

**SPECIAL MEETING OF THE CITY COMMISSION  
8<sup>TH</sup> FLOOR CONFERENCE ROOM  
CITY HALL**

**TUESDAY, JUNE 10, 2003**

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Mayor Naugle called the meeting to order at approximately 3:00 p.m. Roll was called and a quorum was present.

Present: Mayor Naugle  
Commissioner Teel  
Commissioner Trantalis  
Commissioner Hutchinson  
Commissioner Moore

Absent: None

Also Present: City Manager  
City Attorney  
City Clerk

Mayor Naugle announced that this was a special meeting to consider some housekeeping measures on a property on the beach.

The City Manager stated that there were some amendments to the Lease Agreement and the Overpass Agreement being proposed by the financial interests in this project. He explained that Ron Mastriana was representing the property owner and would summarize the amendments that were before the Commission.

Ron Mastriana thanked everyone to attending today's meeting. He explained that John McDonald, Managing Member of the entity, was present at today's meeting also. He stated they had been working on this project for a long time and funding had been arranged before 9/11 which changed how hotels would happen in the future. He explained that the main lender was to be CIBC which was Canadian Imperial, and the take-out lender would be Deutsch Bank. In getting ready for the closing, there had been a request for an estoppel letter from the City and they reviewed some of the old agreements in reference to the access and pedestrian bridge. During that review, they decided to ask for the following two amendments:

1. Extend the time period.

2. Clarify the position with regard to the lender's ability to finance the hotel.

Mr. Mastriana explained that the lender would have no right on the pedestrian access, but a provision had been in the agreement that if foreclosure took place during construction, they would not be able to foreclose on the hotel during construction. The idea had been that if the lender foreclosed, they would have the responsibility of taking over the requirements of the pedestrian bridge also.

Mr. Mastriana advised that the closing for the hotel was set for June 19-20, 2003, and they did not anticipate any problems. They were asking for the Commission's help in resolving some of the minor issues. He explained that this did not refer to any site plans, and this was only an extension of the two agreements.

Commissioner Trantalis asked for further clarification of the nature of the agreements.

Bob Dunckel, Assistant City Attorney, stated that there were two agreements. The first agreement would be referred to as the Overpass Agreement which permitted the construction of a pedestrian overpass over A1A, and called for the developer to make certain streetscape improvements to Castillo which was north of the hotel.

Commissioner Hutchinson clarified there was not to be an overpass on Castillo and only on A1A. Mr. Dunckel confirmed and stated there was a sign feature which went over Castillo, but the pedestrian overpass was east/west leading to the beach over A1A.

Mr. Mastriana stated there would be a landscape wave which reflected the look of the building. He explained that one of the requirements of the agreement was to tear out the entire Castillo Street and install pavers and palm trees so it would be redone.

Commissioner Trantalis asked if putting the sign over Castillo Street and installing pavers, it appeared to suggest they were disassociating the street from public domain and making it a part of the hotel. He stated that some individuals had stated that it appeared they were giving up a part of a public roadway.

Mr. Mastriana stated that there had been some discussion that the sign had to say: "Castillo Street." Commissioner Trantalis confirmed that there was no intent to appropriate the street. Mr. Mastriana confirmed. Commissioner Hutchinson remarked it was still a City street.

Mr. Dunckel explained that it would remain a street and there would be no suggestion of abandonment, and that was why they stuck firmly to the name, as opposed to giving reference to the fact that it belonged to the hotel.

Commissioner Trantalis asked about the street to the south and asked if any type of identification would be placed at that site. Mr. Mastriana explained there was no street to the south and that it had been vacated by Beach Place. Commissioner Trantalis asked about identification being placed on the street to the west of Castillo Street. Mr. Mastriana explained that one of the requirements was that they take the "snails" from the beach and place them at a particular location, which was going to be done and would be placed at the hard scape.

Commissioner Trantalis remarked that there had been some discussion with the community in that the developers were to establish and maintain a certain park area. Mr. Dunckel remarked there was a sequencing of the development, and as part of preparing the estoppel letter he did due diligence to make sure they had met the requirements of the agreement and that some minimal landscaping and irrigation had been done. Mr. Mastriana explained they had done such work for 6 parcels and had to complete them before obtaining a Certificate of Occupancy (CO) on the structure. Commissioner Trantalis reiterated that the complaint was that the landscaping had not been done. Mr. Dunckel stated that could have been a misunderstanding on the part of some individuals because they had sequenced it so there would be sodding and irrigation at the front end of the project, but the total landscaping would be done at the tail end of the project. Mr. Mastriana agreed. Commissioner Trantalis stated there had been a misunderstanding and the community had thought there was neglect on the part of the developer.

