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FORT LAUDERDALE CITY COMMISSION
JUNE 3, 2003**

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE, FLORIDA
JUNE 3, 2003**

Meeting was called to order at 6:15 p.m. by Mayor Naugle on the above date, City Commission Meeting Room.

Roll call showed:

Present: Commissioner Christine Teel
 Commissioner Dean J. Trantalis
 Commissioner Cindi Hutchinson
 Commissioner Carlton B. Moore (Arrived at 6:19 p.m.)
 Mayor Jim Naugle

Absent: None

Also Present: City Manager, F. T. Johnson
 City Attorney, Harry A. Stewart
 City Clerk, Lucy Kisela
 Sergeant At Arms, Sergeant Harrington

Invocation was offered by Pastor Steve Stolarz, Riverland Baptist Church, 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 Trantalis and seconded by Commissioner Teel to approve the agenda and minutes of the May 20, 2003 meeting. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

Mayor Naugle announced that Boy Scout Troop No. 190 was in attendance at tonight's meeting as part of a government educational experience.

Presentations

OB

1. Expressions of Sympathy

The Mayor and City Commissioners presented an Expression of Sympathy to the families of Steven Camp, Yolanda Maurer, Herb Van Sickel and Esther Recchi.

2. Smoke Detector

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

3. North Broward Hospital District Affiliation with H. Lee Moffitt Cancer Center and Research Institute

Commissioner Hutchinson presented a proclamation in honor of the new affiliation between the NBHD and H. Lee Moffitt Cancer Center and Research Institute.

Dr. Tranakis, Director of the Cancer Center at NBHD, thanked the Commission. He stated that Broward General was the first American College of Surgeons Cancer Program approved in Broward County in 1985. Shortly thereafter, the NBHD was also approved. He explained they had received the highest designation of a community cancer program. He proceeded to thank the Advisory Committee for all their hard work.

Commissioner Moore entered the meeting at approximately 6:19 p.m.

4. Magazine and Catalogue Recycling Awards

Commissioner Teel presented the Magazine and Catalogue Recycling Awards. She stated that 18 schools had participated in this program, and the following schools had been ranked the top 3 in their collection efforts:

| <u>School</u> | <u>Tonnage</u> | <u>Check Received</u> |
|---|----------------|-----------------------|
| Pine Crest, 1 st Place | 18,000 lbs. | \$380 |
| Bennett Elementary/Sunrise Middle, 2 nd Place | 7,000 lbs. | \$ 85 each |
| Croissant Park Elementary, 2 nd Place | 7,000 lbs. | \$170 |
| Trinity Lutheran Elementary, St. Anthony, 3 rd Place | 7,000 lbs. | \$170 |
| Bayview Elementary, 3 rd Place | 5,040 lbs. | \$150 |
| Harbordale Elementary, 3 rd Place | 5,000 lbs. | \$150 |

Casey Eckles, Cycling Coordinator, assisted in handing out the awards.

Commissioner Teel announced these 18 schools had collected over 76,000 lbs. of material which resulted in a substantial solid waste disposal savings to the City, as well as generating modest revenue for the magazines which helped to offset the cost of collection.

5. Code Enforcement Appreciated Week

Commissioner Moore presented a Proclamation for "Code Enforcement Officers Appreciation Week" which was being observed June 2-7, 2003.

Lori Milano, Director Community Inspections, accepted the award and thanked the Commission for the recognition.

6. Broward League of Cities Award

Commissioner Hutchinson stated that at the annual dinner of the Broward League of Cities, one of the President's Recognition Awards had been presented to the City of Fort Lauderdale for their outstanding leadership in the 2003 Municipal Elections. She proceeded to present that award to Lucy Kisela, City Clerk, for her hard work and effort in the elections and for running the Call Center for Broward County.

7. Outstanding Employees

Faye Outlaw, Community and Economic Development, recognized Steve Vamvakis as Employee of the Month who served as Service Clerk in Community Inspections.

Bruce Roberts, Police Chief, presented Sue Sheehan with the award of Civilian Employee of the Month. He stated that since 9/11 the acquisition of ride gear equipment and weapons of mass destruction equipment had risen to the forefront as a priority task. He further stated that Sue Sheehan had discovered that many items were available through the Department of Management Services 1033 Program for the procurement of military surplus and the Florida Counter Drug Procurement Program known as the 1122 Program. Due to Ms. Sheehan's enthusiasm she had been requested to host an Internet training session opened to all law enforcement agencies in Florida.

Chief Roberts also proceeded to present Officer Mark Renner with an award due to his efforts in finding a lost autistic child in Melrose Park.

Chief Roberts also stated he wanted to honor Detective Rodriguez who was unable to attend tonight's meeting for his efforts in assisting to recover jewelry belonging to a real estate broker who had been robbed while showing property.

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.

Mayor Naugle announced that Item M-6 (Task Order with CH2M Hill for Temporary Program Management Office) was deleted from tonight's agenda.

Disbursement of Funds – Joint Investigation -
O.R. No. 02-23745 - \$49,654.24 U.S. Currency**(M-1)**

A motion authorizing the equitable disbursement of funds in the amount of \$49,654.24, with each of the 12 participating law enforcement agencies to receive \$4,137.85.

Recommend: Motion to approve.
Exhibit: Memo No. 03-5-2 from City Attorney.

Disbursement of Funds – Joint Investigation -
O.R. No. 00-6022 - \$37,215.18 U.S. Currency**(M-2)**

A motion authorizing the equitable disbursement of funds in the amount of \$37,215.18, with each of the 15 participating law enforcement agencies to receive \$2,481.01.

Recommend: Motion to approve.
Exhibit: Memo No. 03-5-3 from City Attorney.

**Annual Membership Dues – Fort Lauderdale
Transportation Association****(M-3)**

A motion approving the payment of annual membership dues in the amount of \$10,000 to the Fort Lauderdale Transportation Association.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-800 from City Manager.

**Three Interlocal Agreements – Broward County -
Local Option Taxes on Gas, Motor Fuel, and 5th
Cent Gas Tax on Motor Fuel for Transit****(M-4)**

A motion authorizing the property City officials to execute the Amendment to the Local Option Gas Tax Agreement and Local Option Gas Tax on Motor Fuel for Transit Agreement; and further authorizing the proper City officials to reject the Amendment to the Local Option Gas Tax on Motor Fuel Agreement.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-838 from City Manager.

**Amendment No. 1 to Task Order No. 13 -
Kimley-Horn and Associates, Inc. – Project
10363 – Executive Airport Rescue and
Firefighting/Emergency Operations Center****(M-5)**

A motion authorizing the property City officials to execute Amendment No. 1 to Task Order No. 13 with Kimley-Horn and Associates in the amount of \$16,850 for additional design criteria related to the Executive Airport Rescue and Firefighting/Emergency Operations Center (ARFF/EOC).

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-746 from City Manager.

**Task Order No. 13 – CH2M Hill, Inc. – Project
01365 – Temporary Program Management
Office, Water and Wastewater Master Plan
Capital Improvement Plan (CIP) (also known
As Waterworks 2011)**

(M-6)

A motion authorizing the proper City officials to execute Task Order No.13 with CH2M Hill, Inc. in the amount of \$1,041,429 for years three, four, five and six (3,4, 5 and 6) of the lease for the Program Management Office at 200 North Andrews Avenue and office-related costs for the period through February 2008.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-806 from City Manager.

**Contract Award – F & L Construction, Inc. – Project
10162 – Annual Contract (FY 2003/2004) for Concrete
and Paving Stone Repair**

(M-7)

A motion authorizing the proper City officials to execute an agreement with F & L Construction, Inc. in the estimated amount of \$237,525 for the Annual Contract (FY 2003/2004) for Concrete and Paving Stone Repair.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-747 from City Manager.

**Amendment to Joint Project Agreement (JPA) -
Broward County – Water Main Improvements in
Washington Park**

(M-8)

A motion authorizing the proper City officials to execute an Amendment to the JPA with Broward County in the amount of \$331,869.10 for additional costs, and a \$116,821.50 reduction in contingency funding associated with construction of six-inch and eight-inch water mains in Washington Park.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-805 from City Manager.

**Amendment to Sanitary Sewer Agreement -
Laxmi Properties, LLC – Proposed Hotel at
1150 State Road 84**

(M-9)

A motion authorizing the proper City officials to execute an amendment to the sanitary sewer agreement with Laxmi Properties, LLC for wastewater sewer service to a proposed hotel at 1150 State Road 84.

Recommend: Motion to approve.
Exhibit: Memo No. 03-784 from City Manager.

**Amendment to Sanitary Sewer Agreement -
Hibiscus, LLC – Proposed Hospitality Center –
State Road 84, between S.W. 12 Avenue and
S.W. 15 Avenue**

(M-10)

A motion authorizing the proper City officials to execute an amendment to the sanitary sewer agreement with Hibiscus, LLC for wastewater sewer service to a proposed hospitality center on State Road 84, between S.W. 12 Avenue and S.W. 15 Avenue.

Recommend: Motion to approve.
Exhibit: Memo No. 03-785 from City Manager.

