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FORT LAUDERDALE CITY COMMISSION
OCTOBER 21, 2003**

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE, FLORIDA
OCTOBER 21, 2003**

Meeting was called to order at 6:17 p.m. by Mayor Naugle on the above date, City Commission Meeting Room.

Roll call showed:

Present: Commissioner Christine Teel (arrived 6:06 p.m.)
Commissioner Dean J. Trantalis
Commissioner Cindi Hutchinson
Commissioner Carlton B. Moore (
Mayor Jim Naugle

Absent: None

Also Present: Acting City Manager Alan Silva
City Attorney Harry A. Stewart
City Clerk Lucy Kisela
Sergeant At Arms Sergeant M. DiMaggio

Invocation was offered by Dr. Edward Schindeler, Spiritual Assembly of the Baha'is of Fort Lauderdale followed by the recitation of the Pledge of Allegiance.

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

Mayor Naugle requested that a motion be made to approve the minutes of September 3, 2003, October 7, 2003, and November 19, 2002.

Motion made by Commissioner Trantalis and seconded by Commissioner Teel to approve the agenda and minutes of the September 3, 2003 and October 7, 2003 meetings. Commissioner Trantalis asked that the motion not include the November 19, 2002 minutes. Roll call showed: YEAS: Commissioners Teel, Trantalis and Mayor Naugle. NAYS: Commissioner Hutchinson.

Commissioner Trantalis stated that motion which had just passed had been for the approval of the September 3, 2003 and October 7, 2003 meetings, but the Commission had not approved the minutes for the November 19, 2002 meeting. He stated that he wanted to know what research had been shown to the City Attorney with regard to whether or not it would be permissible and appropriate for the City Commission to rescind a vote which had been taken at the November 19, 2002 meeting regarding the Lauderdale Beach Hotel.

The City Attorney stated that he had sent out a Friday memo to the Commission with the results of the research which had been done. He stated that the question was whether or not the Smull vs. Town of Jupiter case which authorized a City Commission to change its

mind on an approval of a building permit be applied to the Lauderdale Beach Hotel, since the minutes of the meeting had not been approved when the approval for the Lauderdale Beach Hotel had been granted. In that case, the City Attorney stated he had made the analysis that it was a case whereby the District Court of Appeal had indicated that they treated the City Commission as if it was a Court, and as a Court they could change their mind at any time prior to a Notice of Appeal or Final Order being issued and the appeal period running, which had been 30 days. He stated it was the same appeal period for an action before this Board. He further stated that the Court basically stated that the approval of the minutes and the filing of the minutes with the Clerk was the "rendition of the Order," and in the rendition of the Order the 30-day appeal period started to run. He stated that had been a quasi-judicial procedure. In regard to the Lauderdale Beach Hotel case, they had not been in a quasi-judicial procedure, but were in a dispute resolution procedure whereby they had been before a Hearing Officer who had made a recommendation. A settlement agreement had been entered into, and the approval of the settlement agreement had been administrative or quasi-executive.

The City Attorney continued stating that he did not feel the Smull case had application unless the decision was quasi-judicial. He reiterated that was the legal analysis, and therefore, did not feel that Smull applied. He further stated there were other considerations to make which he had not addressed in the memo, and such considerations were of equitable estoppel as to whether or not the developer had the right to rely upon information they had received from the City prior to the purchase of the property, and he did not feel that had to be addressed because under a legal analysis Smull did not apply except in a quasi-judicial action.

Commissioner Trantalis stated an attorney hired by the Broward Trust for Historic Preservation was present at tonight's meeting, and he asked if his comments regarding the matter could be heard.

Ralph Brooks, attorney for Broward Trust for Historic Preservation, stated that he had reviewed the memorandum from the City Attorney, and added that he had some additional information due to the many hours he had spent researching this issue and other issues related to it. He further stated that Smull vs. Town of Jupiter was a case from the 4th District Court of Appeals. He added that in another case Taylor vs. Department of Business and Professional Regulation had been decided by the Supreme Court of Florida. He stated the cite for that was 520 So.2nd 557. He explained that case held that an administrative agency acting in a quasi-judicial manner, similar to Smull, underwent the same analysis. He proceeded to quote the following: "...administrative agencies may rehear and correct or modify their final orders before their jurisdiction is lost irrespective of the fact that no express rule exists." He further explained if there was an erroneous order previously ended by a new Amended Final Order, it was presumed to have acted in accordance with the law until shown otherwise. He stated that it also defined the term rendition as follows: "Rendition was the written rendering of an Order."

Mr. Brooks further stated that this was appropriate in this case and was important because they were under the Environmental Dispute Resolution Act, and there had been a mediated settlement agreement which was erroneous and illegal, and was in violation of the Environmental Dispute Resolution Act itself. Recently, a case came before the 3rd District Court of Appeal in Miami which was entitled Miami Beach vs. Chisolm Properties, 830 So. 2nd 842. He stated that Chief Judge Schwartz wrote a blistering, especially concurrent, opinion explaining the following: "Where the Court rejected an

attempt by a hotel owner and the City of Miami Beach to grant totally unjustified and illegal height variances to the device of a Sweetheart Settlement of a superious action by the hotel owner against the City under the Bert J. Harris Private Property Rights Protection Act. Judge Schwartz noted that this case is so rife with suspicion that proceedings in this Court, especially these frivolous motions that had been filed by the hotel, warranted an imposition of sanctions” even though he did not do so.

Mr. Brooks further explained this was similar because this particular mediation had been held without full open public participation. He stated that in the Environmental Dispute Resolution Act which was the second part of the Bert Harris Act, it stated under Part 17: “In all respects the hearing must be informal and open to the public.” He stated that his clients had been excluded from the room for the discussions. He further quoted from Subpart 21 as follows: “That you can either accept, reject, or modify the settlement agreement.” He stated if they accepted, then it should have been by development agreement, which was not meant in this case to be the general term development agreement, but a specific development agreement authorized by Chapter 163 of Florida Statutes that required public hearings. He stated that if anything was included in the settlement agreement, such as a variance, it stated that: “...that they must be approved in the ordinary course and consistent with the rules and procedures of that governmental entity.”

Mr. Brooks continued stating that they had not gone through the Certificate of Appropriateness review in front of the Historic Preservation Board, which was in the ordinary course and consistent with the rules and procedures of the governmental entity. He stated that in another recent case *Pinecrest vs. Karen Scheidel* which became *Scheidel vs. Pinecrest* in the Supreme Court upholding this opinion that dealt with the Comprehensive Plan issue and stated: “We claim to be a society of laws and not of individual eccentricities in attempting to evade the rule of law. A society of law must respect the law and not its evasion. If the rule of law requires land uses to meet specific standards, than allowing those who develop land to escape its requirements would make the standards of growth management of little real consequences. It would allow developers to build in defiance of limits and then escape compliance.”

Mr. Brooks stated that in this case, as mentioned by the City Attorney, there had been no resolution, nor written minutes. or rendering of a decision. He pointed out that the current City Attorney had not been the City Attorney at the time of the hearing of this matter. He stated that the original site plan review and PRD, which had been denied, had a resolution prepared for the historic designation of the property. He stated now they were approving variances, and no resolutions had ever been prepared. He stated they were waiting for rendition of this Order so they could seek review in Court of the illegal things that happened in that mediation which resulted in the settlement agreement. He stated that the illegal variances which did not meet variance standards were a denial of procedural due process since they were not permitted to go before the Board of Adjustment and have a hearing on the variance to see whether they qualified or not.

