. Sobel suggested that since the City has an ongoing relationship with these professional services provider for the benefit of the City and for the providers so the process is not repeated, remove it from the RFP or ask them to be compliant and demonstrate that they have done that previously. So, the next time the smaller contracts come up for approval, information would be available showing they have applied or attempted to apply the minimum requirements outlined in the RFP to utilize small business enterprises and local business in Pompano Beach.

Mr. Sfiropoulos reiterated he would explore it further with the purchasing department. However, on a construction contract the purchasing department has put in place documentation to include in the contracts that at the end of the project the City could verify whether this action was accomplished.

Comr. Hardin indicated that the purchasing department would be tracking this. However, on this particular item there is nothing to track, because they are not doing anything yet. However, once they actually start working and obtaining contracts, at that time, the City Commission can request documentation showing who they hired and at what percentage. It is true that this has not been tracked in the past but there is a new process that the Commission had insisted that the administration explore, which the purchasing department has put in place a mechanism to track this practice.

Mayor Fisher indicated that he would not want to remove it but rather “encourage” that this practice be considered in looking into the details when hiring. In addition, Mayor Fisher indicated that some of these contracts are highly skilled issues that are specific to only certain professions and sometimes unfortunately, they cannot go to the local component for lack of availability of the profession.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be APPROVED FIRST READING. The motion carried by the following vote:

Yes: Hardin

Moss

Perkins

Sobel

Burrie

Fisher

27. [17-161](#) P.H. 2017-22: (PUBLIC HEARING 1ST READING)

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE CHANGE ORDER NO.4 IN THE AMOUNT OF \$750,000.00 PURSUANT TO THE CONTRACT BETWEEN THE CITY OF POMPANO BEACH AND OHL BUILDING, INC. FOR THE LIBRARY, CULTURAL CENTER AND CIVIC CAMPUS PROJECT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: \$750,000.00)

(Staff Contact: Suzette Sibble/Horacio Danovich/Tammy Good)

Suzette Sibble, Finance Director presented the item that is requesting additional funding for the library/cultural center project located across from City Hall currently under construction. The amount requested is \$750,000, which a detailed itemization is provided in the backup material. Staff is present to answer any questions regarding the line items comprising the requested funding. Additionally, representatives from OHL, the prime contractor working on the project, as well as Silva Architects are available to answer questions.

Ms. Sibble outlined in details the planned source of funding for the \$750,000 being requested. In sum, approximately \$1 million in grant funds was realized to assist with defraying the cost of the project. Also, another grant was recently approved for \$500,000 from the Florida Department of Cultural Affairs, this amount will cover approximately 70% of the change being requested. The remaining \$250,000 will be funded from the Capital Improvement Projects (CIP) program, due to a combination of other projects coming in under budget, and projected revenues for the CIP coming in above budget. Therefore, no funding will be realized from the taxpayer dollars.

Comr. Hardin asked how much funds the City received from the County towards this project.

Ms. Sibble replied that it was in the amount of approximately \$7 million. Over the years it became a bit complicated realizing the funding, which has come from several funding sources.

Tom Terwilliger, 3160 NW 1st Avenue, Pompano Beach, opined that the City's Cultural Arts Center and Broward Library appears to be turning into another financial nightmare and detailed his reasons. He complained that the Construction Manager has failed to keep the guaranteed cost within the maximum and the taxpayers are asked to pay almost \$2.6 million over the maximum construction price, to bring the price to approximately \$20 million. He suggested placing the overrun of costs on the Construction Manager since he was going to get fifty percent of any savings from the project.

Ernestine Tai, 657 NW 21st Avenue, Pompano Beach, indicated that previously with another project she had inquired whether there could be limited amount of change orders that could be done on a construction project. Therefore, she mentioned that if the City does not negotiate at the beginning of the contract to limit the amount of change orders that a project can get with the dollar amount proposed for the project, then it will create a loophole where the contractor and project Managers will be able to get more change orders. In sum, Ms. Tai understands that in projects like these change orders may be necessary but opined it is not fair to be getting numerous change orders to complete the project that would significantly go over the cost of the budgeted amount to complete it.

Mayor Fisher explained that a clarification will be provided about the change orders, even though this one has been tagged for this particular item, which changed the scope. The City added items to the scope of

services, hence the additional requirement for funds to cover the costs, which might amount to twice the amount currently requested if it is not addressed now. Mayor Fisher reiterated that the Commission is not acceptable on change orders, but this particular one is regarding a change in scope, which will be explained in details later.

Vicente Thrower, 1890 NW 6th Avenue, Pompano Beach, FL, indicated that when OHL came to the City they had a team of people that they said they would have and would have a deliverable. To his knowledge, he said they have not lived up to their promise. He does not see the Crocket Foundation, which they promised they would have on board, which is among several things they promised to do without fulfilling that promise. He is hoping through the City Manager to hold these organizations accountable to their promises when they are awarded projects. There is a performance list of local participation, which is still unknown at this point. Therefore, he hopes the City will not do business again with this company.

Dawne Richards, 3304 SE 4th Street, Pompano Beach, FL, indicated that between theory and reality there is a 10% difference from the budgeted costs. However, once the City got into the project other things were realized to be included, which the company has the right to charge for those requests outside the original scope of services. Therefore, she questioned whether the City explored other sources of funding outside of those grants the City already received and have been sunken into the current costs of the project.