**Amendment to Sanitary Sewer Agreement – Milcour, LLC
With Sailboat Key, LLC (Third Party) – Villa de Art
Development (Southwest Corner of S.W. 9 Avenue and
S.W. 2 Court**

(M-11)

A motion authorizing the proper City officials to execute an amendment to the sanitary sewer agreement with Milcour, LLC to provide service to a third party known as Sailboat Key, LLC, for service to five new town homes in the Villa de Art development, in the southwest corner of S.W. 9 Avenue and S.W. 2 Court.

Recommend: Motion to approve.
Exhibit: Memo No. 03-786 from City Manager.

**Consultant Committee Negotiation Act (CCNA) -
Authorization to Negotiate with Top-Ranked Firm
Of Kimley-Horn and Associates, Inc. for Project
10548 – Executive Airport and Downtown Helistop
Aviation Consultant Services**

(M-12)

A motion authorizing the proper City officials to accept the Consultant Selection and Negotiation Committee's recommendation of ranking short-listed firms for the Fort Lauderdale Executive Airport and Downtown Helistop Aviation Consultant Services; and further authorizing the proper City officials to commence negotiations with the top-ranked firm of Kimley-Horn and Associates, Inc. or successively ranked firms if such negotiations become necessary.

Recommend: Motion to approve.
Exhibit: Memo No. 03-745 from City Manager.

**Change Order No. 1 (Final) and Settlement Agreement
ARZ Builders, Inc. – Project 10032 – Raw Water Main
On Peters Road and S.W. 45 Avenue**

(M-13)

A motion authorizing the proper City officials to execute Change Order No.1 (Final) with ARZ Builders, Inc. in the amount of \$105,621.80 for additional costs related to the installation of a 24-inch raw water main on Peters Road and S.W. 45 Avenue; and further authorizing the proper City officials to execute the settlement agreement with ARZ Builders, Inc.

Funds: See Change Order
Recommend: Motion to approve.
Exhibit: Memo No. 03-625 from City Manager.

**Change Order No. 1 – Astaldi Construction Corporation -
Project 9766-B – Progresso Sanitary Sewer/Storm
Improvements**

(M-14)

A motion authorizing the proper City officials to execute Change Order No.1 with Astaldi Construction Corporation in the amount of \$722,424 for additional costs related to the Progresso Sanitary Sewer/Storm Improvements project.

Funds: See Change Order
Recommend: Motion to approve.
Exhibit: Memo No. 03-739 from City Manager.

**Change Order No. 1 – GRI of South Florida, Inc. -
Project 10352 – Public Works Compound Re-Roof
Project**

(M-15)

A motion authorizing the proper City officials to execute Change Order No.1 with GRI of South Florida, Inc. in the amount of \$16,202 for additional work associated with the Public Works Compound re-roof project.

Funds: See Change Order.

Recommend: Motion to approve.

Exhibit: Memo No. 03-748 from City Manager.

**Change Order No. 1 – United Engineering Corporation -
Project 10171 – DIP Force Main on S.W. 4 Avenue from
S.W. 5 Street to S.W. 19 Street**

(M-16)

A motion authorizing the proper City officials to execute Change Order No.1 with United Engineering Corporation in the amount of \$43,300.15 for additional costs associated with construction of the 24-inch force main project on S.W. 4 Avenue from S.W. 5 Street to S.W. 19 Street.

Funds: See Change Order

Recommend: Motion to approve.

Exhibit: Memo No. 03-809 from City Manager.

**Change Order No. 2 – Weekley Asphalt Paving, Inc. -
Project 10496 – Annual Contract (FY 2002/2003) for
Asphaltic Concrete Pavement Resurfacing**

(M-17)

A motion authorizing the proper City officials to execute Change Order No.2 with Weekley Asphalt Paving, Inc. in the estimated amount of \$361,701.05 for the resurfacing, signing and striping of N.E. 15 Avenue (from N.E. 13 Street to the South Fork of Middle River) and N.E. 18 Avenue (from Commercial Boulevard to the C-14 Canal).

Funds: See Change Order

Recommend: Motion to approve.

Exhibit: Memo No. 03-741 from City Manager.

Change Order No. 5 – Megan South, Inc. - (M-18)
Project 15160 – Joseph C. Carter Park Improvements

A motion authorizing the proper City officials to execute Change Order No.5 with Megan South, Inc. in the amount of \$69,145.88 for additional work on the Recreation Center and Gymnasium at Joseph C. Carter Park.

Funds: See Change Order
Recommend: Motion to approve.
Exhibit: Memo No. 03-804 from City Manager.

Task Order No. 26 – Camp, Dresser, and McKee, (M-19)
Inc. (CDM) – Project 10671 – Harbor Beach
Infrastructure Improvements – Design, Permitting
And Construction Services

A motion authorizing the proper City officials to execute Task Order No.26 with CDM in the amount of \$415,112 for consulting engineering and construction administration services associated with the Harbor Beach Infrastructure Improvements.

Funds: See Memo.
Recommend: Motion to approve.
Exhibit: Memo No. 03-807 from City Manager.

Amendment No. 3 to Task Order No. 16724.40 - (M-20)
Keith and Schnars, P.A. – Project 10506 –
Professional Engineering Services for
Lauderdale West/Sunset Areas Sanitary Sewer
Design (Septic Area 3)

A motion authorizing the proper City officials to execute Amendment No. 3 to Task Order No. 16724.40 with Keith and Schnars, P.A. in the amount of \$82,430 for the provision of professional engineering services associated with design and construction of additional design and construction related services within Septic Area 3.

Funds: See Memo
Recommend: Motion to approve.
Exhibit: Memo No. 03-808 from City Manager.

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|--------------------------|
| PURCHASING AGENDA |
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FY 2003-04 FLEET PLAN**(Pur-1)**

An agreement to purchase 170 vehicles and equipment for the FY 2003-04 Fleet Plan is being presented for approval by the Administrative Services, Fleet Services.

Amount: \$ 5,572,000.00 (estimated)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-754 from City Manager

The Procurement and Materials Management Division reviewed this item and recommends approving the Fleet Plan purchases for fiscal year 2003-04.

532-8807 – Non-Public Safety Radios**(Pur-2)**

A two-year contract for the purchase of non-public safety radios is being presented for approval by the Administrative Services, Telecommunications Division.

Recommended Award: EF Johnson
Cumming, GA
Amount: \$ 150,000.00 (estimated annual total)
Bids Solicited/Rec'd: 84/1 with 1 no bid
Exhibits: Memorandum No. 03-795 from City Manager

The Procurement and Materials Management Division reviewed this item and recommends award to the single proposer.

**Computerized On-line Title Information Services
For FY 2002****(Pur-3)**

An agreement to purchase computerized on-line title information services for FY 2002 is being presented for approval by the City Attorney's Office.

Recommended Award: Attorney's Title Insurance Fund, Inc.
Fort Lauderdale, FL
Amount: \$ 14,000.00 (estimated)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-681 from City Attorney

The Procurement and Materials Management Division reviewed this item and recommends awarding the professional services.

**Comprehensive Analysis of Impediments
To Fair Housing****(Pur-4)**

An agreement to provide a comprehensive analysis of impediments to fair housing is being presented for approval by the Community and Economic Development Department.

Recommended Award: H.O.P.E., Inc.
Fort Lauderdale, FL
Amount: \$ 15,000.00
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-435 from City Manager

The Procurement and Materials Management Division reviewed this item and recommends award to the sole source.

Third Party Administration for Workers Compensation**(Pur-5)**

A contract for third party administration services for workers compensation claims is being presented for approval by the Finance, Risk Management Division.

Recommended Award: Gallagher-Bassett
Sunrise, FL
Amount: \$ 235,154.00 (estimated)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-796 from City Manager

The Procurement and Materials Management Division reviewed this item and recommends award from the School Board of Manatee County contract.

732-8861 – Clear Span Tent Rentals**(Pur-6)**

A two-year contract for clear span tent rentals is being presented for approval by the Parks and Recreation Department.

Recommended Award: Yachting Promotions, Inc.
Fort Lauderdale, FL
Economy Party and Tent Rental
Miami, FL
Amount: \$ 101,030.00 (estimated)
Bids Solicited/Rec'd: 22/4 with 1 late bid
Exhibits: Memorandum No. 03-777 from City Manager

The Procurement and Materials Management Division reviewed this item and agrees with the recommendation to award to the low responsive and responsible bidder.

222-8633 – Cancel/Re-Award Unlimited Access to Database Search Information**(Pur-7)**

Cancellation of contract with Lexis Nexis and re-award to ChoicePoint for a two-year contract for unlimited access to database search information is being presented for approval by the Police Department.

Recommended Award: Choice Point
Boca Raton, FL
Amount: \$ 42,000.00 (estimated annual total)
Bids Solicited/Rec'd: 65/2 with 3 no bids
Exhibits: Memorandum No. 03-775 from City Manager

The Procurement and Materials Management Division recommends cancellation and re-award of contract.

232-8866 – Purchase of Ammunition

(Pur-8)

An agreement to purchase ammunition is being presented for approval by the Police Department.

Recommended Award: Florida Bullet
Clearwater, FL
Gulf States Distributors
Montgomery, AL
Lawmen's and Shooters
Vero Beach, FL
Elmer Arms
Pittsgrove, NJ

Amount: \$ 48,621.03
Bids Solicited/Rec'd: 35/7 with 2 no bids
Exhibits: Memorandum No. 03-776 from City Manager

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

432-8857 – Air Conditioning Unit

(Pur-9)

An agreement to purchase and install an air conditioning unit is being presented for approval by the Public Services Department.