Mr. Brooks further stated if one reviewed the settlement agreement on page 6, it had variances for street setbacks, beach restrictions, floor area ratios, and landscaping and open space requirements. He continued stating that on page 7, it stated in (f) as follows: “Upon ratification and approval by the City Commission by adoption of a resolution, this mediated settlement agreement, together with any additional conditions attached by the

City Commission in the resolution adopted relative thereto, shall constitute a development order. For the purposes of site plan expiration, the revised development plan shall be deemed to be approved on the date the resolution ratifying and approving this mediated settlement agreement is adopted by the City Commission.”

Mr. Brooks reiterated they had not yet seen a resolution as required by the terms of the mediated settlement agreement to be entered. He explained it needed to be entered because the matter needed to be resolved and should stay in “limbo” because it was not fair to his client, not fair to their clients, new purchasers, or realtors advertising the property in order to sell the units. He reiterated this needed to go through the proper procedure, including the Board of Adjustment and Historic Preservation Board. He stated the wrongs needed to be undone, otherwise, there would be a lot of liability on individuals’ heads for not adopting the resolutions. not implementing this correctly, not allowing procedural due process to his client, and not having open public hearings.

Commissioner Trantalis asked if a resolution had been prepared and adopted by the City Commission as required by the Special Master. The City Attorney replied he was not sure, but what Mr. Brooks had stated which was encouraging was that he was prepared to file a lawsuit. He suggested the Commission go forward and approve the minutes because he felt that was the rendition of the Order. Under Mr. Brooks’ theory, if correct, his 30 days for appeal would start to run.

Commissioner Trantalis stated that if the rendition of the Order in itself was the approval of the minutes, then according to the Smull case the Order had not yet been entered, and therefore, they had the authority to rescind any previous motion which had been passed. The City Attorney stated that Smull did not apply in this case. Commissioner Trantalis clarified that the City Attorney indicated that Smull did not apply in this particular case. The City Attorney added that Mr. Brooks felt the Smull case did apply. Commissioner Trantalis stated he felt Smull applied in this case also because the City Attorney had indicated that the decision of the Special Master had come before the Commission, and the Commission had ratified the Special Master’s decision. He stated further that the Commission could have also decided against that decision. He asked if that would have been an administrative act or would it have been a quasi-judicial act. He stated that even though the Special Master’s efforts were enlisted in an attempt to resolve the dispute with the Petitioner, in reality was the Commission still acting in a quasi-judicial capacity because they still had to review the facts of the case, make a decision not in a perfunctory role, but one they had taken on in their quasi-judicial capacity. Therefore, if tonight was when the Commission chose to approve the minutes, prior to any approval would be the time within which they could rescind the previous decision. Therefore, unless that was done in that way, they would otherwise be violating the rule of Smull. He stated this was his opinion.

The City Attorney reiterated that they differed in this matter because he did not feel that Smull applied, and the approval of the agreement was no different than any other contract. He stated that quasi-judicial meant they had a set of standards and facts, and one applied the facts to the standards. In this case, he explained they had an agreement in front of the Commission to settle litigation which was either approved or not. Commissioner Trantalis reiterated it had not been done in a vacuum, but was done based on a presentation given by the Special Master and the proponents on both sides. He stated it was not done as if “rubber stamping,” and he had heard the Commission make a decision based on arguments, a presentation of facts, a presentation of law, and

therefore, it served as quasi-judicial. Therefore, he stated that by not approving tonight's minutes, he felt this Commission had the power to rescind, and proceeded to ask if this matter should be placed on the agenda of a future Commission meeting in order to allow the public to testify for or against the issue. He further stated that he wanted to establish a date at which time arguments could be heard for and against regarding rescinding the decision to move forward on the Lauderdale Beach Hotel.

Motion made by Commissioner Trantalis to move that the Lauderdale Beach Hotel matter be scheduled for a future Commission meeting in order to discuss rescinding the decision previously made regarding this matter.

Motion died for lack of a second.

Commissioner Hutchinson stated that she wanted to register her vote regarding the minutes as affirmative and stated she had attended the hearing regarding the Lauderdale Beach Hotel, and the 3 Commissioners who had approved the item had ratified the Special Master's decision. She stated it was her understanding that the agreement that had been mediated by the Special Master was brought to the Commission, and that was what they had based their decision on. She stated that she had chosen to vote no.

Commissioner Trantalis stated that Commissioner Hutchinson had voted no and did not have to vote in favor of the Special Master. Commissioner Hutchinson reiterated that it was the Commission's option to either ratify his decision or not, and she had chosen not to ratify it. Commissioner Trantalis stated that she had acted in a quasi-judicial manner.

Mr. Brooks stated that he believed he could reconcile the two views. He continued stating that the mediated settlement agreement did not meet the standards for quasi-judicial hearings of due process, openness, cross examination, or witnesses because the Environmental Dispute Resolution Act stated that anything which came out of the agreement must go through the ordinary procedures of the City or County, and in this case, it did not go through those procedures and that was why they did not have due process. He further stated that for the record, the historic preservation element Policy Nos. 11.2, 11.3, and the Future Land Use Element Policy Nos. 25.2, 25.3, and 25.5 requires historic preservation. He stated that this particular project, and how it was approved, was inconsistent with those comprehensive plan policies. He stated that the case that showed site plans, variances, and building permits and was quasi-judicial was *Park of Commerce vs. City of Delray Beach, Supreme Court of Florida*, 636 So. 2nd 12.

Barbara Hall, attorney, stated that she was representing the owner of the property who was TRG&F Las Olas Beach Club Ltd., and added that Bill Strine, Walter Strine, Jr. and Walter Strine, Sr. were also present for the hearing. She explained that what was being proposed was extraordinarily serious. She stated that she had sent a letter to the Commission which outlined all of the actions that had been taken. She stated that the fact that the minutes had not been approved was a surprise because they had received copies of the minutes in their due diligence. She stated they had also received copies of the signed minutes months ago. She further stated that they agreed with the City Attorney that this was not a quasi-judicial proceeding, and that the approval of the minutes had nothing to do with the finality of the action taken in November. She referred the Commission to the Dispute Resolution Florida Statutes which stated that the approval or denial of a mediated settlement agreement did not give rise to a cause of

action. Therefore, by definition it could not be quasi-judicial because such an action did give rise to a cause of action. She stated that the Statute referred back to the original approval or denial, but emphasized that the approval of the mediated settlement agreement was not quasi-judicial. She stated that even if it had been a quasi-judicial process, what happened in that approval was that the City had set forth criteria by which the project had been approved, and such criteria had to be implemented by a final site plan that had to go before DRC. She stated that she had the approved DRC plans which had the mediated settlement agreement on them, the additional conditions imposed by the Commission, and the signature of DRC which had been issued on April 4, 2003. She continued stating that if people were waiting for an opportunity to appeal, they had the opportunity to do so after this had been approved and ratified by the Commission. She further stated that if they believed it was quasi-judicial, then they had another opportunity after the final DRC. She stated that the appeals had not been issued in either circumstance.