Mayor Fisher indicated that there is a grant's person on staff that has been very successful in realizing grants for the City.

Comr. Moss indicated that the \$750,000 is the cost for the change order and asked how much in total amount was realized from grants.

Ms. Sibble responded the City was recently awarded an additional \$500,000, which will be applied against the extra cost of \$750,000. However, to date a total of \$1.5 million has been received from grants.

Tammy Good, City of Pompano Beach Project Manager, explained in detail the scope of services versus the change order resulting in the cost overruns, which has been provided in the backup. In sum, Ms. Good indicated that the change order is made up of three (3) parts. The first part being the taxation shortage with a target value of \$513,000 via direct purchases that the City administered, which resulted in a \$290,000 in savings but there was a shortfall of \$224,000.

The second part was the landscaping, where they had a design for an allowance of \$180,000 established in the original GMP. With a design that was significantly costlier than the original amount, a redesign was done meeting the minimum landscaping code. It went before the Architectural Appearance Committee who accepted some of the items reduced in scope and value engineering. They did not accept everything, which added significant value to the landscape design resulting in another \$220,000.

The third part was a list of miscellaneous changes that added scope and was betterment for the project, as well as enhanced the project. These were realized from the shop drawings submittal review process and the permitting process after the GMP was established.

Finally, Ms. Good indicated that with all the additional change in scope, the contractor lump sum fee to administer the changes had not changed. So, all the extra costs will be going directly to the sub-contract. In addition, Ms. Good noted that she had added \$70,000 in contingency on the change order to fund any unanticipated costs that may come up between now and the completion time of the project.

Ms. Good then provided details of the \$236,000 buyout savings realized during the process of construction, which was applied to the Guarantee Maximum Price (GMP).

Lastly, Ms. Good indicated that OHL will not directly benefit, as the monies from the change order will go directly to the subcontractors, of which eight (8) of the seventeen (17) are local to the City of Pompano

Beach. This she said equates to approximately 19% of the total contract value. Therefore, the community will be benefitting from the change order as well as the City, which will be receiving a lot of enhancements.

Comr. Sobel asked for clarification of a "Construction Manager at Risk with a GMP contract."

Ms. Good indicated she will allow the experts to clarify, but provided that a GMP contract is transparent and explained that GMP means Guarantee Maximum Price.

Comr. Sobel indicated that while there has been some change orders there has also been some miscues, some issues that should have been anticipated from the onset, and is not sympathetic with the at risk general contractor because they have made their money.

Comr. Sobel indicated that after reviewing the paperwork that Ms. Good provided to him, from March 2014 the entire project without the changes made was going to be done for \$17,100,000. A savings would be realized at the time of approximately \$2,500,000, if a contractor at risk was hired with a GMP. However, according to the information provided to date, the City has spent the \$2.5 million in overruns, change orders and a combination of miscellaneous things.

Ms. Good explained that those were not savings but were alternates that were deducted out when the contracting team was given the 100% design documents they generated an estimate to build as designed and came out with \$19.5 million. However, at that time the City did not have that amount, but hoped to realize the amounts through grants and additional funding forthcoming. Therefore, they directed the contracting team to value engineering out some items, reduce some scope in areas, put in some add alternates, so that at a later date if additional funding was realized then those items could be added back. She then provided details of the change order that came before the Commission and how they impacted the project. Notwithstanding, she indicated that there were some design issues with the steel of \$700,000 during the first change order.

Comr. Sobel then itemized some of the changes being requested, and asked if this is how they would control the costs, make the decisions, and when does it end. Therefore, if the Commission should grant approval of this fourth change order of a project nearly two years over the time for completion and \$2.5 million beyond GMP, asked when is the expected completion date.

Ms. Good responded that the job will be completed after this last change order, and confirmed that the anticipated completion date will be in April 2017, which equates to six (6) months over time not two years.

Mayor Fisher asked of the \$1.8 million change order how much was realized for cost overruns versus additional items that were requested by the City.

Ms. Good responded that \$1.1 million of the \$1.8 was enhancement to the project that was added back as she explained earlier. Therefore, the total overruns on the project is at 2.5%.

Arthur Hoynack, Executive Vice President of OHL, indicated that when they started with the steel analysis the original impact was \$1.2 million. It took another one month and half among their staff and one of the subcontractors and the design team after a series of meetings to reduce the impact and meet the requirements of the regulatory agencies with jurisdiction over that aspect.

Comr. Moss congratulated Ms. Good for handling this very big and complicated job and making such a clear and easy to understand presentation.

Comr. Perkins indicated that at the initial start of the project, approximately \$1.8 million was provided from the Northwest CRA, the County contributed \$7.2 million, and CIP approximately \$17 million.

Ms. Good responded that the amounts from CRA and the County were correct, but the original GMP price

was \$17 million in total, therefore the total amount from the CIP would be \$8 million.

Ms. Sibble also provided information on how the City realized \$500,000 to contribute to the project.

Comr. Perkins asked if any grant monies were received at the beginning of the project, to which Ms. Sibble responded not at the beginning but over the last year, they have secured \$1 million with an approval of an extra \$500,000 most recently awarded.