Commissioner Trantalis asked if any other type of improvement would be made to Castillo Street, other than the sidewalk landscaping and the pavers. Mr. Mastriana stated there would be pavers across and the palms would be all new. Mr. Dunckel stated it was his understanding that a lighting component was attached.

Commissioner Trantalis asked for some further clarification of the cross-over A1A. Mr. Mastriana explained that it would wave the same way and have the same curvy look to it. He added it would be opened to the public and there was a requirement that an easement had to be created to come into the elevator. Commissioner Trantalis asked if there was any type of prohibitive covenant that would say there could be no signage installed, or was it just an understanding. Mr. Dunckel stated he believed there was a covenant which prohibited signage. Commissioner Trantalis added that if there was no prohibitive covenant, he preferred one be added so there would be no misunderstanding. Mr. Mastriana stated he did not think there was any right to put a sign on any of them.

Commissioner Moore asked if they would oppose that this be written into the contract. Mr. Mastriana stated he did not oppose such language.

Commissioner Trantalis asked when would the project be completed. Mr. Mastriana stated they expected completion by February, 2005. Mr. Dunckel remarked that in the amendment it was listed for completion by February 1, 2005.

Commissioner Trantalis clarified that today they were requesting an extension for the overpass agreement. Mr. Mastriana confirmed and stated it also included the accessment easement for the rear of the property, along with the right-of-way improvements which were included in the overpass agreement. Mr. Dunckel explained that the lease agreement provided access from the rear of the property to southbound A1A. An amendment had also been passed which would allow utilities to enter through the access easement. He stated that a question was raised as to what was being given away by the City. He explained the land fell into the City's ownership as a result of a series of condemnations in an attempt to create southbound A1A, and was a remnant not being used at this point in time. He stated he believed that the lease agreement was structured in such a way that if there was a valid municipal purpose for it in the future, they could terminate this so the lands could be put to better use.

Commissioner Hutchinson clarified on the map which properties were being referred to. Mr. Mastriana added that was one of the six parcels which they were required to landscape.

Eileen Helfer, President of Harbor Haven Condominiums and representative for Harbor Haven North, stated they were concerned about this project because they had never received any information on this project. She stated they wanted to have this item deferred until they had time to review it. She reiterated that they were not opposed to the St. Regis and felt it would be an asset to the City, but they felt they should have been informed of the events occurring. She added that the Central Beach Alliance agreed with them.

Mr. Mastriana explained that they had a conference call scheduled in about one hour to solidify the documents. He reiterated that they would prefer to have the Commission's approval now, and would be glad to meet with the Association and had met with them previously. He explained this was not an issue raised in the past with the homeowners groups.

Commissioner Trantalis confirmed that none of this information was new and that it would just be a continuation of time. Mr. Mastriana confirmed. Commissioner Trantalis remarked that he was concerned and asked if new information had been heard by the Association. Ms. Helfer stated they had the following understanding and proceeded to read from a document: "That Castillo Grand would complete final landscaping plans on three of the four parcels located to the north of Castillo Street within 90 days of receipt of the building permit." She added that they had only put in landscaping and the sprinkler system, and nothing else had been done.

Mr. Dunckel explained that correspondence had been written by Ron Mastriana and he was not sure if it was consistent with the text of the agreement. Mr. Mastriana stated he thought they had met after that piece of correspondence had been sent, and the reason it was not being done now was because due to the amount of construction for the entire area, it could be destroyed. Ms. Helfer stated that pertained to Parcel No. 4 behind the Silver Seas, and the discussions she sat in on was that the parcel behind the Silver Seas could possibly get destroyed during construction, but the other parcels were to be completed.

Mr. Dunckel proceeded to read from Section 4.3.1 of the Lease Agreement as follows:

“Secure all necessary permits and approvals attendant to the installation of irrigation and sod on landscape parcels on or before 15 days after effective date hereon.”

Mr. Dunckel stated that the effective date was back in March, 2001. He stated the letter had been written prior to this agreement and had been dated in December. He further stated it was his recollection that they had gone through negotiations regarding the sequencing of the landscaping, and suggested that the letter had been written before those negotiations had been finalized and before the agreement was signed off on. Ms. Helfer remarked they had not seen the subject agreement.