Ms. Hall further stated that what they had done in reliance on an approval that everyone knew was final, they had paid fees to incorporate conditions of the approval. The new entity acquired the property for \$23.5 Million. She added there was an extensive and expensive marketing effort under way, and 82 units had been sold at a value of \$78 Million. She further stated that \$7.3 Million was being held in deposit, the hotel operation had been shut down and employees let go, severance pays issued, building plans prepared, tenant leases terminated, and termination fees paid. Clearly, she stated they had taken more than significant actions in reliance on an approval that everyone knew was final because if it had not been final, DRC approval would not have been issued. She continued stating that they had received subsequent opinions from the City Attorney interpreting the agreement. She stated that many of the actions had been taken before they had closed. She emphasized that there was no doubt that the Commission's action was final under the Franklin Muth case, and it did not matter whether the approval had been by resolution or motion. In either case the agreement had been ratified. She stated that the project was significantly underway, and to try to undue it at this point would be both unfair and illegal. She also added that it would also be destructive to the business community of this City.

Commissioner Trantalis asked if it was true that the decision of the Special Master required a resolution to be passed by the City Commission. Ms. Hall replied it did not. Commissioner Trantalis asked if what Mr. Brooks had stated previously was incorrect. Ms. Hall replied that Mr. Brooks was incorrect, and further stated that the agreement required an approval by the Commission to become effective. The Commission could approve by resolution or by motion. She stated that staff by signing did not prescribe for the Commission the method by which they could approve an agreement. As long as the Commission was authorized to approve agreements by motion, then the action was ratified and became effective on the date it was approved. Commissioner Trantalis asked if the actual language of the Special Master's report should not be taken literally. Ms. Hall stated that the language was not the Special Master's report, but was the expectation of the parties as to how the Commission would approve the agreement. However, the Commission did not approve by resolution, but had approved by motion which was sufficient to ratify the agreement. Commissioner Trantalis read as follows:

“City of Fort Lauderdale Land Use Dispute Resolution
In Re: Denial of Beach Development Permit
Lauderdale Beach Hotel, LLC - Case No. 27-H-01

- F. Upon ratification and approval by the City Commission by adoption of a Resolution, this mediated settlement agreement, together with any additional conditions attached by the City, shall be the final adopted ratifying and approving the mediated settlement.”

Ms. Hall stated she had read those words, but they were not binding on the Commission. The Commission could ratify the agreement by any method it was authorized to approve agreements, and they were not bound to do it by resolution.

Commissioner Hutchinson asked if the City Attorney had any comments on the matter of a motion versus a resolution.

The City Attorney stated that he had sent a memo to the Commission and had addressed that issue, and basically had cited a Court case which stated that once the Commission approved something, whether it required resolution or ordinance, the Court felt that was sufficient.

Mayor Naugle stated that he did not have a problem discussing the approval because he felt it had been improper. He stated that the business community should have little confidence in the actions of that Commission because they had not followed the law. He stated the building had exceeded the floor area ratio, the height, setbacks, and the historic regulations. He added that the matter had not gone back to the Historic Preservation Board, and probably should have gone before the Board of Adjustment. He acknowledged they had not followed the law, and he did not feel it would shake the confidence of the business community in revisiting this matter because he felt the Commission had acted improperly, and had not followed the law during that period of time. He stated a lot of damage had been done to the City because routinely they had ignored the laws of the City and allowed developers to do things outside of the law.

Mayor Naugle continued stating that the City could be sued if they held it up, and they could be sued if they did not, which would be another scar on the City. He felt this should be an example if the laws and rules of the City were not followed by granting special privileges to certain developers in the community.

Commissioner Moore stated that it appeared an error had been made, and the error was that the Commission had not adopted the minutes. He further stated that at the next meeting it should have been announced that a mistake had been made, and that was the only reason there was an opportunity for this conversation. He stated if the minutes would have been adopted as they should have been and introduced by the Mayor or the City Clerk to make sure they had not escaped carrying out the full motion of the minutes, they would not be having this discussion.

Motion made by Commissioner Moore to accept the minutes of the November 19, 2002 meeting.

Motion died for lack of a second.

Commissioner Trantalis restated his previous motion as follows:

Motion made by Commissioner Trantalis and seconded by Commissioner Hutchinson that at the Commission meeting on December 2, 2003, at 6:00 p.m. arguments would be heard both for and against as to whether or not to rescind the approval for the Lauderdale Beach Hotel, and an opportunity would be provided for all parties interested to make their arguments during that time, rather than at this meeting since they were truncating the approach.

Ms. Hall stated that it was their position that any further reconsideration of this matter would be unlawful and a denial of due process, and would result in damages to the property.

Commissioner Moore stated that he was very concerned about this matter and how the development process had worked. He stated that the mediator had addressed the Commission on the night this process and development had been discussed, and stated that he had conversations with both parties interested in this site. The mediator had stated that he had an open and free process that concluded the deliberation of this site. Commissioner Moore added that there were members on the opposite side who had differed with the mediator. He hoped that the City would not put themselves in the position where legal action could be taken. He reiterated that this was a compromise and the way the structure had been sitting was in violation of the Code. He stated the compromise allowed the City to have some of the old mixed with the new. He reiterated that he did not want the City to find itself in a legal battle that would cost a considerable amount of money due to the fact that the advertising of the units cost a great deal of money, and things had progressed because they had neglected to approve the minutes.

Commissioner Hutchinson stated that she was in a quandary regarding this matter because she had not supported this project originally, and had felt that it should have gone through the appropriate process, but as she sat here this evening and thought about the matter, she was worried about the precedent, as a City, that they were setting this evening. She asked if it meant that everything they approved would not be approved until the minutes were approved, and would this come back to "bite" them every single time a project was done, that she might not have approved originally. She further stated that she was also concerned about the money that would be spent on a lawsuit because she knew someone would sue them, and frankly, she preferred to take that money and put it towards a historic preservation officer and start doing things right. She stated that some people might not be happy with her vote, but as much as she did not like the project, she firmly believed if they went forward and did not approve the minutes, they would be setting a horrible precedence relating to any issues that the Commission might approve from now on.

Commissioner Trantalis stated that he agreed with Commissioner Hutchinson to the extent that he also believed a precedent was being set if this action was permitted to go forward. He stated it was his understanding that during the normal process of approval, the developers had filed suit in order to avoid the normal procedures of going through the process. If that was the precedent the City wanted to set and the signal they wanted to send to the community, which was sue us and we'll avoid all the normal procedures that other individuals had to go through, then that was the precedent he wanted to avoid. He stated that was not the way to do business in this City, and thankfully, the Smull case gave them the opportunity to avoid this mistake. He stated it was a technicality which favored the City, and was the same situation which had occurred in the City of Jupiter. He felt the City should seize this opportunity for the betterment of all future

developments and the way to do business in this City and hear the arguments as to whether to rescind this particular approval, and let that be the precedent.

Commissioner Moore asked if someone sued the City and the Commission decided to go before the Special Master in an attempt to reduce the legal costs and determine a method of compromise, was that something that was inappropriate to do as a policymaking board.

The City Attorney stated it was not inappropriate, and the dispute resolution process had been used in the past against challenges made based upon development rights.

Commissioner Moore stated he did not want the people to think that due process had not been followed in this matter. He reiterated that this was an appropriate course of action for the City to take, and they had taken it.

Mayor Naugle stated that he disagreed, and stated further that normally in a dispute resolution with a Special Master's recommendation, the case would still have to go through the normal process, and that was where they had not followed the laws. In addition, it was stated that the building had been in violation of the Code, but the building was a legal non-conforming use. He stated it had been built with a permit according to Code, and in addition, there was evidence in the past that the building was an historic preservation asset in the community and accurately portrayed the history of the property.