Comr. Perkins expressed concern regarding how the funds were realized from the Northwest CRA funds that could perhaps be left alone and the grant of \$1 million applied at the earlier stage. Comr. Perkins asked about the potential funds that will be realized from the programming of the Cultural Arts Center.

Dennis W. Beach, City Manager responded that whatever monies generated by the programming of the facility will go into the operations of the building for staffing, maintenance and things of that nature.

Comr. Sobel asked Ms. Good to clarify her statement made earlier that in “hindsight we are kicking ourselves,” which Ms. Good explained in details of how a project is typically budgeted for a contingency of 15%, which in this case a much lower contingency was decided upon. She then explained the pros and cons of a large percent for this. She also addressed Comr. Sobel’s questions on the timeline changes and deferred the technical questions regarding the fire sprinklers for the contractor to answer, which they provided the process.

Mayor Fisher indicated that staff requested that due to the timeline associated with the construction an emergency second reading be done tonight for procedures, due to the time restraints and costs. Therefore, it is necessary to move forward as soon as possible, because awaiting a couple of weeks would put the project further behind.

The Ordinance was read by title only.

Suzette Sibble, Finance Director informed that there were no additional comments.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be APPROVED FIRST READING. The motion carried unanimously.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be DECLARED AN EMERGENCY SECOND READING. The motion carried unanimously.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be ADOPTED. The motion carried by the following roll call vote:

Yes: Hardin
Moss
Burrie
Fisher

No: Perkins
Sobel

Enactment No: ORD. No. 2017-21

28. [16-32](#) P.H. 2017-23: (PUBLIC HEARING 1ST READING)
AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA ADOPTING A COMPREHENSIVE PLAN MAP AMENDMENT FOR THE AMP IV HIDDEN HARBOUR, LLC REQUEST OF PROPERTIES LOCATED NORTH OF 14TH STREET, SOUTH OF NE 17TH STREET ON THE EAST SIDE OF FEDERAL HIGHWAY; PROVIDING FOR A DETERMINATION THAT A LOCAL PLANNING AGENCY HEARING WAS HELD ON MAY 25, 2016; PROVIDING THAT A TRANSMITTAL AND ADOPTION PUBLIC HEARING WILL BE HELD; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.
(Fiscal Impact: N/A)

(Staff Contact: Maggie Barszewski/Robin Bird)

Robin M. Bird, Development Services Director, presented the item, which is a request to change the future land use designation of several parcels with a total aggregate of 8.9 gross acres of property from Commercial, Medium-High and a Low-Medium Residential land use to a Mixed Use Residential land use otherwise known as a MUR designation. The property is located at 1500 to 1590 North Federal Highway, directly across from the golf course. Currently, AMP IV Hidden Harbour, LLC, owns the property. There are several different land use designations on the property. The parcel to the north on the north side of NE 16 Street is Low-Medium, the parcel on the south side of NE 16th Street east of NE 23rd Avenue is Medium-High, partial abutting Federal Highway is Commercial, as well as the strip immediately abutting the end of the canal and extended into the canal. Commercial flexibility has been applied to the portion that is Medium-High Residential designation where the existing boat storage building is located.

Mr. Bird stated that the applicant requests the Medium-High use standard of 50. The Medium-High in Mixed Use Residential permits up to 50 residential dwelling units per gross acre and the FAR (Florida Area Ratio) of 2.5 square feet for combined residential and non-residential development. The applicant has reduced the request from the maximum to 343 units. There is no site plan available. Since this is a site plan designation, they will need to return to amend the zoning district, which is a Planned Commercial Development that was done in the early 2000 that included the boat building, as well as other marine uses and a retail building on the property. It was amended to accommodate a parking lot along Federal Highway.

Additionally, Mr. Bird indicated that some of the concerns are similar to the ones for the two (2) beach front commercial that changed to residential and mixed use developments where there is access to the waterways. Therefore, they will provide deed restrictions to include marina maintenance, and the boat storage facility, however, they will do mixed use development on the remaining parcels. In addition, the combined other parcels and the gross acres will include the residential and mixed use development while the existing boat storage building will remain for resident's rental and access to the waterways.

In comparison to the existing land use and restrictions, the entitlements come to 858,978 square feet of commercial component. Through their declaration, this was reduced to a total of 650,000 square feet, 585,000 residential uses, 65,000 for commercial uses with 343 units. There is a net reduction in total entitlements for the development in comparison to the commercial.

Mr. Bird then provided details of the requirements and the process involved with the MUR district. He also indicated there is a required finding that is consistent with the Comprehensive Plan. The amendments are consistent with the objectives, policies, the land use plan, and the coastal plan. A listing of the elements is available in the backup.

Lastly, Mr. Bird mentioned that all the conditions of the Planning and Zoning Board were met; however, the voluntary deed restrictions will have to be submitted and recorded only at second reading.

Graham Penn, Esq., Bercow Randell & Fernandez, P.A., 200 S. Biscayne Boulevard, Suite 850, Miami, FL 33131, stated that he represents AMP IV Hidden Harbour, LLC, owner, and operator of the Hidden Harbour Marina. Mr. Penn indicated his overhead presentation would focus on the Elements, the Declaration of Restrictions and the Concerns that they received from the neighborhood residents, as well as what they have attempted to do to resolve those issues. Mr. Penn said his client is not a Developer; they are owners and operators of marinas. As Mr. Bird indicated earlier, they are seeking to establish a framework where hopefully, they can bring a Developer on board and then return to the Commission with an application to rezone the property and create a new master plan for a mixed-use development.