Recommended Award: McConnell Air Conditioning, Inc.
Miramar, FL
Amount: \$ 34,300.00
Bids Solicited/Rec'd: 41/2
Exhibits: Memorandum No. 03-743 from City Manager

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

Proprietary – Pump Parts**(Pur-10)**

An agreement to purchase pump parts is being presented for approval by the Public Services Department.

Recommended Award: Hudson Pump & Equipment
Lakeland, FL
Amount: \$ 10,941.00
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-794 from City Manager

The Procurement and Materials Management Division reviewed this item and recommends approving the proprietary purchase.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that Consent Agenda Item Nos. M-14 and M-19 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 Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Change Order No. 1 – Astaldi Construction Corporation – Project 9766-B – Progresso Sanitary Sewer/Storm Improvements**(M-14)**

Commissioner Trantalis stated that he had pulled this item not because he was attempting to draw attention to this item alone, but stated he had spoken with various individuals in the community who were concerned about the various Change Orders on tonight's agenda wherein over \$1 Million was being requested for projects previously budgeted for lower amounts. He further asked why these additional monies were being requested and shouldn't the consultants have anticipated these costs and figured them into the original quote.

Paul Bohlander, Assistant Utilities Services Director, stated there were a number of reasons why Change Orders were required under construction contracts. He added that quantity over-runs occurred during construction as a result of scope change or because of underestimating needed quantities.

Commissioner Moore left the meeting at approximately 6:50 p.m. and returned at 6:51 p.m.

Mr. Bohlander stated further that these items were then paid for typically under a negotiated price basis. He stated quantity over-runs were typically paid based on as bid competitively established prices. He stated another category causing such expenses would be unforeseen conditions.

Commissioner Trantalis asked if staff was stating on record this evening that all additional requests for monies were based on one or more of the three above-mentioned conditions. He explained the undercurrent was that contractors underbid the cost of a job, began the construction, and then requested additional monies. Then, the City had to pay a lot more for a job previously budgeted at a lower amount.

Mr. Bohlander replied that one of the challenges they were faced with was they were dealing with low-bid contractors, and as a result it was a constant struggle to develop contracts specific enough to define the work so that compliance could be met with the specifications within the original proposal. He stated they were sometimes dealing with contractors who were not in as good a position as staff would like them to be to react to changed conditions.

Commissioner Trantalis asked if any performance bonds were required. Mr. Bohlander replied that surety bonds were required which guaranteed performance by the contractor, and guaranteed completion of the work according to the contract documents.

Mayor Naugle stated there had been a change in scope on one of the projects and in the past when sewers had been installed, they cut through the road and after installation patches were put in, but in this one instance they had decided to put in a whole new street, and they were receiving something better than what had been originally planned, would last longer, and be a better product in a neighborhood where they were attempting to promote economic development. He added that there would be a lesser cost later on. He stated that it made everyone wonder if this was going to be done on other projects and would the \$555 Million sewer project increase to a larger amount.

Mr. Bohlander stated this Change Order was a change in approach based on what they had seen in the field regarding disruption to the existing pavement. He further stated they were attempting to tailor their proposals for future similar projects based on what was done with this Change Order, and how the work would hold up so they could get a better feel for this type of approach and what it would cost versus the patching technique.

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

**Task Order No. 26 – Camp, Dresser, and McKee,
Inc. (CDM) – Project 10671 – Harbor Beach
Infrastructure Improvements – Design, Permitting
And Construction Services**

(M-19)

Commissioner Hutchinson stated she had pulled this item, and stated this project had been going on for 10 years. She stated they knew Harbor Beach was under construction with their assessment project, and now they were going to go back in when they were ready to resurface their roads, and do another construction project. She emphasized that she was not going to support this item because it led her to believe the departments were not coordinating with one another.

Commissioner Trantalis asked what would be accomplished by deferring this matter if the City intended to pursue the matter anyway. Commissioner Hutchinson replied she did not know, but she wanted the opportunity for the neighbors to have some input. She further stated that she was concerned they were setting a precedence that coordination was not taking place with the neighborhoods.

Commissioner Trantalis asked what was the ultimate goal of this particular project.

Paul Bohlander, Assistant Utility Services Director, replied that this project would not affect East Lake Drive off the Isles Area, but it would delay resurfacing of the streets. He further stated that the challenges they were having with Waterworks 2011 was that they were scrambling to identify the appropriate projects that needed to be fast-tracked and implemented in the near term, but unfortunately there were projects such as this assessment project which had been initiated several years ago. He explained various studies had been done to identify various approaches and took time for staff to decide what was the right approach. He reiterated that the project would not affect the new improvements.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to defer this item until the July 1, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

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| MOTIONS |
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**Settlement Agreement – William R. Scherer,
Trustee II v City of Fort Lauderdale (Scherer
Trust Plat)**

(M-21)

A motion authorizing the proper City officials to execute a settlement agreement with William R. Scherer for the settlement of William R. Scherer, Trustee II v City of Fort Lauderdale.

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

**Settlement of General Liability File No. GL 99-471B
(Constance Wimbush)**

(M-22)

A motion authorizing the proper City officials to settle General Liability File NO. GL 99-471B with Constance Wimbush.

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to approve the Settlement of General Liability File No. GL 99-417B (Constance Wimbush). Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

**Settlement of General Liability File No. GL 98-666B
(Dwayne Jones)**

(M-23)

A motion authorizing the proper City officials to settle General Liability File No. GL 98-666B with Dwayne Jones.

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to approve the Settlement of General Liability File No. GL 98-666B (Dwayne Jones). Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Appeal of Historic Preservation Board Decision to Deny Certificate of Appropriateness for New Construction – City of Fort Lauderdale Housing Authority (HPB Case No. 10-H-02) (PH-1)

At the regular meeting of March 10, 2003, the Historic Preservation Board denied applicant's request for a Certificate of Appropriateness (COA) for New Construction of a 10,000 square foot office building by a vote of 3-6.

Applicant: City of Fort Lauderdale Housing Authority
Request: COA for new construction
Location: Southwest corner of West Broward Boulevard and S.W. 9 Avenue

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to defer consideration of this item to Wednesday, September 3, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Appeal of Historic Preservation Board Decision to Deny Economic Hardship Exception to Demolish Property – Las Olas Courts – 700 S.W. 2 Court (HPB Case No. 23-H-99) (PH-2)

At the regular meeting of March 10, 2003, the Historic Preservation Board denied applicant's request for an Economic Hardship Exception to Demolish Property by a vote of 0-9. Pursuant to Section 47-26.B.1, the City Commission shall hold a public hearing on the record of the case and determine whether: (a) there was a substantial departure from the essential requirements of law in the proceedings appealed; or (b) competent substantial evidence does not exist to support such a decision.

Applicant: Las Olas Courts, Ltd.
Request: Economic hardship exception to demolish property
Location: 700 S.W. 2 Court

Motion made by Commissioner Moore and seconded by Commissioner Teel to defer consideration of this item to Tuesday, July 1, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Appeal of Historic Preservation Board Decision to Deny Economic Hardship Exception to Demolish Property – Las Olas Courts – 712 S.W. 2 Court
(HPB Case No. 24-H-99)

(PH-3)

At the regular meeting of April 7, 2003, the Historic Preservation Board denied applicant's request for an Economic Hardship Exception to Demolish Property by a vote of 1-8. Pursuant to Section 47-26.B.1, the City Commission shall hold a public hearing on the record of the case and determine whether: (a) there was a substantial departure from the essential requirements of law in the proceedings appealed; or (b) competent substantial evidence does not exist to support such a decision.

Applicant: Las Olas Courts, Ltd.
Request: Economic hardship exception to demolish property
Location: 712 S.W. 2 Court

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to defer consideration of this item to Tuesday, July 1, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Appeal of Planning and Zoning Board Decision - Site Plan Approval/Application of Prior Zoning Regulation – Natchez Resort 1997 Ltd. – Ocean Place Hotel
(PZ Case No. 55-R-01)

(PH-4)

At the Planning and Zoning Board meeting on March 19, 2003, it was recommended by a vote of 9-0 that the following application be **denied**. Notice of public hearing was advertised May 22 and 29, 2003.

Applicant: Natchez Resort 1997 Ltd.
Request: Site plan approval/application of prior zoning regulation
Location: 3109 and 3115 Vistamar Streets, 725 and 735 North Atlantic Boulevard (North Fort Lauderdale Beach Boulevard)

Mayor Naugle opened the public hearing and all those who spoke were sworn in by the City Clerk.

Chris Barton, Planning and Zoning, stated that the applicant was seeking to develop a 21-level, 242 room hotel. The 1.62 acre site is located in the ABA District of the Central Beach Area Regional Activity Center. He stated it was located on A1A to the east, adjacent to the Bonnet House property on the north, adjacent to the vacated portion of Breakers Avenue on the west, and to Vistamar

Street on the south. He explained the structure included a hotel tower which stepped back from A1A to meet the shadow requirements. The proposed building was to be 210' in height to the main roof deck, with an overall height of 226' 8". The tower rested on a parking podium at the height of 69'.