Commissioner Moore stated that it also portrayed that the Mayor at that time, Bob Cox, had stood in front of the building and stated that it should be demolished because of the slum and blight. He explained that the Commission at that time had taken a tour of the beach in order to create the slum and blight study, along with individuals who were interested in a redevelopment program.

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

Presentations

OB

1. Expressions of Sympathy

The Mayor and City Commission expressed sympathy to the families of Joan Hart and Lowe Washington Wren, Jr.

Commissioner Trantalis read aloud an expression of sympathy in regard to John C. Graves.

2. "Lighthouse of Broward County's 30th Anniversary Celebration Day"

Mayor Naugle presented a Proclamation to Kathleen Gent, Executive Director of Lighthouse of Broward County, whose 30th Anniversary would be observed on October 24, 2003.

Kathleen Gent thanked the Commission and the Mayor for the Special Recognition and stated they were going to celebrate their 30th Anniversary. She stated they had grown

from being a social support and recreation program to one of full service, including education, counseling and rehabilitation.

3. “Achievement of Excellence in Procurement”

Miss Bobbye Marsala, President of the Florida Association of Public Purchasing Officers, presented Kirk Buffington the “Achievement of Excellence in Public Procurement” Award. She explained that this award placed emphasis on continuous process improvement and outstanding purchasing practices, and earning this award was significant affirmation of the quality of the City of Fort Lauderdale’s procurement operation and demonstration of commitment to the purchasing profession. She further explained that the Purchasing Department had been evaluated based on criteria to include their organization and levels of responsibility, source selection, professional development, methods of process, improvement, automation and procurement. She added the department had excelled in all areas of the evaluation.

Miss Marsala also presented to Kirk Buffington the 2003 Florida Association of Public Purchasing Officers Distinguished Service Award. She explained that it was presented annually to one individual who stood out among the procurement professionals in the State of Florida. She proceeded to list some of Mr. Buffington’s accomplishments during the years.

Kirk Buffington thanked everyone for the awards and stated he could not have done what he did without the support of his staff.

Mayor Naugle announced that the Royal Atlantic discussion for site plan and plat approval had been deferred to the November 18, 2003 Commission Meeting at 6:00 p.m.

Consent Agenda

(CA)

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

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

Event Agreement – Pumpkin Painting

(M-1)

A motion authorizing the proper City officials to execute an event agreement with **BankAtlantic** to indemnify, protect and hold harmless the City from any liability in connection with the **Pumpkin Painting** to be held **Saturday, October 25, 2003 from 11:00 a.m. to 3:00 p.m.** at the BankAtlantic located at 1750 East Sunrise Boulevard.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1448 from Acting City Manager.

Event Agreement – APFL AIDS 5K Run and Walk**(M-2)**

A motion authorizing the proper City officials to execute an event agreement with **Community Healthcare Center One, Inc.** to indemnify, protect and hold harmless the City from any liability in connection with the **APFL AIDS 5K Run and Walk** to be held **Saturday, November 15, 2003 from 7:30 a.m. to 9:00 a.m.** at Fort Lauderdale South Beach; and further authorizing the closing of the northbound curb lane of State Road A-1-A from the South Beach parking lot north to Bonnet House from 7:00 a.m. to 9:00 a.m. on the event day.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1465 from Acting City Manager.

Event Agreement – Fort Lauderdale Billfish Tournament**(M-3)**

A motion authorizing the proper City officials to execute an event agreement with the **Official Fort Lauderdale Billfish Tournament** to indemnify, protect and hold harmless the City from any liability in connection with the **Fort Lauderdale Billfish Tournament** to be held **Wednesday, November 19, 2003 from 8:00 a.m. to 10:00 p.m.; Friday and Saturday, November 21 and 22, 2003 from 6:00 a.m. to 8:00 p.m.; and Sunday, November 23, 2003 from 6:00 a.m. to 10:00 p.m.** at Las Olas Marine and the adjacent parking lot.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1447 from Acting City Manager.

Event Agreement – Christmas on Las Olas**(M-4)**

A motion authorizing the proper City officials to execute an event agreement with the **Las Olas Association, Inc.** to indemnify, protect and hold harmless the City from any liability in connection with **Christmas on Las Olas** to be held **Tuesday, December 2, 2003 from 5:00 p.m. to 10:00 p.m.**; and further authorizing the closing of East Las Olas Boulevard from S.E. 6 Avenue to S.E. 11 Avenue, and S.E. 8 Avenue, S.E. 9 Avenue and S.E. 10 Terrace from East Las Olas Boulevard north and south to the alley on each side, from 12:00 noon to 11:00 p.m. on the event day.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1446 from Acting City Manager.

Event Agreement – 3rd Annual Animal Swim and Beach Trot**(M-5)**

A motion authorizing the proper City officials to execute an event agreement with the **SPCA of Broward County** to indemnify, protect and hold harmless the City from any liability in connection with the **3rd Annual Animal Swim and Beach Trot** to be held **Sunday, November 23, 2003 from 9:30 a.m. to 12:30 p.m.** at Fort Lauderdale Beach and D.C. Alexander Park.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1437 from Acting City Manager.

Event Agreement – Community Halloween Block Party**(M-6)**

A motion authorizing the proper City officials to execute an event agreement with the **Gay and Lesbian Community Center of South Florida** to indemnify, protect and hold harmless the City from any liability in connection with the **Community Halloween Block Party** to be held **Friday, October 31, 2003 from 6:00 p.m. to 11:00 p.m.** at the Gay and Lesbian Community Center and surrounding streets and businesses; and further authorizing the closing of North Andrews Square from N.W. 17 Street north to the dead-end (one and one-half blocks), and N.W. 17 Court from Andrews Avenue to the end of the Jackhammer property (one and one-half blocks) from 6:00 p.m. to 12:00 midnight on the event day.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1445 from Acting City Manager.

Event Agreement – Halloween Block Party**(M-7)**

A motion authorizing the proper City officials to execute an event agreement with **Las Olas Riverfront Associates** to indemnify, protect and hold harmless the City from any liability in connection with the **Halloween Block Party** to be held **Friday, October 31, 2003 from 7:00 p.m. to 11:00 p.m.** at Las Olas Riverfront; and further authorizing the closing of the eastbound lanes of S.W. 2 Street from S.W. 1 Avenue west to the railroad tracks from 6:00 p.m. Friday, October 31 to 6:00 a.m. Saturday, November 1, 2003.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1444 from Acting City Manager.

Event Agreement – 10th Annual Cranberry Jam**(M-8)**

A motion authorizing the proper City officials to execute an event agreement with **Covenant House Florida Inc.** to indemnify, protect and hold harmless the City from any liability in connection with the **10th Annual Cranberry Jam** to be held **Wednesday, November 26, 2003 from 5:00 p.m. to 11:00 p.m.** at Las Olas Riverfront; and further authorizing the closing of S.W. 1 Avenue from S.W. 2 Street south to the alley between Las Olas Riverfront and Las Olas Park Place from 9:00 a.m. to 12:00 midnight on Wednesday on the event day.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1435 from Acting City Manager.

