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FORT LAUDERDALE CITY COMMISSION
MARCH 4, 2003**

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION**

**CITY COMMISSION MEETING ROOM
CITY HALL
FORT LAUDERDALE, FLORIDA**

MARCH 4, 2003

Meeting was called to order at approximately 6:04 p.m. by Mayor Naugle on the above date.

Roll call showed:

Present: Commissioner Gloria Katz
Commissioner Tim Smith
Commissioner Carlton B. Moore
Commissioner Cindi Hutchinson
Mayor Jim Naugle

Absent: None

Also Present: Assistant City Manager, Greg Kisela
City Attorney, Harry Stewart
City Clerk, Lucy Kisela
Sergeant At Arms

Invocation was offered by Rabbi Schneur Kaplan, Chabad Torah Center, Fort Lauderdale, followed by the recitation of the Pledge of Allegiance.

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

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to approve the agenda and minutes of the February 18, 2003 meeting. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Presentations

OB

1. Expressions of Sympathy

The Mayor and City Commissioners presented an Expression of Sympathy to the families of Herb Skolnick, Louis Basterda, and Wanda Robinson.

2. Smoke Detector

Commissioner Katz demonstrated the proper way to test a smoke detector. She stated that they needed to make certain that everyone's homes and businesses were safe.

3. Colon Cancer Awareness Month Proclamation

Commissioner Smith presented a proclamation to Dr. Vincent DeGenarro in honor of "Colon Cancer Awareness Month" being observed in March.

Dr. DeGennaro thanked the City Commission on behalf of the American Cancer Society and emphasized that this was a preventable cancer and everyone should be screened for it.

4. Mary Singletary, Broward Teacher of the Year Finalist

Commissioner Moore presented a commendation along with a standing ovation to Mary Singletary of Dillard High School as Broward Teacher of the Year Finalist.

Dr. Elizabeth Hayes, Chairman of the Schools and Park Committee of the Council of Fort Lauderdale Civic Associations, and also the Community Representative to the Municipal Leadership and Education Steering Committee, stated that she also served as Council Liaison to the Education Advisory Board and she was making tonight's presentation on their behalf. She proceeded to state that they were recognizing excellent teaching in the City schools as exemplified by Mary Singletary. She also introduced the principal of Dillard High School, Mr. Henderson. She also explained that the Education Advisory Board had formed a Recognition Committee and in the future they hoped to recognize periodically those individuals involved in supportive education.

Mr. Henderson stated he wanted to wait and let the school talk for itself. He explained they were currently involved in a \$75 Million reconstruction project, and when it was completed they intended to have a student body that would represent the same degree of excellence they were pouring the money into.

Mr. Henderson continued stating that Dillard High School was synonymous with a rich tradition of history which was one of pride and excellence. He proceeded to introduce Mary Singletary who epitomized the term of "my teacher." He went on to state that she was a shining example of showing people how it should be done and was an inspiration to everyone she touched, and a driving force behind the school. He then proceeded to introduce Mary Singletary.

Ms. Singletary thanked everyone for recognizing her in her job. She stated that the acknowledgment of her career meant everything to her. She commented that she attempted to do her job every day and if along the way she enjoyed it, it made her job a lot easier. She proceeded to acknowledge the Broward Teacher's Union. She also thanked Mr. Henderson and remarked that he was the greatest principal in the County.

Commissioner Moore left the meeting at approximately 6:25 p.m.

5. Mike Reimer, Firefighter

Commissioner Hutchinson presented a commendation to Mike Reimer, Firefighter, for his potential life-saving invention which was the "HAZ-MAT Smart Strip." She explained that it was a baseball size card which could detect chlorine, ph, fluoride, nerve agents, oxidizers, arsenic, sulphates, and cyanide in either liquid or aerosol form. Firefighter Mike Reimer thanked the City Commission for the recognition.

Commissioner Moore returned to the meeting at approximately 6:28 p.m.

6. Procurement Month

Commissioner Katz presented a proclamation in honor of "Procurement Month" to Kirk Buffington, Purchasing Manager.

Kirk Buffington, Purchasing Manager, thanked the City Commission for their support and stated that purchasing had changed tremendously in the last 10 years and they were not technology driven. He also stated they were now a revenue generator as a result of a contract awarded several months ago.

7. Outstanding City Employees

Greg Kisela, Assistant City Manager, proceeded to honor Anthony "Tony" Servian, Public Services Department, due to the fact that his 11-year old son, Joshua, had won 1st Place in Literature at the Questa Trace Middle School for his essay entitled "Signs of Courage." The essay was dedicated to his father and described Tony's dedication to his job, family, and the value he added to all aspects of his life. Mr. Servian also serves as 1st Sargent of the 770th Aerial Port Squadron in Homestead in the Air Force Reserves.

Bruce Roberts, Chief of Police, proceeded to honor Victim Advocate Liz Bradshaw who assisted employees and victims in "Shooters" on the night of a shooting.

Chief Roberts then proceeded to honor Officer Eugene McCoy who gathered information regarding a robbery on Oakland Park Drive and forwarded information regarding the possible suspect to the Detective Division, and assisted in his apprehension.

Faye Outlaw, Acting Director of Community Economic Development, proceeded to honor Sheila Solar who was being recognized for her team spirit, enthusiasm and professionalism.

Otis Latin, Fire Chief, stated they were very proud of Mike Reimer. He then proceeded to honor Lieutenant M. Bloomberg, Fire-Rescue, for his assistance at the scene of an accident in Boca Raton.

Commissioner Hutchinson left the meeting at approximately 6:40 p.m. and returned at 6:41 p.m.

The City Manager stated that in addition to being tasked with the timely recognition of the City's employees as a result of the survey, another issue they had to work on was the filling of vacancies. After recruitment and an extensive review process, he announced that as of yesterday Valerie Bohlander would now be head of Building and Construction Services. She had been a City employee for 19 years.

FOPA Health Insurance

(OB)

Mayor Naugle stated that wanted to recognize the FOPA who wanted to make a few comments.

Commissioner Hutchinson stated that she realized that they were in possible litigation as of this time, but she had the opportunity to meet with Barry Capreta, Consultant for the FOPA Health Insurance, and she stated that there were unanswered questions, and as a City and being part of the City Leaders, she felt those questions needed to be answered, and she believed they had not been answered as of this time.

Barry Capreta, Consultant for the FOPA Health Insurance, stated that he was not at tonight's meeting to debate the management deficit, and was not present to debate their cost increase versus the FOPA's cost increase, and he would not even debate whether a deficit existed or not by interpretation of the Contract. He stated that he wanted to go over whether the numbers used to generate the rate increases the FOPA employees were paying had been based off a correct number for medical and dental. He explained that he did not want to see pay deductions start for 1100 employees while questions had not been answered, and deductions not correct according to their contract. He stated further that they had learned from the City that contracts should be followed word-for-word. He asked the Commission to look at the information he was going to distribute.

Mr. Capreta stated that there were two pages from their contract with the City which discussed health insurance. The two important sections were Sections 2 and 4 which were issues being debated. He explained that when you looked at their contract, it was very specific regarding the issues of their health insurance plan and their dental plan. He stated that the third page of the information was what they had been handed at their last meeting with the City before the implementation of the new rates. He stated

they did not agree with this information and felt there were some problems. More importantly, he directed everyone's attention to the bottom left-hand corner of the page which stated: "Medical and vision obligation under the current Memorandum of Understanding was \$5,174,213 with a five-year payback." He explained that they were telling 1100 employees that over a five-year period they wanted \$5 Million paid back on top of what the health care ongoing costs would be. Mr. Capreta continued stating that the second issues was where it said: "Dental obligation was \$509,937 with a 3 ½ year payback" for 1100 employees.

Mr. Capreta stated that at their meetings they talked about the "closed-door" meeting with the City Commission. He stated they wanted to make sure that all the information was given, and they did not feel that the Commission was aware of everything that had taken place in regard to this matter. He stated on the information where it stated: "Revised FOPA Health Plan Medical and Vision Only," Item 1 was "Other Costs," and if you looked at that for Plan Year 1, which was FY 2001, it was \$543,000, and for Plan Year 2, \$635,000. He continued stating that they were aware of some of the things included in Other Costs, but were not aware of everything. He stated they had been asking for a detailed breakdown of "Other Costs." He explained that previously they had been told that salary, pension benefits, and consulting fees were included in those costs.

Commissioner Hutchinson proceeded to ask what "Other Costs" included.

Terry Sharp stated they could provide such detail. Commissioner Hutchinson asked for a copy of the information. He stated that the City Attorney would advise him not to go into detail since they were presently involved in litigation on this matter.

Mayor Naugle asked if there were any costs related to the management deficit in those costs. Mr. Sharp replied there were not.

Mr. Capreta stated that the answer to that question was included in "Claim Costs" which was the largest number associated with the plan. He stated they had not been provided enough detail to prove whether the claims were the FOPA's claims or management's claims. He felt that number needed to be verified with monthly claim batches which would break things down. He explained there were 24 months of claims in those figures and about 48 claim batches, and they just wanted to make sure with everything that had taken place in the past, including the Risk Manager leaving, that claims were not put in the wrong pile.

Mr. Capreta reiterated that he had asked for such a breakdown numerous times, but as of yet had not received such information. He stated that he and Mr. Sharp had a good working relationship and he respected him and what he did, and this was not between the two of them.

Mr. Capreta stated another issue involved retiree premiums. He stated that if you referred to their contract it did not state that they were responsible for paying retiree claims which were very costly. He stated that they considered the retiree program to be the City's Retirement Plan, whereby the City would charge what it cost to supply that insurance to a retiree so the City would break even. If the City would not charge that cost and failed to do so, he felt they could not hold the FOPA responsible for the deficit. He reiterated that he had asked for an explanation of retiree claims, but have yet to be given a response.

Commissioner Moore clarified that the retirees who were part of the plan should pay the full cost for their insurance. Mr. Capreta stated he did not state whether he agreed with that or not, but was saying it was a decision by the City that the cost of the insurance performed by the actuarial study should be exactly what it cost to supply it. He explained this was how they based the number and new rate increases recently given to the retirees, and that was why the plan went from \$575 to \$1300 plus, excluding family dental. Mr. Capreta reiterated that the claims incurred for the time this plan was in effect was not their responsibility according to the Contract. He emphasized that if he asked a question, he would appreciate an answer within a reasonable amount of time. He felt rational adults could sit down and review the

matter and make the necessary decisions.

Mr. Capreta continued stating that the next issue involved COBRA premiums and stated they had been held responsible for those premiums, and he did not find anywhere in the Contract that they were to pay such claims.

Mr. Capreta remarked the next issue was run-off claims which were put at \$1.9 Million, and these were to pay the claims which came in off a self-insured plan after the time it terminated. He further stated that he wanted to know how the \$1.9 Million had been derived at because when he did a run-off plan it was usually around \$1200 to \$1500 per employee and that number was multiplied by the number of employees, and then a number was arrived at. He explained that the figures he came up with in this case were lower than what they were being charged. He remarked that the question was whether they should be required to escrow the full amount in advance or show it in the deficit. He felt this was something that was accumulated over time, and one did not start a health plan and then instantaneously have the reserves necessary to pay run-off claims.

Mr. Capreta stated they had been told they were in this for the long haul and to work as a team, but if they were in it for the long haul, he asked if they should be paying the full run-off claims up front as they were being asked to do. He reiterated that the \$5.1 Million that was stated as the deficit owed to the City and should be paid over 60 months, that the number used to generate that figure was incorrect based on retiree premiums, COBRA premiums and Other Costs. He guaranteed there were items in Other Costs which they would not consider their costs. He felt pay deductions for employees should not begin until the number was verified as correct or not.

The City Attorney suggested that it was entirely appropriate to listen to the FOPA's presentation, however, he suggested it was inappropriate to go over the numbers. He explained they were in litigation and a hearing was scheduled for next Monday on a Motion for Injunctive Relief. A meeting was set to provide some answers to their questions, but Mr. Capreta was unable to attend. He stated they would get the answers to their questions, and present the Commission the answers in a different form, but this way was inappropriate.

Mayor Naugle stated that in a lawsuit the Courts had to decide and sometimes things had to be given up during the free exchange of ideas, and the Union had chosen the lawsuit route and they needed to limit their discussion of this matter. He further stated that if some questions could not be answered this evening, he realized it was due to the present situation.

Commissioner Smith asked how long it would take to provide the breakdown of the costs to Mr. Capreta.

Mr. Sharp explained he had more detail than what was provided on the summary page, and in a few days the information would be available.

The City Manager stated that they wanted to share all the information which had been requested as soon as they legally were able. He felt after Monday's hearing they would be ready to sit down and have a discussion. Commissioner Smith asked when the additional monies were to be deducted from the paychecks. Mr. Capreta stated those deductions were scheduled for March 21, 2003. Commissioner Smith stated that the employees would have to give their fair share once the correct figures were supplied and verified, and he felt the requests being made by the FOPA were reasonable. He suggested that staff put together the information and not begin the payroll deductions until the FOPA had time to digest all the information supplied, and then they could possibly return before the Commission with either their consensus regarding the figures or state their disagreement.

