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FORT LAUDERDALE CITY COMMISSION
MAY 6, 2003**

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION**

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

MAY 6, 2003

Meeting was called to order at approximately 6:05 p.m. by Mayor Naugle on the above date.

Roll call showed:

Present: Commissioner Christine Teel
Commissioner Dean Trantalis (Arrived at 6:05 p.m.)
Commissioner Carlton B. Moore (Arrived at 6:11 p.m.)
Commissioner Cindi Hutchinson
Mayor Jim Naugle

Absent: None

Also Present: City Manager
City Attorney
City Clerk
Sergeant At Arms - Sergeant Abrahamsen

Invocation was offered by Dr. Diane Mann, Senior Pastor, 4th Avenue Church of God, 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 Hutchinson and seconded by Commissioner Teel to approve the agenda and minutes of the April 22, 2003 meeting. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis 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 Clem Conners, Ronald L. Cloyd, Peter Squarini, and Madge Cooksey.

2. Smoke Detector

Commissioner Teel demonstrated the proper way to test a smoke detector.

Commissioner Moore entered the meeting at approximately 6:11 p.m.

3. Tim Petrillo

Ian Kemp of the International Association of Firefighters (IAFF) made a presentation to Tim Petrillo of Tarpon Bend for his support to the City and the Firefighters.

Mr. Petrillo thanked the Firefighters for the award.

The City Clerk publicly thanked Mr. Petrillo for his assistance and Commissioner Hutchinson's in holding a party as a thank you for the City staff who had helped during the elections.

4. Outstanding City Employees

Bruce Roberts, Chief of Police, presented Officer Edward Jackson an award for his assistance in the capturing of dangerous felons who had committed an armed robbery.

Bruce Roberts, Chief of Police, presented Detention Officer Rolando Rivera an award for preventing an accident by a seizure victim on his way home from work.

Otis Latin, Chief of Fire-Rescue, presented an award to Firefighter/Paramedic John Heiser who had been selected by the Broward Community College Center for Health, Science, and Education as Adjunct Professor of the Year.

Otis Latin, Chief of Fire-Rescue, presented an award to Firefighter/Paramedic Daniel J. Moran for his assistance in assisting a submerged vehicle in a canal and rescuing the driver.

Otis Latin, Chief of Fire-Rescue, stated that Firefighter/Paramedic James Carroll, who was unable to attend tonight's meeting, would be presented an award for his assistance in helping an emergency room nurse deliver a baby at Broward General.

The City Manager stated that the police, firefighters, and parks and recreation personnel did a great job during the Air and Sea Show. He continued stating that they had captured footage during the clean-up of the event which he felt captured the real spirit of the City, and proceeded to show video tape of what he felt kept this City operating. He further stated that the young man on the tape was one of the "unsung heroes" often referred to and he wanted to recognize that individual and all the people he represented. He stated that Greg Kisela, Assistant City Manager, would track down the individual on the tape so he could be officially recognized.

Historic Designation - City of Fort Lauderdale - (PH-7)
403 Tarpon Terrace (HPB Case No. 29-H-02)

Historic Designation - City of Fort Lauderdale - (PH-8)
833 North Rio Vista Boulevard (HPB Case No. 31-H-02)

Mayor Naugle announced that a request had been made to defer Items PH-7 and PH-8.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to defer PH-7 and PH-8 until July 1, 2003 at 6:00 p.m.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis, and Mayor Naugle. NAYS: None.

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.

Program Participation - Defense Supply Center Philadelphia (DSCP), Defense Logistics Agency (DLA) of the Department of Defense (DoD) - Firefighter and Safety Prime Vendor Program (M-1)

A motion approving the City's participation in the Firefighter and Safety Prime Vendor Program, which utilizes the DSCP, a procurement activity of the DLA within the DoD, managing firefighting and safety equipment supplies and services.

Recommend: Motion to approve.
Exhibit: Memo No. 03-673 from City Manager.

Event Agreement - 2nd Annual Haitian Flag Day (M-2)

A motion authorizing the proper City officials to execute an Insurance, Indemnification and Hold Harmless Agreement with **Sweet Productions** to indemnify, protect, and hold harmless the City from any liability in connection with the **2nd Annual Haitian Flag Day** to be held **Sunday, May 18, 2003 from 12:00 noon to 9:00 p.m.** at Huizenga Plaza.

Recommend: Motion to approve.
Exhibit: Memo No.03-668 from City Manager.

Event Agreement - Hospice Regatta 2003 Clambake (M-3)

A motion authorizing the proper City officials to execute an Insurance, Indemnification and Hold Harmless Agreement with **HospiceCare of Southeast Florida, Inc.** to indemnify, protect, and hold harmless the City from any liability in connection with the **Hospice Regatta 2003 Clambake** to be held **Saturday, May 17, 2003 from 6:30 p.m. to 11:00 p.m.** at the Esplanade; and further authorizing the closing of S.E. 4 Avenue from just south of the parking lot behind the old post office site on S.W. 2 Street to the cul-de-sac at Riverwalk from 9:00 a.m. to 12:00 midnight on the event day.

Recommend: Motion to approve.
Exhibit: Memo No. 03-595 from City Manager.

Agreement - Dr. Martin Luther King, Jr. Celebration Committee - Transfer of Contributions (M-4)

A motion authorizing the proper City officials to execute an agreement with the Dr. Martin Luther King, Jr. Celebration Committee in order to outline the terms and conditions under which the City will transfer contributions exceeding out-of-pocket expenses during the 2002 event so they may be used for the future event.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-649 from City Manager.

**Transfer of Parking System Funds -
Repairs to the City Hall Parking Garage**

(M-5)

A motion authorizing the transfer of Parking System funds in the amount of \$200,000 to the Administrative Services Department for repairs to the City Hall Parking Garage.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-672 from City Manager.

**Disbursement of Funds - Joint Investigation -
O.R. No. 02-64050 - \$10,214.46 U.S. Currency**

(M-6)

A motion authorizing the equitable disbursement of funds in the amount of \$10,214.46, with each of the 12 participating law enforcement agencies to receive \$851.20.

Recommend: Motion to approve

Exhibit: Memo No. 03-4-4 from City Attorney.

**Disbursement of Funds - Joint Investigation -
O.R. No. 00-6022 - \$611.82 U.S. Currency**

(M-7)

A motion authorizing the equitable disbursement of funds in the amount of \$611.82, with each of the 13 participating law enforcement agencies to receive \$47.06.

Recommend: Motion to approve.

Exhibit: Memo No. 03-4-5 from City Attorney.

**Contract Award - Engineering Control Systems,
Inc. - Project 10419 - 2003 Annual Storm Sewer Contract**

(M-8)

A motion authorizing the proper City officials to execute an agreement with Engineering Control Systems, Inc. in the estimated amount of \$850,515 for the 2003 Annual Storm Sewer Contract.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-563 from City Manager.

Contract Award - Q Construction, Inc. - Project 10401 - Fire Station No. 3 Renovations (M-9)

A motion authorizing the proper City officials to execute an agreement with Q Construction, Inc. in the amount of \$357,800 for the Fire Station No. 3 renovations.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-632 from City Manager.

Task Order No. 10 - CH2M Hill, Inc. - Project 10664 - Water and Waste Water Master Plan Capital Improvement Program (CIP) Management Services - Web Geographic Information System (WebGIS) Application (M-10)

A motion authorizing the proper City officials to execute Task Order No. 10 with CH2M Hill, Inc. in an amount not to exceed \$86,843 for development and implementation of a WebGIS Application to display and manage information about the CIP.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-628 from City Manager.

Amendment to Phasing Agreement - Eastgroup Properties, L.P. - Approved Site Plan for "Airport Executive Center" (PZ Case No. 105-R-01) (M-11)

A motion authorizing the proper City officials to execute an amendment to the Phasing Agreement with Eastgroup Properties, L.P. in connection with an approved site plan, "Airport Executive Center," for a non-vehicular access line necessitated by Broward County.

Recommend: Motion to approve.

Exhibit: Memo No. 03-685 from City Manager.

Amendment No. 1, Task Order No. 15 - Camp, Dresser, and McKee, Inc. - Project 10542 - Additional Water Main Replacement at the Sailboat Bend (Septic Area 11) Sanitary Sewer Improvements (M-12)

A motion authorizing the proper City officials to execute Amendment No. 1 to Task Order No. 15 with Camp, Dresser and McKee, Inc. in the amount of \$15,093 for professional engineering services associated with design and construction of additional water main replacement with Sailboat Bend (Septic Area 11).

Funds: See Memo.

Recommend: Motion to approve.

Exhibit: Memo No. 03-634 from City Manager.

**Task Order No. 03-03 - Hazen and Sawyer, P.C. -
Project 10502 - Peele-Dixie Wellfield Improvements,
Phase 3**

(M-13)

A motion authorizing the proper City officials to execute Task Order No. 03-03 with Hazen and Sawyer, P.C. in the amount of \$43,770 for engineering services associated with the Peele-Dixie Wellfield Improvements, Phase 3 project.

Funds: See Memo.

Recommend: Motion to approve.

Exhibit: Memo No. 03-629 from City Manager.

**Task Order No. 03-07 - Hazen and Sawyer, P.C. -
Project 10667 - Fiveash Water Treatment Plant and
G.T. Lohmeyer Wastewater Treatment Plant Electrical
System Documentation and Maintenance Service Procurement**

(M-14)

A motion authorizing the proper City officials to execute Task Order No. 03-07 with Hazen and Sawyer, P.C. in an amount not to exceed \$255,030 for engineering services associated with the Fiveash Water Treatment Plant and G.T. Lohmeyer Wastewater Treatment Plant electrical system documentation and maintenance service procurement.

Funds: See Memo.

Recommend: Motion to approve.

Exhibit: Memo No. 03-630 from City Manager.

**Consent to Conflict Waiver - School Board of Broward
County - South Florida Stadium Management ("Fusion")
and Holland and Knight**

(M-15)

A motion authorizing the proper City officials to execute a consent to Conflict of Waiver with Holland and Knight to serve as the City's counsel in the defense of the litigation brought by the subcontractor pursuant to the Fusion's indemnification obligation to the City.

Recommend: Motion to approve.

Exhibit: Memo No. 03-709 from City Attorney.