Mr. Dunckel further quoted from the agreement as follows:

“Complete irrigation of the sod and landscape parcels within 45 days of the effective date...Complete all landscaping and landscape parcels in accordance with the landscape plans approved by the City prior to obtaining the Certificate of Occupancy on St. Regis Hotel.”

Mr. Dunckel replied that it was consistent with what he had reported earlier. He reiterated that the letter had been written during the time negotiations were still in progress.

Commissioner Teel showed on the map the parcels in question and asked if the parcels on the west side of the street could be completed. Ms. Helfer reiterated they were to have done the two parcels on the west, and she explained that she was not including the parcel behind or across from the St. Regis which were considered Parcels 5 and 6. Ms. Helfer remarked that they had relocated the trees and were being stored.

Mr. McDonald stated that they had acquired the property in 2000 and the fact was that they had difficulty in securing financing. Due to 9/11, the project was put in abeyance for 9 months until the market stabilized. The important part of this was that when they approached the City with the project, they took what they

thought was a fresh and new elevated position. They had proposed to the City in their first application that they landscape the pieces to elevate the entire surrounding area to a five-star standard. Mr. McDonald explained that had been part of their approval and they had worked with the neighborhood. About \$50,000 to \$60,000 had been spent on landscaping. There were modifications being requested and they could agree to the changes, but each of those would create a delay and each delay caused impatience on the part of the banks.

Commissioner Teel felt they were all moving towards the same direction and wanted things to move forward. She stated that possibly they could do the landscaping since there had been a misunderstanding, and if that could be satisfied the project could have staunch supporters in the area. She felt doing the western perimeters would not cost more money or further delay the project.

Mr. McDonald asked if that landscaping could be done without delaying the process. Mr. Dunckel stated the amendments already existed. The City Attorney explained they were being asked to do two things today. One was to extend the time period for the sky bridge, and the second thing was to allow the assignability of the building permits and the contracts. He explained that the first time the Commission did it, it was not assignable. He stated the bank was saying if they were going to loan for the project and something happened to make them take the project back, they wanted to be able to step in their shoes and the original agreement did not permit that. In order to accomplish what was being asked for today, they would have to amend the existing agreement, but the likelihood would be that the banks would wait to see the new agreements since they had reviewed the old ones.

Commissioner Trantalis stated they were simply asking that there be some reassurance on the part of the developer that they would landscape the west side of A1A southbound instead of waiting till the completion of the project in 2005.

Mr. Mastriana asked if they could give the Commission a letter and have it part of the record that they would landscape those parcels on the west side of A1A south within 6 months of obtaining their financing.

Commissioner Moore asked about transferring the assignability and stated that concerned him. He felt everyone had originally been elated over this project because they were raising the bar and it was a five-star project. Mr. McDonald stated that the bar was so high that the only strategy would be to execute the five-star plan. Commissioner Moore asked if they had any assurances in the agreement that if it was assigned, it had to be of a certain quality. He was informed that the building permit assured that. The City Attorney stated that if they wanted to build something different, they would then have to return and amend their permit. Mr. Dunckel added that in addition to that the overpass and lease agreements were structured in such a way that it would create a unity of title with the hotel property.

Commissioner Hutchinson asked if that was what they were attempting to correct today. Mr. Dunckel confirmed and added that payment performance bonds would require completion of the work. Commissioner Hutchinson stated that would put the City in a better light by making the two changes in the lease agreements so that the overpass would not sit there uncompleted due to the fact that the bank would not have control over it. Mr. Dunckel agreed. Commissioner Hutchinson reiterated that this was not a site plan extension, but merely the cleaning up of a document so the bank could have control over a \$130 Million project. She also stated that she was in support of the landscaping being done to the western parcels of the site.

Commissioner Trantalis asked how attached were they to the sign over Castillo Street because master plan streetscape discussions had been going on for a number of years, and he was afraid that if this was done then other hotels could do the same thing and a “hodge podge” affect could be created.

Mr. McDonald stated that they had a design that took things away from day-to-day architecture and upgraded the project. This building was the most expensive one per square foot ever to be built in Broward County and was costing \$486,000 per “room key.” The design was to have the architecture flow and embrace the neighborhood.

Commissioner Trantalis stated that he understood that concept and possibly it worked well for the St. Regis, but he was referring to the entire beach. He explained a master streetscape plan was created which talked about neighborhoods and identifying those neighborhoods with signage, along with identifiable architectural features that would be consistent with the community. He further stated that the sign could set a standard which would have to be followed for the remaining sections of the neighborhood, and he was not sure if he agreed with that concept. He felt they were defeating the purpose of trying to create a consistent look throughout the beach. He agreed the St. Regis had a nice look, but everyone’s taste was different and by pushing this over into the public domain, they would be taking things away from the public in an attempt to fulfill a plan that had already been put into place.