Commissioner Hutchinson stated that she agreed with Commissioner Smith and she had never heard from the FOPA that they did not want to participate as a team member. She felt they had the right to receive correct information and to be supplied with all the necessary information. She stated that she also

wanted to obtain the information that would be distributed to the FOPA. She reiterated if the necessary information was not supplied, that the members should contact the Commission. She realized the FOPA had also requested an audit, and she confirmed that the information distributed did not constitute an audit.

Commissioner Katz stated that she agreed with the comments made by the Commissioners and felt it was unfortunate that it had taken this long to get the necessary information. She felt it was appropriate for them to know what the charges were, and she asked if over the next few days they could have the opportunity to meet with Mr. Sharp and an objective person to discuss the issues.

Mr. Capreta reiterated that they had been working on this for one year and they wanted this to happen. Commissioner Hutchinson remarked that she wanted to know when such a meeting would occur so they could possibly attend, and asked the City Attorney if that was permitted. The City Attorney stated that they could attend such a meeting as long as it had been posted.

Mr. Capreta stated that "Other Costs" were also included in dental, along with retiree premiums, and they were asking to have a breakdown on dental also. He further stated that no where in there Contract did it say they were responsible for paying any increases in the dental or a deficit which was related to that plan.

Mr. Capreta then referred to a letter from Damon Adams, Finance Director, dated July 1, 2002 which discussed miscellaneous costs and proceeded to read from that letter. He felt those were significant costs, and they did not feel they should be paying for some of the items included in those costs.

Mr. Capreta then referred to a letter from the Guardian Insurance Company who was concerned with the fully insured dental rates and they were adding a repayment obligation on to it. A letter was sent to Mr. Sharp stating that they felt the MDG rates were filed with the State to avoid problems of potential non-compliance with the Department of Insurance. He proceeded to read a portion of that letter. He stated they felt this was against State law to add on top of the dental a repayment obligation when there was a fully insured rate, and again they could not find such a thing in their Contract stating they were responsible for paying a dental deficit.

Mr. Capreta summarized that they wanted to see an audit and proceeded to show an example of one. He reminded everyone that some of the employees had escrowed monies in advance during open enrollment thinking they were going to be in a PPO, and now were offered an HMO with the PPO being unaffordable. He continued stating that the employees who escrowed in \$1,000 for future medical costs had lost those monies since they could not afford the PPO, and he wanted to see this matter reopened so the employees could be reimbursed those monies. He also requested they be sent monthly profit and loss statements. He stated that if they did not get 75% dental participation, which he felt they were not going to get from the open enrollment, that Guardian Insurance had every right to cancel their contract or re-rate the group.

Mr. Capreta stated that they were requesting the City Commission to give the FOPA the 30 or 60 days necessary to review the information. He also stated that they were willing to hold off on the Injunction that had been filed in good faith to sit at the table and work on a solution.

Commissioner Moore asked for Mr. Rhodes to respond to the remark about the additional premiums being added, and stated he felt this was of great concern.

Lloyd Rhodes, Rhodes Insurance Group, consultant for the City, stated that the communication that had gone out did identify the fact that part of the deductions were part of the deficit repayment plan, and the fully insured rates were identified separately.

Commissioner Moore asked if they were being supplied with an actual cost of the insurance, and an

actual cost of the repayment. Mr. Rhodes confirmed. Commissioner Moore stated it was necessary that the monthly profit and loss statements be issued, and felt it gave everyone more accurate information, and asked if this could be supplied monthly as requested. Mr. Rhodes replied it had been done and was available. Commissioner Moore stated that he and the majority of the Commission felt that everyone was going to participate in how they were going to address this deficit, and he felt this was a requirement. He reiterated that he would not support any of the deductions being added to any employee until they were aware that all individuals would have the additional costs added equally.

Commissioner Moore asked if Mr. Capreta was a full-time consultant for only this plan. Mr. Capreta replied he had other clients, but was spending a considerable amount of time with the FOPA. He clarified that he could not say how much time they were occupying his work without checking his records. Commissioner Moore continued to ask if Mr. Capreta would have the time to review the materials if produced Tuesday or Wednesday of next week before the next Commission meeting of March 18, 2003. Mr. Capreta replied he would be happy to review any of the materials provided, but he felt it would take the City time to generate the documentation, and was not sure if March 18th was a realistic date. He also stated that he would evaluate the documentation when provided. Commissioner Moore suggested that the information be delivered expeditiously so they could review the materials and everyone sit down and work out a solution.

Mayor Naugle reiterated that a discussion could also be held on March 18, 2003 regarding the management payback as well. The City Commission agreed unanimously.

Commissioner Smith asked for a clarification of the audits which were requested.

Commissioner Moore left the meeting at approximately 7:10 p.m.

Mr. Capreta stated that it was required by State law that a public entity perform an audit so the numbers could be verified. He stated that an audit was to be done annually and they were over 2 ½ years into the plan. He reiterated that they at least wanted to see that an outside firm had been hired to start working on the audit, and that another impartial person be present to verify that what they were asking for was being produced. Commissioner Smith asked who would be the appropriate impartial person. Mr. Capreta felt that since the City Commission was to make the final decision, it should be a Commissioner.

Commissioner Hutchinson asked if the first and second year audits were available, and if they were available how come they had not been provided to him previously.

Mr. Rhodes stated that he was not sure what information Mr. Capreta had and had not received, and clarified that the State of Florida requires them to file an actuarial certification which was different from an audit. He proceeded to explain that an actuarial certification worked with the current TPA and established an IB&R but did not report a reserve factor, and determined whether the rates were sufficient to cover future expenses. He stated this was currently being worked on and was time consuming. He replied that report would be for the year ending December 31, 2002.

Mr. Capreta stated that he had spoken with Mr. Rhodes in the past and when various items such as deficit issues and repayment obligations were mentioned, these were things he did not get involved in and were more of a bargaining issue. He stated, therefore, it was difficult to go straight to the consultant for the requested information.

Commissioner Moore returned to the meeting at approximately 7:13 p.m.

Commissioner Hutchinson stated that she was concerned if the requested information was not supplied immediately did they have to begin the deductions on March 21, 2003, and asked if there could be an extension of 30 days to afford the FOPA the opportunity to review the supplied documentation.

The City Manager stated that the down side was they needed to "stop the bleeding," and see the impact of planned changes and increased deductions. He stated the time could be extended, but would only prolong the time before they could see what needed to be done. He stated it would be worth it, if they came to some conclusion. He further stated that he felt safe to say they would take at least another 30 days and to return on March 18, 2003 with pertinent information was being very optimistic. He felt there could be a recommended period of time for the open enrollment, and then coming back with the deductions. The City Manager continued stating that the goal of the Commission, the Administration, and the bargaining units were to provide affordable costs. He stated that they did not want to get the Commission unwillingly involved in the bargaining process. He felt as policymakers they should not be in such a position, and felt it was his job to isolate the Commission from such direct pressures. Therefore, he stated that he disagreed that the third party present at the meetings should not be a policymaker, but felt that a third party who was not an elected official should be present at that meeting.

Mayor Naugle stated that previously when working with the FOPA, they had agreed to designate one of the Commissioners only as an observer to listen, and not participate in the discussions at the bargaining level.

Commissioner Moore stated he agreed if they were getting into a bargaining issue, he would not want to be in that position. He felt if information was offered any individual who understood the process could evaluate the situation. He believed that the actuarial information to be provided would give them what was needed. He reiterated that meeting the March 21st date was no longer part of the issue, and the earlier the employees understood the costs the best for everyone involved.

Mayor Naugle remarked that a report on this matter would be presented to the City Commission on March 18, 2003.

The City Manager reiterated that the deductions would not begin on March 21, 2003, but a status report would be provided on March 18, 2003, and time would be included for the open enrollment process.

Consent Agenda

(CA)

The following items were listed on the agenda for approval as recommended. The City Manager reviewed each item and observations were made as shown. The following statement was read:

Those matters included under the Consent Agenda are self-explanatory and are not expected to require review or discussion. Items will be enacted by one motion; if discussion on an item is desired by any City Commissioner or member of the public, however, that item may be removed from the Consent Agenda and considered separately.

Event Agreement - AVP Pro Beach Volleyball

(M-1)

A motion authorizing the proper City officials to execute an Insurance, Indemnification, and Hold Harmless Agreement with the **Association for Volleyball Professionals, Inc.** to indemnify, protect, and hold harmless the City from any liability in connection with the **AVP Pro Beach Volleyball** to be held **Friday, Saturday and Sunday, April 4 through 6, 2003, from 9:00 a.m. to 6:30 p.m. Friday and Saturday, and from 9:00 a.m. to 5:00 p.m. Sunday** on South Beach.

Recommend: Motion to approve.

Exhibit: Memo No. 03-337 from City Manager

Event Agreement - Tangerine's Pump 'N Run**(M-2)**

A motion authorizing the proper City officials to execute an Insurance, Indemnification and Hold Harmless Agreement with **Tangerine's Stem Cell Foundation** to indemnify, protect, and hold harmless the City from any liability in connection with the **Tangerine's Pump 'N Run** to be held **Saturday, March 29, 2003 from 8:00 a.m. to 11:00 a.m.** at Holiday Park and area streets; and further authorizing the closing of the following route from 8:00 a.m. to 9:00 a.m.: beginning on N.E. 6 Terrace south of N.E. 9 Street, proceeding southbound to Ninninger Drive; west around the loop near Federal Highway; east to G. Harold Martin Drive; south around to the Gym to meet up with the Park's jogging path; continuing through the Park on the jogging path to rejoin G. Harold Martin Drive near the softball complex; south to Ninninger Drive; and west to N.E. 6 Terrace to return to the start/finish line.

Recommend: Motion to approve.

Exhibit: Memo No.03-338 from City Manager.

**Event Agreement - St. Patrick's Day Celebration
Maquire's Hill 16****(M-3)**

A motion authorizing the proper City officials to execute an Insurance, Indemnification and Hold Harmless Agreement with **Cilldara Inc.** to indemnify, protect, and hold harmless the City from any liability in connection with the **St. Patrick's Day Celebration** to be held **Sunday, March 16, 2003 from 11:30 a.m. to 12:00 midnight and Monday, March 17, 2003 from 7:00 a.m. to 12:00 midnight** at Maguire's Hill 16, 535 North Andrews Avenue; and further authorizing the closing of the southbound curb lane of North Andrews Avenue from 5 street to 6 Street from 12:00 Noon, March 17, to 2:00 AM March 18, 2003; and the alley running parallel to Andrews Avenue at the back of Maguire's Hill between their property lines only from 6:00 AM Saturday, March 16, to 12:00 Noon Monday, March 18, 2003.

Recommend: Motion to approve.

Exhibit: Memo No. 03-289 from City Manager.

**Event Agreement - Saint Patrick's Day Celebration
(Las Olas Riverfront)****(M-4)**

A motion authorizing the proper City officials to execute an Insurance, Indemnification and Hold Harmless Agreement with **Las Olas Riverfront Associates Limited Partnership** to indemnify, protect, and hold harmless the City from any liability in connection with the **Saint Patrick's Day Celebration** to be held **Monday, March 17, 2003 from 12:00 noon to 12:00 midnight**; and further authorizing the closing of S.W. 1 Avenue from S.W. 2 Street south to the alley between Las Olas Riverfront and One River Plaza from 8:00 a.m. on March 17 to 3:00 a.m. on March 18, 2003

Recommend: Motion to approve.

Exhibit: Memo No. 03-336 from City Manager.

**Event Agreement - St. Patrick's Day Celebration
(McGuinness's Sly Fox)****(M-5)**

A motion authorizing the proper City officials to execute an Insurance, Indemnification and Hold Harmless Agreement with **McGuinness's Sly Fox** to indemnify, protect, and hold harmless the City from any liability in connection with the **St. Patrick's Day Celebration** to be held **Sunday, March 16, 2003 from 6:00 p.m. to 9:00 p.m. and Monday, March 17, 2003 from 7:00 a.m. to 12:00 midnight** at McGuinness's Sly Fox located at 3537 Galt Ocean Drive.

Recommend: Motion to approve.

Exhibit: Memo No. 03-290 from City Manager.

Event Agreement - Walk America**(M-6)**

A motion authorizing the proper City officials to execute an Insurance, Indemnification and Hold Harmless Agreement with the **March of Dimes Birth Defects Foundation** to indemnify, protect, and hold harmless the City from any liability in connection with **Walk America** to be held **Saturday, April 12, 2003 from 7:00 a.m. to 1:00 p.m.**; and further authorizing the closing of the following walk route from 8:30 a.m. to 10:30 a.m.; beginning in Birch State Park and crossing Sunrise Boulevard to the eastbound lanes, east in both eastbound lanes of Sunrise Boulevard to Sunrise Lane; south to N.E. 9 Street; east to State Road A-1-A; south in the westernmost southbound lane to East Las Olas Boulevard; east in westbound lanes to northbound State Road A-1-A; north in easternmost northbound lane to the Tunnel entrance back into the park. As the group thins out throughout the walk, participants will be directed onto sidewalks only.