Mr. Penn indicated that since they filed their application they have made significant revisions, to resolve issues that staff raised, and those heard from the residents in the community. Specifically, staff was concerned with the marina use and they have ensured that will remain. They have tried to create, through the covenant provision, that which would limit the impact on the neighbors. He then outlined in detail how the traffic would be impacted by their development.

Mr. Penn's presentation involved the following:

The east side of the property is currently developed with the marina uses including the boat storage building on the southeast and the boat yard on the northeast. Along Federal Highway there is existing retail and a large empty area in the middle.

The 2009 Master Plan approved prior to the corridor study, displays the boat storage, the boat yard and marine type retail along Federal Highway.

Along Federal Highway there is commercial development but behind their property to the east, there is multi-family development, which is two and three story condominiums/townhomes. They have had multiple meetings with their surrounding neighbors and most of the attention was to establish parameters for when it gets back as a rezoning application to limit the impact on those neighbors.

The current commercial designation is 858,000 square feet; however, these numbers are hypothetical in the land use context.

Mr. Penn stated that the Corridor Study has recognized significant issues with the existing built environment consisting of older retail that is underutilized and does not provide transitions to the residential located nearby. Therefore, the Study suggested a mixed-use development for their site that takes advantage of the water. Also, the Study calls for being pedestrian friendly and bicycle friendly activating Federal Highway. In addition, Mr. Penn stated that the Corridor Study has been implemented because the City went through the ETOC (East Transit-Oriented Corridor) process along Atlantic Boulevard, which is one element of implementing the corridor study in a much larger way than they are proposing for their property. Nevertheless, the way the ETOC is framed there is similar implementation in their covenant.

Additionally, for mixed-use designations, both the County's and the City's Comprehensive Plans encourage and have a designation for mixed-use development. There must be designed guidelines in any mixed-use category, which they have set in their covenant.

Mr. Penn outlined the process of their application as it moves from the City to Broward County and back to the City.

- Filing of application 1st Reading with the City Commission
- Return to the Planning Council
- Filing of application with Broward County Commissioners
- Approximately six (6) months later return for 2nd Reading with the City
- Next step to request zoning to implement development

In sum, the best-case scenario upon approval tonight, they will go through to the County, and then return to the City for a change of designation. They will then get a Developer on board to get a plan to the City Commission in at least another six (6) months. Therefore, from now until building permit the minimum time is eighteen (18) months. There is no site plan at this point to show anyone, because Hidden Harbour has not yet engaged a Developer.

Finally, Mr. Penn mentioned the three (3) main concerns they have heard from staff, the neighborhood, and the Planning and Zoning Board:

- 1) The need to retain a marina on the property,
- 2) To limit the impact of both existing development and their proposed mixed-use development on the residential neighbors to the east, and
- 3) To ensure a true vertical mixed use - retail on the ground floor and residential above it.

He then referred to their Covenant that has been provided in the backup material. In sum, they plan to intensify the commercial acreage only. They have agreed to retain the marina use on the south, to cap the residential height and anything within 50 feet of existing residential building that is maxed out at 35 feet. They propose to maintain connections to the water from Federal Highway and comply with the series of design guidelines.

Mr. Penn outlined their design guidelines that are detailed in their Declaration, as required by the City and County Comprehensive Plans.

In Mr. Penn's closing remarks, he summarized his presentation stating that City staff has fully analyzed their application. There is a significant reduction in traffic. Staff has analyzed for schools, water, and sewer, solid waste, which will be re-reviewed when they proceed forward with the zoning. The genesis of the application is the Corridor Study and they are now trying to implement the City's policy that is now clear as to what should be happening on Federal Highway. This is the first private application seeking to develop on Federal Highway. They have agreed to cap their density and intensity and limit their uses in a manner that will ensure that future redevelopment plan of the property will be compatible with the neighborhood. Finally, Mr. Penn requested the Commission's approval on first reading.

The following residents spoke on the proposed development by Amp IV Hidden Harbour.