**Change Order No. 1 - Astaldi Construction Corporation
Project 10121 - Lauderdale Manors Sanitary Sewer
Improvements, Phase 1**

(M-16)

A motion authorizing the proper City officials to execute Task Order No. 1 with Astaldi Construction Corporation in the amount of \$68,582.51 for additional work related to the Lauderdale Manors Sanitary Sewer Improvements, Phase 1 project.

Funds: See Change Order

Recommend: Motion to approve.

Exhibit: Memo No. 03-627 from City Manager.

**Contract Extensions - Post Buckley Schuh & Jenigan;
Tinter Associates, Inc.; Kittelson and Associates, Inc;
Walter H. Keller, Inc.; and Hughes Hughes, Inc. - Project
10159 - Professional Traffic and Transportation
Engineering Consultant Services**

(M-17)

A motion authorizing the proper City officials to execute contract extensions with Post Buckley Schuh & Jenigan; Tinter Associates, Inc.; Kittelson and Associates, Inc.; Walter H. Keller, Inc.; and Hughes Hughes, Inc. for professional traffic and transportation engineering consulting services through May 16, 2004.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-631 from City Manager.

**After-The-Fact Task Order - Evans Environmental
and Geosciences (EE&G) - Lincoln Park Environmental
Consultant Services**

(M-18)

A motion authorizing the proper City officials to execute an after-the-fact task order with EE&G in the amount of \$20,337 for expanded consultant services related to environmental issues for Lincoln Park.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-601 from City Manager.

Revocable License Agreement - Harbour Inlet Association, Inc. - Project 10046 - Harbour Inlet Neighborhood Improvement Special Assessment Project (M-19)

A motion authorizing the proper City officials to execute a revocable license agreement with the Harbour Inlet Association, Inc. for the maintenance and repair of the entranceway features constructed under the Harbour Inlet Neighborhood Improvement Project.

Recommend: Motion to approve.
Exhibit: Memo No. 03-571 from City Manager.

Transfer of Funds - Cemetery Perpetual Care Fund Retained Earnings - Sunset Memorial Gardens (M-20)

A motion authorizing the transfer of \$410,000 from the Cemetery Perpetual Care Fund Retained Earnings to Project 10443.331 (Sunset Memorial Gardens) in the Capital Projects Fund.

Funds: See Memo
Recommend: Motion to approve.
Exhibit: Memo No. 03-633 from City Manager.

Assignment of Lease from Venturrich, Inc. (d/b/a Salon Loren Rich) to Paul James Salon, Inc. - Shop No. 132 - City Park Mall (M-21)

A motion authorizing the proper City officials to consent to an assignment of lease from Venturrich, Inc. (d/b/a Salon Loren Rich) to Paul James Salon, Inc. for Shop No. 132 at City Park Mall.

Recommend: Motion to approve.
Exhibit: Memo No. 03-623 from City Manager.

Reprogramming of Funds for the Riverland Park Project (M-22)

A motion approving the reprogramming of funds for the Riverland Park Project.

Funds: See Memo
Recommend: Motion to approve.
Exhibit: Memo No. 03-569 from City Manager.

PURCHASING AGENDA

**Contract - Maintenance/Support Automated Municipal
Parking System****(Pur-1)**

Annual maintenance and support agreement for automated municipal parking administration system is being presented for approval by the Administrative Services, Parking Services Division.

Recommended Award: Enforcement Technologies, Inc.

Irvine, CA

Amount: \$ 17,625.00

Bids Solicited/Rec'd: N/A

Exhibits: Memorandum No. 03-644 from City Manager.

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

Mayor Naugle stated that it was his understanding that Item M-9 would be deleted from tonight's agenda.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore that Consent Agenda Item Nos. M-1, M-10, M-17, and M-22 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 Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

**Program Participation - Defense Supply Center
Philadelphia (DSCP), Defense Logistics Agency (DLA)
of the Department of Defense (DoD) - Firefighter and
Safety Prime Vendor Program****(M-1)**

Commissioner Trantalis asked if the City was buying their equipment through an agency under the Department of Defense.

Rhoda Kerr, Deputy Chief Fire-Rescue, stated that they received grant money from the Federal government, which was originally from the Department of Defense, then the Department of Justice, and now it was the Department of Homeland Security. She further stated they were the procurement agency through which they purchased their equipment.

Commissioner Trantalis stated that his neighborhood association had raised this issue because of the history of the Department of Defense and how prices were often inflated and accepted by that Department, and they were wondering why equipment was being purchased in this manner.

Kirk Buffington, Procurement Manager, stated that normally once in this program any procurement made would be reviewed by his office, who would determine in conjunction with the Fire-Rescue Department, whether that particular vendor and contract were the best method of solicitation. Sometimes they chose to do their own competitive process. He explained this was just another available option.

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

**Task Order No. 10 - CH2M Hill, Inc. -
Project 10664 - Water and Waste Water Master
Plan Capital Improvement Program (CIP) Management
Services - Web Geographic Information System
(WebGIS) Application**

(M-10)

Commissioner Moore stated that he had pulled this item, and his questions were not particularly associated with this item, but since CH2M Hill was in the audience he wanted to take advantage of this opportunity. He explained that for the last two weeks on Sistrunk Boulevard there had been interruptions of the lighting along the Boulevard, and it was brought to his attention that had been due to the subcontractor who was working on the waterworks program. He explained further that the lines had been cut and a "bad situation" had been made worse making the properties dark throughout the night, but yet no one appeared to know who was responsible. He asked what was being done to correct the problem.

Paul Bolander, Assistant Utilities Director, stated they were attempting to track down who had been working on Sistrunk Boulevard. He explained they did not think the work was connected with the Waterworks 2011 Program. He stated that the gas main break was actually a service line and it had been Astaldi Construction doing work in Progresso B, but he did not believe they were working on Sistrunk Boulevard or excavating out to the median in that corridor. He stated they were trying to track down who had done the work.

Commissioner Moore reiterated that someone was working in the public right-of-way and the City did not know who it was, and he felt that was unconscionable.

Greg Kisela, Assistant City Manager, stated that they were attempting to confirm who had been doing the work in the area. He further stated they needed to identify which entity of the City was actually doing the work. He explained that it appeared someone had cut Sistrunk Boulevard and interconnected the medians, and since it was a County right-of-way, they would have received permits from the County. He stated they needed to confirm that this might be work connected with the CRA.

Commissioner Moore stated that he did not want to hear this type of answer, and felt it was not one the public should be hearing. He reiterated there were projects taking place in the communities that were disrupting their lifestyle, and yet the City did not know who was performing the work. He felt that was very inappropriate, and he further stated that he wanted an answer in regard to this problem before tonight's meeting was over.

The City Manager stated that he agreed and before tonight's meeting was over with, they would make every effort to identify the problem.

Commissioner Moore reiterated that if someone was making major errors in the City, they needed to be stopped and the lackadaisical attitude needed to be corrected.

Mr. Kisela clarified that the gas line had not been marked by the company and when the work was begun, the contractor did not know the service line was at that location. He reiterated that they would identify who was doing the work on Sistrunk Boulevard.

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

Contract Extensions - Post Buckley Schuh & Jenigan; Tinter Associates, Inc.; Kittelson and Associates, Inc.; Walter H. Keller, Inc.; and Hughes Hughes, Inc. - Project 10159 - Professional Traffic and Transportation Engineering Consultant Services

(M-17)

Commissioner Trantalis stated that he had pulled this item, and asked whether any contractors had been working on behalf of developers who represented projects on both sides.

Peter Partington, Public Services, stated the contract was with consultants and did not exclude them from working for private entities working on developments in the City. He stated that it was possible that someone who had been hired to review a certain project could be representing a developer on another project in the City.

Commissioner Trantalis asked how the City maintained objectivity in regard to the results received from the consultants, if they were also dealing with private developers.

Mr. Partington stated there was "safety in numbers," and explained they had 5 consultants to choose from and the amount of work given to anyone of them was not great. He explained that if one of them was exclusively working with a certain developer, then they would probably bypass them.

Commissioner Trantalis stated that led to the question who the consultants were more loyal to, the City or the developer and what type of work product could the City expect from them.

Mr. Partington clarified that on an average the City was probably giving the consultants more work than any one private client, but it was likely in looking at the development community as a whole that the development community was represented as a bigger client than the City. He further stated the problem would be if they excluded them from doing any work for private developers, they could be cutting down significantly the number of consultants prepared to work for the City. He explained this was a limited pool with specialized expertise.

Commissioner Hutchinson asked if the pool had changed over the course of time or were they the same individuals involved. Mr. Partington explained the 5 consultants were selected through the CCNA process 3 years ago, and this item was to extend their contract for another year. Afterwards, they would have to go through another CCNA process.

Mayor Naugle remarked that he had a different problem with one of the recommended companies who had done some work for the City, which he felt, was very poor. He stated the project was the one on the beach involving traffic circles, especially the one located in front of the fire station. He felt that would have been impossible and it wasted a lot of time. He believed they could not have implemented what had been proposed and was not based on reality. He stated he wanted to eliminate that company and felt they worked more than other companies for private developers. He further stated he wanted to eliminate Hughes from the list of 5 consultants and use the other 4. He continued stating the situation could be re-evaluated next year before they put the contract out for bid, and possibly considers having one traffic consultant for the City, which might agree not to work for developers within the City limits.

Mr. Partington stated that could be done, but that plan referred to by the Mayor had been done during the time of the moratorium and was a very truncated time frame, and possibly different conclusions could have been reached if there had been additional time available.

Mayor Naugle reiterated he was not happy with that consultant's work and he felt when a developer hired

them; it required him to scrutinize the project more closely since he was uncomfortable with the level of work of that consultant.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to approve the item as presented. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel and Trantalis. NAYS: Mayor Naugle.

Reprogramming of Funds for the Riverland Park Project**(M-22)**

Commissioner Hutchinson stated that she had pulled this item, and asked for the A1A 4+2 project to be further explained. She further stated in their last budget workshop, they had talked about not using every penny from the reserve funds in the CIP, and it looked as though the \$85,000 plus would drain them dry. She explained she wanted the project to move forward.

Greg Kisela, Assistant City Manager, explained that there were some remaining balances from the original 4+2 project. He stated it was an old project that had to be closed out.

Commissioner Hutchinson asked if the resurfacing of the clay courts at Holiday Park had been done. Mr. Kisela stated the money would have to be replenished as they moved forward. He explained that finding the \$350,000 was a real challenge. Commissioner Hutchinson asked if this would diminish the CIP reserve funds. Mr. Kisela explained there was some money left in that fund.