Recommend: Motion to approve

Exhibit: Memo No. 03-340 from City Manager.

Event Agreement - Las Olas Wine and Food Festival**(M-7)**

A motion authorizing the proper City officials to execute an Insurance, Indemnification and Hold Harmless Agreement with the **American Lung Association** to indemnify, protect, and hold harmless the City from any liability in connection with the **Las Olas Wine and Food Festival** to be held **Thursday, March 20, 2003 from 7:00 p.m. to 9:00 p.m.**; and further authorizing the closing of East Las Olas Boulevard from S.E. 6 avenue to S. E. 11 Avenue, and S.E. 8 Avenue, S.E. 9 Avenue, and S.E. 10 Terrace from East Las Olas Boulevard north and south to the alley on each side from 3:00 p.m. to 10:00 p.m.

Recommend: Motion to approve.

Exhibit: Memo No. 03-341 from City Manager.

Road Closing - Kijiji Moja**(M-8)**

A motion authorizing the closing of Sistrunk Boulevard from N.W. 14 Way to N.W. 15 Avenue from 8:00 a.m. to 6:00 p.m. on Saturday, March 29, 2003 for the Parks and Recreation Department's pre-opening of the Mizell Center and the Black History Month celebration of Kijiji Moja.

Recommend: Motion to approve.

Exhibit: Memo No. 03-339 from City Manager.

**Creation of Trust Account to Accept Donations
for Rebuilding of Fort Lauderdale Aquatic Center**

(M-9)

A motion authorizing the proper City officials to create a funding mechanism to accept funds for rebuilding the Fort Lauderdale Aquatic Complex.

Recommend: Motion to approve.

Exhibit: Memo No. 03-361 from City Manager.

**Revision to Five-Year Capital Improvement Plan
(CIP) - Years 2002-2007**

(M-10)

A motion approving certain minor revisions to the five-year Capital Improvement Plan for years 2002 through 2007, which was approved December 17, 2002.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-197 from City Manager.

**Disbursement of Funds - Joint Investigation -
O.R. No. 00-6022 - \$752.29 U.S. Currency**

(M-11)

A motion authorizing the equitable disbursement of funds in the amount of \$752.29, with each of the 13 participating law enforcement agencies to receive \$57.86.

Recommend: Motion to approve.

Exhibit: Memo No. 03-2-2 from City Attorney.

**Disbursement of Funds - Joint Investigation -
O.R. No. 02-57158 - \$90,006.10 U.S. Currency**

(M-12)

A motion authorizing the equitable disbursement of funds in the amount of \$90,006.10, with each of the 12 participating law enforcement agencies to receive \$7,500.50.

Recommend: Motion to approve.

Exhibit: Memo No. 03-2-3 from City Attorney.

**Contract Extension - The Rhodes Insurance Group -
Employee Health Plan**

(M-13)

A motion authorizing the proper City officials to extend the agreement with The Rhodes Insurance Group from April 1, 2003 through June 30, 2003, at a cost of \$4000 per month, for assistance with the City's employee health plan.

Recommend: Motion to approve.

Exhibit: Memo No. 03-357 from City Manager.

Event Agreement - St. Patrick's Day Street Party

(M-14)

A motion authorizing the proper City officials to execute an Insurance, Indemnification and Hold Harmless Agreement with the **Old Town at Riverwalk Merchants Association** to indemnify, protect, and hold harmless the City from any liability in connection with the **St. Patrick's Day Street Party** to be held **Monday, March 17, 2003 from 12:00 noon to 11:00 p.m.** ; and further authorizing the closing of the following streets from 6:00 a.m. Monday, March 17 to 5:00 a.m. Tuesday, March 18, 2003; S.W. 2 Street from S.W. 2 Avenue to S.W. 3 avenue (leaving S.W. 3 Avenue open); and S.W. 2 Street from S.W. 3 Avenue to the alley east of the old post office site (leaving the alley open).

Recommend: Motion to approve.

Exhibit: Memo No. 03-343 from City Manager.

Change Order No. 2 - R.L. Saum Construction Company, Inc. - Project 15200-E - Holiday Park Roller Hockey Rinks

(M-15)

A motion authorizing the proper City officials to execute Change Order No. 2 with R.L. Saum Construction Company, Inc. in the amount of \$26,282.87 for modifications to the contract associated with the Holiday Park Roller Hockey Rink project.

Fund: See Change Order

Recommend: Motion to approve.

Exhibit: Memo No. 03-232 from City Manager.

Change Order No. 7 - Miami Skyline Construction Corporation - Project 15220 - Palm Aire Park

(M-16)

A motion authorizing the proper City officials to execute Change Order No. 7 with Miami Skyline Construction Corporation in the amount of \$16,500 for additional work related to the Palm Aire Park project.

Funds: See Change Order

Recommend: Motion to approve.

Exhibit: Memo No. 03-233 from City Manager.

Contract Extension - East Coast Testing and Engineering Inc. - Project 10193 - Annual Engineering Testing Lab Contract

(M-17)

A motion authorizing the proper City officials to execute a contract extension with East Coast Testing and Engineering, Inc. for the Annual Engineering Testing Lab Contract.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-230 from City Manager.

Contract Award - Seawood Builders, Inc. - Project 15245 - Design-Build Services for Riverland Park

(M-18)

A motion authorizing the proper City officials to execute an agreement with Seawood Builders, Inc. in the amount of \$4,590,000 for design-build services for Riverland Park. (On February 18, 2003, the City Commission deferred consideration of this item to March 4, 2003 by a vote of 5-0)

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-385 from City Manager.

Grant Application - National Association of PET (Polyethelyne Terephthalate) Container Resources (NAPCOR) - Recycling Promotion for 2003 Air and Sea Show

(M-19)

A motion authorizing the proper City officials to apply for a grant with NAPCOR to promote recycling at the 2003 Air and Sea Show; and further authorizing the proper City officials to execute all documents necessary to accept such grant funds.

Recommend: Motion to approve.

Exhibit: Memo No. 03-229 from City Manager.

Task Order - Corradino Associates, P.A. (Professional General Civil Engineering Consultant) - Project 10222 - City Park Garage - Design Repair of Concrete Masonry Unit Walls

(M-20)

A motion authorizing the proper City officials to execute a task order with Corradino Associates, P.A. in the amount of \$34,524 for design services for the upgrade of the existing concrete masonry unit wall railings in the City Park Garage.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-374 from City Manager.

Task Order No. 03-1 - Hazen and Sawyer, P.C. - Project 10634 - Peele Dixie Raw Water Well Turbine Pump and Pipeline Installation

(M-21)

A motion authorizing the proper City officials to execute a task order with Hazen and Sawyer, P.C. in the amount of \$90,130 for engineering services associated with the Peele-Dixie Turbine Pump and Pipeline installation at PW-27 fast track project.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-386 from City Manager.

Settlement Agreement with De Minimis Parties - United States Environmental Protection Agency (EPA) - Peele-Dixie Wellfield Contamination

(M-22)

A motion authorizing the proper City officials to execute a settlement agreement for the de minimis parties with the EPA related to the Peele-Dixie Wellfield contamination.

Recommend: Motion to approve.

Exhibit: Memo No. 03-388 from City Manager.

Contract Award - Hewitt-Kier Construction, Inc. - Project 10372 - One-Stop Shop at Lincoln Park

(M-23)

A motion authorizing the proper City officials to execute an agreement with Hewitt-Kier Construction, Inc. in the amount of \$3,345,782 for the One-Stop Shop facility at Lincoln Park.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-234 from City Manager.

PURCHASING AGENDA

332-8812 - HOME CHDO Set-Aside Grant Funding

(Pur - 1)

An agreement to award HOME CHDO set-aside grant funding is being presented for approval by the Community and Economic Development Department.

Recommended Award: Housing Enterprises of Fort Lauderdale
Fort Lauderdale, FL

Amount: \$ 369,800.00

Bids Solicited/Rec'd: 8/3

Exhibits: Memorandum No. 03-283 from City Manager.

The Procurement and Materials Management Division reviewed this item and agrees with the recommendation to approve funding recommendation.

**Proprietary - Maintenance/Service Contract
for NCR Server**

(Pur-2)

An annual agreement for a maintenance/service contract for the NCR server is being presented for approval by the Police Department.

Recommended Award: NCR Corporation
Plantation, FL
Amount: \$ 12,100.00
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-334 from City Manager

The Procurement and Materials Management Division reviewed this item and agrees with the recommendation to award the proprietary purchase.

Proprietary - Grit Chamber Drive Assembly

(Pur-3)

An agreement to purchase a grit chamber drive assembly is being presented for approval by the Public Services Department.

Recommended Award: Dorr-Oliver Eimco, Inc.
Salt Lake City, UT
Amount: \$ 64,656.00
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-253 from City Manager

The Procurement and Materials Management Division reviewed this item and agrees with the recommendation to award the proprietary purchase.

Co-Op - One-Year Contract for Liquid Chlorine

(Pur-4)

An annual agreement for the purchase of liquid chlorine is being presented for approval by the Public Services and Parks and Recreation Department.

Recommended Award: Allied Universal Corporation
Miami, FL
Amount: \$ 273,205.20 (estimated)
Bids Solicited/Rec'd: 8/3 with 2 no bids
Exhibits: Memorandum No. 03-332 from City Manager

The Procurement and Materials Management Division recommends award to the lowest responsive and responsible bidder.

Proprietary - Two Chlorine Evaporators

(Pur-5)

An agreement to purchase two chlorine evaporators is being presented for approval by the Public Services Department.

Recommended Award: Water Treatment and Controls, Inc.
Jacksonville, FL
Amount: \$38,380.00
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-291 from City Manager

The Procurement and Materials Management Division reviewed this item and agrees with the recommendation to award the proprietary purchase.

Proprietary - Software/Switch, Interface and Support/Maintenance

(Pur-6)

An annual agreement to purchase H.T.E. message switch, software interface and additional software support/maintenance as needed is being presented for approval by the Police Department.

Recommended Award: H.T.E., Inc.
Fort Lauderdale, FL
Intergraph Public Safety
Madison, AL
Amount: \$ 155,612.00 (estimated)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-333 from City Manager

The Procurement and Materials Management Division reviewed this item and agrees with the recommendation to award the proprietary purchase.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson that Consent Agenda Item Nos. M-1, M-7, M-9, M-13, M-15, M-18, M-22 and M-23 be deleted from the Consent Agenda and considered separately, and that all remaining Consent agenda items be approved as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Commissioner Moore left the meeting at approximately 7:24 p.m. and returned at 7:25 p.m.

Event Agreement - AVP Pro Beach Volleyball

(M-1)

Commissioner Smith stated that he had pulled this item and was in favor of it, but he wanted to move it with the understanding that the Beach Council wanted a discussion at the next Conference Meeting about being able to serve liquor during special events specifically approved by the Commission on the beach. They felt at certain times it would be appropriate and they wanted that for this event since it was a national tournament.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to approve this item. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Event Agreement - Las Olas Wine and Food Festival

(M-7)

Commissioner Hutchinson stated that she had pulled this item, and asked if they were going to speak with the Homeowners Associations regarding the neighborhood group and street closures.

Sue Molnar, Outdoor Event Coordinator, stated that they had met with the Homeowners Associations.

Motion made by Commissioner Hutchinson and seconded by Commissioner Smith to approve this item.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Creation of Trust Account to Accept Donations for Rebuilding of Fort Lauderdale Aquatic Center

(M-9)

Commissioner Hutchinson stated that she had pulled this item and asked if this was being supported by the Convention and Visitors Bureau.

Ernest Burkeen, Director of Parks and Recreation, stated that they had not opposed it and this had been driven by the businesses, but they would present the matter to the Convention and Visitors Bureau.

Motion made by Commissioner Hutchinson and seconded by Commissioner Smith to approve this item.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Contract Extension - The Rhodes Insurance Group - Employee Health Plan

(M-13)

Commissioner Hutchinson stated that she had pulled this item, and asked where the funding was going to come from.

Terry Sharp, Assistant Finance Director, stated that it was coming from the Insurance Fund, and there were salary savings because of the vacancy of the Risk Manager position, and a vacant Benefits Coordinator position. He explained that they would only use it as long as they needed to, and interviews were scheduled for next week with individuals for the Risk Manager position, and then in two weeks interviews were scheduled with individuals seeking the Benefits Coordinator position.

Commissioner Hutchinson proceeded to ask what part of the Insurance Fund did this come from, the management or employee's part.

Mr. Sharp explained that the City had an Insurance Fund specifically for the self-insured health plan, and contributions came from the City as well as employees.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to approve the item.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

**Change Order No. 2 - R.L. Saum Construction Company,
Inc. - Project 15200-E - Holiday Park Roller Hockey Rinks**

(M-15)

Commissioner Smith stated that he had pulled this item and asked how the jogging path could cost \$23,000.

Hector Castro, City Engineer, stated that in reality the running track was a little different because it was lime rock topped with 3 inches of polymar and capsulated aggregate that was supposed to be better for runners.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to approve the item.