Event Agreement – Florida Skate 2003**(M-9)**

A motion authorizing the proper City officials to execute an event agreement with **Style Ventures, Inc.** to indemnify, protect and hold harmless the City from any liability in connection with the **Florida Skate 2003**, which will begin in Cocoa Beach and end in Fort Lauderdale between **2:00 p.m. and 4:00 p.m. on Thursday, November 6, 2003.**

Recommend: Motion to approve.

Exhibit: Memo No. 03-1436 from Acting City Manager.

Event Agreement – 3rd Annual Classic Car Show and Street Fair**(M-10)**

A motion authorizing the proper City officials to execute an event agreement with the **South Andrews Business Association, Inc.** to indemnify, protect and hold harmless the City from any liability in connection with the **3rd Annual Classic Car Show and Street Fair** to be held **Saturday, December 6, 2003 from 9:00 a.m. to 4:00 p.m.**; and further authorizing the closing of South Andrews Avenue from Davie Boulevard to S.W. 17 Street, and S.W. 13 Street from S.W. 1 Avenue to Andrews Avenue from 6:00 a.m. to 6:00 p.m. on the event day.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1434 from Acting City Manager.

Event Agreement – Captain and Crew Christmas Party**(M-11)**

A motion authorizing the proper City officials to execute an event agreement with the **Old Town at Riverwalk Merchants Association, Inc.** to indemnify, protect and hold harmless the City from any liability in connection with the **Captain and Crew Christmas Party** to be held **Sunday, November 2, 2003 from 4:00 p.m. to 12:00 midnight**; and further authorizing the closing of S.W. 2 Avenue from S.W. 2 Street to the Riverwalk from 3:00 p.m. Sunday, November 2 to 3:00 a.m. Monday, November 3, 2003 (leaving S.W. 2 Street completely open).

Recommend: Motion to approve.

Exhibit: Memo No. 03-1433 from Acting City Manager.

Event Agreement – GLCCSF Bazaar/Yard Sale/Flea Market (M-12)

A motion authorizing the proper City officials to execute an event agreement with the **Gay and Lesbian Community Center of Greater Fort Lauderdale Inc.** to indemnify, protect and hold harmless the City from any liability in connection with the **GLCCSF Bazaar/Yard Sale/Flea Market** to be held **Saturday, November 1, 2003; Saturday, December 6, 2003; and Saturday, January 3, 2004 from 8:00 a.m. to 2:00 p.m.** at the Community Center located at 1717 North Andrews Avenue.

Recommend: Motion to approve.
Exhibit: Memo No. 03-1466 from Acting City Manager.

Agreement – the Estate of Delmas E. Aldridge - Warehouse Space for Parks and Recreation Department (M-13)

A motion authorizing the proper City officials to execute an agreement with the Estate of Delmas E. Aldridge to lease warehouse space for the Parks and Recreation Department at 1420 S.W. 3 Avenue for the period of November 1, 2003 through October 31, 2004.

Recommend: Motion to approve.
Exhibit: Memo No. 03-1121 from Acting City Manager.

Disbursement of Funds – Joint Investigation - O.R. No. 02-103359- \$1,044.12 U.S. Currency (M-14)

A motion authorizing the equitable disbursement of funds in the amount of \$1,044.12 with each of the 12 participating law enforcement agencies to receive \$87.01.

Recommend: Motion to approve.
Exhibit: Memo No. 03-10-1 from City Attorney.

Disbursement of Funds – Joint Investigation - O.R. No. 02-4202 - \$554,645.60 U.S. Currency (M-15)

A motion authorizing the equitable disbursement of funds in the amount of \$554,645.60, with each of the 12 participating law enforcement agencies to receive \$46,220.46.

Recommend: Motion to approve.
Exhibit: Memo No. 03-10-2 from City Attorney.

Disbursement of Funds – Joint Investigation - O.R. No. 02-67474 - \$1,621.59 U.S. Currency (M-16)

A motion authorizing the equitable disbursement of funds in the amount of \$1,621.95, with each of the 12 participating law enforcement agencies to receive \$135.13.

Recommend: Motion to approve.
Exhibit: Memo No. 03-10-3 from City Attorney.

Dock Lease Agreement – Searock, Inc. (d/b/a Allied Richard Bertram Marine Group) (M-17)

A motion authorizing the proper City officials to execute a lease agreement with Searock, Inc. (d/b/a Allied Richard Bertram Marine Group) for 650 lineal feet of dockage on the New River (slip numbers 1-6 and 10-17) for a term retroactive October 1, 2003 through September 30, 2004.

Recommend: Motion to approve.
Exhibit: Memo No. 03-1123 from Acting City Manager.

Excess Workers Compensation Insurance Coverage - Continental Casualty (M-18)

A motion authorizing the proper City officials to renew coverage with Continental Casualty for workers compensation claims exceeding \$1 million, at a cost of \$262,915 for the period of November 1, 2003 through October 31, 2004.

Funds: See Memo
Recommend: Motion to approve.
Exhibit: Memo No. 03-1469 from Acting City Manager.

Grant Acceptance – Florida Department of Community Emergency Response Team (CERT) (M-19)

A motion authorizing the proper City officials to accept a grant from DCA in the amount of \$19,657 for the CERT program; and further authorizing the proper City officials to execute any and all documents necessary to receive such grant funds.

Recommend: Motion to approve.
Exhibit: Memo No. 03-1142 from Acting City Manager.

Agreement for Purchase of Easement Rights – Boys' Club of Broward County, Inc. – Installation of Pump Station for WaterWorks 2011 Sewer Area 4 (M-20)

A motion authorizing the proper City officials to execute an agreement to purchase easement rights from the Boys' Club of Broward County, Inc. in the amount of \$1,050 for the installation of a pump station within a landscaped area of the Club parking lot at the southeast corner of its property located at 2621 S.W. 15 Street.

Funds: See Memo
Recommend: Motion to approve.
Exhibit: Memo No. 03-1055 from Acting City Manager.

Rejection of Bids – Project 10560 - (M-21)
Beach Wall Fiber Optic Lighting System Replacement

A motion authorizing the proper City officials to **reject** all bids for the beach wall fiber optic lighting system replacement project.

Recommend: Motion to approve.
Exhibit: Memo No. 03-1300 from Acting City Manager.

Change Order No. 1 – Arrow Directional Boring, Inc. - (M-22)
Project 10171-A – Force Main Replacement at S.W. 4
Avenue Directionally Drilled River Crossing

A motion authorizing the proper City officials to execute Change Order No. 1 with Arrow Directional Boring, Inc. in the amount of \$101,830.19 under the force main replacement S.W. 4 Avenue directionally drilled river crossing project.

Funds: See Change Order

Recommend: Motion to approve.
Exhibit: Memo No. 03-1471 from Acting City Manager.

Change Order No. 2 – United Engineering Corporation - (M-23)
Project 10171 – 24-Inch Force Main Replacement at
S.W. 4 Avenue (S.W. 5 Street to S.W. 19 Street)

A motion authorizing the proper City officials to execute Change Order No. 2 with United Engineering Corporation, in the amount of \$88,374.10 for additional work for the 24-inch force main 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. 03-1168 from Acting City Manager.

Task Order No. 33, Amendment No. 6 – CH2M Hill – (M-24)
Project 9076 - G.T. Lohmeyer (GTL) Wastewater
Treatment Plant Effluent Pump Station

A motion authorizing the proper City officials to execute Task Order No. 33, Amendment No. 6 with CHM2 Hill in the amount of \$64,500 for additional inspection services related to the GTL Wastewater Treatment Plant improvement project.