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to approve this item. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis 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-23)**

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to defer approving the lease and development agreements with Palazzo Las Olas Group, until September 16, 2003 at 6:00 p.m.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

Proposed Lien Settlements - Special Master and Code Enforcement Board Cases**(M-24)**

1. 940 N.W. 1 Street (CE98070566) - 940 Associates, Inc. - \$870

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to approve the recommended settlement on this matter.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

2. 26 West Sunrise Boulevard (CE9505899) - RAM Enterprise, Inc. - \$845

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to approve the recommended settlement on this matter.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

3. 934 N.W. 4 Avenue (CE01071124) - Steve Meyer - \$1,000

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to approve the recommended settlement on this matter.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

4. 105 N.W. 5 Avenue (CE02080994) - 5th Avenue Bldg. Corp. - \$2,700

Christopher Falazzo stated he was attending on behalf of 5th Avenue Bldg. Corporation.

Commissioner Moore stated he had been told the building contractor had created the violations.

Mr. Falazzo stated that the contractor had not created the violations.

Commissioner Moore stated he did not understand why they were considering a reduction in fines on a commercial property. He reiterated there had not been adequate safety signs on the building, no electrical fixtures required for protective situations, and firewalls had not been properly rated. He stated this appeared to be a large reduction of fines in connection with life threatening issues.

Mr. Falazzo stated that he was present tonight to dispute the \$2500 lien against the corporation. He explained that this company leased a section of the property to Marlin Builders, Inc. who occupied the storage area along with 2 parking spaces in front of the building on 5th Avenue. He stated they had not been aware that Marlin Builders had applied for an occupational license with the City, and that the Inspector had cited 3 internal violations which had been corrected and signed off by Inspector Douglas Kurtock. The Inspector had also noted that there was no designated handicap parking in the rear lot. At that time, Marlin Builders had not notified the Inspector that they had no access to the rear lot. He explained that the rear lot was leased to a different tenant, which was Intertran Service Corporation, which was at 101 N.W. 5th Avenue, who had previously been granted an occupational license. He further stated they believed the violation had been issued in error. Mr. Falazzo stated that Marlin Builders agreed to work directly with the City in order to correct the 3 internal violations, and to rectify the handicap parking concern.

Mr. Falazzo further explained that the parking lot had been restriped and installed a handicap space even though the lot was a private area for Intertran Service Corporation.

Commissioner Moore asked if the area had been landscaped. Mr. Falazzo replied it was not. Commissioner Moore reiterated the site was not in compliance and he did not see any reason to reduce the fine. He recommended the lien stay as it was and be paid in full.

Motion made by Commissioner Moore that the amount of a \$10,800 fine remain on this property.

Motion died for lack of a second.

Commissioner Moore reiterated that this particular property was in an area of warehouses and he felt if the Code was continually ignored, they would continue to have slum and blight in the Northwest quadrant.

He stated he was insulted by the fact that the lien would be reduced because the property had not even met the minimum requirements of the Code.

Mayor Naugle stated they had not been cited for the landscaping. Commissioner Moore replied that the point of the matter was that staff, in reviewing the sites, knew the Code and if they allowed individuals to not even meet the barest requirements; he could not support such a reduction in fines.

Mr. Falazzo stated that when they had purchased the property in March 2000, it was in a drug and crime infested area. Commissioner Moore felt the attitude in the area was that someone was even willing to come into the area and the community should be glad of that fact. Mr. Falazzo stated he was trying to convey the fact that while the corrections were being made, there was only the handicap issue, which they had not been notified about.

Commissioner Moore asked who was responsible in bringing properties up to Code once they had been cited.

John Simmons, Assistant Director Community Inspections, explained it was the owner's responsibility.

Commissioner Trantalis stated there was an obvious problem which would be coming before the Commission on many occasions and that was a landlord attempting to get a tenant to comply with Code requirements. He stated that sometimes in commercial situations landlords and tenants delegated responsibilities, which were no excuse in complying with the law, but it created a situation for landlords while they were attempting to upgrade their properties. He stated this was no excuse to violate the law, but he did not want to impose a fine upon an individual for a violation he did not commit. He suggested they defer this matter instead of imposing a fine, and be allowed time to upgrade the property. If the owner neglected the property, then they should have the full brunt of the law imposed upon them. He felt the owner should be allowed to show what he had done to the property since purchasing it, and be permitted to continue doing so.

Commissioner Hutchinson asked if the property had been brought into compliance as of today's date. Mr. Simmons replied that the landscaping would have been addressed when the permit had been pulled to do the handicap parking, and stated he had not been to the site. He stated that when the final sign-off had been done, the landscaping would have been part of the inspection for the paving contract and permit, which would have gone through Construction Services. He further stated that he would check to see if other landscaping had been required, but at this point in time he assumed the Inspector had done his job.

Mr. Falazzo reiterated that he was representing the company because the President was out-of-town and unable to attend today's meeting. Commissioner Moore asked if they owned any other properties in the City. Mr. Falazzo replied this was their first building.

Motion made by Commissioner Moore and seconded by Commissioner Teel that a fine of \$5,400 be placed on this property.

Commissioner Trantalis asked if this property owner was going to be given an opportunity to show them what improvements had already been done to the property. Commissioner Moore asked if Commissioner Trantalis preferred to table this item until the Commission's next meeting. Commissioner Trantalis confirmed.

Motion made by Commissioner Moore and seconded by Commissioner Teel that this matter be tabled until May 20, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

Commissioner Moore stated that the owner should make sure the property was properly landscaped and met the minimum requirements. Commissioner Trantalis suggested that they also bring photographs of the site.

5. 1545 N.E. 5 Avenue (CE00080412) - Jude Petion - \$16,600 and
6. 1545 N.E. 5 Avenue (CE97120888) - Jude Petion - \$2,200

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to accept staff's recommendation for settlement of this matter.

Jude Petion, owner, stated that he had been cited for a vehicle on his property that was not his. The tenant had been difficult when he had asked him to remove the vehicle.

Mayor Naugle reiterated that the property owner was still responsible for vehicles on his property whether they were his or not. Mr. Petion explained he did not have a good understanding of the process but it had been explained to him, and now he would know how to take care of matters.

Commissioner Moore asked if this was an income producing property. Mr. Petion stated it was a rental property.

Commissioner Trantalis asked why it had taken Mr. Petion 886 days to comply with the law. Mr. Petion explained he had complied, but the Inspector kept showing him things that needed to be fixed.

Motion made by Commissioner Moore that the owner pay the recommended settlement offered by staff and be permitted to pay it in installments.

Commissioner Moore asked what type of installment Mr. Petion wanted to pay. Mr. Petion replied that he did not have the financial means to pay the fine.

Mayor Naugle asked if \$250 per month would be acceptable and asked how many apartments there were at the site. Mr. Petion stated he had 1 building consisting of 2 apartments.

Commissioner Moore explained they had to be responsible in these types of matters and his property was affecting the neighborhood, and it had taken 3 years to begin doing any work on the property. He felt when Mr. Petion, realized the City, was serious, he began making some improvements. Mr. Petion explained he did not know how to maintain the property, but now he would know how to deal with matters. He stated he now lived in one of the units, but had not yet filed for the Homestead Exemption. Mayor Naugle urged him to do that next year so he could save money.

Mr. Petion asked the Commission to reduce his fine and provide a way he could begin paying it.

Commissioner Trantalis reiterated that it did not appear that Mr. Petion could pay any type of fine that would be imposed upon him. Commissioner Trantalis asked how much Mr. Petion could pay per month. Mr. Petion replied about \$150 per month. Commissioner Trantalis stated it would then take about 10-12 years for the amount to be paid in full. He further stated the amount being imposed did not include any further violations that might occur. He stated he was concerned about the process and did not believe that this individual was inexperienced and did not understand the situation. He felt the code enforcement procedure needed to be taken more seriously or the emerging neighborhoods would never ever reach a point where they could entice individuals to live in those areas. He believed individuals had a moral duty to pay more attention to their properties. Mr. Petion replied that he did not receive enough money to assist him in maintaining the property. He further explained that he did not have good credit and could not get a second mortgage on the property at this time. Commissioner Trantalis stated he did not like the idea that the City would be this individual's bank over the next 10 years. He felt \$150 per month was not

adequate. He asked the Commission how this fine could be paid without amortizing it over the next 10-12 years.

Commissioner Moore stated that once this individual had to begin paying monthly, he felt things would change. He stated further it was not about collecting money because if that was the case, the fines would not be reduced at all. He felt that by having the individual make monthly payments, he would learn about the process.

Commissioner Trantalis stated if the owner failed to make a monthly payment, what would the next step be on the part of the City. Mayor Naugle remarked that a foreclosure would take place. Commissioner Trantalis stated he would agree if this were written into the agreement.

Mr. Petion asked if something happened and he was unable to make his payment, could he come and explain the situation. Mayor Naugle reiterated their alternative now was to foreclose and explained the fines were already being reduced 75%.

Commissioner Moore suggested that this property owner meet with Community Development and see if there was some type of assistance program to help out in this situation, and that this matter be on the next Commission agenda. Commissioner Trantalis agreed.

Commissioner Teel stated she felt this was a perfect example of a property which had been in terrible disrepair for an unreasonable amount of time, and felt they should "come down heavy" on the owner. She stated she would give this individual the benefit of the doubt that he did not understand the problems and his responsibilities, but she felt the situation should not be allowed to go on. She suggested the individual work with whatever agencies were available for assistance in the City and to be serious about bringing his property into compliance. She felt that the \$150 per month installment was reasonable and reiterated to the owner that he was very close to losing his property and asked if he understood the situation. Mr. Petion confirmed.

Motion made by Commissioner Trantalis and seconded by Commissioner Hutchinson that this matter be tabled until May 20, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

7. 1532 N.W. 2 Avenue (CE02051307) - Jean Raymond Mersier - \$2,235

Commissioner Moore stated again this was an income producing property, which was not being maintained. He believed that this lien should not be reduced.

Mr. Mersier stated that he did not know about the violations because he had instructed his tenant not to accept any certified mail, but the tenant had done so because they had been asked to move from the property. He reiterated if he had known about the problem, he would have taken care of the situation.