Roll call showed: YEAS: Commissioners Katz, Smith, Hutchinson and Mayor Naugle. NAYS: Commissioner Moore.

**Contract Award - Seawood Builders, Inc.
Project 15245 - Design-Build Services for Riverland Park**

(M-18)

Commissioner Smith stated that he had pulled this item and remarked he had been trying to convince the Assistant City Manager to come up with a new funding scheme in order to allow Phase II of the 13th Street project to move forward.

Greg Kisela, Assistant City Manager, stated that the only options they could come up with at this time was if they deleted the contingency component which was \$225,000, which would leave a balance of \$125,000 they would have to find for funding. Therefore, since they would need Community Block Grant Funds, they would have to borrow the \$125,000 from Davie Boulevard for about 4 months.

Commissioner Katz asked about DC Alexander Park. Commissioner Smith stated he thought that project was not ready to move forward and asked if a plan had been made for this park. Mr. Kisela stated there was no plan for the park at this time.

Commissioner Moore stated if they were to get the \$350,000 for the 13th Street project was there any way possible that it would happen before October. Mr. Kisela stated it was possible, but it would still be a push to have it done by that time frame. Commissioner Moore asked out of the last 10 projects which had been done, what was the likelihood of this project being completed in that time frame. Mr. Kisela stated his best guess would be 50/50. Commissioner Moore reiterated that it appeared that it was a "coin toss" as to whether 13th Street would be done. He continued stating that Phase I had been done and there were other projects being offered to the proposal.

Commissioner Smith remarked that during the Conference Meeting discussion had been held regarding projects in Commissioner Moore's area which were languishing due to the fact there were no developer agreements, and they had not been made a priority. The Commission then said they were going to make issues and projects priorities which were in areas where they needed to be prioritized. He stated that 13th Street was an area which was being rehabilitated, and he felt it was an area needing priority. He reiterated that they were waiting for 3 years for this project and he would appreciate Commissioner Moore's support.

Commissioner Katz stated that when the Commission had first discussed this, she was concerned they were borrowing money to do half of a project that could wait, and therefore, she could not support this item.

Commissioner Hutchinson stated that she was comfortable about borrowing the money as it related to

Davie Boulevard and would support the item.

Motion made by Commissioner Smith and seconded by Commissioner Moore to approve the item.

Roll call showed: YEAS: Commissioners Smith, Moore, Hutchinson and Mayor Naugle. NAYS: Commissioner Katz.

**Settlement Agreement with De Minimis Parties -
United States Environmental Protection Agency
(EPA) - Peele-Dixie Wellfield Contamination**

(M-22)

Commissioner Hutchinson stated that she had pulled this item, but wanted to move it since her question had been answered.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to approve this item.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

**Contract Award - Hewitt-Kier Construction, Inc. -
Project 10372 - One-Stop Shop at Lincoln Park**

(M-23)

Francisco Touro, was present on behalf of AVI Contractors, Inc., the second low bidder on the One-Stop Shop Project which the City had opened on February 18th. He stated they were requesting that the City abide by Florida law and reject the apparent low bidder, Hewitt-Kier, as materially non-responsive. He proceeded to distribute documentation to the Commission regarding this matter. He explained that some of the information he was distributing was a summary of Florida law as to why errors had occurred. He further stated that regarding this project, the City had specific requirements which each interested contractor had to comply with at the time of bid. He explained that each interested contractor had to submit evidence that they possessed an engineering contractor's license which was required due to a portion of the work related to undergrounding of utilities within the right-of-way. He stated that Florida's licensure laws required a different type of license other than just a general building contractor's license for that type of work.

Mr. Touro reiterated that Hewitt-Kier did not satisfy the requirement at the time of bid, unlike AVI Contractors who did provide the evidence and adhered to the City's requirements. He stated that the problem was that after the bids had been opened, it was undisputed that somehow, in some way, the City had authorized Hewitt-Kier to correct the material omission. He explained that Florida law in the area of public procurement did not authorize such conduct. He stated that in the public procurement sector the main goal was to maintain the integrity of the public contracting process which was done by insuring that every interested contractor would be treated fairly. He continued stating that some time after-the-fact, he had received a draft memorandum prepared for this Commission dated February 20, 2003 and which he received on February 24, 2003. The City's position was the license was required and Hewitt-Kier did not provide evidence of it, but that was all right because they had a general contractor's license. He reiterated that this violated Florida law. He stated the City could not alter express bid requirements. He went on to state that at some point after February 24th, but before February 27th, the City revised its memorandum and stated that Hewitt-Kier had provided evidence that it had a licensed subcontractor to do the work. He reiterated that such post-bid conduct was unacceptable. He asked if the City wanted to set a precedent whereby contractors would not have confidence that they would be treated fairly.

Commissioner Moore asked if this was a material issue in the RFP.

Hector Castro, City Engineer, stated that it was stated in the RFP. The issue for the City was that the work in question was a minor part of the job. He explained that the only work in the right-of-way associated with the job was connecting a sewer. He stated that the remaining underground utility work was on the site. In essence, he stated less than 1% of the job was associated with that type of work. He further explained that the low bidder stated they had a subcontractor on staff who had an underground license and met the requirement, and therefore, they allowed the bid to proceed forward.

Commissioner Moore asked if this action was appropriate.

The City Attorney stated they believed it was not a material part of the RFP and was not an amendment to the bid, but was more of a clarification. They believed the bid met the requirements of the Florida Statutes. Commissioner Moore asked if it changed the price of the lowest bidder. The City Attorney stated it did not.

Motion made by Commissioner Moore and seconded by Commissioner Smith to approve this item.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

MOTIONS

Those matters included under the Motions category differ from the Consent Agenda in that items will be voted on individually. In addition, presentations will be made on each motion item if so desired.

Proposed Lien Settlements for Special Master and Code Enforcement Board Cases

(M-24)

1. 816 S.W. 12 Court (CE99090576) - Margaret J. Lumia - \$4,290.

Motion made by Commissioner Moore and seconded by Commissioner Katz that the lien settlement be approved as recommended.

Margaret Lumia stated she had hired a contractor who did not have a license and was using someone else's. She had paid for the permits, but they had not been pulled. She explained that the individual who he had borrowed the license from came forward and stated he would complete the work since they had used his license. The work was done but during the interim the fines had begun to run. She asked if the lien amount could be lowered or waived.

Commission Hutchinson asked Commissioner Moore if he would amend his motion to accept 10% which would reduce the lien to slightly over \$2800. Commissioner Moore agreed to accept the amendment to his motion.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

2. 1026 N.W. 9 Avenue (CE02030356) - Harry Marcelin - \$13,000.

Motion made by Commissioner Smith and seconded by Commissioner Moore that the lien settlement be approved as recommended.

Harry Marcelin, owner, stated that he understood there had been violations, and corrections were made at the property. He explained it took time to take care of the violations, and he had not received notice regarding the violations for quite some time.

Commissioner Moore asked Mr. Marcelin how long it would take him to correct a violation if one was given regarding his home. Mr. Marcelin replied that he knew some of the codes. Commissioner Moore asked Mr. Marcelin if he had been cited for any code violations. Mr. Marcelin stated he had been cited for this same building. Commissioner Moore stated there had been 19 violations on the property since 1990. He further stated that many complaints had been received regarding his property, and he was not respecting the adjacent neighborhood. Mr. Marcelin replied that he did not visit the property daily. Commissioner Moore suggested they vote on the amount recommended. He further stated that people who neglected their property such as Mr. Marcelin discouraged others from investing in the neighborhood.

Commissioner Smith asked if the tenants had been served or the actual property owner. The City Attorney replied they were required to serve the property owner as shown on the taxrolls.

Mr. Marcelin stated that when the tenants received the citations, he did not know about them until weeks later. Commissioner Moore asked how the owner collected his rents. Mr. Marcelin replied he collected them once every 4-5 months. Commissioner Moore asked to move this item.

Commissioner Smith again asked who had been cited regarding this property.

John Simmons, Assistant Director Community Inspections, explained that it was policy for staff to mail out the violations Certified Mail. He further stated that if the green card was received back signed, then service had been made.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

3. 1333 S.W. 22 Terrace (CE98042259) - Vonnie Carlton - \$10,000.

Vicky Murphy, niece of owner, stated that during the time the liens had been filed, his wife had been hospitalized. She had been taking care of everything and he had no one to help him. His wife had died and she now came to help him out and sell the properties. She explained that Mr. Carlton had Alzheimer's and was not capable of managing the properties.

Commissioner Hutchinson stated that she was sympathetic to this matter, but she was concerned because other properties had violations also. She stated that contingent on the sale of the properties, she was willing to reduce the lien to \$5,000.

Ms. Murphy explained that the properties had been sold and monies were being held in escrow to pay the fine.

Motion made by Commissioner Hutchinson and seconded by Commissioner Smith to reduce the lien to \$5,000 contingent upon the sale of the properties.

Roll call showed: YEAS: Commissioners Katz, Smith, Hutchinson and Mayor Naugle. NAYS: Commissioner Moore.

4. 1115 N.W. 3 Avenue (CE02051278) - Betty J. Quinn - \$5,500.

Sara Grossfeld, representative for Jean Morgan, stated that Ms. Morgan had lived at this property for approximately 30 years. The owner of the property had been deceased for approximately 3 years, and explained that this person was in financial difficulty and her only income was from Social Security. She further stated that the property was in foreclosure and they were in the process of arranging a mortgage with the daughter-in-law, but if this lien was paid, there would be no money left to repair the property. She requested that the Commission reduce the fine.

Commissioner Smith asked Community Inspections how these cases involving elderly people with no financial resources or family could be solved.

John Simmons, Assistant Director Community Inspections, stated that in this case the problem was the lack of getting a part for a pump so the stagnant water could be pumped out of an above-ground pool. Commissioner Smith asked if there were any programs in place which could help these type of elderly individuals in connection with the violations. Mr. Simmons stated there were no specific programs available, but stated they did attempt to help the individuals.

Commissioner Smith suggested the fine be reduced to \$1,000.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to reduce the lien to 15% of the recommended amount.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

5. 748 N.W. 22 Road - Bilal Amireh (CE02011283 - \$20,000) and (CE01082228, \$870).

Sonia Knight, attorney, stated that they were requesting to have this matter postponed until the next meeting due to Mr. Brady being out of town on an emergency.

Motion made by Commissioner Smith and seconded by Commissioner Katz to defer this matter until the next Commission meeting.

Commissioner Moore stated that he did not want this case deferred and commented that he had received numerous complaints regarding this property, and that the owner was not respecting the neighborhood.

Ms. Knight stated that the owner was deceased and an estate had to be opened up so that this matter could be resolved causing delay in compliance. She further stated that the property was now in compliance and there had also been some notice problems in connection with this property.

Sam Acuba, nephew, stated that he was now managing the property. He further asked for a reduction of the fines.

Ms. Knight stated there was no actual property owner to speak of since the actual owner was deceased, but these gentlemen had brought the property into compliance.

Motion made by Commissioner Moore and seconded by Commissioner Smith to reduce the fine 75% of the amount recommended.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

6. 1409 N.W. 8 Avenue (CE00111348) - Jerri L. and Darrel Wooten - \$8,500.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson approve the lien settlement as recommended.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

7. 821 West Broward Boulevard (CE00040715) - Discount Auto Parks Inc. - \$2,500.

Motion made by Commissioner Hutchinson and seconded by Commissioner Smith that the lien settlement be approved as recommended.

Roll call showed: YEAS: Commissioners Katz, Smith, Hutchinson and Mayor Naugle. NAYS: Commissioner Moore.

Commissioner Smith thanked his constituents who were in the audience for all their support over the years since this was his last meeting.

**South Area Community Area Planning (CAP)
Report and Implementation Plan**

(M-25)

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson that the South Area CAP Report and Implementation Plan be approved as recommended.

Commissioner Moore left the meeting at approximately 8:08 p.m. and returned at 8:09 p.m.

Commissioner Hutchinson asked for a clarification of the point system.

Bruce Chatterton, Manager Planning and Zoning Services, stated that if Commissioner Hutchinson was referring to the expectation that points would have been earned from the last forum, there was some miscommunication regarding that matter. He further explained that rules had been set earlier that points could be earned for participation in workshops, and the forum was excluded from that system. He stated that a question had been asked if the point system was still in place and they had replied that it was, but a miscommunication developed from that answer thinking that points would be obtained for attending the forum. He stated this was an unfortunate incident and wished it had not occurred since it had been a big selling point for the neighborhoods. Mr. Chatterton remarked that the neighborhood had earned close to the maximum for the year.

Commissioner Hutchinson stated that it referred to all the neighborhoods.

Jennie Hancock, Riverside Park, stated that she had asked at a meeting if the points would be given for participation, and the answer had been yes. She stated that when she had asked her question, she remarked that it would be a marketing tool.

Commissioner Hutchinson stated that she wanted to pass the CAP Program, but she was concerned about the point system. She further stated that to the general public most times a forum and a workshop were the same thing, and when using this as a marketing tool she was concerned, and suggested that

possibly another discussion should be held regarding this matter at a later time.