- 1) Jan Shields, 2350 NE 14th Street, Apt. 718, Pompano Beach, FL, said she does not object to the addition of the attractive mixed-use development along the section of Federal Highway near NE 14th Street Causeway and North. However, she would like to attempt to stop an action that could lead to development that would detrimentally change the character of that section of the City. Therefore, Ms. Shields urged the Commission to reject the application by Hidden Harbour for a Land Use Designation change.
- 2) Melissa Milroy, 2710 NE 6th Street, Pompano Beach, indicated that she fully supports development in the City and supports the proposed development to change the Land Use Designation of the Aquamarina Hidden Harbour site. Therefore, she urged the Commission to vote in favor of the proposed development.
- 3) David Yates, 2545 NE 15th Street, Santa Harbor Townhomes, Pompano Beach, spoke in opposition to the proposed development and provided his reasons.
- 4) Robert Parks, 2880 NE 14th Street, Apt. 1010, Pompano Beach, former School Board member, thanked the Commission for putting up the intersection sign that would block people when the bridge goes up on the 14th Street Causeway that allows the residents in the surrounding condominiums to exit on to 14th Street. He mentioned that he is concerned about the proposal and would like to see due diligence done by all parties involved, by reviewing traffic studies, and environmental studies prior to making any amendment change.
- 5) Michael Horan, 1039 Hillsboro Mile, NE 16th Street, Pompano Beach, indicated that he is not against the project, but he has some concerns. Therefore, prior to the Commission making any decision on this, he suggested that the Florida Department of Transportation should conduct studies, such as low density, medium density to the high density, to determine the impacts on the neighborhood. Therefore, he urged the Commission to put the item on hold until all pertinent information from the studies is in place.
- 6) Ric Green, 2701 SE 5th Court, President/CEO, Greater Pompano Beach Chamber of Commerce, member of the Pompano Beach Economic Council, stated that the traffic issues have been addressed by encouraging mixed-use development on Federal Highway. Therefore, he recommended that the City Commission approve the item to allow the community to continue to grow.
- 7) Pat Ivory, 2350 NE 15th Street, Pompano Beach, expressed concern about the high-rise buildings. Therefore, he does not support approval of the item.
- 8) George Platt, 333 North New River Drive, Fort Lauderdale, former County Commissioner, stated that Pompano Beach has come a long way from being a farming community. He said that the redevelopment of areas along Dixie Highway, Atlantic Boulevard, and Federal Highway are

important. Therefore, he sees this project as a good opportunity for mixed-use development for the City, as well as it is an ideal location. So, he urged the Commission to move forward and approve this initial phase of the project.

- 9) Dawne Richards, 3304 SE 4th Street, #6, Pompano Beach, questioned whether the use of the 800,000 square feet commercial designation could be utilized for a distribution center.

Mayor Fisher responded that a distribution center would require a different zoning, but they would be able to accommodate a retail center.

Mr. Bird confirmed that they could build a retail center, but not a distribution center or anything industrial or major trucking.

- 10) Vicki Solerno, 2350 NE 14th Street Causeway, Pompano Beach, expressed concern regarding the development because of the concentration of people, cars, and all that will accompany the addition of more buildings to that street, as well as the impact to the quality of life.

In response to Comr. Hardin's question regarding the maximum height allowed for a building, Mr. Bird responded that currently it is 105 feet, but eventually it would be no higher than that. Currently, with the RPUD's the City has an 85 feet cap. Therefore, it depends on what the City is going to do but most likely, they will request a planned infill development.

Comr. Hardin stated that if they cannot fit 343 units in 10 stories they could not have that many units. However, at this stage it is undetermined.

Mr. Bird explained that if the land use is not there, they could not plan for it or sell to anybody. In reality, they are just preparing the land for development. In addition, he confirmed that the property is a block north of NE 14th Street Causeway.

Comr. Sobel asked if the 343 units are the maximum amounts allowed, and why is the applicant proposing at that level at this time.

Mr. Bird responded that it is also at per gross acre, so they are trying to fit on the net acres, which only can be done if they use a Planned Development. If they should return for something other than that, say an RM-45 on a portion of it, they will not get the gross acre calculation, thus they would not get to use the portion on Federal Highway and NE 16th Street. He then explained the criteria that govern the Land Use.

Comr. Sobel reported that most of the residents that have contacted him about the property are opposed to the project and provided the various reasons they were opposed to it. An extensive debate followed among Mr. Bird, Comr. Sobel, and Mr. Penn on the possibilities of developing the land and the various impacts it would have in the neighborhood. As well as how the proposed amount of units would fit into the space and the possibilities of utilizing that land space for any type of proposed development.

Comr. Sobel asked if they decided to go with the maximum, what kind of impact it would have on the public safety with emergency vehicles coming in and out of the area. Mr. Penn responded that has not been tested at this point, however, that service would be reviewed at the time of the zoning. He reiterated that all they are talking about at this stage is an abstract Land Use Plan Amendment and there are no issues with infrastructure.

The debate continued among Mr. Penn, the Mayor, and Commissioners as to the impacts from the traffic and the FAA (Florida Airport Association) standpoint. In sum, Mr. Penn indicated that the City Commission has the ultimate decision. The entire County process only affords them the opportunity to return to the City Commission for final decision making regarding the qualifications to commence development.

Mayor Fisher asked about the status from a zoning standpoint.

Mr. Bird indicated that either they will have to make a choice to do another Planned Commercial Development (PCD), but it may not include mixed-use, or, Planned Infill Development (PID) would be most likely what they would do. As a mixed-use, they would not do a Residential Planned Unit Development (RPUD).

In conclusion, of all the aspects he inquired about and debated, Mayor Fisher emphasized that he would not be in favor of the 343 units being built in the proposed location. At the same time he would not want to hamper the process for Hidden Harbour to return to the Commission so that they can produce something finite, where the Commission would now decide what they would allow and what

they would not allow. Mr. Penn indicated that he understood the Commission's position at this time.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Ordinance be APPROVED FIRST READING. The motion carried by the following vote:

Yes: Hardin
Moss
Perkins
Burrie
Fisher

No: Sobel

29. [17-175](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AUTHORIZING THE SETTLEMENT OF THE LAWSUIT BETWEEN THE CITY OF POMPANO BEACH, FLORIDA AND EAST POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY V. MICHAEL SWERDLOW, ET AL.; PROVIDING AN EFFECTIVE DATE.
(Fiscal Impact: \$225,000.00)