Funds: See Memo

Recommend: Motion to approve.
Exhibit: Memo No. 03-1314 from Acting City Manager.

Change Order No. 3 – Astaldi Construction Corporation (M-25)
Project 9766-B – Progresso Sanitary Sewer/Storm
Improvements Gravity Sewers and Water Mains

A motion authorizing the proper City officials to execute Change Order No. 3 with Astaldi Construction Corporation in the amount of \$44,904 for additional quantities associated with the Progresso Sanitary Sewer/Storm Improvements Gravity Sewers and Water Mains project.

Funds: See Change Order

Recommend: Motion to approve.

Exhibit: Memo No. 03-1472 from Acting City Manager.

Consent to Assignment – Browning Ferris Industries (M-26)
(BFI) to Waste Management – Solid Waste Collection Contract

A motion authorizing the proper City officials to execute a Consent to Assignment from BFI to Waste Management for the collection of payments for solid waste collection.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1310 from Acting City Manager.

Task Order No. 03-11 –Hazen and Sawyer, P.C. - (M-27)
Project 10722 – 48-Inch Prestressed Concrete
Cylinder Pipe (PCCP) Water Main Assessment

A motion authorizing the proper City officials to execute Task Order No. 03-11 with Hazen and Sawyer, P.C. in an amount not to exceed \$44,820 for engineering services associated with the 48-inch PCCP water main assessment.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-1315 from Acting City Manager.

Beautification Agreement – Broward County - (M-28)
Infrastructure Improvements for N.E. 6 Street
And N.E. 3 Avenue – JPI Residential Development

A motion authorizing the proper City officials to execute a beautification agreement with Broward County for infrastructure improvements including landscaping, utilities and hardscaping within the rights-of-way of Broward County on N.E. 6 Street and N.E. 3 Avenue. (Also see Item No. 2 on the CRA Agenda)

Recommend: Motion to approve.

Exhibit: Memo No. 03-1512 from Acting City Manager.

**Grant Agreement – Broward County Cultural Affairs
Division – Education and Community Development
Grant – Fine Arts Program/Instruction for Youth**

(M-29)

A motion authorizing the proper City officials to execute an agreement with the Broward County Cultural Affairs Division to accept a grant not to exceed \$17,100 for a comprehensive fine arts program/instruction for culturally underserved youth in the City.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1464 from Acting City Manager.

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|--------------------------|
| PURCHASING AGENDA |
|--------------------------|

**Proprietary – Agreement Revision, Lifepak Monitors
And Accessories**

(Pur-1)

A service agreement revision for Lifepak defibrillator/monitors and related accessories is being presented for approval by the Fire Rescue Department.

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|-----------------------|---|
| Recommended Award: | Medtronic Physio-Control Corp. Redmond, WA |
| Amount: | \$ 82,692.00 |
| Bids Solicited/Rec'd: | N/A |
| Exhibits: | Memorandum No. 03-1273 from Acting City Manager |

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

Proprietary – Rebuild Grit Clarifiers at GTL

(Pur-2)

An agreement to rebuild three grit clarifiers at GTL is being presented for approval by the Public Services Department.

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|-----------------------|---|
| Recommended Award: | Dorr-Oliver Eimco USA, Inc. Salt Lake City, UT |
| Amount: | \$ 1,007,171.00 (estimated) |
| Bids Solicited/Rec'd: | N/A |
| Exhibits: | Memorandum No. 03-1422 from Acting City Manager |

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

Co-Op – Contract for Quicklime**(Pur-3)**

An annual agreement for the purchase of quicklime is being presented for approval by the Public Services Department.

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|-----------------------|--|
| Recommended Award: | Chemical Lime Co. of Alabama, Inc. Mulberry, FL |
| Amount: | \$ 1,421,145.00 (estimated) |
| Bids Solicited/Rec'd: | 8/2 with 2 no bids |
| Exhibits: | Memorandum No. 03-1442 from Acting City Manager |

The Procurement and Materials Management Division recommends awarding to the low responsive and responsible bidders.

Waiver of formal bidding – Ductile Iron and PVC Pipe**(Pur-4)**

An agreement to purchase ductile iron pipe and PVC pipe is being presented for approval by the Public Services Department.

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|-----------------------|---|
| Recommended Award: | To be determined |
| Amount: | \$ 300,000.00 (estimated) |
| Bids Solicited/Rec'd: | N/A |
| Exhibits: | Memorandum No. 03-1399 from Acting City Manager |

The Procurement and Materials Management Division has reviewed this item and recommends waiver of formal bid requirements.

Proprietary – Replacement Meters and Spare Parts**(Pur-5)**

An annual agreement to purchase replacement meters and spare parts for parking meters City wide is being presented for approval by Administrative Services, Parking Services Division.

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|-----------------------|---|
| Recommended Award: | Duncan Parking Technologies Harrison, PA |
| Amount: | \$ 196,433.00 (estimated) |
| Bids Solicited/Rec'd: | N/A |
| Exhibits: | Memorandum No. 03-1421 from Acting City Manager |

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

FY 2003-04 Supplemental Fleet Plan**(Pur-6)**

An agreement to purchase 5 vehicles and equipment for the FY 2003-04 Supplemental Fleet Plan is being presented for approval by the Administrative Services, Fleet Services Division.

Recommended Award: Various Vendors
Amount: \$ 120,000.00 (estimated)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-1440 from Acting City Manager

The Procurement and Materials Management Division reviewed this item and recommends approving the FY 2003-04 Supplemental Fleet Plan with transfer of required funds for actual expenditures when costs are known.

Proprietary – Maintenance City Financial Accounting System (FAMIS)**(Pur-7)**

An annual maintenance and support agreement for the City's financial accounting system (FAMIS) is being presented for approval by the Administrative Services, Information Technology Division.

Recommended Award: Tier Technologies, Inc.
McLean, VA
Amount: \$ 127,840.00
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-1333 from Acting City Manager

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

Confiscated/Surplus Vehicle and Equipment Auction**(Pur-8)**

Prior approval of sale for any item that exceeds \$25,000 at the confiscated/surplus vehicle and equipment auction is being presented for approval by the Administrative Services Department.

Bids Solicited/Rec'd: N/A
Exhibits: List of confiscated and surplus vehicles

The Procurement and Materials Management Division recommends approving public auction sale to be held on November 19, 2003.

RFP 232-8906 – Grant Writing Services**(Pur-9)**

A two-year agreement for grant writing services is being presented for approval by the various departments.

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|-----------------------|--|
| Recommended Award: | Grant Development Plus Fort Lauderdale, FL Langton Associates Jacksonville, FL RMPK Funding Jupiter, FL In Rem Solutions Delray Beach, FL |
| Amount: | Per proposed fees |
| Bids Solicited/Rec'd: | 114/5 |
| Exhibits: | Memorandum No. 03-1449 from Acting City Manager |

The Procurement and Materials Management Division recommends awarding to multiple proposers.

The City Attorney stated that he wanted to remove some items from tonight's agenda and asked that the City Commission approve them subject to the approval of his office because the agreements had not come back yet, and they had not yet had an opportunity to review them in final form. The items for removal were M-3, M-4, M-5, M-7, M-10, M-11, and M-12.