Commissioner Katz stated that she wanted to compliment Mr. Chatterton on the results of the CAP movement, and she felt the plan was a terrific effort and linked everything together.

Mr. Chatterton thanked Commissioner Katz and stated it was entirely due to the community and they only had organized and facilitated the project.

Commissioner Smith stated that the points were important to the communities, and he felt if they were under the impression they were to get CAP points, he felt they could not go back on their word and should provide them, but make it clearer before the next program.

Commissioner Hutchinson asked if it would matter if they were at their maximum points. Mr. Chatterton stated it would not matter for this year, but could possibly carry over into the following year. The City Manager stated that the people had performed in good faith based upon what was represented, and within the resources available they would have to carry it over to the next year. He, therefore, made a commitment to the District Commissioner and all the individuals involved with such a wonderful project, that they would make good on their commitment.

Commissioner Hutchinson commended everyone involved in the project for such a wonderful job.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Lease and Development Agreements - Palazzo Las Olas Group, LLC - Las Olas Intracoastal Municipal Parking Lot and Redevelopment Parcels A and B

(M-26)

The City Attorney stated that possibly the Commission might want to include PH5, PH6, and PH 7 in the same motion since they were all related.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to defer M-26, PH-5, PH-6 and PH-7 until May 6, 2003.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Certificate of Public Convenience and Necessity - Castro's Airport Shuttle and Limousine Service

(PH-1)

A public hearing to consider a resolution authorizing the application of Castro's Airport Shuttle and Limousine Service to operate four vehicles with chauffeurs over irregular routes within the City, pursuant to Sections 27-191 and 27-192 of the City Code of Ordinances. Notice of public hearing was published January 23 and 30, 2003. On February 4, 2003, the City Commission deferred consideration of this item to March 4, 2003 by a vote of 5-0.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to close public hearing. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Commissioner Smith introduced the following resolution:

RESOLUTION NO. 03-33

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CASTROS AIRPORT SHUTTLE AND LIMOUSINE SERVICES, INC., TO OPERATE RENTAL VEHICLES WITH CHAUFFEURS PURSUANT TO SECTIONS 27-191 AND 27-192 OF THE CODE OF ORDINANCES.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Transfer of Application - ABC Taxi Service, Inc. d/b/a Beach Cab, Inc. to Transcorp of Florida, Inc.

(PH-2)

A public hearing to consider a resolution authorizing the transfer of an application from ABC Taxi Service, Inc. (d/b/a Beach Cab, Inc.) to Transcorp of Florida, Inc. to operate nine taxicabs and one wheelchair taxicab over irregular routes within the City, pursuant to Section 27-53 of the Code of Ordinances. Notice of public hearing was published February 20 and 27, 2003.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to close public hearing. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Commissioner Smith introduced the following resolution:

RESOLUTION NO. 03-34

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE TRANSFER OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FROM ABC TAXI SERVICE, INC., D/B/A BEACH CAB, INC., TO TRANSCORP OF FLORIDA, INC., TO OPERATE NINE TAXI-CABS AND ONE WHEELCHAIR TAXI-CAB PURSUANT TO SECTION 27-53 OF THE CODE OF ORDINANCES.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Vacate Alley - Fort Lauderdale Nissan, Inc. and City/County Credit Union (PZ Case No. 16-P-02)

(PH-3)

A public hearing to consider an ordinance approving the vacation of an alley, which was approved by the Planning and Zoning Board on December 18, 2002 by a vote of 5-4. Notice of public hearing was published January 23 and 30, 2003. On February 4, 2003, the City Commission deferred first reading to March 4, 2003 by a vote of 5-0.

Applicant: Fort Lauderdale Nissan, Inc. and City/County Credit Union
Request: Vacate alley
Location: East side of Federal Highway, between S.E. 13 Street and S.E. 14 Street.

Lois Udvardy, Planning and Zoning, stated that the City/County Credit Union had purchased the property located at 1300 South Federal Highway which had been occupied by the Fort Lauderdale Nissan Automobile Dealership. She explained that the site was Parcel A on the map. She explained further that this facility would be used for the Credit Union Auto Advisor functions with the ancillary credit union financial services. In order to bring the site into compliance with current landscape and buffer yard requirements, they were proposing to vacate the "L" shaped alley. Ms. Udvardy stated that the alley served the applicant's property and Lot 18. If the alley was vacated, the Credit Union would utilize approximately 3' of the alley for landscaping, and the remainder would be used as access to a planned townhome development abutting the alley to the east. She explained that this had been reviewed by DRC on August 27, 2002 and received final DRC on January 31, 2003.

Commissioner Hutchinson clarified that the townhomes wanted to use the alley as access to the development. Ms. Udvardy stated that the townhomes had received final DRC and had access to one unit from the diagonal north/south alley, and access to 3 units from the "L" shaped alley.

Ms. Udvardy explained that the vacated area would also be dedicated as a utilities, landscaping, and roadway easement. If the Commission approved the vacation, the following conditions were recommended:

1. That the vacated area should be dedicated as a utilities, landscaping and roadway easement.
2. The applicant was to construct a 10' wide curb radius at the intersection of the north/south and east/west alley segments with a minimum of 13' paved drive for one-way circulation.
3. The "L" shaped alley would be vacated.
4. The north/south alley in the area not being vacated was to be paved from S.E. 13th Street to S.E. 14th Street at the applicant's expense.
5. The vacating ordinance would be in full force and effect on the date of the Certificate executed by the City Engineer and as recorded in the Public Records of Broward County evidencing that all conditions had been met.

Commissioner Smith asked for some clarification of the lots on the map.

Charlotte Rodstrom stated that she was present at tonight's meeting on behalf of the alley and explained that she owned Lot No. 1 on the diagonal alley, and she believed if the "L" shaped alley was vacated it would cause an increase in traffic on the diagonal alley. She stated she was opposed to this vacation and did not feel it was necessary and would impact the future of her property and the individuals who lived there.

Lori Parrish, County Commissioner, stated that her children lived in Mrs. Rodstrom's house, and felt that the vacation of this alley was not for any public benefit. She asked the Commission to consider the welfare of the neighborhood in making their decision.

John Rodstrom, County Commissioner, stated that one of the compromises they had come up with was to pave the alley. The reason they were offering to do this was because it was a recognition on their part that there would be an increase in traffic due to the vacation. He further stated that once it was paved they would be creating a City street and would be an access point for the entire neighborhood. He explained that Lots 4, 5, and 6 were the site of 8 townhomes which currently used the alley for access. In their case, he stated they did not use the alley and Lot 2 had an absentee landlord and occasionally parked a car in the back, but did have access to Lot 2 from the other side. He proceeded to explain on the map another compromise that could be possible.

Dr. Gene Ingles, former President of Harbordale Civic Association, stated that he had been working on this issue for over 3 months. He stated that he had attempted to convince the owners not to sell the property to the City, and that they could use a facility in Plantation. He stated they would be putting a financial institution and a car dealership at the same location. He stated that four years ago they began a project of roundabouts, but they had been taken out. He stated their problem was that traffic had greatly increased in the area, and this project would only make it worse.

Tina DeMarco, owner of one of the townhomes, clarified that the townhomes were located on Lots 3, 4 and 5, and not 4, 5 and 6 as stated earlier. She was under the impression that at the February meeting a vote was taken to vacate the alley and pave it. She felt at this time there were two confusing issues. Mayor Naugle clarified that the decision had been made by the Planning and Zoning Board. Ms. DeMarco stated that her association preferred to have the alley paved because there would be an increase in traffic. She stated further that their lots were most affected by the alley because their pool and backyard were located there and would collect all the dust and dirt from the alley. She recommended paving of the alley. She further explained that Lot 2 was not a single-family dwelling, but was a rental property and those individuals did use the alley for access.

Commissioner Smith asked if the townhomes used the alley for access. Ms. DeMarco stated they had 3 deeded parking spots in the back of the alley and did use it for access. Commissioner Smith asked if they adopted the "Rodstrom compromise" and only paved their section would that be all right. Ms. DeMarco stated that the alley was on a slant and they would need to pave all of it. Commissioner Smith asked further if they were to dead-end the alley somewhere between the property line of Lots 2 and 3, they could get the alley paved as they preferred, and the remaining portion would remain unpaved. Ms. DeMarco stated that would work and the matter had been discussed, but was voted down.

Ron Mastriana, attorney, stated that he represented the City County Credit Union. He stated they would have 300' in the existing building for tellers which would also house the Auto Advisor. He stated that the alley would remain opened and there would be no change in its use and would be landscaped. He stated the only difference was that they would put a 3' landscape buffer on the other side of the existing wall and not have to tear it down. The setback had been changed for the property and they would be required to remove 3' from the facility, so in order not to have to do that, they were requesting the alley vacation.

Mr. Mastriana proceeded to give the history of the case, and stated that as a condition of approval staff and DRC requested that the alley be paved. He showed on the map that the property owners in green wanted the alley paved, and the only individuals who did not want it paved were the Rodstroms. He proceeded to show photographs of the site.

Commissioner Smith asked if the area behind the Rodstrom's property could be left unpaved.

Hector Castro, City Engineer, stated that historically it had been a long-standing policy that when an alley was paved, the entire length of the alley was paved. He stated that he was aware of only one case where that did not occur. He stated that in terms of dead-ending the alley, they would have concerns from a traffic engineering standpoint of not providing sufficient turn-around area. He explained that from an engineering standpoint, it was their preference to keep the full length of the alley opened whether it was paved or not.

Commissioner Smith asked if there could be a compromise as mentioned by Commissioner Rodstrom regarding the stopping of the paving at the bend, and proceeded to ask if a turn-around would still be necessary. Mr. Castro replied that as long as there was access out of the alley and a truck did not have to turn around, it would be all right. He explained that the north/south alley was approximately 16' and the other one varied, but was about 16' on the average.

Mr. Mastriana further stated that they had received letters of support from the townhouse owners, the owner of Lot 2, and the owner of Lot 6.

Craig Edward, representing the developer, stated that the property stood on its own and had been to DRC. No variances had been requested and the townhouses were designed to fit on the lot. He explained that the traffic entering the lot would enter on the west and part of that was to be vacated.

Mayor Naugle asked if they needed any of the square footage from the vacated alley to make up the density for the townhouses. Mr. Edward replied they did not. He stated that if the alley was not continuous all the way down, then the people living at the existing townhouses on Miami Road would only have one ingress and egress.

Mr. Rodstrom stated that he had spoken to Mr. Edward about dead-ending the alley between Lots 1 and 2, and he had no objections. Mayor Naugle asked if the owner of Lot 2 would have any objections.

Ms. DeMarco stated that she had spoken to Larry Baker, the owner of Lot 2, which was a rental property and they preferred having the alley paved. She reiterated that they realized there would be additional traffic, but they did not want the additional dirt and dust and undesirable people. She stated if the alley was to be dead-ended, she had no objection, but did not want it to be widened.

Commissioner Smith reiterated that it appeared a compromise was reached and wanted to move the item.

Cecelia Hollar, Director Construction Services, asked for clarification of the situation. She stated that if they wanted to vacate the property only abutting Lot 1, they would have to come back through the process, and both parties would have to agree to be the applicants.

Mr. Rodstrom stated that they could vacate that portion and Mr. Edward stated he would be a joint applicant regarding the vacation, but the main thing was that it become a dead end.

Mr. Castro stated that the only way it would work was if they did not put themselves in a situation where there was a dead end without a turn around area. He stated there was access from Lot 2 into the alley. He proceeded to show on the map how the compromise could work.

The City Attorney stated that he felt the intent was to keep traffic out of the area and suggested that pylons or something could accomplish this. Landscaping was suggested by some of the property owners.

Commissioner Hutchinson stated that if you paved an alley there would be an increase in traffic. She further stated that she was not in favor of paving the alley and understood the concern about the dust and dirt, but reiterated that if it was paved there would be more traffic.

Mayor Naugle asked about the vacation on the agenda. Commissioner Hutchinson replied she did not have a problem with the vacation, but had a problem regarding the paving of the alley. She reiterated that alleys were not streets and should not be used as such and asked who were supposed to maintain them. She was informed it was the City's responsibility to maintain those alleys. Commissioner Hutchinson stated that she felt they would be setting a preference if the City started doing this. Ms. DeMarco stated they had been maintaining the alley and the City had done nothing regarding its upkeep.

Mr. Ingles stated that the bottom line was they did not want this turned into a commercial entity and wanted that stipulated.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to close the public hearing. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson that the "Rodstrom Compromise" be adopted which would involve paving the blue alley between Lots 1 and 2 to the south, vacating the yellow portion, and requiring the applicant to landscape, according to the direction of the owner of Lot 1, and suggested the applicant put \$1,000 in escrow for future maintenance.

Commissioner Hutchinson asked if the City paved it would they now maintain it. Mr. Castro replied that the City maintained utilized right-of-ways that were paved.

Commissioner Katz asked if the vacation behind Lot 18 (the yellow portion) was agreed upon by everyone.