Mr. Barton further stated the proposal was requesting that the side yard setbacks of one-half the height of the building required in this district be reduced to 10' on the north side and 10' on the west side which was permitted under Site Plan Level IV and approved by the Commission. He continued stating that the project would have a Floor Area Ratio of 4.8 under the current provisions of the Code, which included the garage areas. However, the applicant was asking that the prior zoning regulation under 26.A which called for the inclusion of the garage not be used, and at that point the FAR would be 4.1 which still exceeded the requirement of 4.0.

Mr. Barton explained there was a bonus density provision within ABA which allowed an FAR of up to 4.8, and the applicant was seeking this provision for the .1 FAR which they were over. He stated that certain design and architectural features as listed in the Design Compatibility and Community Character Scale have been met or exceeded, and certain elements were included within the design of the building which could warrant the granting of this bonus should the prior zoning designation be applied.

Mr. Barton stated that the parking structure would provide 344 spaces of the required 349, and the applicant stated they would satisfy the remaining 5 spaces by paying into the Central Beach Parking Facility Fee as permitted by the ULDR. He stated that the traffic study provided indicated that the Friday peak hour trips would be 130 which was well within the capacities and limits of the Central Beach Area. He further stated that the proposal required review by the City Commission at Site Plan Level IV, and according to ULDR Section 47-12 for the use as a hotel. He explained that the applicant sought to reduce the required north and west side yards from the one-half the height of the building. In order to apply for Section 47-26.A.1, an applicant must show that the new project met all ULDR provisions, except for those zoning regulations in effect immediately prior to the adoption date of those regulations.

Mr. Barton explained there were two subjects to the proposal being presented this evening, but since it was being presented for Site Plan Level IV only the Commission could determine if it met all the zoning regulations in effect prior to the regulations the applicant did not want to have applied to the development. He stated included in that would be some of the regulations from City Ordinance C-00-26 regarding a cornice requirement, certain setbacks included in requests for buildings within this district, and the application of neighborhood compatibility as in Section 47-25.3. He stated also included would be exemption from or application of prior zoning to items changed in accordance with City Ordinance C-01-10 regarding the fact that buildings in the ABA District had to have a 200'

building limitation on the east/west access. He explained they were seeking prior to that to allow for a longer building.

Mayor Naugle asked what was the length of the proposed building. Mr. Barton replied the length was 415' 6".

Mr. Barton further stated the applicant was seeking to apply the Code with regard to provisions under Ordinance C-01-15 requiring the square footage of the garage areas be included in the FAR.

Mr. Barton stated if the Commission approved the Site Plan Level IV, then the applicant would have met one of the criteria for the application to use the prior zoning regulations. Then, the Commission would have to continue to determine if the application met the remaining criteria. He went on to state if the Commission did not approve the Site Plan Level IV, the application should not receive further consideration. However, if the criteria for Section 47-26.A were determined not to be met, the Commission should deny the Ordinance approving the application.

Mr. Barton stated that at the March 19, 2003 meeting of the Planning and Zoning Board both the requests to apply prior zoning regulations and Site Plan Level IV were not approved by unanimous vote of 0-9. He further stated that the Historic Preservation Board Meeting of November 19th and December 13, 2001, the request was denied due to the building's impact on the Bonnet House.

Mr. Barton stated that adequacy requirements listed in Section 47-25.2 regarding Site Plan Level IV were to be considered. Additional requirements for the Central Beach District of the ULDR Section 47-12 also apply. He added that the applicant had submitted an analysis of Ocean Place which argued that based upon a thorough analysis of the Ocean Place project and the adjacent historic resource, it was clear there would be no direct physical impact on Bonnet House, and the addition of another building to its immediate environment would have no detrimental impact to the significance of Bonnet House. Mr. Barton reiterated that staff disagreed with such an assessment. He stated the area of concern which staff had included, but were not limited to, impacts on views, shadow, light, noise, construction, and alterations to established aquatic and biological populations within the Bonnet House site. He further added that the HPB had reached a similar consensus.

Similar positions disagreeing with the applicant's report were stated in letters presented at the HPB hearings from the Florida Department of State, Architectural Preservation Services, and from the Architectural Historian for the Florida Trust for Historic Preservation.

Mr. Barton stated the second aspect of the request dealt with Central Beach development permitting and approval and design and neighborhood compatibility criteria as listed in Section 47-12.6.b. He stated that the project did not comply

with criteria 1, 2 and 4. He explained that Item 1 of Criteria 4 stated: "It shall be first determined whether the proposed development or use is compatible with the overall plan of development contemplated by the Revitalization Plan for the Central Beach Area." He stated that staff's position was that while the development of tourism-related facilities was allowed and encouraged in the district, the overall plan for the Central Beach also encouraged tourism-related attractions such as the Bonnet House and sought to create a positive and physical image of the beach, and identified and enhanced a historical significant structure. Mr. Barton stated the proposal did provide the hotel, it did not address the impacts upon the identified historic resource and other cultural amenities of which the Beach was about.

Mr. Barton went on to state that Criteria 2 stated: "It will be determined that whether the architectural design of the proposed development is compatible with the Design Guidelines provided in Section 47-25.3, Neighborhood Compatibility." He stated the applicant was seeking not to have this item applied under Section 47-26.A. He stated that staff's position was that the proposed design failed to respond to a number of the guidelines listed in the Revitalization Study Guidelines, specifically the purpose, which was to improve the visual and functional quality of both public and private development by coordinating the transition between the areas. He stated that building density, maximum height, building yards, and lighting should be consistent with the proposed use adjacent development and the zoning district.

Mr. Barton stated that Criteria 4 stated: "It shall then be determined whether the proposed development incorporates design or architectural elements which mitigate the development's impacts, if any, on existing uses in the immediate vicinity of the proposed development." He stated that staff's position was that the applicant denied that the proposed 226' high structure would have any impact upon the adjacent Bonnet House or the surrounding neighborhood and fails to address any possible mitigation. The applicant's contention of no impacts was contradicted in the very design of the garage portion of the proposed building by the provision of the massive green wall. He explained the 65' parking podium was to have grill work which was planted with a vine and landscaped to create a green wall, but the fact they were doing this was that they were aware of the impact of the building upon the Bonnet House and were attempting to mitigate that. He stated that they did not admit or identify that there would be an impact. He reiterated there was a contradiction there.

Mr. Barton stated several previous proposals for development on part of the site had not been approved for similar reasons. He stated that during review by the Planning and Zoning Board and the Historic Preservation Board, discussions ensued regarding the impacts of the proposed building, including visual impacts.

Mr. Barton further stated that photographs would be shown by the applicant and representatives of the Bonnet House regarding how the visual impacts would be

manifested upon their facility, and the applicant would show different ones. He stated what was important to note, because there were differences in the two versions to be presented, was the development showed to dominate the skyline as viewed from various areas of the Bonnet House.

Mr. Barton stated that the Ocean Place site was adjacent to two different and distinct areas, the Bonnet House and the established mid-rise neighborhood to the south and west. Therefore, he stated this site required a design which would produce a reasonable transition to both areas, and staff believed that had not been done.

Mr. Barton proceeded to describe some of the proposals which sought approval for the subject site.

Mr. Barton reiterated that it was clear there would be significant impacts generated by the proposed structure in regard to shadow, scale, and visual nuisance. The applicant had not offered any modifications or improvements to mitigate the impacts.

Finally, Mr. Barton stated that under Section A of the Site Plan Level IV request, the applicant was seeking a reduction for required yards. He explained the applicant was requesting that the required yard on the west be reduced to 40' and 10' on the north from the required 105' 4" setback. He explained the parking structure had a 40' side west yard setback from the property line which was located in the center line of the vacated Breakers Avenue. He stated that the parking structure also had a 10' side yard setback from the Bonnet House property. Staff's position was that the proposal failed to consider in any way how the minimal yards would impact the adjacent properties.

Mr. Barton stated that if the Commission approved this application, a series of conditions were listed which were being recommended by staff. He explained if the Commission approved the resolution, it could then proceed to review the application of the prior zoning regulations described in Section B.

Mr. Barton further stated that in reviewing this request each of the 6 criteria for approval and factual analysis as listed in Section 47-26.A.1.g were shown and staff's comments were as follows:

Criteria No. 1 - The project is consistent with the City's Comprehensive Plan. Staff's position was that the proposed development was not consistent with the Comprehensive Plan, and while the applicant had offered a list of goals, objectives, and policies which it met, there were notable exceptions with the Comprehensive Plan which had not been addressed. Staff disagreed with the applicant's response as to how the proposal complied with the historic preservation element process. Primarily, it was not addressed in that area. He further stated that while the concept of Resort Hotels within the ABA district was

to be considered, site arrangement must also be compatible with the surrounding existing, older neighborhood developments in the area. He reiterated that south the Howard Johnson's totaled 101'.

Mr. Barton stated that applicant's argument that recently approved high-rise hotel developments farther to the south (Atlantic, Fortune House, Gold Coast, Capri) provided the appropriate contacts for Ocean Place, but failed to point out that they were located at least 1200' away and some were only 15 floors. He stated that this demonstrated that within the established neighborhood, the existing transition area had been supported consistently by review of previous proposals on the subject site, and in at least 3 cases substantial development proposals had been approved, but for structures lower in height and with less building mass. He explained that the issue of compliance laid within the proposed construction of a structure that was 210' in height and over 412' in length, and not in the development of a resort hotel with recreational facilities and a restaurant. He explained that prior approvals showed that a building of approximately 200 rooms and a hotel could be built on the site at a height lower than what was being requested and around 6-7 stories in height.

