

**MAYOR/COMMISSION WORK SESSION**  
**MARCH 1, 2010**  
**COMMISSION CHAMBERS – 10:06 a.m.**

**Present: Mayor Frankel [arrived at 10:30 a.m.], Commissioners Douglas, Mitchell, Moss, Muoio and Robinson, Jr. [arrived at 10:12 a.m.], City Administrator Mitchell [arrived at 10:18 a.m. and left at 10:44 a.m.], Deputy City Administrator Miller [arrived at 10:44 a.m.], City Attorney McKenna [arrived at 10:09 a.m.] and City Clerk Kauthen.**

- 1. 40<sup>th</sup> Street/Northboro Elementary School – Traffic Engineer Collins [a] announced that Northboro Elementary School will reopen for the school year beginning August 2010 after its renovations are complete; [b] explained that 40<sup>th</sup> Street is presently used as a one-way street, but it was never officially made one-way in the City’s Code; [c] stated that the School Board is planning a bus drop off on 40<sup>th</sup> Street with a loop to get the traffic off of 40<sup>th</sup> Street, which would require the street to revert to its two-way operation; [d] stated that to revert the street to its original operation, signal modifications, signing and marking would be required; [e] stated that the School Board is willing to pay for the signing and marking but does not wish to pay \$10,000 for the signal modifications; [e] noted that if the Commission does not wish to revert the street to its original use, action must be taken to make 40<sup>th</sup> Street officially one-way; and [f] responded to Commission questions. Engineer Malcolm Cooper, a School Board consultant from BRPH Architects-Engineers, Inc., [a] noted that several meetings with the community were held regarding this matter; [b] stated that the primary requests from the public were that parking be alleviated when parents drop off on local streets and that adequate parking be provided on-site; [c] stated that although City Staff has recommended that 40<sup>th</sup> Street be two-way for safety reasons, the school could operate fine if it remains one-way; and [d] noted that there were no public objections to making 40<sup>th</sup> Street two-**

	<p>way. Commissioner Douglas [a] stated that she believes the buses will be able to load without changing the street from one-way; [b] iterated that if the School Board believes making it two-way will enhance the school, then it should be a School Board expense; and [c] asked that the impacted neighborhood be notified if the City would like the street to be two-way. Commissioner Muoio suggested that the street be made two-way if the School Board is willing to pay \$10,000 for the street light modifications, but if they are not, then it should remain one-way. It was the consensus of the Commission to ask Traffic Engineer Collins to find out whether the School Board would be willing to pay for the signal modifications.</p>
9.	<p><u>Other</u> – Commissioner Robinson asked Traffic Engineer Collins for an update on discussions held with Palm Tran regarding Electronics Way street improvements. Traffic Engineer Collins responded that Palm Tran had recommended that the City reclassify Electronics Way for the federal aid system, which would allow it to qualify for grant money. Commissioner Robinson suggested the Commission consider Palm Tran’s recommendation.</p>
2.	<p><u>Announcement for Attorney/Client Session for March 4, 2010</u> – City Attorney McKenna announced that this matter has been removed from the current trial docket, so she will reschedule the Attorney/Client Session when the matter is reset for trial.</p>
3.	<p><u>Waterfront/Waterfront Events</u> – Commissioner Moss [a] asked whether fees will be charged for the use of the waterfront and whether a bond is needed to protect the vegetation; [b] urged that placing a burden on Sunfest and the Palm Beach Boat Show be avoided, lest the event organizers decide to leave the City; and [c] asked that the Commission be involved in the discussions with Sunfest and the Boat Show. City Attorney McKenna [a] stated that staff reserved the right to determine how the City would handle the amenities that were already planned at the time they</p>

entered into the contracts with Sunfest and the Boat Show; [b] stated that staff met with Sunfest on February 26, 2010 and agreed on a resolution for 2010, which is considered the transition year; [c] iterated that the committee that is working on bringing the Commission programming plans for the waterfront will also report on regulations on how to handle the pavilion and the other amenities in the future; [d] noted that it was agreed that if Sunfest generates revenue from the use of the pavilion, for example, then the City would get a 10% share of the gross income; and [e] responded to Commission questions regarding pavilion naming opportunities and the Chase Marina Lease Agreement. City Administrator Mitchell [a] clarified that Sunfest was interested in using the pavilion as a hospitality area for a private party, and would not have it open to the public; and [b] responded to Commission questions. Commissioner Douglas noted that the new docks and the subsequent agreements with the State increased Sunfest's liability. Commissioner Mitchell asked for a better financial understanding of the waterfront, particularly what its maintenance costs are and what kind of revenue it is expected to generate.