Mr. Rodstrom stated that the problem was with the vacation of the yellow along with the improvements, it would increase the traffic on the blue area which was why the residents on the south were insistent upon it being paved. He stated they all recognized there would be an increase in traffic, and from their perspective once the alley was paved, then it would become a road. He suggested the residents to the south get what they were requesting, and let them have what they want, and the matter would be solved.

Roll call showed: YEAS: Commissioners Smith, Moore, Hutchinson and Mayor Naugle. NAYS: Commissioner Katz.

Commissioner Katz stated that according to the Engineering Department, they were creating an impossible situation.

Commissioner Smith introduced the following ordinance on first reading:

ORDINANCE NO. C-03-13

AN ORDINANCE VACATING, ABANDONING AND CLOSING ALL OF THE ALLEY EAST OF AND ADJACENT TO PARCEL "A" "A RE-PLAT OF A PORTION OF BLOCK 6 EVERGLADE LAND SALES COMPANY'S FIRST ADDITION TO LAUDERDALE," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 66, PAGE 34, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND THE PORTION OF THE EAST TO WEST ALLEY LYING IN BLOCK 6, "EVERGLADE LAND SALES COMPANY'S FIRST ADDITION TO LAUDERDALE", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 15, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, LYING NORTH OF AND ADJACENT TO LOTS 7, 8 AND 9 OF SAID BLOCK 6, LOCATED SOUTH OF SOUTHEAST 13TH STREET, NORTH OF SOUTHEAST 14TH STREET, BETWEEN FEDERAL HIGHWAY AND MIAMI ROAD, SUCH LAND BEING LOCATED IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

Which ordinance was read by title only.

Commissioner Hutchinson clarified that they would use some type of landscaping material which would form the enclosure. She was insured that landscaping would be used.

Roll call showed: YEAS: Commissioners Smith, Moore, Hutchinson and Mayor Naugle. NAYS: Commissioner Katz.

Ms. Udvardy asked for clarification of the motion and wanted to make sure that some type of landscaping would be used and proceeded to show on the map the area in question.

Amendment to Resolution No. 02-197 - Historic Designation - (PH-4)
Florida Trust for Historic Preservation - Bonnet House -
900 North Birch Road (HPB Case No. 34-H-02)

A public hearing to consider a resolution amending Resolution No. 02-197, which was adopted at the November 19, 2002 City Commission meeting by a vote of 5-0, relating to the historic designation of Bonnet House located at 900 North Birch Road.

Applicant: Florida Trust for Historic Preservation
Request: Historic designation (landmark) status
Location: Bonnet House (900 Birch Road)

Motion made by Commissioner Smith and seconded by Commissioner Moore to close public hearing. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Commissioner Smith introduced the following resolution:

RESOLUTION NO. 03-35

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING RESOLUTION NO. 02-197 DESIGNATING THE BONNET HOUSE LOCATED AT 900 NORTH BIRCH ROAD, FORT LAUDERDALE, AS A HISTORIC LANDMARK PURSUANT TO SECTION 47-24.11 OF THE UNIFIED LAND DEVELOPMENT REGULATIONS TO REVISE THE LEGAL DESCRIPTION OF THE PROPERTY DESIGNATED HISTORIC.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Vacate Portion of Right-of-Way at Birch Road, Southwest (PH-5)
Corner of Birch Road and Las Olas Circle - Palazzo Las
Olas Group, LLC (PZ Case No. 17-P-02)

A public hearing to consider an ordinance to vacate a portion of Birch Road, at the southwest corner of Birch Road and Las Olas Circle. Notice of public hearing was published February 20 and 27, 2003. (Also see CRA Item on the Conference Agenda and Items M-27, PH-6 and PH-7 on the Agenda)

Applicant: Palazzo Las Olas Group, LLC
Request: Vacate portion of the right-of-way
Location: Southwest corner of Birch Road and Las Olas Circle

Motion made to defer until May 6, 2003 on page 24.

Vacate Portion of Right-of-Way at Birch Road, North of Las Olas Boulevard, West of Banyan Street/Birch Road Intersection - Palazzo Las Olas Group, LLC (PZ Case No. 18-P-02) (PH-6)

A public hearing to consider an ordinance to vacate a portion of Birch Road, at the southwest corner of Birch Road and Las Olas Circle. Notice of public hearing was published February 20 and 27, 2003. (Also see CRA Item on the Conference Agenda and Items M-27, PH-5 and PH-7 on the Agenda)

Applicant: Palazzo Las Olas Group, LLC
Request: Vacate portion of the right-of-way
Location: Southwest corner of Birch Road and Las Olas Circle

Motion made to defer until May 6, 2003 on page 24.

Vacate Portion of Right-of-Way at Las Olas Circle, Immediately West of Madeline Street - Palazzo Las Olas Group, LLC (PZ Case No. 19-P-02) (PH-7)

A public hearing to consider an ordinance to vacate a portion of Birch Road, at the southwest corner of Birch Road and Las Olas Circle. Notice of public hearing was published February 20 and 27, 2003. (Also see CRA Item on the Conference Agenda and Items M-27, PH-6 and PH-6 on the Agenda)

Applicant: Palazzo Las Olas Group, LLC
Request: Vacate portion of the right-of-way
Location: Southwest corner of Birch Road and Las Olas Circle

Motion made to defer until May 6, 2003 on page 24.

ORDINANCES

Amend ULDR Section 47-8.11 - List of Permitted and Conditional Uses, Community Facility-House of Worship (CF-H) District (PZ Case No. 1-T-03) (O-1)

An ordinance amending the Unified Land Development Regulations of the City by amending Section 47-8.11 entitled, "List of Permitted and Conditional Uses, Community Facility-House of Worship (CF-H) District," to include a senior citizen center as a conditional use accessory to a house of worship in a CF-H zoning district. This application was recommended for approval by the Planning and Zoning Board on January 29, 2003 by a vote of 9-0. Ordinance No. C-03-10 was published February 8, 2003, and approved on first reading February 18, 2003 by a vote of 4-0.

Applicant: City of Fort Lauderdale
Request: Amend ULDR Section 47-8.11

Commissioner Smith introduced the following ordinance on second reading:

ORDINANCE NO. C-03-10

AN ORDINANCE AMENDING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, BY AMENDING SECTION 47-8.11, LIST OF PERMITTED AND CONDITIONAL USES, COMMUNITY FACILITY-HOUSE OF WORSHIP (CF-H) DISTRICT, TO INCLUDE A SENIOR CITIZEN CENTER AS A CONDITIONAL USE ACCESSORY TO A HOUSE OF WORSHIP IN A (CF-H) ZONING DISTRICT.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Rezone RD-15 to CF-H - Sunshine Cathedral Foundation, Inc. (PZ Case No. 10-Z-02)

(O-2)

An ordinance approving a rezoning from RD-15 to CF-H, which was approved by the Planning and Zoning Board on November 20, 2002 by a vote of 5-1. Ordinance No. C-03-11 was published February 8, 2003, and approved on first reading February 18, 2003 by a vote of 5-0.

Applicant: Sunshine Cathedral Foundation, Inc.
Request: Rezone RD-15 to CF-H
Location: 1480 S.W. 9 Avenue

Commissioner Smith introduced the following ordinance on second reading:

ORDINANCE NO. C-03-11

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE FROM RD-15 TO CF-H; LOTS 12 THROUGH 20, BLOCK 2, "ESMONDA GARDENS", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 22, PAGE 20, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED BETWEEN SOUTHWEST 14TH COURT AND SOUTHWEST 15TH STREET, ON THE EAST SIDE OF SOUTHWEST 9TH AVENUE, IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND AMENDING THE OFFICIAL ZONING MAP AND SCHEDULE "A" ATTACHED THERETO TO INCLUDE SUCH LANDS.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Amend Section 26-91(b) - "Schedule of Fines" - Late Penalties on Parking Citations

(O-3)

An ordinance amending Section 26-91(b) of the Code of Ordinances entitled "Schedule of Fines," in order to allow customers a period of twenty (20) business days to pay a base parking citation fine prior to imposition of a delinquent penalty fee. Ordinance No. C-03-12 was published February 8, 2003, and passed on first reading February 18, 2003 by a vote of 5-0.

Commissioner Smith introduced the following ordinance on second reading, as amended:

ORDINANCE NO. C-03-12

AN ORDINANCE AMENDING CHAPTER 26, TRAFFIC, SECTION 26-91(b), SCHEDULE OF FINES, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, IN ORDER TO ALLOW CUSTOMERS A PERIOD OF TWENTY (20) BUSINESS DAYS TO PAY A BASE PARKING CITATION FINE PRIOR TO IMPOSITION OF A DELINQUENT PENALTY FEE.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Amend Section 25-192 of Ordinance No. C-97-27 - Designate Two Additional Areas as "Newsrack Enhancement Areas"

(O-4)

An ordinance amending Section 25-192 of Ordinance No. C-97-27 of the Code of Ordinances in order to designate two additional areas of Fort Lauderdale as "Newsrack Enhancement Areas" (Harbor Isles/Inlet Neighborhood and the rights-of-way in the area bounded by N.E. 29 Court to the north, N.E. 19 Street alley to the south, the Intracoastal Waterway to the west and N.E. 33 Avenue to the east, inclusive). Notice of proposed ordinance was published February 22, 2003.

Commissioner Smith introduced the following ordinance on first reading:

ORDINANCE NO. C-03-14

AN ORDINANCE AMENDING SECTION 25-192 OF ORDINANCE NO. 97-27 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, IN ORDER TO DESIGNATE TWO ADDITIONAL AREAS OF FORT LAUDERDALE AS "NEWSRACK ENHANCEMENT AREAS".

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

RESOLUTIONS

**Transportation Equity Act for the 21st Century (TEA 21)
Sponsorship of Projects for Submission to Congressional
Representation**

(R-1)

A resolution accepting the draft of the Regional Activity Center (RAC) Mobility Plan to be submitted as a designated priority project during the reauthorization of TEA-21; and further authorizing the City to serve as the sponsor of the HOV/Tri-Rail Downtown Connector and Downtown Mobility Network elements of the Plan.

Commissioner Smith introduced the following resolution:

RESOLUTION NO. 03-36

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE CITY OF FORT LAUDERDALE TO SPONSOR THE HOV/ TRI-RAIL/DOWNTOWN CONNECTOR AND DOWNTOWN MOBILITY NETWORK PROJECTS OF THE REGIONAL ACTIVITY CENTER MOBILITY PLAN AND REQUEST THAT SUCH PROJECTS BE SUBMITTED AS DESIGNATED PRIORITY PROJECTS IN THE REAUTHORIZATION OF TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.

Which ordinance was read by title only.

Commissioner Katz stated that the County did not support this and asked if the City was taking on the sponsorship of the connector from the Tri-Rail to Broward. Commissioners Smith and Hutchinson confirmed. Commissioner Katz stated she was in support of trying to get the money, but she hoped that everything could get adjusted as everyone was saying it would.

Mayor Naugle remarked that he was uncomfortable being the lead agency on the County Tri-Rail Station. He stated he was more comfortable with the City sponsoring the mobility plan and leaving the HOV/Tri-Rail Connector to the County or Regional Transportation Authority. He felt it was more of a regional nature and he felt it was more important to move the people in the downtown area.

Commissioner Katz remarked that originally DOT had brought this before the Commission and asked if they could sponsor it. Commissioner Smith stated that at the last Subarea Mobility meeting, they had stated they were not going to sponsor any of the specific projects. Commissioner Hutchinson remarked that they had not even voted at the last meeting.

Commissioner Smith stated that Commissioner Katz was correct in that all the details had not yet been discussed, but he felt they needed to proceed forward due to the deadline involved with the Federal Government regarding the TEA 21 funds. He further stated that the plan would only work if the complete plan was in place, and if the people coming to the City on a daily basis did not park on the outskirts somewhere and be moved in by mass transit, and then move around on a circulator, it would not work. He agreed the County had advocated their responsibility and should have done it, but he did not feel there was a choice and they needed to request the complete program to see if it would work.

Commissioner Moore stated that the money would not come if they did not deal with I-95 and Broward

Boulevard in order to create the opportunity for a transit system to work. He felt then that if the City could not do what the County refused to do, they would have spent over \$400,000 for nothing. If the City was not the applicant and did not push for the connector, the money would have been wasted.

Mayor Naugle stated that he disagreed that Tri-Rail and the corridor would be meaningful in the future, and felt the FEC would serve the downtown in years to come. He felt if the County wanted to do the Tri-Rail portion that was fine, but he felt the rest could work using the FEC which would happen.

Commissioner Moore stated that he believed if they had gone this far, they needed to move forward on this. In the Conference Meeting, he stated that the County would not step up to the plate for the same reason that DOT refused to do it, which was they did not want to sponsor projects that would have a municipal impact in which they were giving up their resources to do.

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, and Hutchinson. NAYS: Mayor Naugle

Reappointment of Special Masters - M. Daniel Futch Jr., Richard E. Connor, Floyd V. Hull, Meah Rohman Tell and Karen M. Zann

(R-2)

A resolution authorizing the reappointment of M. Daniel Futch Jr., Richard E. Connor, Floyd V. Hull, Meah Rothman Tell, and Karen M. Zann as Special Masters for the City.