Criteria 2 called for the project to meet all the requirements of the ULDR except for the zoning regulations which they were seeking to be applied. Staff's position was that the project did not meet the requirements other than those cited under 26.A.1, including adequacy requirements and neighborhood compatibility requirements. He explained that the applicant was requesting that the neighborhood compatibility section under 47-25.3 not to be applied.

Criteria 3 went on to say that the new project was suitable for the site and met the neighborhood compatibility requirements. He stated they were asking relief from one section, but had to show it was being met before it could be considered. Staff felt the applicant did not meet criteria 3 or 2.

Criteria 4 restricted the property from being used for the new project as a result of the new zoning regulations. Staff's position was that the real estate evaluation provided by the applicant was flawed in that it assumed an approval of a hotel consisting of 22 stories in height, and the values were based upon rates for high-rise units. The real estate analysis did not consider the marketability of a project of similar facilities or room count for a mid-rise or low-rise facility. The City had shown that the property could be developed in a manner which met the new zoning regulations.

Criteria 5 stated if the project was approved it would protect the public interest served by the regulations, and would be the appropriate relief necessary to prevent the governmental regulation from unreasonably restricting the use of the real property. Staff's position was that if the proposal was approved, it would not protect the public's interest in regard to neighborhood compatibility, consistency with existing area buildings as to the height, mass and scale, nor

would it provide for the protection of identified historic resources, the Bonnet House, and the mitigation of identified impacts of a development proposal upon that historic resource. This project would be approximately 5 times larger in height than the Bonnet House, and 120% greater in both height and mass than the existing Howard Johnson Hotel located to the south. He reiterated the proposed project would be larger than any other project in the immediate area.

Criteria 6 – Staff concurred with the applicant’s response and felt it did not apply in this case.

Mr. Barton further stated at the March 19, 2003 Planning and Zoning Board Meeting no one spoke in favor of the proposed project, and 12 individuals expressed concerns about the proposal, including representatives from the Bonnet House, The Central Beach Alliance, Birch Square Association, The Florida Trust for Historic Preservation, Casalalita Condominium Association, and the Florida Department of State, Bureau of Historic Preservation.

Debbie Orshefsky, attorney for the applicant, proceeded to introduce certain individuals present this evening as follows: Anne Cotter, architect; Ann Adams, Architectural Historian; and Hayward Cantrell, MIA appraiser. Ms. Orshefsky stated that Mr. Barton had done an admirable job in describing what the process was and the decisions that confronted the Commission this evening. She stated they had a difference of opinion as to how this project complied with the standards.

Ms. Orshefsky stated that Mr. Barton began his discussion regarding the site plan. She stated she felt everyone needed to understand what Section 47-26.A was about before going ahead and discussing the site plan. She stated that process was in response to the 1995 Bert Harris Act. She felt their six requests in connection with this project boiled down to six critical issues. The first was in connection with the regulation in place pertaining to the length of buildings, the FAR, including the garage area, and the neighborhood compatibility issue. She felt the compatibility issue was the most confusing aspect of the regulatory scheme.

Ms. Orshefsky stated that the 47-26.A process was a two-step process. The first step was a determination by staff as to whether the proposed project met all the regulations of the ULDR with the exception of the regulations they were requesting exemptions from. In order to meet the standard, they went through DRC review, worked with City staff, and received a letter from Cecelia Hollar stating the project met the ULDR assuming the items determined by the City Commission were met. She explained that Criteria G were the six criteria which had to be followed in order to determine whether the applicant should be granted the exemptions from the post-1995 regulations.

Ms. Orshefsky stated she was going to highlight some of the exemptions they were taking exception to the position taken by staff. She stated the first item was one of many recurring themes which was the consistency with the Comprehensive Plan, and staff had directed them to the Historic Preservation element. She explained they had done a complete analysis of those elements, but the bottom line was that those requirements were directives to the City. She stated they consistently had maintained that those provisions which staff took exception to were not applicable to this project.

Ms. Orshefsky stated the next item was whether the project met all requirements of the ULDR, excluding those the applicant was asking exemption from. In this respect, she stated that staff's analysis focused on two elements. She stated that staff had taken exemption in two regards. The first being the adequacy requirement portion of Section 47-25.2.P. She stated these were technical requirements, but "P" pertained to historic and archaeological resources. She proceeded to read this section. She explained that they believed this section was inapplicable to this project.

Ms. Orshefsky further stated the other element was neighborhood compatibility. She felt this was a "Catch-22" with a significant legal issue. She felt this was the catch phrase of the "season," and proceeded to state this was not an easy phrase to define. She further stated that Mr. Barton had stated at the April 23, 2003 Planning and Zoning meeting that the Board was to "...keep in mind that the Code called for neighborhood compatibility, and not adjacent compatibility. We can't measure it just on how it relates to one building. We have to look at the whole general context, not only in the IOA District, but in the other districts." She reiterated the whole area had to be considered, not just the adjacent building. She proceeded to show a two-scale perspective done by Anne Potter of the neighborhood which included Ocean Place and the various other projects approved previously. She reiterated that each of the buildings had yard reductions, and none of them were at half-the-height of the building and emphasized the buildings were all 15 to 22 stories.

Ms. Orshefsky stated the other perspective shown was from the north, including LeClub. She further stated there were a number of buildings surrounding the Bonnet House and if a neighborhood compatibility standard was applied, the project would be compatible, but the Bonnet House would be the different building. She felt the project was appropriate to the neighborhood.

Ms. Orshefsky went on to state that Criteria G-4 was an unreasonable restriction which went to the "guts" of the Bert Harris issue. She stated that Mr. Cantrell evaluated the project as proposed, and the project if all the regulations they were requesting an exemption from had been applied.

Mr. Cantrell, representative of the developer, stated that he had appraised the property as if it had been exempted from the regulations, and if it had complied

with all the regulations. He stated if the exemptions were granted, the value of the property would be \$20 Million, and if the exemptions were not granted it would be \$13 Million. There was a difference in value of \$6,730,000.

Commissioner Trantalis asked if the \$20 Million figure included the existing structures. Mr. Cantrell explained it included a deduction for demolition of the existing structures so the project could be built. Commissioner Trantalis went on to ask if the \$20 Million figure was after Ocean Place was built as shown on the drawings presented or was it only for vacant land. Mr. Cantrell stated it was for the potential development as the vacant land was today, but did not include a completed building.

Ms. Orshefsky stated the last item in Criteria G which they disputed was No. 5 which was that if the project was approved, it would protect the public's interest. She stated there was no guidance as to which public interest was being protected. She explained that the public's interest could be protected by expanding the ability of the site to contribute making Fort Lauderdale Beach a world-class destination resort. She continued stating that the public's interest could also be defined as the choice the Commission could make between approving Section 47-26.A and the project as proposed, and the potential a land owner could claim under the Bert Harris Act for in excess of \$6.7 Million.

Ms. Orshefsky stated if the Commission accepted the applicant's arguments regarding Section 47-26.A, they would then have to evaluate the project in terms of prior regulations.

Ann Cotter, Project Architect, stated that initially the design directive had been to look at the property and arrive at a design which would meet the zoning criteria, as well as the marketing aspects, and make the project viable to benefit the neighborhood. She proceeded to show an aerial view of the site. She explained that design was a problem-solving exercise. She stated that one of the first criteria they looked at in developing a design was the orientation of the site, and she proceeded to explain the process which was followed to develop such a design. She then explained the floor plan which was a saw-toothed type configuration.

Commissioner Hutchinson left the meeting at approximately 7:58 p.m. and returned at 7:59 p.m.

Ms. Cotter then proceeded to show the shadow graphics and images of the garage, along with the facades and the renderings of the project.

Ms. Orshefsky stated the Fort Lauderdale Beach Revitalization Plan and the Public and Private Sector Guidelines were important. She stated that one of the key issues indicated by staff repeatedly was that the applicant had denied they were going to have any impact on the Bonnet House, and she stated that was

not correct. She continued stating they had identified that there could have been impacts. She explained the standard in the Code with respect to this issue stated: "Does the project incorporate design or architectural elements which mitigate the development's impacts on existing uses in the immediate vicinity." She reiterated that it did not state "eliminate them." She stated that the applicant had submitted an extensive discussion entitled "Design Elements Which Mitigate the Impacts on Adjacent Property." She further reiterated that 68% of the building was at 65' which was the standard everyone appeared to accept. She felt this was a significant mitigation effort which should have been acknowledged by staff.

Ms. Orshefsky stated there was quite a few of "red herring" issues such as shadowing killing vegetation, construction affecting the Bonnet House which was about 450' away from the site, and noise. She stated these items had been addressed in a response to the Historic Preservation Board on December 13, 2001. She further stated the Commission had no regulatory basis to deny this site plan or exemption from the regulations based upon the fact that one could see the project from the Bonnet House. Ms. Orshefsky stated that Ann Adams would explain briefly why there was no legitimate preservation reason that one should be concerned that the project would be visible from the Bonnet House property.