Motion made by Commissioner Moore and seconded by Commissioner Trantalis to approve a 15% reduction of the fine. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

8. 125 West Sunrise Boulevard (CE02030896) - Nancy A. Lafferty - \$7,300

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to approve the recommended settlement. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

9. 1434 N.W. 4 Avenue (CE99010687) - Gizele Bien-Aime ½ Int., Fritz Cyril - \$4,875

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to table this matter until May 20, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

John Simmons, Assistant Director Community Inspections, announced that Mr. Mersier of Case CE02051307 also had requested to pay his fine through monthly payments, and asked if the Commission would be agreeable. Commissioner Moore agreed and stated he would accept \$200 per month.

10. 633 S.W. 6 Avenue (CE96050826) - David M. Beckwith - \$2,250

Commissioner Hutchinson stated that the property came into compliance on August 30, 2002, and questioned the amount of the violation, which had been \$250 per day. Therefore, she asked if the Commission would reduce the amount of the settlement to 15%, and explained there also had been a discrepancy as to when it had come into compliance. She further explained that the property owner had stated it had been prior to the date set forth by the Special Master, and a letter had been submitted but the department could not find the letter. She requested the fine be reduced.

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to reduce the fine by 15%. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

11. 1711 North Dixie Highway (CE99101602) - Lorraine A. Saunders - \$42,000 and12. 1711 North Dixie Highway (CE01080847) - Lorraine A. Saunders - \$6,537.50

Commissioner Trantalis asked what the City's position was regarding the collect ability of code enforcement liens when there was a foreclosure pending, and proceeded to ask who had priority.

The City Attorney explained that it depended upon the lien, and if they were before the mortgage, then the City had priority.

Commissioner Trantalis stated that this lien was close to 3 years old and the excuse was that there were personal problems preventing the owner from bringing the property into compliance. He stated he did not know what the collect ability would be of this lien, and asked why they were recommending a reduction since it was in foreclosure.

Kai Thorup, Trustee and owner of record, proceeded to distribute some information to the Commission. He proceeded to provide some background information regarding this matter. He stated that there have been a series of family tragedies and had been taken advantage of by some contractors. These problems were no excuse for the owner's behavior, but she had not only neglected the property but also herself. He explained that he had volunteered to attempt to resolve the problems for the owner and took title in December 2002. He stated he had corrected the violations on the property and was working with the bank to delay the sale date in order to market the property and find a buyer who might be interested in rehabilitating it. He further stated that he had found a buyer and the closing was set for this Thursday, and the sale date for the Court was for Monday, May 12, 2003. He explained the buyer wanted to rehabilitate the property over the next 90 days and would be using the original floor plans to bring it up to market standards for the area. The carport would be removed and the landscaping taken care of. He stated he was asking for a further reduction in the fine.

Mr. Thorup proceeded to show photographs of the property comparing it to how it was in December, and how it looked at the present time. He reiterated that he was asking for a significant reduction in the fine in order to make the sale possible and resolve the problem.

Commissioner Trantalis asked if there was some type of procedure in place whereby if the owner did not comply after 6 months, foreclosure proceedings could be initiated.

The City Attorney replied there was no such procedure in place, and one of the problems was that the City was not in the position to manage properties. The policy had been to let the liens stay until the property took care of itself, rather than foreclose on the property, but that was doing the work for the banks while they obtained the property.

Commissioner Trantalis asked if it made sense to even impose fines, if they were not going to enforce the City's claim for the money. It appeared the process was a farce.

Mayor Naugle suggested that this item be discussed at a conference meeting.

Commissioner Moore stated he was suspicious of the transaction and saw no reason to proceed. He reiterated there was no guarantee that the property would be rehabilitated and felt the liens should be left in place and allow the sale at the Courthouse to proceed.

Commissioner Teel asked if there was cash available to pay the liens on the property. Mr. Thorup stated the liens would be paid from the sale of the property. Commissioner Teel stated there were no assurances that the buyer would improve the property, and further stated she could not support reduction of the fine to \$6,000.

Motion made by Commissioner Trantalis and seconded by Commissioner Moore that a fine be imposed of \$25,000 on the property.

Commissioner Moore asked what would happen if the sale did not take place. Mayor Naugle explained that the bank would sell it and the lien would be wiped out.

The City Attorney stated if the motion was made contingent upon payment being made by Friday, and if that was not done, then the original lien amount would be reimposed, and if additional funds were available after the bank took out the amount of the mortgage, the City would receive such funds.

Motion made by Commissioner Trantalis and second by Commissioner Moore that a fine of \$25,000 be imposed on the property and payment made by Friday or the original amount of the lien would be reimposed. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

13. 2305 N.W. 9 Court (CE02052027) - Carie Adams - \$17,675

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to table this matter until May 20, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

14. 1900 West Commercial Boulevard (CE01051558) - Nineteen Hundred Building Associates, Ltd. - \$2,250

Motion made by Commissioner Moore and seconded by Commissioner Teel to approve the settlement as recommended. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

15. 1513 S.W. 18 Avenue (CE96110754) - Tommy Van Le - \$4,081.25

Motion made by Commissioner Trantalis and seconded by Commissioner Moore to approve the settlement as recommended.

Mr. Van Le requested a further reduction of the fine. He stated that he was not aware of the lien and had discovered it when applying for a second mortgage.

Commissioner Moore stated this property had not been properly handled and work had been done without permits.

Mr. Van Le stated he had applied for the Homestead Exemption for this property.

Mayor Naugle asked why they should consider further reduction of the lien. Mr. Van Le explained that he had problems and stated he would pay the fine, but was requesting a further reduction.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

16. 930 N.W. 8 Street (CE02102348) - Joseph and Essie Mae Irby - \$5,250

Motion made by Commissioner Trantalis and seconded by Commissioner Hutchinson to approve the settlement as recommended.

Mr. Irby explained that he was requesting an abatement of fines. He stated the property was a non-income producing property and was an empty lot and was now in compliance with the Code. He explained further that every other day he had to go and clean up the lot from the debris thrown by individuals.

Commissioner Moore asked if Mr. Irby had a buyer for his property. Mr. Irby replied he did not, but that he had a "For Sale" sign on the lot but people in the neighborhood had taken it down. He explained he was dealing with a realtor at the present time and wanted to sell the lot. He further stated that the property was only worth about \$26,000 and with a lien of \$10,000; there would be no great amount of profit. Commissioner Moore asked what Code Enforcement case files showed to be the problem at the property.

John Simmons, Assistant Director Community Inspections, stated that the problem was basically trash and debris, along with occasional overgrowth.

Motion made by Commissioner Moore and seconded by Commissioner Trantalis to reduce the fine an additional 25%, and that the individual be granted 60 days in which to sell his property, and if not sold within that time frame, then the fine should be reinstated to the recommended 50% and the matter be presented before the Commission. Commissioner Moore stated that would give the individual an incentive to sell his property.

Mr. Irby asked if in the meantime he could begin paying the fine. Commissioner Moore explained that either Mr. Irby wanted to sell the property or he could keep the property and begin paying the fine. Mr. Irby stated he preferred to sell the property.

Mayor Naugle suggested the property owner be given 60 days to obtain a buyer and the closing be held within 90 days.

Commissioner Hutchinson stated that since the individual's finances were limited, she felt they could permit the individual to begin paying on the fine. Mayor Naugle stated the individual would pay off the lien through the proceeds from the sale. Commissioner Moore agreed.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

17. 901 N.W. 6 Street (CE00081030 - Mahyoub & Sons Inc. - \$28,750

Commissioner Moore stated he preferred to have the fine set at the full amount and did not know why it was being reduced to 33%.

Mr. Mahyoub stated that his father used to take care of the properties, but had been killed unexpectedly in an automobile accident, and now he had everything to take care of and was very inexperienced in such matters.

Motion made by Commissioner Moore and seconded by Commissioner Teel to approve the settlement recommended by staff. He also stated that he wanted the property watched to make sure it was being maintained.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

18. 840 N.W. 10 Terrace (CE00060530) - George Makhoul - \$11,500

Charlie Nelons stated he had been the owner of the property at the times the fines had occurred. He stated that he was requesting a further reduction in fines.

Motion made by Commissioner Moore and seconded by Commissioner Teel to approve the settlement as recommended by staff.

Commissioner Trantalis stated it was his understanding that money was being held in escrow for the lien and asked what amount was being held. Mr. Nellins stated there was enough to cover the \$11,500 fine.

Commissioner Moore stated the amount in escrow should have been for \$23,000 since that was the amount, which had been recorded. He reiterated that this property had 44 code violations and showed a pattern of disrespect. He stated he was willing to accept the 50% reduction being proposed.

Mr. Nelons stated that he had purchased the property in the early '80's and it had been maintained until 2001. He reiterated that he had not been in control of the property at the time of the violations.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

19. 1611 N.W. 16 Street (CE02031415) - Gary & Kathy German - \$1,400

Motion made by Commissioner Moore and seconded by Commissioner Teel to table this item until May 20, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Moore, Teel, Trantalis and Mayor Naugle. NAYS: Commissioner Hutchinson

20. 3045 North Federal Highway (CE00041120) - WWA Investments Inc. - \$15,600

Bradford Beilly, attorney representing the former owner of the property who had been a foreclosed mortgagee, and stated that this was the old Montego Bay property. He explained they had begun foreclosure back in 1994, and the mortgagee had not been paid for 7 years and did not take title until 1991. He explained that the Final Judgment erased the lien of record. Recently, the property had been sold and the lien showed as a title issue and \$104,000 had been placed in escrow so the transaction could close.

Mr. Bailey stated that he did not feel that staff's report was very clear, and believed that the notice of violations had not been sent to the owner of the property. He explained the actual owner of the property had been an entity named BLL Properties, Inc. which held title in 2000. He stated that staff's file indicated that the tax rolls showed the foreclosing mortgagee as the owner, and notices had been sent to those individuals. Staff was informed of the error, but nothing had been done. Mr. Bailey explained that he had a copy of the Final Judgment of Foreclosure dated March 12, 2001, and explained they had received the Certificate of Title after that date.

Mayor Naugle asked why there was a reduction of the fine since there had been 135 violations.

John Simmons, Assistant Director Community Inspections, stated that he had taken into account that there were numerous violations with the previous owners, but this owner had only been responsible for 8 of those violations. He reiterated there was a marked improvement at the site since the new owner had taken over.