Mayor Naugle stated that if any of those items were approved, they would be subject to the approval of the City Attorney's office.

Motion made by Commissioner Trantalis and seconded by Commissioner Hutchinson that Consent Agenda Item Nos. M-21, M-22, M-23, and Pur-9 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda items be approved as recommended. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis, and Mayor Naugle. NAYS: None.

Rejection of Bids – Project 10560 – Beach Wall Fiber Optic Lighting System Replacement**(M-21)**

Commissioner Teel stated that she had pulled this item and asked for an explanation as to the predictions for this feature. She stated that their history had been lacking in have a successful operation.

Hector Castro stated they were remorseful in putting this recommendation before the Commission because they had spent the last 3 years trying to find a suitable replacement for what they felt was a signature feature of the Beach. He explained that the original system had failed repeatedly and was a technology that did not exist well in a salt water environment. He stated they had found a replacement which they felt would work and certain tests were conducted, and the manufacturer was willing to give a pro-rated 10-year warranty. He continued stating that due to the current situation with the budget and the lack of funding for capital programs to support the City's infrastructure,

they felt this was frivolous at this point in time. He further stated that they hoped to return in the future and recommend this, but a separate bid process would then have to be conducted because the present bids would expire at the end of this month. He stated they were asking the Commission this evening to recognize that this was a valuable project supported by the Beach CRA, and a product was found that appeared to be maintainable, but they were recommending the saving of \$138,000 of General Fund CIP money and applying it to other more needed projects. Then, they could return in 1-2 years and reconsider the project.

Commissioner Teel asked if the system being considered would be viable or were they waiting for better technology. Mr. Castro stated that due to the salt water environment anything installed would require constant maintenance. He stated this system had been tested for a significant period of time (6-8 months) which had minimal failures, and they believed it could be maintained and operational for a long time. He reiterated that the manufacturer was offering a pro-rated warranty for most of the components for a 10-year period.

Commissioner Trantalis asked if any attempt had been made to seek other funding sources in order to secure monies to implement this lighting program. He stated that many hours of effort had been put into trying to restore this feature, and he felt it would be a waste to just throw the project to the wayside.

Mr. Castro stated they had not attempted to procure raising the \$138,000 that the General Fund would be contributing. He added the CRA was contributing the most they could, but the problem was that a portion of the wave wall was not within the CRA boundary, and such funds could not be used for that portion. He stated that the manufacturer was also giving the City a \$50,000 rebate.

Mayor Naugle suggested that possibly this matter could be tabled for 30 days in order to see if a sponsor from the community would come forward and help with the project.

Mr. Castro reiterated that the concern in regard to tabling this matter for 30 days was that the present bids expire at the end of this month. He stated they could ask the contractor if he was willing to hold them. Mayor Naugle stated that he felt the contractor would extend the time period.

Commissioner Hutchinson suggested that they contact Frank Herhold of the South Florida Marine Industries Association because he had asked about sponsorships for the wave wall at her district meeting.

Commissioner Moore stated that he did not feel they would be losing the lighting in following staff's recommendation at this time, but felt it would just be a delay in implementation. He further stated that he preferred the City pay for the lighting because he did not think there could be any indiscreet method available to advertise on the wave wall. He stated that the wave wall had significant impacts on tourists and the visual look of A-1-A, and he did not want to do anything that would allow advertisement on the wall. He stated he did not object to an attempt to seek sponsorships, but was concerned how the sponsors would want something discreetly placed on the wall.

Mayor Naugle asked if there was a motion to table this item for 30 days in the hopes that someone from the community would sponsor this project. Commissioner Hutchinson

stated that understanding if no one stepped forward that this project would be put on hold until the budget crisis was over.

Motion made by Commissioner Teel and seconded by Commissioner Trantalis that this item be deferred for 30 days in order to seek private funding for a portion of the wave wall, otherwise, the item would be delayed until the budget crisis was over.

Ina Lee, Chair of the Beach Redevelopment Advisory Board, stated that this matter came before their Board yesterday and they had voted to have this item pulled for discussion at tonight's meeting because they wanted to reaffirm their commitment of the importance of this project. She stated they wanted to ask the City to move forward since the Commission had approved their budget, and the money had also been budgeted for the City's portion. She reiterated that these lights were a symbol of the Beach and had been since it was built. She stated that about one month ago she had appeared before the Commission and submitted the Board's recommendations based on the ULI Report, and she had thought they were both headed in the same direction. She stressed if the City was building a world-class destination, they could not keep postponing key attractions. She asked for the Commission to move forward with this project. She stated she was concerned if the project was not funded now, it would not get done for a very long period of time. She stated she liked immediate results so they could demonstrate to the world what the Beach was and what it was going to become.

Mayor Naugle asked if she was in support of the action being taken tonight and would try and help to obtain a sponsor for the project. Ina Lee stated if no sponsor was found, she wanted the City's money which had previously been approved. She reiterated this project was important and needed to be done. Mayor Naugle stated that he hoped the Beach Redevelopment Advisory Board would assist in finding additional funds because it did not sound as if the project would get done otherwise.

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

**Change Order No. 1 – Arrow Directional Boring, Inc.
Project 10171-A – Force Main Replacement at S.W. 4
Avenue Directionally Drilled River Crossing**

(M-22)

Commissioner Hutchinson stated that she had pulled this item because a lot of discussion came about at her district meeting regarding S.W. 2nd Street and the steel plates still at 4th Avenue and 2nd Street. She asked when that would be completed.

Paul Bohlander, Assistant Utilities Services Director, explained that they had been plated for so long because the contractor had experienced difficulty in directional drilling under 2nd Street. As a result of the extended drilling operation, there were voids created in the vicinity of an FPL duct bank, and they had to be careful in pressuring those areas before they could restore the road base. He stated a grouter had begun work, but had not been successful and another one was lined up, and the roadway should be restored in the near future.

Commissioner Hutchinson asked what the proposed time frame would be. Mr. Bohlander stated it was his understanding the grouting operation had to be very deliberate and

could take about 30 days or so, and then road restoration would be done thereafter. He added that he would keep the Commissioner informed.

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

Change Order No. 2 – United Engineering Corporation (M-23)
Project 10171 – 24-Inch Force Main Replacement at
S.W. 4 Avenue (S.W. 5 Street to S.W. 19 Street)

The City Manager had pulled this item due to the fact that a clarification had to be made for the record.

Tim Ashmore, Waterworks 2011 Program, clarified that on the last page of the Change Order the days were summarized as 37 which had been based on calendar days, but it was actually a working day contract and the days should read as 29 days.

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

RFP 232-8906 – Grant Writing Services (Pur-9)

Commissioner Teel stated that she had pulled this item and asked if some additional background could be provided. She stated that individuals wanted to know how many grants they were going to apply for.

Kirk Buffington, Procurement Manager, stated that Robert Cook, Public Safety Grants Manager, could provide more detail on the matter. He further stated that there was an incredible number of grants that were available for application, but he was not prepared to state an exact number. Last year, he stated they only had one person and had done a Parks and Recreation item. He stated this was the first time they had done an RFP with multiple awards to leverage some of the grant opportunity that was available.

Robert Cooke, Grants Coordinator, stated that in regard to public safety, they applied for about 40-45 grants per year of which they were normally awarded 35. Based on what he could ascertain from putting out the RFP, he felt that upwards of 10-12 or possibly as high as 20 because in some instances cash matches would have to be made for as much as 50%.