Ann Adams, Architectural Historian with a law firm out of Washington, D.C., stated that in order to understand the concept of impact, one had to understand what was the significance of the resource. She continued stating that everyone agreed that the Bonnet House was a very significant building for both architectural and historical reasons. She reiterated that the Bonnet House consisted of 35 acres and was an outside oasis from the outside world. She stated that Fort Lauderdale grew up around the Bonnet House just as New York City grew around Central Park. She stated the tall buildings around the Park framed, defined and emphasized the significance of Central Park, but did not diminish its significance. She further stated the essence of the Bonnet House was basically its inward-looking character, and the world around it was walled-out since the early 1940's when A1A had been constructed.

Ms. Adams went on to state that it was important to note within the context of the review of Ocean Place and the issues raised that because it would be visible from the Bonnet House property, there was no established or defined criteria listed by the National Register of Historic Places, nor the process used in listing the Bonnet House as a local historic resource, which identified any established or definable view which went beyond the boundary of the wall. She stated this whole process seemed to be about trying to maintain a view of the sky to the south beyond Bonnet House, but there was no significant view associated with the property. She felt this was an emotional response and people just did not want to see the proposed building, but felt it would not have an impact that would diminish or affect the significance of the historic property. She stated that she

disagreed with some of the potential impacts found by the Historic Preservation Board as having physical impacts on the Bonnet House, such as construction, lighting, traffic, density and noise issues. She further stated that if this project was constructed, the Bonnet House would not suddenly lose its significance.

Ms. Orshefsky proceeded to show a graphic as to what would be seen from the Bonnet House.

Mike McNerny, General Counsel for Bonnet House for 17 years, stated that he had appeared before the Commission regarding the previously approved projects, and had negotiated with attorneys to reach satisfactory conclusions in the past regarding the proposed site. He stated if he was more courageous he would just sit down because he believed the record was so strong and clear with a 9-0 recommendation from Planning and Zoning, along with a compatible recommendation from the Historic Preservation Board, the Florida Trust for Historic Preservation, State Historic Preservation Office, National Historic Preservation Office, and 10 years of decisions from the previous Commission, a strong case was being presented against the proposed project. He stated that Mr. Barton had done a terrific job outlining all the issues in this matter, and he stated he was not going to attempt to review what was stated and would not be able to do it in 15 minutes. He stated that Mr. Barton had pointed out that the applicant knew what the City's intentions were in regard to the ordinances, and compatibility with the neighborhood. He further stated that the Bonnet House did not object to the building of LeClub because it did not impact the view from the eastern portion of the property. He explained the building to the north was built before the Bartlett's presented the property to the City and before everyone began worrying about these important issues.

Mr. McNerny stated that there was no question that for all the reasons outlined in the Historic Preservation report, the Planning and Zoning report, and staff's report that this project would "loom" over the Bonnet House. He proceeded to show photographs produced by Doug Coolman which depicted the views that would be affected by this proposed project.

Doug Coolman, EDSA, proceeded to explain the photographs taken from the Bonnet House depicting the views of the proposed project. He stated there was nothing wrong with the building being proposed, except that it was in the wrong location and was not compatible with the area. He stated in looking at the compatibility issue, one had to look at the entire neighborhood, and stated this building in this location was totally inconsistent with the Beach Design Guidelines. He further stated that wonderful things had been done with the building, but one could not mitigate a more than 200 story building in this location because it would impact the Bonnet House.

Mr. McNerny further stated that he did not want to cross-examine the representative from Washington, D.C. who felt this issue was about the sky in

Florida. He agreed that this was an oasis which was part of the “deal.” He stated that in all the letters from the historic groups setting and view were parts of the issue in considering an historic site. He asked the Commission this evening to agree with everyone involved in the process on behalf of the City, and to think what it would be like to be at the Bonnet House and how “compatible” the proposed 22-story tower would be that would be “looming” over the historic structure.

Diane Smart, Central Beach Alliance, stated that they strongly supported staff’s report and the position of the Bonnet House in regard to all the issues involved. She stated this “oasis” was a gift to the State, and it was up to the City to protect this gift.

Commissioner Moore left the meeting at approximately 8:25 p.m.

Andy Cole, property owner across the street from the proposed site, stated they were not opposed to development on the site, but were opposed to the size and mass of the proposed building.

Bill Caruzzo, citizen and educator in Broward County, stated that he did not hear anyone address the ecological aspect of this project. He stated this property sat on an aquifer which only existed in two other places in the State of Florida. He felt the size of this building would destroy the aquifer.

Ms. Orshefsky stated she wanted to ask Mr. Coolman some questions. She asked when Mr. Coolman had last read the Beach Guidelines. Mr. Coolman stated it was a few years ago since he had read them in the entirety. He clarified that he had stated the applicant had not meet the intent of the guidelines, but stated he was not saying they did not meet some of the specific requirements. Ms. Orshefsky explained that included in the applicant’s Tab F was a specific analysis prepared by Ms. Cotter and others which addressed various specifics where the applicant had complied with the guidelines. She further indicated there had been no data or analysis of any kind submitted to reflect there would be any adverse environmental or vegetative impacts. She stated that she wanted Ms. Adams to further explain the comment regarding the oasis.

Commissioner Moore returned to the meeting at approximately 8:33 p.m.

Ann Adams explained that an oasis was something which was different and separate from its surroundings. She stated by definition it was something within its own boundaries, defined by itself, and not negatively affected by its different surroundings. Setting was important and was an aspect of integrity when determining historic landmarks and properties. She stated that nothing was said that in order for a building to have integrity, it had to meet all 7 aspects of integrity. She stated the Bonnet House property had an altered setting when it was placed on the National Register.

Ms. Orshefsky stated this issue began 3 years ago, but over the course of that time they had met with various neighbors and attempted to negotiate a project both sides could embrace, but no conclusions had been reached. She further stated there were difficult legal issues which had to be addressed this evening. She thanked the Commission for the time which they had to present their case.

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

Commissioner Trantalis stated that this was a great building, but in the wrong place. He felt the Commission should move to deny the application for the reasons submitted by Planning and Zoning because he felt a better building could be constructed on the subject site. He believed a compromise could be reached.

Motion made by Commissioner Trantalis and seconded by Commissioner Teel to deny the application for site plan approval.

Mayor Naugle asked if the Motion included the objections listed by Mr. Barton. Commissioner Trantalis stated that the Motion would be based on one or more objections listed by the Planning and Zoning Board.

Commissioner Teel stated she would also vote to deny the request, and felt that staff had given a very comprehensive analysis of the various issues involved. She stated that after hearing all arguments, she believed there was no doubt that the case was strong and the application should be denied.

Mayor Naugle remarked that he would support the motion made based on all the information submitted by Mr. Barton showing the project did not comply with the Code, including comments made by various Commissioners.

Commissioner Hutchinson clarified what the members were voting on. The City Attorney clarified if the Commission voted on the first issue, then the second one would be denied based on the fact that it did not meet the criteria to be approved.

Mayor Naugle clarified the motion was to deny the site plan. The City Attorney further explained the resolution drafted was in the affirmative to approve the site plan. The resolution would have to be voted on as "no" if the Commission did not want to approve the site plan.

Commissioner Trantalis stated that was not how he had phrased his motion, but if that was how the City Attorney was interpreting it, then it did not matter. He reiterated that his motion was to deny the application for site plan approval. He stated a vote "Yes" would be to deny it, and asked if he had stated it

appropriately. The City Attorney explained they had drafted a resolution to approve. He further stated that an affirmative vote to deny the application would be a negative vote on the resolution to approve.

Mayor Naugle clarified that the City Attorney wanted a motion to be made in the affirmative, and if the Commission decided not to approve, then they should vote "no."

Commissioner Trantalis introduced the following resolution:

RESOLUTION NO. 03-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, GRANTING A DEVELOPMENT PERMIT FOR THE CONSTRUCTION OF A HOTEL AND APPROVAL OF SETBACK REDUCTIONS ON PROPERTY LOCATED AT 3109 AND 3115 VISTAMAR STREET AND 725 AND 735 NORTH FORT LAUDERDALE BEACH BOULEVARD IN FORT LAUDERDALE, FLORIDA IN AN ABA ZONING DISTRICT AS A SITE PLAN LEVEL IV DEVELOPMENT.

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

Mayor Naugle asked if it was appropriate to have the prior zoning regulation. The City Attorney stated that since this was not approved, there should be a motion made not to introduce an ordinance on first reading for the prior zoning regulation since it would not conform or meet the criteria to be considered.

Motion made by Commissioner Teel and seconded by Commissioner Hutchinson not to introduce an ordinance on first reading for the prior zoning regulation. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

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| CITIZEN PRESENTATION |
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Neighborhoods USA Conference

Bunney Brenneman stated that she wanted to thank the Commission for partnering with the Council of Civic Associations and sending them to this important and valuable conference. She also thanked Commissioner Hutchinson for her hard work in this matter. She further stated they had learned at the Commission about diversity, housing, neighborhoods, and codes. She stated that a City was stronger through its neighborhoods which had to be empowered. She stated this City needed to develop a concept of neighborhoods helping other neighborhoods and working together with the City government.

Ms. Brenneman stated that Marjorie Johns and Bob Lynn attended the conference with her, along with Michelle Di Maria and Margaret Birch. She stated it was important for them to go forward through the communities and impart the messages and learning they had obtained at this conference. She thanked the Commission for their leadership and vision.

Bob Lynn, Imperial Point, stated that they had exchanged buttons from various cities at the conference and he shared his badge with the Commission.