Commissioner Trantalis was informed that the developer was “married to the sign” and the entire project and had spent four years of his life working on this project. This project was a supporter of the environment. A vision had been created around this project that was good for the community. Everyone could begin removing an element they did not like in connection with the project, and pretty soon there would only be a replica of another project. It was stated that this was a very unique piece of architecture and a “trailblazer” for the beach.

Shirley Smith asked about the size of the sign saying “Castillo Street” and could emergency vehicles get through. Mr. Dunckel stated there would be full access.

Mayor Naugle asked if the sign had met all the required standards. The City Manager confirmed.

Commissioner Moore called the question regarding this matter and asked for the Commission to take a position on this issue.

Mayor Naugle stated that the construction fence had been blowing in the wind and had not met his standards, and asked if some type of assurance could be given that the area would be improved upon.

Mr. Mastriana stated that was a good point, and they had had a major amount of vandalism over time, and after the 20<sup>th</sup> there would be full-time individuals on the site. He stated they were going to make a proposal that would be "state-of-the-art." Ideas from New York City were to be used and they were going to go across the entire site with a nice enclosed area that could be painted if graffiti was imposed on it. He stated their problems all centered around funding, and once funding was received things would be taken care of.

Commissioner Hutchinson remarked that the issue was that the site had not been maintained, and that was where the controversy was with the surrounding neighborhoods. She further stated that she realized they needed to clean-up some legal agreements so the bank could own the property, and hold the developer as hostage, and remarked there was little controversy when the project had been improved. People liked the project, but nothing was being changed, and she did not feel there was a way to defer the matter and that it needed to proceed forward. She remarked that she also was ready to vote on the matter.

Mr. Mastriana stated that it took them 6 months to get a permit to do the irrigation and landscaping that had been installed as of this time. He explained the problem was the roadway, and he felt the landscaping could be done within 6 months after the obtaining of the permit and that application would be made immediately.

Hector Castro, City Engineer, stated that he would check on whether the original permit could be extended.

Commissioner Moore introduced the Resolution:



## RESOLUTION NO. 03-131

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING EXECUTION OF AMENDMENTS TO THE LEASE AGREEMENT AND OVERPASS AGREEMENT WITH CASTILLO GRAND, LLC A FLORIDA LIMITED LIABILITY COMPANY, AS MORE PARTICULARLY DESCRIBED BELOW.

Which resolution was read by title only.

Mayor Naugle stated this was with the understanding that there would be no advertising, and the west side would be landscaped within a minimum of 6 months and possibly soon, which would be memorialized by a written letter. Mr. Mastriana clarified that it would be done 6 months from the date of permit.

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

**Community Development Division**

Commissioner Moore stated that he had heard there was going to be a 6-month delay on processing agreements for assistance programs in the Community Development Division. He stated he was not adverse to that happening but wanted everyone to understand what was occurring.

Faye Outlaw, Interim Director of Community and Economic Development, stated that they had a Friday memo going to the Commission informing them that there would be a 6-month hold on housing applications as a result of many reasons. She stated they had an extraordinary number of applications which were in various stages of processing, and in some cases the requests were set for 14 months and she felt that time period was too long to be in a "hopper." She added that rehabs were in progress, and some had gone on for 12 months and she felt they needed to be brought to a successful finish. She felt they needed to redirect matters in a more proper direction.

Commissioner Moore stated that he would support such an effort. Mayor Naugle stated that it needed to be done in a way that would satisfy Community Development Block Grant requirements.

Ms. Outlaw reiterated that they would not be accepting any new applications due to the backlog until they moved the ones in the process forward.

**Florida Neighborhood Conference**

Commissioner Hutchinson stated that in 2000 they had sponsored the Florida Neighborhood Conference and there was \$5,000 left between the City and the County in the Coordinating Council Fund. She stated that today the County Commission had approved chartering the buses with some of the money, and she hoped that the City was on board in case individuals from the neighborhoods wanted to attend and would not have to pay for transportation.

Mayor Naugle stated that did not require any action and stated the City Manager had the authority to approve this matter.

Commissioner Hutchinson asked if they could proceed and charter the buses. It was confirmed they could do so.

There being no further business to come before the Commission, the meeting was adjourned at approximately 3:48 p.m.

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JIM NAUGLE  
MAYOR

ATTEST:

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LUCY KISELA  
CITY CLERK