(Staff Contact: Mark E. Berman)

Mark E. Berman, City Attorney presented the item and indicated that it is still a pending litigation. The item represents the conclusion of litigation commencement with the City in 2010. The City's lawsuit was unsuccessful at the trial level, and the appeal initiated was unsuccessful. Therefore, it leaves the City at the point with the sole remaining issue in this case, which is the defendant's costs and attorney's fees. The defendant submitted a request for approximately \$410,000 in attorney's fees and costs. Based on that, the City attacked the amount and filed a motion to have that request denied. Upon using the leverage for that motion, negotiated a reduction to \$225,000 as a settlement of the claim, which equates to a reduction of 45% and a savings to the City of \$184,500. Should the City proceed to hearing and not succeed, the cost of \$410,000 would increase by approximately 10% and the City would have to pay the entire amount. The only option left at this time is to leave the matter in the courts hand to decide. Therefore, this proposal represents a guaranteed savings to the taxpayers of approximately \$184,500 should the City decide to settle at this time.

Tom Terwilliger, Pompano Beach, asked if during the litigation, did the City use outside counsel to represent the City, and if so, how much did the City expend for the service.

Mr. Berman responded that outside counsel was utilized at a cost of \$683,603.36.

Mr. Terwilliger asked, since the case was filed and staff has been participating in the action what were the costs for hours and overhead.

Mr. Berman responded that he does not have those costs.

Comr. Sobel commended Mr. Berman for doing a great job with his limited capacity at the end of a long road, thus saving the taxpayers a lot of money.

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Resolution be ADOPTED. The motion carried by the following vote:

Yes: Hardin

Moss

Perkins

Sobel

Burrie

Fisher

Enactment No: RES. No. 2017-127

30. [17-172](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPOINTING SHARON STONE-WALKER TO THE CULTURAL ARTS COMMITTEE OF THE CITY OF POMPANO BEACH, TO FILL THE UNEXPIRED TERM OF JULIA ANDREWS; SAID TERM TO EXPIRE MARCH 24, 2018; PROVIDING AN EFFECTIVE DATE.
(Fiscal Impact: N/A)

APPLICANTS:

Latoya T. Almonord - District 1
Mary Antoine - District 1
Carol Romano - District 1
Donna Russo - District 1
Michael Tipton - District 2
Sharonda Chery - District 4
Marcus A. McDougale - District 4
Ethel Robinson-Burns - District 4
Sharon Stone-Walker - District 2
Andy Cherenfant - District 5
Linda H. Jones - District 5
David Miller - District 5
Ellen Scheffler - District 5
Mona Silverstein - District 5
Kelly Ann Maguire, Alternate 1 - Fort Lauderdale
Cherie Saleeby - Hillsboro Beach
Richard Sasso - Lighthouse Point

(Staff Contact: Asceleta Hammond)

Asceleta Hammond, City Clerk requested to amend the information provided to the Mayor earlier regarding one of the applicants listed. Instead of Sharonda Chery, being amended, it would be Sharon Stone-Walker who resides in District 2 not District 4 as indicated on the applicants list.

Comr. Moss nominated Linda Jones

Comr. Sobel nominated Andy Cherenfant but withdrew because he appointed him earlier under Consent Agenda as his appointee.

A motion was made by Vice Mayor Burrie, seconded by Commissioner Hardin, to insert the name Sharon Stone-Walker and that the Resolution be ADOPTED. The motion carried by the following vote:

Yes: Hardin
Perkins
Sobel
Burrie
Fisher

No: Moss

Enactment No: RES. No. 2017-128

31. [17-165](#) A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPOINTING DANIEL H. YAFFE TO THE ZONING BOARD OF APPEALS OF THE CITY OF POMPANO BEACH, AS APPOINTEE OF MAYOR LAMAR FISHER, WHICH TERM SHALL RUN CONCURRENTLY WITH THE TERM OF THE MEMBER OF THE CITY COMMISSION; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: Asceleta Hammond)

A motion was made by Commissioner Hardin, seconded by Vice Mayor Burrie, that the Resolution be ADOPTED. The motion carried by the following vote:

Yes: Hardin
Moss
Perkins
Sobel
Burrie
Fisher

Enactment No: RES. No. 2017-129

F. REPORTS

City Manager - Dennis W. Beach - No report

City Attorney - Mark E. Berman - Receipt of Recertification - Mark E Berman announced that the Florida Bar recertified him as a Support Certified Specialist in City, County Local Government Law for a second term. Two attorneys in the office are board certified City County Local Government Law.

City Clerk Asceleta Hammond - No report

City Commissioner Rex Hardin - No report

City Commissioner Barry Moss - Commissioner Sobel's behavior - Comr. Moss indicated that he is shocked and disgusted by the shameful behavior of Comr. Sobel, who, in a public forum, took the opportunity to impugn his integrity by suggesting that he had engaged in vengeful and dishonest behavior, because he voted his conscience. Comr. Moss reiterated that he does not know Mr. and Mrs. Hill, and he did not know that they supported his opponent in the elections. Therefore, to suggest that he was being vengeful and dishonest speaks volumes about his character, his sense of honor and his personality.

Comr. Moss indicated that he believes Comr. Sobel owes him an apology and whether he gets the apology or not, his view toward him is severely impacted in unjustly and he will be looking at him through different eyes from here on.