Mr. Bailey stated that the property had been sold and all violations had been brought into compliance.

Commissioner Teel asked if there had been a problem with the notice process. Mr. Simmons replied that the City Attorney's office had reviewed this matter, and a memorandum had been enclosed in the information given to the Commission, which indicated that proper notice had been given.

Motion made by Commissioner Teel and seconded by Commissioner Moore that they approve the recommended settlement of 15%.

Commissioner Trantalis stated that possibly they had gotten a benefit from the reduction in price for the property due to the violations, and since there had been a significant lien on the property the price might have been reduced in order to anticipate that, and possibly the City was allowing a windfall to occur in this situation.

Mr. Bailey stated the new purchasers would be the individuals who would be hurt by this situation and were not receiving any benefit.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

21. 1134 N.W. 7 Avenue (CE02091137) - Stephen Peralto - \$2,200

Commissioner Moore stated this was another rental property in which the fines were being substantially reduced, but he felt the owner had little respect for the community. He stated he did not agree with the reduction.

Motion made by Commissioner Moore and seconded by Commissioner Trantalis to approve the full amount of the lien, which was \$8,425.

Stephen Peralto stated he had been before the Commission previously and was given time to rectify the problem. He explained that the tenant had dogs on the premises even though they were told to remove them. He did not realize this had been a recurring situation. He explained further he had told the tenants to also put plates on their vehicles. He thought everything had been taken care of and when he discovered the matter was not settled, he had contacted the Inspector.

John Simmons, Assistant Director Community Inspections, stated that the owner had informed him that the matters were resolved, and the property appeared to be maintained at this time.

Commissioner Moore asked for a further explanation of the violations. Mr. Peralto explained he had been cited for 4 dogs at the site, trash, and abandoned vehicles. He stated that he was now visiting the property approximately 4-5 times a week to make sure it was being maintained.

Commissioner Moore stated that his first inclination was to have the property owner pay the fine in full.

Commissioner Trantalis asked if the maker of the motion would accept an amendment to reduce the fine to 33%. Commissioner Moore agreed.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

22. 1402 N.W. 19 Street (CE9214259) - Gentle Robison, Jr. - \$9,184 (On April 22, 2003, the Commission deferred this case to May 6, 2003)

Commissioner Moore stated that someone was attempting to gain control of this property and a Quit-Claim Deed had been presented at a previous meeting, which had not been properly executed. He proceeded to submit a proper deed at this time for the property.

Motion made by Commissioner Moore and seconded by Commissioner Teel that the fine be reduced to \$1,500. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

Commissioner Trantalis asked if in the future they not hear more than 5-8 of the lien cases in a meeting. Mayor Naugle stated that in the past they complained about not receiving such cases, and now the department was acting and presenting them to the Commission. Commissioner Hutchinson stated that previously the Commission did not hear each individual case. Mayor Naugle suggested as an alternative that these matters be discussed and presented at the end of the meeting. Commissioners Teel and Moore agreed. Commissioner Moore reiterated they needed to give a clear message that they were serious about individuals complying with the Code and making their communities better.

Mayor Naugle remarked that the Commission had asked for these cases to be brought before them for years. Commissioner Trantalis felt that hearing so many cases at one time did not allow them to give their full attention to the matter at hand.

Commissioner Moore left the meeting at approximately 8:06 p.m.

Settlement of Workers Compensation and Employment Practices File Nos. WC-95-8554, WC-98-9911, LR 98-291 and LR 99-866 (Donna McGarry)

(M-25)

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to approve the settlement as recommended. Roll call showed: YEAS: Commissioners Hutchinson, Teel, and Trantalis
NAYS: Mayor Naugle.

PUBLIC HEARINGS

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

(PH-1)

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. On March 4, 2003, the City Commission deferred first reading to May 6, 2003 by a vote of 5-0. (Also see CRA Item on the Conference Agenda and Items M-23, PH-2 and PH-3 on this 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 by Commissioner Trantalis seconded by Commissioner Hutchinson to defer this item until September 16, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

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-2)

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. On March 4, 2003, the City Commission deferred first reading to May 6, 2003 by a vote of 5-0. (Also see CRA Item on the Conference Agenda and Items M-23, PH-1 and PH-3 on this Agenda)

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

Motion made by Commissioner Hutchinson and seconded by Commissioner Trantalis to defer this item until September 16, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

**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-3)

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. On March 4, 2003, the City Commission deferred first reading to May 6, 2003 by a vote of 5-0. (Also see CRA Item on the Conference Agenda and Items M-23, PH-1 and PH-2 on this 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 by Commissioner Hutchinson and seconded by Commissioner Teel to defer this matter until September 16, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

**Site Plan Approval/Rezone from Residential Low
Rise Multi-Family/Medium Density (RM-15) to Exclusive
Use Parking Lot (XP) - Maria Freeman (PZ Case No. 12-ZR-02)**

(PH-4)

At the Planning and Zoning Board regular meeting on March 26, 2003, it was recommended by a vote of 9-0 that the following application be approved. Notice of public hearing was advertised April 24 and May 1, 2003. (Also see Item PH-5 on this Agenda)

Applicant: Maria Freeman
Request: Site plan approval/rezone from RM-15 to XP
Location: 912-914 N.W. 6 Street

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to close the public hearing. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None. (Please see page 40 regarding the vote.)

Commissioner Hutchinson introduced the following ordinance on first reading:

ORDINANCE NO. C-03-20

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE FROM RM-15 TO XP AND SITE PLAN APPROVAL, LOTS 10, 11 AND 12, "TUSKEGEE PARK", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 3, PAGE 9 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED ON THE NORTH SIDE OF NORTHWEST 5TH COURT AND ON THE WEST SIDE OF NORTHWEST 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 Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None. *(Please see page regarding the vote.)

Vacate Portion of 12-Foot Alley - Maria Freeman
(PZ Case No. 34-P-02)

(PH-5)

At the Planning and Zoning Board regular meeting on March 26, 2003, it was recommended by a vote of 9-0 that the following application be approved. Notice of public hearing was advertised April 24 and May 1, 2003. (Also see Item PH-4 on this Agenda)

Applicant: Maria Freeman
Request: Vacate portion of 12-foot alley
Location: East-west alley located between N.W. 9 Avenue and 10 Avenue, and N.W. 6 Street (Sistrunk Boulevard) and N.W. 5 Court, excepting the west 50 feet of the alley.

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to close public hearing. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None. *(Please see page 40 regarding the vote.)

Commissioner Hutchinson introduced the following ordinance on first reading:

ORDINANCE NO. C-03-21

AN ORDINANCE VACATING, ABANDONING AND CLOSING ALL OF THAT PORTION OF THE 12 FOOT ALLEY IN BLOCK 1, "TUSKEGEE PARK," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 3, PAGE 9, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LYING ADJACENT TO LOTS 1 THROUGH 5 AND LOTS 8 THROUGH 12, OF SAID BLOCK 1; BEING BOUNDED ON THE WEST BY THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID LOT 8 AND BEING BOUNDED ON THE EAST BY THE WEST RIGHT OF WAY LINE OF NORTHWEST 9TH AVENUE, LOCATED BETWEEN NORTHWEST 5TH COURT AND NORTHWEST 6TH STREET (SISTRUNK BOULEVARD), WEST OF NORTHWEST 9TH AVENUE AND EAST OF NORTHWEST 10TH AVENUE, SUCH LAND BEING LOCATED IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None. *(Please see page regarding the vote.)

Amend Resolution No. 03-39 - Former New River
U.S. Post Office Property - Authorization to
Negotiate and Prepare Lease with New River
Trading Post LLC

(PH-6)

A resolution amending Resolution No. 03-39 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, May 6, 2003, to Tuesday, June 17, 2003.

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-81

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING RESOLUTION NO. 03-39, 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 JUNE 17, 2003.

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

**Historic Designation - City of Fort Lauderdale -
403 Tarpon Terrace (HPB Case No. 29-H-02)**

(PH-7)

A public hearing to consider a resolution granting historic designation for landmark status to the property located at 403 Tarpon Terrace, which was recommended for approval December 9, 2002 by the Historic Preservation Board by a vote of 7-0. On April 3, 2003, the City Commission deferred consideration of this item to May 6, 2003 by a vote of 4-0.

Applicant: City of Fort Lauderdale
Request: Historic designation (landmark) status
Location: 403 Tarpon Terrace

This item had been deferred earlier in the meeting until July 1, 2003 at 6:00 p.m. (See Page 3 of these minutes)

**Historic Designation - City of Fort Lauderdale -
833 North Rio Vista Boulevard (HPB Case No. 31-H-02)**

(PH-8)

A public hearing to consider a resolution granting historic designation for landmark status to the property located at 833 North Rio Vista Boulevard, which was recommended for approval December 9, 2002 by the Historic Preservation Board by a vote of 7-0. On April 3, 2003, the City Commission deferred consideration of this item to May 6, 2003 by a vote of 4-0.

Applicant: City of Fort Lauderdale
Request: Historic designation (landmark) status
Location: 833 North Rio Vista Boulevard

This item had been deferred earlier in the meeting until July 1, 2003 at 6:00 p.m. (See Page 3 of these minutes)

CITIZEN PRESENTATIONS

J. Bruce Bartz would make a presentation regarding local vendor preference for businesses having an office within the city limits of Fort Lauderdale.

Mr. Bartz stated that he was with Bruce Bartz, Inc. and co-operated a small business within the City, and was requesting the Commission to make a local vendor preference part of the City's Rules and Regulations regarding the City's award process for competitive bidding. He explained such a program would reward businesses, which maintained an office within the City's limits by giving them an extra percentage of points on municipal bids. He stated there were several communities within the State of Florida in Broward County, which offered local vendor preference to businesses within their city boundaries.

Mr. Bartz further explained that local vendor preference would not necessarily increase prices or harm the purchasing network of the City, but would help by encouraging more companies to bid and help lower costs.

Commissioner Hutchinson stated that this sounded like an interesting concept, and possibly staff could evaluate the program and bring back their recommendation.

Mayor Naugle suggested that the Purchasing Director could possibly prepare a Friday memo on the implications of such an ordinance. The City Manager agreed this could be done. Mayor Naugle stated that the information would then be shared with Mr. Bartz.

Commissioner Moore returned at approximately 8:17 p.m.