At this time the Mayor announced that the book chosen for the "Read Together Palm Beach County" program is the Book Thief.

City Commons and Waterfront Project Manager Goldberg [a] stated that she has scheduled meetings with each of the Commissioners to discuss policy and how to move forward with the waterfront after the transition year; [b] noted that Director of Finance Sherman will be present at the meetings to address the financial aspects of the waterfront; and [c] responded to Commission questions. Commissioner Moss suggested [a] that the security personnel at the waterfront be given the power to issue code violations for people who do not clean up after their dogs, skateboard in restricted areas or violate noise ordinances; [b] that the plastic bag dispensers be more widely available to dog walkers along Flagler Drive; and [c] setting a fine for people

	<p>who do not clean up after their pets. The Mayor [a] responded that bag dispensers are already available at the City Commons and Waterfront; and [b] suggested that the names of the bags be more descriptive, as people might not realize that “Bio Bags” are for dogs. City Commons and Waterfront Project Manager Goldberg [a] announced that the Intended Use Advisory Committee will provide recommendations to the Parks and Recreation Department so they can bring forward an intended use ordinance to address fishing, skateboarding and the like at the waterfront; and [b] noted that the ordinance could address dog waste as well.</p>
4.	<p><u>Aquatic Center Opening, Scheduling and Programming</u> – Commissioner Robinson asked [a] whether the Aquatic Center has staff, and if so, how many; [b] when the center will open; and [c] whether activity programs will be available for senior citizens. Director of Parks and Recreation Throver responded that [a] the lifeguards that worked at the Aquatic Center had been redeployed to fill vacancies at community centers and will be sent back to the Aquatic Center to resume operations on March 22, 2010; [b] preparations for the center will begin March 15, 2010 and it will officially open March 22, 2010; and [c] a schedule of programs is now available in the Parks and Recreation’s Spring 2010 Brochure. Commissioner Douglas suggested that something be done to reach out to the community, particularly seniors, to make them aware of the Aquatic Center’s opening. Commissioner Muoio asked that Director of Parks and Recreation Throver provide each Commissioner with a Spring 2010 Brochure.</p> <p>At this time the Mayor announced that the Gaines Park Multipurpose Center will open on March 11, 2010.</p>
5.	<p><u>Mobile Vendors</u> – Commissioner Mitchell [a] stated that new mobile vendors have opened near Howard Park and in parking lots on Belvedere Road; [b] expressed her concern that the</p>

	<p>mobile vendors are detracting business from restaurant owners selling similar kinds of food; and [c] expressed her concern that the owner of a field on the corner of Southern Boulevard and Parker Avenue allows people to park their used cars for sale. Angella Jones-Vann [a] explained the regulations for each of the two licenses that mobile vendors may obtain; [b] spoke about the mobile vendors on Belvedere Road; [c] explained what the Code allows with regards to mobile vendors; and [d] iterated that allowing used cars to be sold on a field is in violation of the Code. Commissioner Moss asked whether violations were issued to the owners of the vehicles parked for sale. Director of Public Works Alford responded that after the Code Compliance Division issued violations, a whole new wave of vehicles arrived on the field. Commissioner Douglas pointed out that she knows of two other locations within her district where used cars are parked for sale. Commissioner Muoio asked whether the City has jurisdiction over the mobile vendors that park near Grassy Waters Preserve on Northlake Boulevard. Planning Director Wu [a] stated that he would investigate whether the City has jurisdiction in the area Commissioner Muoio inquired about; [b] outlined the current regulations for mobile vendors; [c] stated that it would be possible to amend the Code to disallow mobile vendors on private property; and [d] spoke about the process that was taken in 2008 to regulate mobile vendors downtown. The Mayor asked that the Commission prioritize policy changes that they would like to staff to work on. Commissioner Mitchell responded that this issue is not a high priority to her compared to other matters.</p>
6.	<p><u>Refunding of Red-light Fines</u> – Commissioner Douglas [a] noted that there has been a challenge in the legal system to the fines being issued in other cities; [b] suggested that the warnings continue to be issued until the matter is resolved in sixty or ninety days; and [c] noted that this was a program that was established for public safety, not revenue generation. City Attorney McKenna [a] stated that Commissioner Mitchell has requested a legal opinion, which the City Attorney’s Office is in</p>