Marjorie Johns, River Oaks, thanked the Commission for sending them to Chattanooga for the Conference and stated that it was a dynamic river city. She stated it was interesting to compare their development plan for their riverfront with what had already been done in Fort Lauderdale.

Commissioner Hutchinson thanked the Commission for letting her send representatives from the various neighborhoods to the Conference. She felt it was a wonderful opportunity and was sorry to have missed this year's events.

Mayor Naugle remarked that another individual wanted to speak on an issue but had not previously signed up to do so, and he proceeded to ask the Commission's pleasure regarding this matter.

Commissioner Moore stated it was not appropriate for them to permit the individual to speak, and felt they would be setting a precedent. Commissioner Hutchinson agreed.

Mayor Naugle suggested that since it pertained to a drainage issue, that possibly the individual could speak with Mr. Greg Kisela, Assistant City Manager.

ORDINANCES

**Rezone from MHP to P – City of Fort Lauderdale
(PZ Case No. 6-Z-03)**

(O-1)

At the Planning and Zoning Board special meeting on March 26, 2003, it was recommended by a vote of 8-0 that the following application be approved. Ordinance No. C-03-22 was advertised May 8 and 15, 2003, and approved on first reading May 20, 2003 by a vote of 5-0.

Commissioner Hutchinson introduced the following ordinance on second reading:

ORDINANCE NO. C-03-22

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE FROM MHP TO P, ALL OF BLOCKS 5, 6, 7 AND 8, "LAST CHANCE VILLAGE," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 27, PAGE 13, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; TOGETHER WITH THOSE VACATED RIGHTS-OF-WAY LYING BETWEEN BLOCKS 5 AND 6, BLOCKS 6 AND 7, BLOCKS 7 AND 8 AND BLOCKS 8 AND 5, OF SAID PLAT, LOCATED BETWEEN SOUTHWEST 9TH STREET AND SOUTHWEST 10TH STREET, EAST OF SOUTHWEST 27TH AVENUE AND WEST OF SOUTHWEST 24TH AVENUE, IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND AMENDING THE OFFICIAL ZONING MAP AND SCSCHEDULE "A" ATTACHED THERETO TO INCLUDE SUCH LANDS.

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

RESOLUTIONS

Executive Airport – Lease with Federal Aviation Administration (FAA) – Remote Transmitter/Receiver Site at Fort Lauderdale Executive Airport **(R-1)**

A resolution authorizing the proper City officials to execute a lease with the FAA for the Remote Transmitter/Receiver Site at Fort Lauderdale Executive Airport.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 03-98

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION PROVIDING FOR THE LEASE OF PROPERTY AT FORT LAUDERDALE EXECUTIVE AIRPORT FOR INSTALLATION OF REMOTE TRANSMITTER/RECEIVER EQUIPMENT.

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

Community Redevelopment Agency (CRA) Advisory Board Member Conflict of Interest – Exemption for Tim Hernandez, New Urban East Village, LLC, Strategic Investment Streetscape Program **(R-2)**

A resolution authorizing the proper City officials to approve an exemption to CRA Advisory Board member Tim Hernandez of New Urban East Village, LLC, for a conflict of interest on an application for the Strategic Investment Streetscape Program.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 03-99

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, WAIVING ANY CONFLICT OF INTEREST OF TIM HERNANDEZ AS A

MEMBER OF THE NORTHWEST-PROGRESSO-FLAGLER
HEIGHTS REDEVELOPMENT ADVISORY BOARD.

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

Lease Agreement – City of Fort Lauderdale Housing Authority – Multi-Family Properties for Low-Income Families and Housing Opportunities for Persons With Aids (HOPWA) Program (R-3)

A resolution authorizing the proper City officials to execute a lease agreement with the City of Fort Lauderdale Housing Authority for 4 multi-family properties consisting of 19 dwelling units and 1 single-family unit for rehabilitation and use as rental housing for low-income families and individuals in connection with the City's HOPWA federal grant program.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 03-100

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE THE REQUISITE NUMBER OF LEASES WITH THE HOUSING AUTHORITY OF THE CITY OF FORT LAUDERDALE (HACFL) FOR THE LEASE OF FIVE CITY-OWNED PROPERTIES, WITH EACH LEASE HAVING A TERM OF TWO YEARS AND PROVIDING THE HACFL WITH A RIGHT TO RENEW EACH LEASE FOR AN ADDITIONAL TERM OF TWO YEARS, FOR THE PUBLIC PURPOSE OF THE HACFL PROVIDING PUBLIC HOUSING PURSUANT TO THE FEDERAL HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) PROGRAM AND THE CITY'S HOPWA HOUSING PROVIDER AGREEMENT.

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

Demolition of Buildings

(R-4)

At its meeting of May 15, 2003, the Unsafe Structures and Housing Appeals Board recommended the City demolish the following properties and assess them with all appropriate costs.

(a) 822 N.W. 3 Avenue

Scott McKenzie, property owner, stated he did not object to the demolition of the building, but stated he was saddened about the process because a meeting had been held that he had not been aware of. He stated he was requesting 60 days so the demolition could be completed.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that R-4 (a) be given 60 days to complete the demolition. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

(b) 1515 S. W. 27 Court

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that R-4 (b) be demolished. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

(c) 1643 N.E. 14 Avenue

Oswaldo Iglesias, owner, stated that he was in agreement that the property should be demolished, but was requesting 45 days to complete the demolition.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that R-4 (c) be given 60 days to complete the demolition. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 03-101

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, ORDERING THE DEMOLITION OF THE BUILDING OR BUILDINGS UPON EACH PROPERTY LEGALLY DESCRIBED IN THE ATTACHED SCHEDULE "A", BECAUSE OF NON-COMPLIANCE WITH THE FLORIDA BUILDING CODE.

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

Lot Clearing and Cleaning Charges

(R-5)

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

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 03-102

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

Easements – Florida Power and Light (FPL) – Placement Of At-Grade Transformers and Switchgear in the Victoria Park Neighborhood

(R-6)

A resolution authorizing the proper City officials to grant easements to FPL for the placement of lat-grade transformers and switchgear within the Victoria Park neighborhood (east end of Broward Boulevard).

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 03-103

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

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

A motion authorizing the proposed lien settlements for the following Special Master and Code Enforcement Board cases:

1. 660 S.W. 30 Avenue (CE96091345) – Paret and Myrtaile P. Lamadieu - \$2,406.25 AND
2. 660 S.W. 30 Avenue (CE01080743) – Paret and Myrtaile P. Lamadieu - \$23,700

Commissioner Moore asked the owner why it had taken so long for him to remove the vehicles from the property after he had been cited.

Paret Lamadieu stated he had been out-of-the-country and his son was supposed to take care of the matter. He also stated he was ill and would try to make monthly payments.

Commissioner Moore asked if the owner had voluntarily requested a reduction on his lien.

John Simmons, Assistant Director Community Inspections, stated that Mr. Paret had voluntarily came in seeking a reduction, and stated the property was in compliance.

Motion made by Commissioner Moore and seconded by Commissioner Teel to reduce the first fine to 15% instead of the 25% recommended by staff, and the second fine be reduced to 15% instead of the 20% recommended by staff. Also a \$50 per month payment was to be made toward the liens.

Commissioner Moore stated to the owner if any code violations were cited on the property and they were not complied within the required time frame, he would not be sympathetic and urged the owner to keep the property in compliance.

Commissioner Trantalis stated that he felt the monthly payment would not even be paying the interest due on the lien, and asked what was really being accomplished by letting this owner do this.

Commissioner Moore stated that this would keep the lien on the property, and if there were any future violations, the City could automatically address those issues. He stated his goal was to have the community become a quality place to live, and for the owners to understand that they needed to maintain their properties.

Roll call showed: YEAS: Commissioners Teel, Moore and Mayor Naugle. NAYS: Commissioners Hutchinson and Trantalis

3. 2075 South Federal Highway (CE02030929) – Grif-Ko Apartments, Inc. - \$1,095

Jim Staddleman stated he was present tonight on behalf of the owners who were out-of-the-country.

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

4. 1716 N.W. 8 Street (CE02082290) – Raul Cambo - \$4,485

Motion made by Commissioner Moore to increase the amount of the lien to 50% for the property located at 1716 N.W. 8 Street.

Commissioner Moore stated he wanted to increase the amount because it was a non-homesteaded property and was an income producing property and wanted the settlement increased to 50%.

Raul Cambo, owner, stated he had not complied immediately because his parents had been sick and then had died. He explained someone else had signed the notices sent to him and he had not received them. Mr. Cambo explained further that when he had finally received the notices, he had contacted Inspector Donovan in order to resolve the issues as quickly as possible.

Motion died for lack of a second.

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

5. 1225 N.W. 5 Avenue (CE02091051) – Manuel Blanco - \$5,600

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to approve a lien settlement of \$16,800. Roll call showed: YEAS: Commissioners Hutchinson, Teel, and Moore. NAYS: Commissioner Trantalis and Mayor Naugle.

6. 3028 Seville Street (CE00081782) – Alto Brisa LC - \$3,465

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

7. 817 S.W. 4 Street (CE00050551) – Gary Williams - \$10,990

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

8. 1005 N.W. 4 Avenue (CE01102667) – Ohannes Mazmanian - \$9,635

Commissioner Moore stated this was an investment property which was not being maintained by the owner.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to approve a settlement of 50% of the lien amount.