RESOLUTIONS

Dispute Resolution for Board of Adjustment (BOA)
Case No. 01-61 - Dockage of Watercraft (ULDR
Section 47-19.3.G) - Mark and Diana Stephenson
2801 N.E. 36 Street

(R-1)

A resolution approving the Special Master's recommendation for dispute resolution for BOA Case No. 01-61 relating to dockage of watercraft for Mark and Diana Stephenson, 2801 N.E. 36 Street.

Commissioner Trantalis stated that he had received phone calls from adjacent neighbors and wanted to ask staff some questions. He stated that these individuals were 40' on the water and there was normally a 10' setback on each side of the property which permitted a 20' boat. He asked why the City was permitting them to have a 25' boat.

Greg Brewton, Zoning Administrator, stated that the process they had gone through in connection with this matter had a Special Master who entertained all parties and their concerns. He continued stating that the reason this had been negotiated down to the 2.5 was that the Special Master had ruled that the property owner had been adversely affected by the decision made by the Board of Adjustment. He explained canal ends were a very difficult issue in attempting to determine the riparian rights for property owners as they relate to the dockage of boats. He stated that the Special Master had recognized that the abutting property owners would not be adversely affected by his recommendation of 2.5, and believed the 10' side yard setback would adversely affect the subject property owner.

Commissioner Trantalis asked if this settlement would impede the passage of any other boat owners in going past this property. Mr. Brewton stated that it did not adversely affect the navigational rights of the abutting lots based on the dockage they currently enjoy.

Commissioner Teel remarked that this matter had been going on for quite some time. She explained that she had sat on the Board of Adjustment in November 2001 when this case first came before them, and at that time there was no meeting of minds among the 3 property owners and the request had been denied.

Commissioner Moore left the meeting at approximately 8:17 p.m. and returned at 8:18 p.m.

Commissioner Teel continued stating that she felt this was a reasonable compromise. She stated that the survey showed a good separation of boats, which were presently owned in the area, and she realized the Special Master had not dealt with future purchases of boats.

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-82

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, ACCEPTING, UPON CERTAIN TERMS AND CONDITIONS, THE RECOMMENDATIONS OF THE SPECIAL MASTER IN DISPUTE RESOLUTION PROCEEDING CASE NO. BOA 01-61, MARK AND DIANA STEPHENSON, 2801 N.E. 36TH STREET, FORT LAUDERDALE, FLORIDA, ADOPTING SAME AS A DEVELOPMENT ORDER BY VIRTUE OF SECTION 70.51, FLORIDA STATUTES.

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

Plat Approval - Winston Knauss - "New River Woods"
(PZ Case No. 8-P-02)

(R-2)

At the Planning and Zoning Board special meeting of March 26, 2003, it was recommended by a vote of 8-1 that the following application be approved:

Applicant: Winston Knauss
Request: Plat approval
Location: 1440 Winston Woods Boulevard

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-83

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA APPROVING A PLAT KNOWN AS "NEW RIVER WOODS."

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

Plat Approval - Florida Department of Transportation

(R-3)

(FDOT) - "Lightspeed Broward Center Plat" (PZ Case No. 27-P-02)

At the Planning and Zoning Board regular meeting of January 15, 2003, it was recommended by a vote of 8-0 that the following application be approved:

Applicant: FDOT
Request: Plat approval
Location: 6030 North Andrews Avenue

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-84

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING A PLAT KNOWN AS "LIGHTSPEED BROWARD CENTER PLAT."

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

**City Commission Request for Review - Site Plan
Approval/Yard Modifications/RMH-60 - Hotel Motel,
Inc. "The Lafayette" (PZ Case No. 124-R-02)**

(R-4)

At the Planning and Zoning Board special meeting of March 26, 2003, the following application was approved by a vote of 5-4. On April 22, 2003, the City Commission scheduled a hearing to consider this application on May 6, 2003 by a vote of 5-0.

Applicant: Hotel Motel, Inc.
Request: Site plan approval/yard modification/RMH-60
Location: 2221-2231 North Ocean Boulevard

All individuals wishing to speak on this matter were sworn in.

Angela Csinsi, Planning and Zoning, stated that at the April 22, 2003 Commission meeting, the Commission had voted to hear the Lafayette project on May 6, 2003 at 6:00 p.m. She further stated that the project was located at the southwest intersection of A1A and Northeast 23rd Street. She explained the applicant proposed to demolish an existing 3-story, 55 unit hotel, and construct a new 13-story, 38 unit multi-family building. The applicant was requesting a modification of required yards in that the front south side and rear setbacks do not equal one-half the height of the building. She explained that the applicant had to demonstrate that all standards, requirements and criteria of the ULDR had been met. This application would be subject to the criteria found in ULDR Section 47-23.11 - Modification of Required Yards. In addition, all development zoned RMH-25 and RMH-60 east of the Intracoastal was subject to neighborhood compatibility found in Section 47-25.3. Ms. Csinsi also stated that the applicant had to demonstrate that they also met Subsections 8.1, 8.2 or 8.3.a.b. and e, or Subsections a.3.c, d, and e. of Section 47-23.11. She explained that the applicant had stated that they met Subsections a.3.c, d. and e.

Ms. Csinsi further stated that if the Commission granted approval for this application, there were conditions listed in the staff report, which they recommended.

Ron Mastriana, attorney, stated that they were before the Commission this evening for a re-hearing under Section 47-26.a.2. The record on the re-hearing would include all information and documentation which had been submitted to the City with the application, staff's report and determination, a transcript from the Planning and Zoning Hearing, all evidence presented at the hearing, together with all input from the public, expert testimony and presentation material.

Commissioner Hutchinson left the meeting at approximately 8:26 p.m. and returned at 8:27 p.m.

Mr. Mastriana stated they were here this evening for a side yard modification. He stated they were not requesting a variance. He explained that according to Code side yard modifications could be granted under specific conditions. He stated that Michele Mellgren would go into further detail and give some history regarding that issue. He stated that this property was zoned RM-60 which permits a 240' structure. He explained that this project did not present a maximum build-out at the site. Mr. Mastriana stated that from a redevelopment standpoint, this project would assist in upgrading the neighborhood. He stated that presently the landscaped totaled about 5% and would be increased to close to 40% at the completion of the project. He further explained they would be enhancing traffic circulation, and the City had requested that a U-turn be set up so individuals coming from the south going north could make a U-turn, and traffic

would be discouraged from going through 23rd Street. He further stated that they were shifting the structure to the north to allow the White Egret a clear view of the ocean.

Mr. Mastriana stated that various comments had been made by the neighboring properties in their petitions. He stated one concern raised was shadowing on the pool. He explained that if you looked on the map as to where the Everglades were situated and the neighboring pool, which was about 2' from the property line, the distance between the property line of The Lafayette and the building itself was 60'. He explained they moved the building so it would meet the setback criteria on the Everglades side of the building, thereby reducing the issue of shadowing.

Mr. Mastriana continued stating that no testimony had been presented in regard to opposition to the project's proximity to A1A. He explained that the Lafayette was approximately 25' from A1A and would be enhanced through a pedestrian and paver system. He proceeded to show various photographs and renderings of the site.

Mr. Mastriana proceeded to introduce Michele Mellgren who would walk through some of the issues, which had been presented regarding the criteria. He also stated that copies of her resume had been provided to the Commission.

Michele Mellgren, Professional Urban Planner, stated that she was qualified to provide expert witness testimony. She further stated that she was here this evening for 3 reasons. One was to provide expert witness testimony to establish a record in case they ever needed to refer to such record. The second reason she was present was to provide the Commission various facts upon which they could base their decision. The third reason was that she would demonstrate that the proposed project met the criteria contained in the ULDR to qualify for modification of yards. She explained that she was going to provide the Commission with the history of the modification provision contained in Section 47-23.11, a brief visual tour of A1A in the concerned area in order to see what urban design was lacking, and describe how this project could help the City achieve good urban design which would implement some new urbanism, along with discussing more salient sections or parts of Section 47-25.3 - Neighborhood Compatibility in an effort to show they met the provisions of that section.

Ms. Mellgren stated that according to the ULDR the criteria stated that the setback should be half the height of the building and in evaluating that, she was somewhat perplexed since it was not consistent with the RM-60 land use designation, nor the RM-60 zoning, and from a practical standpoint it was virtually impossible to develop or redevelop this site from an economic standpoint. Ms. Mellgren stated she had done some research in the City's records and found that the Commission had amended the Code of Ordinances on November 1, 1994 by adopting Ordinance C-94-48, and the changes addressed yard modifications in various zoning districts, including what was now called the RM-60, which was known then as the R-4 District. The changes made to the Code accomplished several objectives.

Ms. Mellgren explained that until the adoption of Ordinance C-94-48 the RM-60 district was structured to require minimum square footage of land for development, which had been determined by the number of bedrooms in a unit. This requirement encouraged the development of smaller units with fewer bedrooms, which was not consistent with the market demand for units having 3 or more bedrooms. The City then determined that redevelopment could be encouraged if development responded to market demand. As a result, Ordinance C-94-48 eliminated the minimum land requirement per bedroom measurement as an economic development incentive. She stated that the cap on total density as measured in units per acre had not been affected. Modifications to setbacks in the past had been granted through the variance process, which was separate from the site plan review process that was now in place.

Ms. Mellgren further explained that staff felt to encourage economic development and redevelopment there needed to be more flexibility in the Code, and as a result the yard modification provisions had been incorporated into the site plan process. This gave the City the opportunity to address design issues,

thereby creating design criteria to serve as determining factors as to whether a proposed development qualified for a yard modification. This would result in structures having good architectural form located proximate to the street, as opposed to being in the middle of a lot surrounded by open space because buildings closer to the street created better pedestrian environment.

Ms. Mellgren stated that in summary the modification of setbacks included in the current ULDR were put in place to encourage superior urban design and architectural form.

Jeff Catums provided a visual tour as to what existed along A1A in the north beach area. He explained they had taken approximately 100 photographs of the area, but would show about 17 of them to the Commission.

Ms. Mellgren stated that at the Planning and Zoning meeting neighborhood compatibility had been discussed, and in order to qualify for modification of setbacks the Code stated that you had to meet Criteria No. 1, or No. 2, or No. 3, and in addition to meeting only one of those, one had to meet Criteria No. 4. She explained that they had demonstrated that they met Criteria No. 1 which was superior shadow management. She stated that Criteria No. 2 did not apply since it addressed the Intracoastal. Criteria No. 3 dealt with superior design and architectural features, and they had demonstrated that they met those requirements. She further stated they had met the provisions of Criteria No. 4. She reiterated that Planning and Zoning had recommended approval of this project.