the process of preparing for the entire Commission; [b] stated that the City of Aventura is planning to appeal their case once the judge issues his order in favor of the challenger; [c] noted that the City of Aventura has written an extensive Memorandum of Law relating to the enforceability of red-light cameras; [d] stated that staff has learned from the Florida League of Cities that 58 cities in Florida have adopted red-light camera programs; [e] stated that three bills are pending in the Legislature, two that will expressly authorize municipalities to enforce red-light camera activities as a civil infraction, and one that requires municipalities to allow the Department of Transportation to handle red-light camera activities; [f] provided a copy of the Florida League of Cities' position on the issue for the record; [g] noted that if it is determined later on that red-light cameras are not legal, the contract holds that the vendor is responsible for refunding the money they received from citations; and [h] suggested asking the vendor for an extension of the warning period. The Mayor [a] noted that if the vendor files for bankruptcy, the City would be responsible for paying back all of the money collected for citations; [b] noted that it is time consuming and not cost effective to continue issuing warnings for an indeterminate period of time; and [c] stated that the three options in this matter are to modify the contract and put the money from fines in a trust account, suspend the program, or continue it at the City's risk. Director of Finance Sherman stated that the money from citations will go to a separate account and will not be used. Commissioner Muoio suggested that the vendor be asked to put the money they collect in an escrow account until the case is settled. Commissioner Moss [a] stated that he is in favor of the program since it deters people from running red lights and putting lives in jeopardy; [b] stated that it is not fair to the vendor to be told they cannot recover their expenses, since they paid for the cost of installing the cameras; and [c] suggested that the money the City collects go into a trust or escrow account, but only a portion of the vendor's money go into such an account. Geoffrey Slugget, representing the

	<p>vendor, [a] stated that American Traffic Solutions, Inc. recommends extending the warning period sixty or ninety days, pending the outcome of the legislation; and [b] responded to Commission questions. Police Chief Bush [a] stated that she agrees with the vendor's recommendation; and [b] noted that no municipality in Florida has suspended or altered their red-light camera program as a result of a local ruling in Miami-Dade County. City Attorney McKenna [a] advised that to extend the warning period, the Commission must adopt a Resolution authorizing an amendment to the contract that states that the warning period will be extended to a particular date; and [b] noted that if the Legislature allows for red-light camera programs, the plaintiff's lawyers in the Aventura case could still bring a lawsuit arguing that the Legislature passed something that is unconstitutional. Commissioner Moss suggested that staff meet with the vendor after the warning period is over to come up with a solution of how to ensure that there is enough revenue to pay back the citations if they have to. Commissioner Mitchell suggested not extending the warning period, but collecting the fines and placing them into an escrow account until the Legislature reaches its decision. It was the consensus of the Commission to ask Geoffrey Slugget to consult his client about Commissioner Mitchell's suggestion. The Mayor suggested staff meet with the vendor to discuss how to insure that the City will not be faced with large damages.</p>
7.	<p><u>Code 100' Requirement for Citizens to Clean Lake Mangonia West Side</u> – Commissioner Robinson [a] stated that he received a copy of a letter dated January 29, 2010 from the Director of Public Utilities to the Director of Public Works that mentioned vehicles parked within 100 feet of Lake Mangonia; [b] asked whether the automobiles and boats found to be in violation are on City property; [c] spoke about violations issued to boats parked on docks off Embassy Drive; [d] stated that there is mention of sunken boats at 3232 Embassy Drive and 3330 Embassy Drive; [e] noted that 47 violations were found on the</p>