Commissioner Smith introduced the following resolution:

RESOLUTION NO. 03-37

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPOINTING RICHARD E. CONNOR, M. DANIEL FUTCH, FLOYD V. HULL, MEAH ROTHMAN TELL AND KAREN M. ZANN AS SPECIAL MASTERS FOR THE CITY OF FORT LAUDERDALE.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Lot Clearing and Cleaning Charges

(R-3)

A resolution authorizing the imposition of liens against certain properties for costs associated with clearing and removal of debris located thereon.

Commissioner Smith introduced the following resolution:

RESOLUTION NO. 03-38

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, ASSESSING AGAINST THE PROPERTIES DESCRIBED IN THE SCHEDULE ATTACHED HERETO THE COST AND EXPENSE OF CLEARING LOTS FOUND TO HAVE AN UNLAWFUL OR EXCESSIVE ACCUMULATION OF RUBBISH, DEBRIS OR TRASH UNDER CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE,

FLORIDA AND IMPOSING SPECIAL ASSESSMENT LIENS AGAINST SUCH PROPERTIES FOR THE COST AND EXPENSE INCURRED IN CLEANING AND CLEARING SAME; AUTHORIZING AND DIRECTING THE PROPER CITY OFFICIALS TO RECORD A NOTICE OF SPECIAL ASSESSMENT LIEN IN THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Building Board-Up and Securing Charges

(R-4)

A resolution authorizing the proper City officials to impose liens against such properties for costs associated with boarding and securing the buildings.

This item had been deleted from tonight's agenda per staff's request.

Lori Milano, Director of Community Inspections, stated that staff had been advised at a late date by the Legal Department that there might be some concern regarding ownership. The property was boarded and secured by the City.

Amend Resolution No. 03-10 - Former New River U.S. Post Office Property - Authorization to Negotiate and Prepare Lease with New River Trading Post LLC

(R-5)

A resolution amending Resolution No. 03-10 regarding the negotiations and preparation of the lease for the former New River U.S. Post Office property, in order to defer the date of the public hearing to consider approval of the lease from Tuesday, March 4, 2003, to Tuesday, May 6, 2003.

Commissioner Smith introduced the following resolution:

RESOLUTION NO. 03-39

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING RESOLUTION NO. 03-10, WHICH SET A PUBLIC HEARING ON THE PROPOSED LEASE AGREEMENT WITH NEW RIVER TRADING POST, LLC, TO REVISE THE DATE OF THE PUBLIC HEARING TO MAY 6, 2003.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Reschedule April 1, 2003 City Commission Conference and Regular Meetings to April 3, 2003

(R-6)

A resolution authorizing the April 1, 2003 City Commission Conference and Regular meetings to be rescheduled to April 3, 2003.

Commissioner Smith introduced the following resolution:

RESOLUTION NO. 03-40

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, RESCHEDULING THE APRIL 1, 2003, REGULAR AND CONFERENCE MEETINGS OF THE CITY COMMISSION TO APRIL 3, 2003.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

**Acceptance of Quit Claim Deeds - Wachovia Bank -
2660 East Commercial Boulevard**

(R-7)

A resolution authorizing the acceptance of five (5) quit claim deeds for Wachovia Bank located at 2660 East Commercial Boulevard (Lots 3, 4, 5, 6 and 7, Block 9 of Coral Ridge Commercial Boulevard Addition as recorded in Plat Book 43, Page 13 of the Broward County Records).

Commissioner Smith introduced the following resolution:

RESOLUTION NO. 03-41

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, ACCEPTING, UPON TERMS AND CONDITIONS, CERTAIN INSTRUMENTS OF CONVEYANCE MORE PARTICULARLY DESCRIBED BELOW.

Robert Dunckel, Assistant City Attorney, stated he wanted to correct a minor error in the agenda which indicated that this was a resolution accepting five instruments of conveyance, but there were only three. He stated there was property divided as to Lots 3, 4, 5, and 6 with one property owner, Lot 7 was the second property owner, and then there was a conveyance of a lease-hold interest.

Tim Welch, Engineering, stated that this item was basically a land transaction for quit claim deeds to occur between five property owners so Wachovia Bank could be developed on five lots fronting Commercial Boulevard and 2660 E. Commercial Boulevard. He explained that the exhibits attached to the memorandum demonstrated the site plan and boundary survey for the proposed development. He further stated that the site plan involved two accesses for the bank. On the north for site parking, on the east for a drive-thru teller, and on the south there would be access from the public alley. He further stated that quit claim deeds were required in order to convey the property ownership to the City, so they could provide the access necessary for the bank.

Commissioner Moore left the meeting at approximately 9:12 p.m.

Jack Seiler would participate in this discussion via telephone communication.

Don Hall, representing applicant, stated that the owner of the property was trying to find a use that would be more acceptable to the residential area, than the nightclub which presently existed at the site. He stated that Wachovia Bank wanted to build a 4,100 sq. ft. branch bank on the site. The Planning Department approved this use for the site. He explained that in order to obtain DRC approval of the site plan, it was necessary to obtain variances from the Board of Adjustment which was done and they were granted.

Mr. Hall explained that due to the configuration of the site plan, it was necessary for the owner of the property to deliver to the City quit claim deeds which would extinguish reverter rights which existed on a portion of the property.

Commissioner Moore returned to the meeting at approximately 9:16 p.m.

Mr. Hall stated that when building the drive-thru lanes 6 parking spaces were being eliminated. He stated that was not a problem because the client was building 23 spaces on their property, and 17 were required by Code. He further explained that one of the conditions of the Board of Adjustment was that the applicant provide 4 public spaces on site. The other condition was that additional parking spaces be provided on 26th Avenue at the cost of the applicant. He stated it was confirmed that 4 parking spaces would fit on that site. He reiterated there would be a net gain of 2 parking spaces.

Phil Highlander, property manager of the building directly to the east of the proposed project, stated that he had sent a letter to the City Manager regarding this matter. He explained that the applicant was attempting to take away public property which was given to the City, and taking it for private use. He felt if this was allowed, what would stop anyone else from petitioning the City to do the same thing. He reiterated that no public good could come out of this. He further explained that the 4 parking spaces they were proposing to put on 26th Avenue were already there, and the 4 parking spaces in the bank lot were the furthest from all the businesses in the area. He stated they had received 5 variances, and still had to get one more. He further stated that no one had contacted him regarding this project. He also stated that the businesses in the area were against the project.

Mayor Naugle asked what the additional variance was that Mr. Highlander felt would still be needed. Mr. Highlander stated that they had received a variance for the drive-thru lanes, and the ordinance stated there had to be a six-lane traffic stacking from the drive-thru window and back. They had received a variance to go from six to four, so therefore, all back-up traffic would go into the alley and block public access. He stated the additional variance which was not requested as of this time was that a space was required in front of the drive-thru lane for people to pull forward. The way it was presently designed, when cars pulled forward they would cross a public sidewalk with a blind corner. He stated there could be a stampede all through Commercial Boulevard of property owners requesting variances for the front of their businesses.

Anthony Schavalas, owner of the dry cleaning business, stated that he had been at the location for the last 22 years. He stated that parking spaces had slowly been chipped away in the area. He proceeded to show pictures of the traffic situation in the area. He stated that this project could create additional gridlock that would put them out of business. Mr. Schavalas stated that to the west of the site was a building which housed a dental practice, and to the east was his business. He explained that he had about 80-100 cars at his establishment a day which was short-term parking, but the area was gridlocked and many times people would pull up to the driveway, blow their horn, and their cleaning was taken out to them. He proceeded to explain the other businesses that were located in the area.

Bud Tite, dentist, stated that he had agreed with all the comments made so far but added that this was a project too big for the site, and that it was an accident waiting to happen.

Larry Douglas Levy, owner of the beauty shop, reiterated that the area had a horrendous parking problem and he hoped that the City would arrive at a solution to the problem.

Jack Seiler stated that what the City was being presented with tonight was an extremely dangerous precedent. He stated that he did not believe this had been done before, the taking of public land in the form of parking and giving it to a private landowner. He went on to explain that this land had been deeded to the City back in the '60's. He stated that this resolution was prepared today for tonight, and the item was advertised as "acceptance of quit claim deeds, Wachovia Bank, 2660 E. Commercial

Boulevard.” He explained that the problem with that was that the notice gave the impression that Wachovia Bank was quitclaiming property to the City and giving something up, but actually the bank was taking public parking from the City and converting it to private use for a driveway. He felt it was important that the City recognize that the notice was very misleading. He explained further that the language stated that the land reverted back to the private property owners, if used for anything other than public parking. He stated if the land was being used for public parking, it needed to remain for public parking.

Mr. Seiler continued stating that what they were actually doing was quitclaiming their reversion rights. He stated converting this land to private use would only benefit one property owner. He reiterated the use being proposed was not for public purpose. He reiterated that the project did not fit on the property. He went on to state that they were bending over backwards for the first time in the history of Fort Lauderdale to give away six public parking spaces to a private landowner because no one liked the current use of the property. He urged the Commission not to give away 6 parking spaces in violation of the deed.

Commissioner Smith asked if Mr. Seiler was representing anyone in this matter. Mr. Seiler stated that he represented Dr. Tite and Mr. Highlander.

Mayor Naugle asked if the spaces were already available on 26th but were not officially designated.

Peter Partington, Traffic Engineer, stated that the spaces being proposed were correctly characterized as new spaces, and to create them and mark them out officially would require a slight widening of the road on the west side, which they suggested to be a condition of the approval. He added that when he visited that site, he did not observe anyone parking there at the time.

Mayor Naugle stated that he was concerned about the teller operation, and proceeded to ask what would happen when a large group of individuals pulled up at one time, and asked if the alley would be blocked. Mr. Partington suggested that the traffic consultant give a description of the operation of the bank.

Molly Hughes, traffic consultant for the applicant, stated that there was an ingress and egress aisle adjacent to each other, a two-way drive aisle which caused several of the six spaces to be eliminated in order to provide access to the on-site parking. There was a single exit lane to the east where the drive-thru would empty across and into the circulation drive aisle, and then exit onto Commercial Boulevard. She stated that the alley would not be the primary access, and it could be a reliever, but the site circulated by entering on the west, driving around the building, and exiting on the east. Ms. Hughes explained that the bank preferred to have 3 drive aisles and had provided a fourth one in order to handle people quicker and move them through, and this was the solution to having a lot of people stacked behind 3 windows. She explained further that the traditional bypass lane had been converted to a use lane in order to reduce stacking behind the windows. She stated that studies had been done by a specialist who dealt with Wachovia Banks, and it showed the stacking for a bank of this size would be satisfied within the stacking area on site behind the four windows.

Mr. Hall stated that this particular issue had been discussed by the Board of Adjustment at length, but the study was done at 4 banks and it showed conclusively that the configuration on this site would not cause a stacking problem.

Mayor Naugle asked if the City had agreed they could block the sidewalk, and further asked what would happen when the people pulled away from the bank before they moved out into traffic.

Tim Welch, Engineering, explained the procedure of the drive-thru lanes. He explained they had 14' to 16' in front and were required to have 20'. They would be required to slide their service point back 4' to 5', and this would be a design change to meet the outbound stacking, but they had received a variance for the inbound stacking.

Ken Bank, resident, stated that the nightclub in the area posed a serious safety problem. He stated that

his girlfriend had been a victim due to this nightclub, and he preferred to have a bank on the site.

Commissioner Katz stated that she had received calls over the years from residents behind the club who stated the problem was getting worse and worse. She stated the alley was being used and everyone in the neighborhood wanted a different use for the area, and the bank seemed to be the answer to their prayers. She stated further that due to how the area had been configured, there would be a parking problem no matter what business was on the proposed site. She felt the businesses were looking at the worse case scenario, and things would settle in and some of their concerns would be addressed. She felt this project should be supported.

Commissioner Smith stated that he also had received calls from residents in the area filing their complaints. He stated he also was in support of this project.

Which resolution was read by title only.

Roll call showed: YEAS: Commissioners Katz, Smith, and Moore. NAYS: Commissioner Hutchinson and Mayor Naugle.

Amended and Restated Lease Agreement - Bryan Homes, Inc. - River House Restaurant, 301 S. W. 3 Avenue

(R-8)

A resolution authorizing the proper City officials to execute an Amended and Restated Lease Agreement with Bryan Homes, Inc. for the operation of the River House Restaurant located at 301 S.W. 3 Avenue.

Commissioner Smith introduced the following resolution:

RESOLUTION NO. 03-42

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO AN AMENDED AND RESTATED LEASE AGREEMENT WITH BRYAN HOMES, INC. FOR PROPERTY LOCATED AT 3021 NORTH NEW RIVER DRIVE WEST AND 303 NORTH NEW RIVER DRIVE WEST.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Commissioner Smith left the meeting at approximately 9:47 p.m.

Advisory Board Appointments

(OB)

The City Clerk announced the appointees/reappointees who were the subjects of this resolution.