Ms. Mellgren proceeded to distribute copies of Section 47-25.3 of the ULDR, which dealt with neighborhood compatibility, along with their response to this issue. She stated they had mitigated issues as required in regard to traffic, noise, odors, shadows, and stated they were in scale. She also stated that the scale from an urban design standpoint was actually the relationship of a building to the street space it defined.

Mayor Naugle proceeded to open the public hearing.

Joe Holland, President of Dolphin Isles Homeowners Association, stated that they were adjacent to the proposed project. He stated they encouraged responsible development, but they were not in favor of this project due to its unsubstantiated yard modification request. He stated they felt the planning and zoning process was flawed. He explained that at the Planning and Zoning Board Meeting, the Chairman had claimed that the Board's hands were tied due to the legal ruling of the project meeting the requirements of the ULDR. Staff clearly deferred to the applicant's claim that all criteria were met. Therefore, it appeared the ruling regarding neighborhood compatibility was up to the discretion of the Board.

Mr. Holland stated their neighborhood was absent the concept of a buffer-zoning district and they relied on yard modifications as a way to create such buffers. He further stated that mistakes had been made in the past, and they did not need to follow those actions such as the Pelican project. He felt some zoning "tags" were overstated such as units per acre in regard to projects. He believed the remark regarding superior design was subjective and was not proven by the applicant's submittal. He believed the photographs shown were not relevant because what mattered was the language of the existing code.

Stuart Dougherty stated that he lived across the street from the proposed development. He further stated that he was in favor of appropriate development, but he felt this project was not a representation of such type of development. He continued stating that at the Planning and Zoning Meeting language was made meaningless, and they had heard that the building had an official height of 120', but then it was stated there were structures on top of the building, therefore, it was higher in height. He stated there was a 60% reduction in the yard requirement according to the ULDR. He further stated that Pompano Beach had made mistakes in haste and were now paying for those mistakes.

Mr. Dougherty further stated that they had justified this building on two very subjective factors. One was architectural improvement, and the other was the precedence and neighborhood compatibility. He explained that one building was 16 years old and another building was over 25 years old, and if those ancient precedents applied today, then they would never make progress in urban design in the City. He reiterated that he had spoken with a lot of people in regard to this project, and no one appeared in favor of it. He felt what the voters were asking for in the last election was a dramatic change in the way structures were built in the City because things had gotten out of hand.

Mike Miller, President of Everglades Condominium, stated that he showed pictures of the existing structure at the concerned site. He stated they had a petition signed by 40 out of 44 residents against the project. He reiterated they were in favor of appropriate development. He further stated that the ULDR did not address the construction of a large building on a very small narrow lot. He continued stating that their pool area would be shadowed from about 9:30 a.m. to 12:00 p.m. by this project. He stated there were a lot of lots zoned R-60 along A1A, which were about, 120' wide lots or less, and each could request a yard modification and build out to their maximum.

Scott Bassista, resident at White Egret, stated he felt the proposed project would be a massive structure close to the road, and he did not feel it was appropriate for the neighborhood. He urged the Commission to deny the petition for the yard modification.

Bennet Zaron, Shoreclub Condominium, stated the rule was one-half the height of the building, and everything from there on for yard modification was a subjective issue. He stated they were working with staff for the last 5 years in an attempt to clean up the mess. He further stated that 99% of the people who walked did so along 33rd Avenue, and this was a major thoroughfare.

Jeanine Jamieson, resident, stated that this was in a zoning in progress area, and changes were being planned for the zoning of the area. She reiterated that guidelines were set for building, but for appropriate sized lots. She proceeded to show photographs of the neighborhood, and she stated there were no tall buildings in sight. She further stated the White Egret was an eyesore, along with the Palms. She proceeded to then quote from the ULDR Section 47-23.11 and reiterated that it stated that "...P&Z shall take the application..." and "...may change..." the minimum yards. She then began to read the definition in the ULDR for "adjacent property." She reiterated that the White Egret was not adjacent to the proposed project, and stated that the L'Ambiance was 1.6 miles away, and the Berkeley was .6 miles away. She stated that many of the properties referenced were not adjacent to the proposed site, and she felt staff had missed this issue.

Ms. Jamieson further stated that developers were overpaying for the land and to justify those costs, they were requesting yard modifications. She stated that the requirements for yard modifications were actually saying that the building could be designed to fit on the property and moved around to facilitate a better project.

Jack Cummings, resident at 22nd Street and 32nd Avenue, stated that he was concerned that the Commission could send out the wrong type of signal, which would forever burden the neighborhood with old deteriorated motels along the entranceway. He explained the problem they were faced with was that the type of clientele the motels patronized were generating revenue, but he felt there was a travesty being perpetuated by allowing such motels to exist. He felt responsive development was to take a blighted property, which impacted the community, and redevelop it which would encourage property values for the area.

Mr. Mastriana proceeded to show a digital photograph of a development, which would not require the setback modification. He reiterated that no testimony had been uncovered this evening which refuted any of the criteria which they established were being met.

Ms. Mellgren reiterated that they had to meet Criteria No. 1, or No. 2, or No. 3, and in addition one had to meet Criteria No. 4 in order to qualify for the setbacks. She emphasized they had met Criteria No. 1, along with good shadow management. Criteria No. 2 did not apply, and Criteria No. 3 dealt with excellence of urban design, which they met. Ms. Mellgren stated that Criteria No. 4 had 3 standards. The first was that they met all the requirements of the ULDR, including neighborhood compatibility. The second criteria addressed the Intracoastal and did not apply. The third criteria was that they were to meet the intent and spirit of the code which they did.

Mr. Holland remarked they had low crime in their neighborhood and they wanted to look at possibly purchasing some of the "mom 'n pop hotels" to be used for added greenway.

Ms. Jamieson stated that when the applicant stated they were meeting the criteria of the ULDR, she pointed out the words in the definitions, which were "shall", and "may." She felt they were not comparing the adjacent buildings properly to the project.

Mayor Naugle stated that the ULDR did imply that they were to adjust the location of the structure, which could be moved around on the site to better fit the size of the lot. He felt they did not meet the Criteria of No. 1, 3 and 4. He further stated that when he thought about adjusting the side yard setbacks, he thought along the lines of about 10% and not 50% to 60%, which could be a burden on the neighborhood. He felt the massive justifications being requested were not justifiable and did not meet the spirit of the law. He felt that development could take place on such sites as this one, but they did not need to go with such large buildings.

Commissioner Trantalis stated that he felt it was a shame that they were being presented with a proposal, which was intended to correct a problem, but he believed they were not being given enough options. He felt other alternatives were available, and he felt the ULDR was referring to the relation of the parameters within which the alternatives could be considered. He stated the project was attractive, but this site was not appropriate for such a project. He felt the most important criteria presented to Planning and Zoning was the issue of neighborhood compatibility. He reiterated that the mistakes of the past should not be repeated, and to "boot strap" an argument tonight based on criteria, which had long, since been discredited and discarded was an inappropriate approach in recreating or refashioning the beach. He stated what had not been pointed out this evening were the projects in the near vicinity which had recently been approved, and he felt there would be a "canyon affect" for that section of the beach making it a very unfriendly environment. He felt those projects would not be enhancing the area, but would be detracting from the overall quality of the beach.

Commissioner Trantalis stated he felt the yard modifications were codified for the purpose of understanding that individuals did not want to see walls in their faces, and did not want to see walls while driving down the road. He felt if they were going to refashion the City and make it more consistent with what people wanted, this was the type of project they should not approve. He felt that any adjustments for yard modifications were not a matter of right, but were simply discretionary. He reiterated they should not approve this project because they would be sending out the wrong signal, in the wrong direction, at the wrong time, and in the wrong place. He believed now was the time to draw the "line in the sand," and reconsider how the beach should be rebuilt. He reiterated that the only options were not high-rise developments, and other opportunities were available, and he hoped the City was more imaginative and invested in the environment to permit something more compatible for the people and the beach. He urged the Commission not to support this project.

Commissioner Hutchinson stated that no one wanted to discourage development, but appropriate development should be done. She reiterated they were requesting these modifications because the project was too large for the site. In her mind, she stated she was not building a downtown urban retail environment on the beach where one might want a building closer to the street. She stated further there

was a reason they were asking for the setbacks. She believed the project could be built with the appropriate setbacks. She stated she would not support this project.

Commissioner Teel stated she also was not in favor of the project as presented and felt when you looked at the percentages for the request for modifications, they were very high and felt 66.6% was unconscionable. She felt because high prices were paid for the land, it did not justify building a project which was not compatible for the area. She felt they should not only look at the pedestrian experience, but also at the driving experience along A1A. She stated she was hearing over and over again reactions in regard to The Palms. She stated that tonight the applicant did not show this "looming" building and the affect it created for tourists and the residents of the City. She felt they would be shortsighted to let this type of construction continue on and on. She believed that the ULDR was put in place for a purpose and if one followed the criteria, one would get a building that made sense for the lot size purchased.

Motion made by Commissioner Trantalis and seconded by Commissioner Hutchinson to deny the application.

The City Attorney stated that he wanted Cecelia Hollar to clarify some of the issues because historically the City had taken the position that if the criteria were met, then one would receive the yard modification as a matter of right. The question was whether the criteria had been met, and one of the criteria was compatibility.

Commissioner Trantalis asked where it said a "matter of right" that the application would be approved if there was compliance with the requirements stated in Section 47-23.11. The City Attorney reiterated that the City's position in the past had been that if the criteria had been met, then one would receive the modification. He stated that he was suggesting that if the criteria had not been met, then it did not matter what the prior practice had been.

Mayor Naugle stated that he believed the Commission was relying on the law, and not past practice of an advisory board or a past administration, which had liberally interpreted the law.

The City Attorney stated he was not suggesting that they not do that, but he was suggesting that they could posture the City in a better position to support whatever motion might be made if it was based upon failure to meet the criteria.