Eli Mazmanian, owner, stated he had hired a General Contractor to take care of the violations who was not honest and did not resolve the violations. Therefore, he was being penalized by the lien on the property. He stated this had been out of his control and asked for the Commission's leniency.

Mayor Naugle remarked that he was in favor of the settlement proposed by staff and felt the contractor had taken advantage of the owner of the property.

Commissioner Moore stated there was no proof that a contractor had been hired, and reiterated that the next property on the agenda was also owned by this individual and was also an income producing property.

Mayor Naugle stated that he did not feel the violations in this case had been intentional.

Commissioner Trantalis asked if the work had been performed without permits by the previous owner of the property. Mr. Mazmanian stated he had done some of the work by himself and that this was a commercial site.

Motion made by Commissioner Moore and seconded by Commissioner Teel to approve a settlement of 50% of the lien amount. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, and Moore. NAYS: Mayor Naugle.

9. West Sunrise Boulevard (CE0204815) – Ohannes Mazmanian - \$3,500

John Simmons, Assistant Director Community Inspections, stated that the property was in compliance and landscaping had been added.

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

10. 1245 N.E. 3 Avenue (CE02010435) – Thomas Baitis - \$13,450

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

11. 2600 S.W. 3 Avenue (CE02100777) – Joseph Debellas & Robert D. Marks - \$1,240

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

Denila B. Richards stated that she had attempted to get a permit in December of last year, but she had been told that due to the holidays she was not able to do so. She stated she again tried in January and had finally finished the project in May, 2003. She reiterated that the work had originally been done incorrectly. She asked if it was fair to penalize her since she had not been attempting to ignore the problem.

John Simmons, Assistant Director Community Inspections, stated that the records he had pulled regarding the permit history on this property indicated that the plans had been submitted on March 5, 2003, and the permit had been issued

on March 27, 2003. He stated he had met with Mr. Marks, but none of the above-stated concerns had ever been mentioned. He further stated that Mr. Marks felt it was the tenant's responsibility and had tried to get them to do the work first.

Robert Marks, owner, stated when he had received the permit, the work had been signed off within 3 days.

Motion made by Commissioner Teel and seconded by Commissioner Trantalis to reconsider Item No. 11.

The City Manager stated that possibly they could check into the allegations made by the applicant and then bring the matter back before the Commission.

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

Motion made by Commissioner Teel and seconded by Commissioner Hutchinson to defer this matter to June 17, 2003. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

12. 611 N.W. 13 Street (CE02081007) – Benoit & Priscilla E. Chevalier - \$5,700

Arnold Eugene, brother of the owner, stated his sister had owned this property since 1986, but she had been forced to move to Port St. Lucie to care for their sick father. He explained that they had not checked on the property during that time, and the tenant had destroyed the property.

Motion made by Commissioner Trantalis and seconded by Commissioner Hutchinson to approve the recommended settlement, and the owner to make a monthly payment of \$100. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, and Mayor Naugle. NAYS: Commissioner Moore.

John Simmons, Assistant Director Community Inspections, clarified that once the property was sold, the amount of the lien would be paid in full. The Commission agreed.

Advisory Board/Committee Appointments

(OB)

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

Education Advisory Board

Doug Cureton

Marine Advisory Board

Ryan Campbell
Robert Sadowski

Randy Dunlap

Planning and Zoning Board

Alan Gabriel

Commissioner Hutchinson introduced a written resolution entitled:

RESOLUTION NO. 03-104

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

**Amendments to Agreements – Public Pedestrian Overpass (OB)
And Leased Premises for Utilities – Castillo Grand, LLC – St.
Regis Hotel Development (formerly known as Castillo Grand)**

Commissioner Moore stated he thought it would be appropriate to discuss this matter at the June 17, 2003 meeting.

Ron Mastriana stated this was a project they had been working on since 2001, and the developer had spent over \$18 Million on the project. He stated this request was being made by the lender in order to complete the financing of this project. He stated there had been a discrepancy in how one of the provisions had been interpreted in the lease. He continued stating there were 3 imperative items that needed to be resolved so the loan could be closed and the project could proceed forward. He requested that the Commission hear this matter at the June 10, 2003 meeting.

It was stated that a CRA meeting was scheduled for June 10, 2003, and a special meeting notice would have to be done in order to hear this matter on that date. The Commission agreed to hear this matter on June 10, 2003.

Greg Kisela, Assistant City Manager, asked if any additional information would be needed by the Commission.

Commissioner Trantalis asked for the site plan, elevations, and other pertinent graphics to be submitted.

Mr. Mastriana clarified this was only for the lease behind the building, including the pedestrian overpass.

Commissioner Moore left the meeting at approximately 9:52 p.m.

Pollution Retardant System – Port Everglades Florida (OB)
Power and Light (FPL) Power Plant

A resolution expressing the City's endorsement of the application by FPL for a pollution retardant system at its Port Everglades Power Plant.

Mayor Naugle stated that he wanted more information on this matter. He asked about the emissions which were killing people.

Hector Castro, City Engineer, explained that the electro-static precipitators were only to reduce the soot and ash, and had no impact on gases. He explained this would only be one component towards a pollution control system at the plant.

Mayor Naugle stated his concern was that if a company was going to invest \$60 Million to cosmetically clean up the plant and not address what was killing people, what would the motivation be for them to repower the plant and get rid of 50-year old technology. He further asked if there was some sort of time limitation on this issue.

Commissioner Hutchinson stated that this matter was going before the County Commissioner next Tuesday, and the County had requested that the City do a resolution on the matter. She stated that she had attended the meeting with the people from the Sierra Club who had been in favor of this, and felt it was a step in the right direction for the plant. She stated they knew the plant was never going to be rebuilt. She further stated it was not going to solve all the problems, but it would be one step closer in cleaning up the soot in the areas.

Mayor Naugle reiterated that he felt it would extend the number of people being killed from that plant because after this cosmetic clean-up, he felt they would keep the plant in service longer. He felt pressure could be placed on FPL to repower the plant, and felt this was a step away from the repowering. He felt some well-meaning people were being hoodwinked by the utility company. He further stated that enough information was not provided to the Commission and did not want to be pressured into approving something without complete information.

Commissioner Trantalis asked if they permitted the plant to cosmetically improve some things, would it not obscure the real issue of the gaseous matters. He stated he did not want to be on record stating that he did not want to have the issue cleaned up since the Commission wanted everything done. He felt they should proceed with this portion of the clean-up and continue to exert pressure to get them to proceed to the next level. He stated he would endorse the resolution to begin clean-up on the particulate matter.

Mayor Naugle reiterated that supporting this motion would cause more unnecessary deaths in Broward County. He reiterated that only the customers could exert pressure because the utility companies owned the politicians. He felt no relief would be received from the State Legislature in this matter. He stated this plant was one of the most obsolete plants in the nation, and was one of the dirtiest in the State of Florida. He stated it was in the middle of the City, and this move would not relieve the health concerns of the public. He stated there was sound science that this plant killed.

Commissioner Hutchinson added that she had been an activist in this City for 14 years, and she felt this was the first time she had been involved in a discussion regarding FPL and the power plant. Even though they discussed putting pressure on FPL, she stated she had not seen the Commission participate in discussions with FPL regarding this plant. She stated that County Commissioner Kristen Jacobs had brought together a group of people from FPL, and this was one step in the process. She stated this Committee was not giving up because of the electro-static precipitators, but it was the first step in the process. She stated she did not think that anyone wanted to continue with the unreasonable amount of deaths, but she felt it was the beginning of a process that had never existed until now.

Commissioner Teel asked if the FPL proposal was in response to a regulatory agency or was it a voluntary thing. Commissioner Hutchinson explained it was in response to the Committee that Commissioner Jacobs put together to deal with the plant. She felt it was the first step in a very long process which Commissioner Jacobs had been engaged in since she had been elected. Commissioner Teel stated that it was encouraging that something was taking place, but if the \$60 Million was being used for a "cosmetic fix" rather than a total fix, it appeared to be a false sense of security. Commissioner Teel asked if this was an effective proposal being offered.

Mr. Castro stated that in terms of what would be done regarding flue gases, the Mayor was correct in that it would not impact the gases that were considered to be pollutants. He stated that this would give a better technology than the existing cyclone separators for moving dust, ash and soot. He further stated that he would have to do more research as to why FPL was doing this, but he reiterated that they did have to meet Federal clean-air standards. He explained they had a permit for that which at some point had to be renewed and updated.

Commissioner Teel stated she was not comfortable in voting for this without having more information.

Mayor Naugle asked the Commissioners if they wanted to vote on this or schedule it for discussion at the next Commission meeting.

Commissioner Teel emphasized that more information was needed.

Motion made by Commissioner Trantalis and seconded by Commissioner Teel to defer this matter until June 17, 2003. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, and Mayor Naugle. NAYS: None.

FCAT Study Assistance

(OB)

The City Manager stated that there had been a lot of discussion regarding the failure rate of FCATs, and the leadership of the NAACP and the School Board were going to set up an academy in an attempt to assist the students in this matter. The facility at Mizell was going to be used for that purpose.

There being no further business to come before the Commission, the meeting was adjourned at approximately 9:54 p.m.

JIM NAUGLE
MAYOR

ATTEST:

LUCY KISELA
CITY CLERK