- | | |
|--|-----------------|
| Board of Trustees, Police and Firefighters Retirement System | Steven Camp |
| Cemeteries Board of Trustees | Joe M. Goldberg |

Community Appearance Board	Jennifer R. Kanser
Community Services Board	Jason "Jay" Taylor
Economic Development Advisory Board	Andrew Mittleman
Nuisance Abatement Board (Alternate)	Dill Hatchett

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 03-43

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPOINTING BOARD MEMBERS AS SET FORTH IN THE EXHIBIT ATTACHED HERETO AND MADE A PART HEREOF.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: None.

Reconsideration of a Vote Regarding the Planning and Zoning Board Chairman

(OB)

Commissioner Katz stated that she had a difficult matter to raise and that some people would be unhappy with her, and yet some people would be glad as to her position on a matter. She asked for a reconsideration of a vote which had been taken two weeks ago which concerned the Planning and Zoning Board. Originally, she supported, along with two other Commissioners, the District Commissioner who made the original appointment because they felt that Commissioner had the right to remove someone who was not representing them as they wished to be represented. She felt she was unaware of the facts at the time. She continued stating that the fall-out from this decision had been politically and morally a disaster for the City. The Advisory Boards felt that any decision made which might be contrary could mean their removal from a Board, and felt that the boards had no stability, and this could adversely influence each person's ability to voice their conscience. She stated accusations had been made and she believed they were unfounded, and that this was motivated by an attempt to influence a vote. She also stated that accusations had been made that the decision being made was used to influence the Board's decision in the opposite direction.

Commissioner Katz went on to state that Gerry Cooper had been the Chair of the Planning and Zoning Board for a number of years, and had been re-elected as Chair once again which indicated to her that he had the support and respect of the Board. She felt he was a good member of the community. She stated she did have some concerns of her own, but had discussed them with Mr. Cooper and was satisfied with his response. Therefore, she was re-evaluating her position on the vote and wanted to change her vote.

Motion made by Commissioner Katz and seconded by Commissioner Hutchinson to reconsider the vote taken to remove Gerry Cooper as Chairman of the Planning and Zoning Board.

Mayor Naugle explained that normally on a motion to reconsider, they would vote on that motion and then have the original item brought before the Commission for discussion.

Roll call showed: YEAS: Commissioners Katz, Hutchinson and Mayor Naugle. NAYS: Commissioner Moore.

Mayor Naugle stated that the Commission voted to reconsider the removal of Gerry Cooper from the Planning and Zoning Board.

The City Attorney explained that the Commission had reconsidered, and now the item was before the Commission. He stated that the motion previously made had been to remove Mr. Cooper from the Planning and Zoning Board and place him on the Marine Advisory Board, and appoint another person to the Planning and Zoning Board. He believed that had been done in one motion. He directed the Commission that a vote would have to be taken on the motion as to whether that action should be taken.

Commissioner Hutchinson stated that she knew the significance of what that vote was going to do. She stated that 18 hours before a significant meeting was to be held, by a 3-2 vote, this Commission stripped a high profile board of their chair person. She stated that was wrong and it should not have been done. She agreed they might have had the legal right to do so, but it was not good government.

Commissioner Smith returned to the meeting at approximately 9:52 p.m.

Commissioner Hutchinson proceeded to quote from the City Attorney's letter dated February 28, 2003, which was his opinion.

"The conclusion. If the question presented were whether good governments should require an extra majority vote to remove a member from a Board that routinely makes difficult recommendations which balance public policy with private interests, the answer would be yes."

Commissioner Hutchinson reiterated that two weeks ago they did something which was not good government. She continued stating that this was a significant project and a significant meeting for the Planning and Zoning Board, and for this Commission to remove the chair person by a 3-2 vote, and replace that person with an individual who did not receive their back-up material until 2 ½ hours before the start of the meeting, was unconscionable. She emphasized that there was no way the new person could have made a sound decision on the matter. She requested that the City Attorney clean up the ordinance as it related to removing an advisory board member. She felt it should be a super majority, and should have some process and notification so this would not happen at the whim of someone on the Commission. Policy needed to be set, and she felt they should not allow politics to stunt City business and good government. She also stated that the City Attorney stated in his conclusion that it was not good government, and they needed, at once, to look at having a super majority rule as it related to removing an advisory board member, especially one on a high profile board.

Commissioner Hutchinson reiterated that the Commission had done a bad job, and she felt there had been an inconvenience to the public, and whether they agreed with the projects or not, the public had shown up for the meeting. Now, there was an early meeting scheduled to hear all the projects, and she reminded everyone that the individuals on the board were volunteers.

Commissioner Moore stated that he agreed with comments made by Commissioner Katz regarding Mr. Cooper, and he had a working relationship with him on a number of projects and found him to be a distinguished gentleman who offered civic involvement to the City, but he sat on the Board due to the fact of an elected official who had appointed him. He felt that elected official should have the opportunity, politics or not which is what this game was about, to have that person removed if they so desired. Commissioner Moore continued stating that if he appointed someone to an advisory board, he did it because he believed that person had the intellect, understanding required by a certain area of expertise, or was an individual who was carrying a message of many people from his district.

Commissioner Moore went on to state that during his time on the Commission, there had been people on various boards which he did not particularly want to represent him, but the person elected chose them, and that was how he wanted to work. He stated that he respected the person placed on the board, and now he was looking at an individual who offered a great deal of civic involvement, a person who did a lot for the community, and a person due to the fact of the relationship built with the individual who made the appointment won their confidence, but now stated they wanted to have one person over another. He further stated they were assuming why this was done and the issues involved. He stated that he wanted his colleagues support on matters, and he was uncomfortable regarding this matter. He stated that a number of times on this Commission he voted opposite of how he felt, but respected the person in the seat who stated their preferences for their district.

Commissioner Smith stated that he felt he needed to come back in the meeting and protect his integrity. He stated that Commissioner Katz had been put under a lot of pressure regarding this matter and he was sorry, but felt she was doing the wrong thing. He stated it was political, and the way it was political was due to the Mayor and the Vice-Mayor and their friends who did not want the Palazzo project to proceed forward. He reiterated that he had kept this away from the press and refused to state on the record his reason for this removal, but if the Commission was going to insinuate that he had done this for certain reasons, he was going to set the record straight. He stated that the truth was that his appointment to the Planning and Zoning Board, Mr. Cooper, had told him personally a number of months ago that he had a friend who was part of the Palazzo group, an architect, who had been fired from the Palazzo group. They stated she had been fired because she had misdesigned part of the project and had cost them tens of thousands of dollars. Mr. Cooper had stated that he was not going to look favorably on the Palazzo vote unless the person was rehired by the firm. Commissioner Smith stated that statement was an absolute moral conflict, and he could not finish out his term and allow Mr. Cooper to sit in that chair and hold people hostage by telling them who they had to hire on their project.

Commissioner Smith went on to state that if the Commission wanted to disrespect him and not go along with his best advice and the wisdom he tried to bring forward on this Commission, and if they wanted to do the political thing, then Mr. Cooper's anti-vote for Palazzo would be there for projects the Commission did not like, and they could go ahead and do this. He felt it was the wrong thing to do, and stated he had the right and responsibility to remove him due to the action Mr. Cooper had chosen to take in regard to this matter. Commissioner Smith reiterated that he would leave this Commission with good conscience that he tried to do the right thing, and if the Commission wanted to do the political thing for their own benefit, that was up to them because he could not control their vote.

Mayor Naugle stated that six months ago he might have believed Commissioner Smith and the allegations being stated about Mr. Cooper, but felt that Commissioner Smith had been dishonest in the campaign trail and had misrepresented the truth a number of times. Commissioner Smith stated that remark was "the pot calling the kettle black." Mayor Naugle stated he did not realize how dishonest Commissioner Smith was, and he did not believe him any longer. Commissioner Smith remarked that he stopped believing Mayor Naugle approximately 2 years ago.

Mayor Naugle remarked that Mr. Cooper had done a lot for the community and felt he was not being treated correctly. He felt the past action had disrupted the City.

Commissioner Smith stated that it was the Mayor's right to pull the political shenanigans he was pulling.

Commissioner Hutchinson stated it was Commissioner Katz's motion to reconsider this item, and her vote would remain the same. She stated a better process was needed. Commissioner Smith asked Commissioner Hutchinson why she would keep her vote the same knowing the conflict that had been presented, and that Mr. Cooper would not vote in good conscience. Mayor Naugle remarked it was all due to allegations.

Commissioner Moore asked when the next Planning and Zoning meeting was scheduled. Commissioner Hutchinson stated it was scheduled for March 19, 2003. Commissioner Moore stated there was adequate time left to address this matter and the individuals could still have ample opportunity to review the agenda material. Commissioner Hutchinson believed that a super majority was needed to remove a person from a board.

Mayor Naugle stated that a vote would be taken on the motion made at the February 18, 2003 meeting which was as follows:

“Motion made by Commissioner Smith and seconded by Commissioner Moore to remove Gerry Cooper from the Planning and Zoning Board and appoint him to the Marine Advisory Board. Also, to remove Margery Anderson from the Marine Advisory Board and place her on the Planning and Zoning Board.”

Roll call showed: YEAS: Commissioners Smith and Moore. NAYS: Commissioners Katz, Hutchinson, and Mayor Naugle.

A resolution was to be read appointing Gerry Cooper back to the Planning and Zoning Board and Margery Anderson back to the Marine Advisory Board.

Commissioner Moore asked why that was necessary since the City Attorney had stated that raising the question once again automatically brought the issue for vote.

The City Attorney stated that the vote to remove Mr. Cooper was reconsidered which had been passed previously. When the motion to reconsider was approved, the question was back to the Commission as originally stated. The vote was 3-2 not to remove Mr. Cooper. The removal then became null and void.

Mayor Naugle asked if the transfer of the member to the Marine Advisory Board needed to be cleaned up. The City Attorney confirmed. He further explained that the removal from the Planning and Zoning Board to the Marine Advisory Board was one motion. Then another motion was made to appoint the additional member to the Planning and Zoning Board which should also be reconsidered and reversed. The City Clerk advised that a resolution had been read to make the appointments effective.

The City Attorney explained that from Mr. Cooper’s standpoint, he had already been appointed. Mayor Naugle asked for a motion to restate Margery Anderson to the Marine Advisory Board.

Commissioner Smith stated that he wanted to appoint Margery Anderson to the Planning and Zoning Board in place of Alysian Childs. He explained that Ms. Anderson’s term on the Marine Advisory Board was ending and he felt she was a great asset to the community. He further stated that Alysian Childs’ term was coming to an end in May, and therefore, he wanted Ms. Anderson the opportunity to serve on the Planning and Zoning Board. He reiterated that Ms. Childs was agreeable, and he hoped the new District II Commissioner would see the value in having Ms. Anderson on the Board. Commissioner Smith stated if the Commission would not let him make the Cooper move, possibly they would let him make this appointment.

Motion made by Commissioner Smith and seconded by Commissioner Moore to appoint Margery Anderson to the Planning and Zoning Board in lieu of Alysian Childs.

Mayor Naugle remarked that he felt the appointment should be left up to the new Commissioner for District II that would be elected. He felt it was presumptuous to make such a determination. He reiterated there was no vacancy and the terms were not expired. Commissioner Smith reiterated that he was still the Commissioner for District II.

Commissioner Moore called the question.

Roll call showed: YEAS: Commissioners Smith and Moore. NAYS: Commissioners Katz, Hutchinson and Mayor Naugle.

Commissioner Smith stated that he did not want his six years of service to end on a sour note. He stated he enjoyed working with his colleagues. He stated in such a position there were many ups and downs. He reiterated that this had been a good experience for him and he had enjoyed serving the public. He stated he wanted to end this meeting thanking his colleagues, friends, and citizens for the opportunity he had been given to serve the City. He felt he did a good job and loved the City. He stated he would be around for the Commission who next served.

A resident of District II stated they wanted to pay tribute to Commissioner Smith for all the wonderful accomplishments he had made as Commissioner for District II. They continued stating that he was by far the best Commissioner ever to represent their district and would be a tough act to follow. They stated he was available to everyone in the community, and they hoped the incoming Commissioner would be as accessible to the entire community. They hoped the new Commission would "pull their head out of the beach" long enough to realize there was a lot of City west of US1 that would be receptive to redevelopment as long as there were no more shelters, rehabilitation centers, or drug, criminal or mental health facilities. They hoped Commissioner Moore would not be the "last man standing" when it came to addressing the needs of the seriously neglected northwest section of the City. They stated that only Commissioners Smith and Moore were "kicking and scratching" for a bone from the City in the direction of the northwest community. They once again congratulated Commissioner Smith and wished him the best.

Bunny Brenneman, President of the 13th Street Business Association, stated that they wanted to thank Commissioner Smith for the many years of public, private, and constant service he gave to the community. She stated they owed their existence to this Commission. She further stated that Commissioner Smith had supported this group and they wanted to thank him again. She stated that it was their belief that Commissioner Smith would remain for a long period of time "District II's own very Favorite Son."

There being no further business to come before the Commission, the meeting was adjourned at approximately 10:12 p.m.

Jim Naugle
Mayor

ATTEST:

Lucy Kisela
City Clerk