City Commissioner Beverly Perkins - Heisman Award to Lamar Jackson - Comr. Perkins indicated that she had brought to the City's attention that Lamar Jackson, who was born in Pompano Beach, was awarded the Heisman Trophy for the most outstanding player in college football. She had spoken with Mr. Ron Thurston, who has been trying to put something together for the young man but has not been able to do so. Therefore, she would like to work with Mr. Thurston and staff to put something together. Mr. Jackson was home for the Christmas holidays but nothing was in place for him. Nevertheless, he will be returning home in May and requested that perhaps at that time something could be in place for this young man.

Update on Stone Bank Community Redevelopment - Comr. Perkins stated that she did not receive an update on the Stone Bank Community Redevelopment. She learned they had received loan money from the City. Therefore, Comr. Perkins is looking for information regarding the marketing involved, the length of time the loan has been in place, and who had received funds in the past.

Update on Gregory Frazier Shooting - Comr. Perkins indicated that she has not received an update on the shooting death of Mr. Frazier. The family members are aware that this involves an ongoing investigation. Nevertheless, she would like to know what has been put in place or what can be put in place to prevent something like this from happening again.

Major John Hale, Police Chief, Broward Sheriff's Office (BSO), stated that he understands Comr. Perkins comments and concerns. However, their position is that they have no control over the investigation at this point. Actually, it is the Florida Department of Law Enforcement State of Florida, as well as the Governor who has appointed the Miami Dade State Attorney's Office to review the case. Therefore, BSO is in a waiting position as well.

Comr. Perkins requested that Chief Hale organize to meet with the community or put something in place,

so that the community can be assured that this will not happen again. Notwithstanding, the MLK parade is coming up on Monday and all types of activities will be taking place, so she wants to ensure that there is respect and sensitivity to people's issues on that particular day as well.

Major Hale reported that he had a meeting with the City Manager, as well as BSO met with other law enforcement officers in Broward County to include Florida Highway Patrol to look at options to address some of these activities this year versus standing by and watching as they did last year. There are policies against pursuing for traffic related offenses, as well as pursuing motorcycles. However, there are some strategic options that were discussed and they will be putting them into place.

Comr. Perkins indicated that she would like to see BSO do more co-mingling with the residents instead of just standing and waiting for something to happen. Rather, they could try to build a relationship with some of the people in the community rather than just ride by in the car without stopping to interact with those sitting outside under the trees and so forth.

Major Hale understands the comments made by Comr. Perkins and assured her that paramount to community policing is the assigning of personnel to specific zones and leaving them there. This is what they work on when certain deputies are assigned to certain shifts. This is part of the 21st Century policing report that he has discussed with Comr. Perkins. In fact, they have always tried to do and will continue to keep continuity with their personnel and get to know the neighborhoods.

Survey at MLK Parade - Comr. Perkins requested that if the Commission and City Manager will be attending the MLK parade, as they are walking/riding through the Community she would like for them to take note and to provide her with their feedback as to how they felt, what they liked and what they saw, as well as to say whether this would be a place they would desire to live. She asked if her fellow commissioners could just do this survey for her and they could talk about it later.

Chickens Issue - Comr. Perkins indicated that they have been talking about the chickens for quite some time now and suggested that perhaps staff could call the South Florida Wildlife services or the Conservation department to assist the City with its expanding chicken issues.

Mayor Fisher suggested that the City Manager could update Comr. Perkins on this issue.

Blanche Ely Museum - Comr. Perkins mentioned that she has received several calls about the Blanche Ely Museum. A number of people desire to visit, but they are unable to do so. Comr. Perkins indicated that she has been working with Phyllis Koarb, Assistant City Manager, who has been working on this and has been very helpful.

Mayor Fisher reported that recently the Commission approved funding in the budget for the continuing of repairs to the building.

Horacio Danovich, CIP Manager, stated that recently a budget item was approved and on October 1, 2016 funds were received that were allocated to a CIP project to allow work to be done. A project manager has been assigned and has contacted one of the approved vendors to provide a proposal for the architectural work that needs to be done. Some of the work that has been done is to address the HVAC equipment that was faulty, as well as the roof. The next phase will involve bringing the building up to code, conducting a structural analysis of the facility and prepare the facility for museum status. Within the next 90 to 120 days is the expected time for the first steps to go through after which time it would go out for bidding to

commence construction. Currently, the building is not set up for visitors.

Mr. Danovich state he is hoping to get something before the Commission for approval for the February meeting.

Finally, Comr. Perkins requested a weekly update as to the progression of activities with the renovation of the museum, to which Mr. Danovich promised to provide.

Comr. Hardin asked from a best case scenario, when is the expected time the building will be opened to the public.

Mr. Danovich estimated the latter part of the year.