Cecelia Hollar, Director Construction Services, stated they wanted to clarify what the Code did state which was that information was submitted in order to support the request for the Commission's consideration. She reiterated it was the Commission who determined whether the information submitted in accordance with the criteria required by the Code was sufficient to support and approve the modifications as requested by the applicant. She further stated she wanted to clarify that staff's position had been that the information required by the Code had been submitted for the Commission's consideration. She further stated that in staff's memorandum to the Commission, they had stated that Item 4.c under the criteria explicitly requested whether or not the spirit of the dimensional regulations of the application concerning the yards as relating to air, light and shadow was maintained. She emphasized that staff had been very clear in stating that while the applicant represented they had maintained the dimensional regulations of the RMH-60 zoning district, staff had determined that the spirit and intent could better be maintained if the height of the building proposed was reduced and/or the setbacks increased so it would reduce the impacts that this project was creating on the shadowing of the adjacent buildings. Ms. Hollar reiterated that the project as proposed did not meet the specific criteria.

Mayor Naugle felt they had not received any evidence showing that the proposed setbacks met the spirit or intent of the modification of the required yards. He asked if it was a proper motion to deny the item.

The City Attorney stated that the motion should state why it was being denied, and a simple reason could be that it failed to meet the criteria.

Motion made by Commissioner Trantalis and seconded by Commissioner Hutchinson that the Commission found that the attempt to meet the criteria for modification of required yards had not been met based on more than one consideration.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

Street Name Additions - Harbour Isles Neighborhood
S.E. 26 Terrace, S.E. 26 Avenue, S.E. 20 Street and
S.E. 21 Street

(R-5)

A resolution requesting names be added to existing numbered streets in the Harbour Isles neighborhood as follows:

1. S.E. 26 Terrace to be known as "Breakwater Circle (S.E. 26 Terrace)"
2. S.E. 26 Avenue to be known as "Breakwater Lane (S.E. 26 Avenue)"
3. S.E. 20 Street to be known as "Anchor Drive (S.E. 20 Street)"
4. S.E. 21 Street to be known as "Inlet Drive (S.E. 21 Street)"

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-85

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING THAT STREET NAMES ARE ADDED TO CERTAIN ALREADY EXISTING NUMBERED STREETS IN THE HARBOUR INLET NEIGHBORHOOD.

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

Building Board-Up and Securing Charges

(R-6)

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

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-86

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, CHARGING AND ASSESSING AGAINST THE PROPERTIES DESCRIBED IN THE SCHEDULE ATTACHED HERETO THE COST AND EXPENSE OF SECURING AND BOARDING UP BUILDINGS LOCATED THEREON WHICH WERE FOUND UNSAFE UNDER SECTION 111 OF THE FLORIDA BUILDING CODE AND IMPOSING LIENS AGAINST SUCH PROPERTIES; AUTHORIZING AND DIRECTING THE PROPER CITY OFFICIALS TO RECORD CLAIMS OF LIEN AGAINST THE PROPERTIES IN THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

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

Lot Clearing and Cleaning Charges

(R-7)

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

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-87

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 Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

Increase Scope of Services for Special Counsel - Troutman Sanders, LLP - Wingate Landfill Superfund Site Closure

(R-8)

A resolution authorizing additional services for the law firm of Troutman sanders, LLP, as Special Counsel, for the Wingate Landfill Superfund Site closure in an amount not to exceed \$100,000.

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING FOR ADDITIONAL SERVICES, PROVIDING FOR HOURLY RATES AND A MAXIMUM AMOUNT OF COMPENSATION TO BE PAID TO SPECIAL COUNSEL, TROUTMAN SANDERS, LLP, TO REPRESENT THE CITY IN ENVIRONMENTAL ISSUES RELATED TO THE WINGATE LANDFILL AND INCINERATOR SUPERFUND SITE.

Which resolution was read by title only.

Commissioner Moore stated he was concerned with how they were dealing with the litigation on this site and the money involved, along with the money set aside for the re-use of the site, and stated he was not comfortable with this.

Commissioner Trantalis asked what was the appropriate way to deal with this matter. Commissioner Moore stated that he was concerned about the approach. He suggested that the matter be tabled and the

Commission discuss it at the next Conference Meeting. He stated that he would like information as to how much money had been spent and further clarification of the strategy involved.

Greg Kisela, Assistant City Manager, stated that they should possibly have a shade meeting in anticipation of litigation. He explained that the toxic tort attorneys had been in and if they were going to speak about the strategy, then a closed-door session should be held.

Commissioner Moore suggested this matter be tabled and discussed at the next Conference Meeting.

Mayor Naugle stated they were going to withdraw the item from tonight's agenda.

Mr. Kisela stated that Troutman Sanders had represented the City since 1989 on the closure of the site, and they continued to use them and bills were being incurred in anticipation of this item being approved.

Commissioner Moore reiterated they needed to discuss this matter at the next conference meeting.

Commissioner Trantalis asked if the Federal government would reimburse the City. Commissioner Hutchinson replied no, as did Mr. Kisela. Mayor Naugle stated that Superfund was basically a fund used to hire attorneys and get someone else to pay for them. Mr. Kisela remarked there was very little reimbursement from Superfund.

The City Manager asked the Commission to delete this item from tonight's agenda.

Special Counsel Fee Adjustment - Muller Mintz, P.A.

(R-9)

Commissioner Hutchinson asked how long this company had represented the City.

The City Attorney replied approximately 20 years.

Commissioner Hutchinson stated that she was not in favor of this pay raise and felt it might be time to send out an RFP, and see what else was out there.

Commissioner Moore suggested that the Commission support the increase, but in the next 90 days go through a process of obtaining information from the City Attorney as to why he chose to continue this relationship, and provide an assessment of what the market place and other counsel could offer the City. He stated that this particular firm had done a superb job, but did not have any problem with having them continue to prove themselves as a competitive law firm in the market place. He urged the Commission to approve the raise, but place a notice that they wanted to "test the waters."

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 03-88

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING FOR AN INCREASE IN THE COMPENSATION PAID TO SPECIAL COUNSEL, MULLER, MINTZ, P.A.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Moore, Teel, Trantalis and Mayor Naugle. NAYS: Commissioner Hutchinson.

**Utility Easement - Florida Power and Light (FPL) -
Construction of New Fire Station No. 2 at 528 N.W. 2 Street**

(R-10)

A resolution authorizing the proper City officials to execute a utility easement with FPL to facilitate the construction of the new Fire Station No. 2 located at 528 N.W. 2 Street.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 03-89

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING EXECUTION AND DELIVERY BY THE PROPER CITY OFFICIALS OF AN EASEMENT DEED GRANTING UTILITY EASEMENT RIGHTS TO FLORIDA POWER AND LIGHT COMPANY FOR THE PLACEMENT OF ELECTRICAL UTILITY FACILITIES WITHIN AN EASEMENT AREA MORE PARTICULARLY DESCRIBED BELOW.

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

Confiscated/Surplus Vehicle and Equipment Auction

(OB)

Commissioner Hutchinson stated that these auctions tended to add traffic to the Sailboat Bend neighborhood, and she hoped they could come up with a better traffic plan for the event.

Kirk Buffington, Procurement Division Manager, stated they were looking at several options and the matter would be discussed further in the Department Head meeting tomorrow, but something would be done.

Commissioner Moore suggested that possibly the site of the auction could be changed. Mr. Buffington stated that it was too late to do that for this particular auction. He reiterated that the next auction would be held in November, and discussions and considerations would be given to the possible relocation of the auction, and possibly taking advantage of the on-line auction process.

Commissioner Moore stated that only using on-line limited the event to certain individuals. Mr. Buffington replied that was why they had not used it as of this date.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to approve the confiscated/surplus vehicle equipment auction to be held May 14, 2003. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

**Settlement of Code Enforcement Board Lien -
CE99-101362 - 812 N.W. 15 Terrace
(Myer T. and Nan T. Berkowitz)**

(OB)

The City Attorney stated that this had been a lien, which had been placed on a piece of property at the referenced address. He continued stating that the owner of the property had been a Mr. Berkowitz who had quitclaimed the property to a Mr. Martin. It was a lien that would attach to any property owned by Mr. Berkowitz, as opposed to the one location. Mr. Berkowitz sold the property and later sold a condominium to which the lien had attached itself. The buyer was now trying to sell the condominium and was told by

the City that if he paid the lien, they would give them a document stating the lien was paid in full and they could proceed with the sale. Code Enforcement would inspect the actual property and if the violation was not taken care of, the property would be cited and the fines would begin again. The City Attorney explained they wanted the Commission to approve and sign a Release of Lien for \$137,000, which had been approved on the original piece of property.

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to approve the lien settlement as recommended. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

Advisory Board Appointments

(OB)

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

Board of Adjustment	Binni Sweeney
Charter Revision Board	Ron Gunzburger
Education Advisory Board	Brian Dassler
Unsafe Structures and Housing Appeals Board	H. Tom Jones

Commissioner Hutchinson introduced a written resolution entitled:

RESOLUTION NO. 03-90

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 Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

Cape Haitien – Donation of Garbage Truck

(OB)

Mayor Naugle stated that about 1 ½ years ago Eddie Rimmey of Quest Financial Services introduced him to the Mayor of Cape Haitian and they had discussed the possibility of a sister city relationship with the City of Fort Lauderdale. He stated they were attempting to clean up the area and encourage tourism from the various cruise ships, and this Mayor had one goal and that was to obtain a garbage truck for his community. He stated he had convinced Waste Management to donate a truck that was getting ready to retire. He announced that they had found a local company that was willing to ship the truck free of charge.

The City Manager stated that he had visited with Jim Hill who had facilitated such things in the past. He explained he had been concerned about the question of liability regarding the truck. He explained further it was his understanding that the City did not have to take possession and was merely facilitating the shipment of the truck, and was disclosing their role to the Commission.

Vote on PH-4 and PH-5 (Continued from page 24 and 25)

Commissioner Moore stated that he had been out of the room when these two items were considered, and wanted the record to reflect a "yes" vote for him.

Streetlights on Sistrunk Boulevard

(OB)

Commissioner Moore stated that he had asked for some further clarification earlier in the meeting regarding work being done on Sistrunk Boulevard. He announced further that the matter had been addressed and the matter would be resolved. He explained there had been an error about two weeks ago and now they had discovered how to rectify the situation.

There being no further business to come before the Commission, the meeting was adjourned at approximately 10:02 p.m.

Jim Naugle
Mayor

ATTEST:

Lucy Kisela
City Clerk