	<p>approximately 365 properties along Clear Lake and Lake Mangonia; and [f] asked why the City suddenly decided to issue code violations for properties 100 feet from the lakes. Director of Public Utilities Hanks [a] explained that part of the Department of Health's Consent Order was to do source water protection assessments, which included looking at all the properties along the lakes, particularly within the 100 foot buffer area that the City owns around Clear Lake and Lake Mangonia; [b] stated that the inspections were done in 2009, courtesy letters were sent out to people found to be in violation and an assessment was reported to the Health Department; [c] noted that it is an annual requirement of the Consent Order that every January the properties within the 100 foot buffer area be inspected, primarily to ensure that residents do not contaminate the water supply; [d] clarified that boats without gas engines are permitted on the lakes; [e] noted that the 2010 Drinking Water Report will become finalized in approximately two weeks; and [f] responded to Commission questions. The Mayor [a] suggested that the public notices from Code Compliance should explain the reason why they are being asked to move their vehicles; and [b] asked for a copy of the 2010 Drinking Water Report when it becomes available.</p>
8.	<p><u>Mayor's Matters</u> – The Mayor [a] announced that staff will send a letter outlining the three alternatives for the water plant to the Health Department; and [b] noted that the Commission will make the decision of which alternative to choose after they are presented to the Water Advisory Board and discussed at City Commission Workshops. Assistant City Administrator Balbis [a] stated that the Consent Order allowed the City eighteen months to notify the Health Department on how it would comply with their requirements of using membrane technology at the treatment plant or using groundwater not under the influence of surface water; [b] explained that the letter to the Health Department summarizes the 22 options that were reduced to</p>

	<p>three and provides a schedule of complying with the ten year requirement of using membranes at the treatment plant or using only a groundwater supply; and [c] presented the time-line for this project.</p> <p>At this time the Mayor announced that she and the Mayor of the Town of Palm Beach are sending a letter to the Florida Department of Transportation (FDOT) asking the following: (1) that the proposed Flagler Memorial Bridge design be revised to enhance the architectural and aesthetic quality of the landmark, (2) that FDOT cover the cost of the lighting fixtures, (3) that they give the details of the design before moving forward, and (4) that they evaluate the possibility of reducing the crossing distance of the pedestrian crossing on the eastside of Flagler Drive. Commissioner Mitchell [a] expressed her concern that FDOT will close Flagler Drive for three years during the bridge's construction; [b] noted that she sent a memo on February 26, 2010 asking for a City Commission Workshop to be held to discuss the bridge; [c] stated that she would like FDOT to require in their Request for Proposal (RFP) that bidders use a certain bridge construction method that is less disruptive; [d] suggested that FDOT have a better plan for mitigating the dirt and debris that comes from the construction; and [e] stated that she has other suggestions that she would like to make at a City Commission Workshop.</p>
9.	<p><u>Other [Continued]</u> – Commissioner Moss [a] announced that FDOT has a new construction plan that they believe will not take up parking spaces that are around the Southern Boulevard Bridge; [b] asked for clarification of the construction schedules of the north and south bridges (Flagler Memorial and Southern Boulevard Bridges) to better understand how long the two construction projects will overlap; and [c] asked for a clarification of the Southern Boulevard Bridge plan.</p>

	<p>Commissioner Mitchell [a] spoke about the discussion regarding the Charter Review Committee that took place during the February 22, 2010 City Commission Meeting; and [b] suggested holding a discussion of what the City's goals are with the committee and what the best methods are to achieve those goals. The Mayor [a] explained the process that went into nominating the members of the Charter Review Committee; and [b] clarified that the Mayor and Commissioners cannot change the Charter, only the people can. Commissioner Robinson noted that he and Commissioner Moss each submitted names to recommend members for the committee.</p> <p>Commissioner Moss asked whether issues regarding Ordinance No. 4252-09 had been resolved. City Attorney McKenna responded that [a] she had several discussions with Attorney Alan Ciklin of Casey Ciklin Lubitz Martens &amp; O'Connell law firm; [b] she is hopeful that the issues have been resolved, but she has yet to hear from Mr. Ciklin; and [c] the Ordinance is scheduled to be on the March 8, 2010 City Commission Agenda.</p> <p>Commissioner Robinson [a] announced that the Congressional City Conference begins March 15, 2010; [b] noted that he plans on meeting with the City's lobbyist and is planning congressional visitations; and [c] asked that he be made aware of any federal legislative items the City may be interested in, beyond the four he is already aware of.</p>
10.	<u>Adjournment</u> – 11:56 a.m.