Sober Homes - Comr. Sobel indicated that the problems with sober homes were brought back to the meeting to get addressed by a number of residents. The Commission is 100% united in trying to find resolutions practical and legal that are obtainable in order to make the quality of life better for the residents. Therefore, he urged the residents to continue to apply the pressure on all of the Commission to keep trying to find solutions that will help this quality of life issues. The City Commission is sensitive to the Federal Housing laws, as well as to the clear necessity and benefit of well-run qualified sober homes. Perhaps a more practical approach can be taken in enforcement of tangential issues that surround the problem arising out of abusers of the sober home concept. There are times when people abuse the law and turn it into profiteering. Therefore, if the City could find a way through some committees, through having designated people specifically assigned to both a task force and a liaison at the City to start to target abusers of the system who are profiteers and are not complying. Also, the City could make it uncomfortable and less profitable for those abusing the system, as well as to insist that they become ADA compliant to attack and approach the problem from a practical standpoint.

Consent Agenda - Comr. Sobel indicated that items placed under Consent Agenda should perhaps be matters of ministerial, administration routine that do not need discussion but are required to be put in a public forum. The burden should not be on the citizens to pull items from the Consent Agenda regarding matters that will significantly impact the residents. These matters should be brought before the residents as an item for discussion. Perhaps it will mean longer meetings and more business to discuss, because the City is growing so well. Or, to have another Commission meeting, as was done years ago. Comr. Sobel stated that the fiduciary duty is upon the Commission to communicate these issues of significant importance to the citizens to have transparency without putting the burden upon them.

Sunshine Laws - Comr. Sobel indicated that the conversation on the dais may appear strange and awkward at times, but it is because the members cannot speak with each other except when they are on the dais. So they cannot share their views on issues that are ultimately coming before the Commission. He said these Sunshine Laws of Florida also apply to the advisory boards. Therefore, efforts are on the way to try to help educate the advisory board members both with the City and CRA so that there are no unintended, inadvertent violations of the sunshine laws.

Municipal Election - Comr. Sobel stated that the last election could have been disastrous for the entire City. All five (5) districts City Commissioners' and the Mayor's positions were up for election at the same time. This could have been disastrous if everybody was replaced at the same time and how much it would have hampered the progress that is currently being made in the City. This is a good time for the Commission to step up and re-evaluate how those elections are currently handled.

Comr. Sobel indicated that he would like to see alternating terms for the City Commissioners so that this situation does not come up again. As well as the Commissioners should have a four (4) year term. Therefore, he moved to have the City Charter Amendment Advisory Board draft proposed amendments to the City Charter calling for an implementation of four (4) year City Commissioner terms on an alternating basis, so that they can function better as a city government. So, in order to get this item on the 2018 ballot, it would mandate that the City Charter Board take action on that quickly so that they can come back and start the process.

Mark E. Berman, City Attorney advised that a motion can be made. But normally the request would come to his office from the Commission as a whole and he would make the necessary changes. He indicated that the last time changes were made terms were either lengthened or shortened.

Comr. Hardin pointed out that the terms were adjusted because the change was from a March election to a November election. In this instance there would be no lengthening and shortening as everyone would have the same ending terms. Therefore, it would be an increase from two (2) to four (4) years.

It was the consensus of the Commission to have the City Attorney work on the language to have the terms of the commissioners extended to four (4) year terms. However, it was later clarified that this matter should first go before the Charter Amendment Advisory Board to consider staggered terms, as well as extending the commissioner's terms to four (4) years.

Pier Funding - Comr. Sobel indicated that it has been years since the pier was identified for rebuilding, therefore, there is a need to realize the funding to move forward with the rebuilding of the City's landmark pier.

Fort Lauderdale Airport Shooting - Comr. Sobel addressed the Fort Lauderdale Airport shooting regarding the victims and the families. Therefore, he extended his sympathies to all the victims and their families and he urged everyone not to become numb to these tragedies, but rather to pray for all of mankind and remember the value of all living beings.

Best Wishes - Comr. Sobel wished everybody a Happy New Year and a blessed 2017.

Vice Mayor Charlotte Burrie - The Old Mushroom Farm Project - Vice Mayor Burrie stated that a project that started when Vice Mayor George Brummer was in office, was zoned an RPUD and was placed on the old mushroom farm property. She had asked for some information on this prior, because she learned that their lot lines were legal even though it appears they are almost encroaching on the Brazilian Church property. At the time the project was introduced they showed pretty pictures of what the project would look like; however, former Vice Mayor Brummer insisted on having a playground facility and that the units would be for sale at market rate. Currently, there is a sign that says, "Leasing Office Now Open," which was not what was brought before the commission at the time. Therefore, the records will have to be researched on this.

In sum, Vice Mayor Burrie indicated that this is an atrocity, it is stuck right next to a middle school, they built some type of concrete trench with a big hole in it all the way around the property, and Leisureville is

across the street from it. It looks like somebody just took a number of pods and staked them on top of each other. The concern is that at the time they appeared before the Commission they promoted the units for sale at market rate, not for leasing. As well as a tot lot should have been set up. Therefore, she requested a research done on this project.

Mayor Lamar Fisher - Replacement of Internal Auditor - Mayor Fisher asked the City Manager to place a discussion item on the next Agenda concerning the replacement of Barbara DeLeon, Internal Auditor, who will be leaving on March 1, 2017. This will determine whether to look internally or go outside.

Change Order/Budget Adjustment Forms - Mayor Fisher indicated that the Change Order/Budget Adjustment Sheets provided to the City Commission in the backup are hand written and requested that they be typed upon submission, to make it more legible for reviewing.

G. ADJOURNMENT: 12:45 a.m.

Lamar Fisher, Mayor

Ascelela Hammond, City Clerk