Commissioner Hutchinson asked if any of the costs per grant could be paid through the grants. Mr. Cook replied that was not usually the case.

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

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| MOTIONS |
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Installation of Speed Humps – Riverland Neighborhood – S.W. 24 Avenue (Broward Boulevard To S.W. 10 Street) (M-30)

A motion approving the installation of speed humps in the Riverland Neighborhood on S.W. 24 Avenue between Broward Boulevard and S.W. 10 Street.

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

Contract Award – Executive Search Firm for Recruitment For City Manager (M-31)

A motion authorizing the proper City officials to execute an agreement with an executive search firm for the recruitment of the permanent City Manager.

Mayor Naugle asked how the Commission wanted to handle this item. Commissioners Teel and Hutchinson voiced their preference for a verbal discussion.

Kirk Buffington, Procurement Manager, stated that last week the Commission had been provided with 12 responses received for the recruitment of an executive search firm. He stated the Commission was to rank the responses in accordance with the sheet provided in the Friday memo that listed the criteria and the value for each criteria. He stated that some of it might be subjective depending on what they were looking for in a search firm. He further stated that a review had been made of the 12 responses in order to provide experience background for each proposer. He reiterated it was up to the Commission, as the Selection Committee, to review the responses and give their numerical ranking. He continued stating that staff had not made any specific recommendations.

Mayor Naugle asked if the Commission wanted to use the rating sheets that had been provided, or did they prefer to have a ballot vote. Commissioner Hutchinson stated she had already ranked her preference. Mayor Naugle stated that the sheets could be turned in and compiled, and results given later on during tonight's meeting.

Mr. Buffington stated that generally staff would go through the ranking and evaluation process, but due to the sensitivity of the position and the fact that the individual worked for the City Commission, the selection of the firm was chosen to be made by the Commission.

Commissioner Teel stated that since this was a new process for her, she felt that she would benefit hearing from staff regarding their experience with some of the firms listed.

Mayor Naugle stated that this item could be scheduled for the Special Meeting discussed this evening, or tonight they could list their top 3 preferences and then discuss the firms.

Commissioner Hutchinson stated she had spent a lot of time reviewing the proposals and looked forward to working with the top 3 she had chosen. She explained that she had ranked her top 5 firms, and was prepared to move with the choices she made.

Mayor Naugle suggested that the Commissioners submit their top 5 choices.

Commissioner Hutchinson asked what was the next step to be taken. Mayor Naugle stated the choices would be compiled and later on this evening there could be some further discussion.

Commissioner Moore asked if he could verbally submit his choices. Mayor Naugle confirmed. Commissioner Moore stated his choices were as follows: Performance Executive Search, MGT of America, and the Mercer Group.

Commissioner Trantalis stated his choices were as follows: MGT of America, Gerald Plock Associates, and the Mercer Group. He stated that he did not have a lot of expertise in choosing search firms, and that was why he had asked if staff was making any sort of recommendation.

Mayor Naugle stated his choices as follows: Waters Consulting, Gerald Plock Associates, and Performance Executive Search.

Commissioner Teel stated her choices as follows: Performance Executive Search, Colin Baezinger, and MGT of America.

Commissioner Hutchinson submitted her written choices to the City Clerk.

Continued on page 38.

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| PUBLIC HEARINGS |
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**Rezone RMM-25 to X-P, that Includes Site Plan
Approval – Jack and Jill Children’s Center, Inc.
(PZ Case No. 7-ZR-03)**

(PH-1)

At the August 27, 2003 Planning and Zoning Board regular meeting, the following application was approved by a vote of 6-0. Notice of public hearing was published October 9 and 16, 2003.

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

Mayor Naugle disclosed that he had been to the site.

Commissioner Hutchinson introduced the following ordinance on first reading:

ORDINANCE NO. C-03-35

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE FROM RMM-25 TO XP THAT INCLUDES SITE PLAN APPROVAL, LOTS 27 THROUGH 31, BLOCK 1, "SEMINOLE FOREST," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 14, PAGE 16, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED ON THE SOUTH SIDE OF NORTHWEST FIRST STREET, BETWEEN NORTHWEST 14TH AVENUE AND NORTHWEST 12TH AVENUE, IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND AMENDING THE OFFICIAL ZONING MAP AND SCHEDULE "A" ATTACHED THERETO TO INCLUDE SUCH LANDS.

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

Appeal of Planning and Zoning Board's Decision to Deny Rezoning from CR to B-1 – De Novo Hearing - Lauderdale Marine Center (PZ Case No. 5-Z-03)

(PH-2)

At the July 16, 2003 Planning and Zoning Board regular meeting, the following application was **denied** by a vote of 8-0; on October 7, 2003, the City Commission deferred first reading to October 21, 2003 by a vote of 5-0.

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| Applicant: | Lauderdale Marine Center |
| Request: | Appeal Planning and Zoning Board's decision To deny rezoning from CR (Commercial Recreation) to B-1 (Boulevard Business) |
| Location: | 2001 S.W. 20 Street |

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to defer first reading to November 18, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis, and Mayor Naugle. NAYS: None.

**Application for Dock Waiver of Distance Limitations
Peter J. Witschen and Kristi Stone-Witschen –
2547 N.E. 22 Terrace**

(PH-3)

A public hearing to consider a resolution for an application from Peter J. Witschen and Kristi Stone-Witschen for a dock waiver of limitations under Section 47-19.3.D of the

Code of Ordinances for property located on the Middle River with an address of 2547 N.E. 22 Terrace. Notice of public hearing was published October 9 and 16, 2003.

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

Commissioner Moore introduced the following resolution:

RESOLUTION NO. C-03-157

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, WAIVING THE LIMITATIONS OF SECTION 47-190.3.B & C OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE TO ALLOW PETER J. WITSCHEN AND KRISTI STONE-WITSCHEN, HUSBAND AND WIFE, TO CONSTRUCT AND MAINTAIN A BOATLIFT AND MODIFY AND MAINTAIN AN EXISTING L-SHAPED PIER THAT COLLECTIVELY EXTEND FROM THE PROPER LINE INTO THE ADJACENT MIDDLE RIVER A DISTANCE NOT TO EXCEED THIRTY (30') FEET FOR THE PROPERTY LOCATED AT 2547 N.E. 22ND TERRACE, SUCH PROPERTY BEING MORE PARTICULARLY DESCRIBED BELOW.

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

First Amendment to the Water and Wastewater Master Plan and Program Delivery Plan (WaterWorks 2011) - Riverland Annexed Areas

(PH-4)

A public hearing to consider a resolution for a first amendment to the Water and Wastewater Master Plan and Program Delivery Plan to include the unsewered parts in the Riverland annexed areas including the Chula Vista, River Landings and River Woods Neighborhoods. Notice of public hearing was published October 9 and 16, 2003. (Also see Item PH-5 on this Agenda).

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

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 03-158

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, ACCEPTING A FIRST AMENDMENT TO THE CITY OF FORT LAUDERDALE WATER AND WASTEWATER MASTER PLAN AND FIRST AMENDMENT TO THE PROGRAM DELIVERY PLAN FOR THE

WATERWORKS 2011 PROGRAM AND AUTHORIZING
IMPLEMENTATION OF THE PLANNING RECOMMENDATIONS
PROVIDED IN BOTH AMENDMENTS.

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

Amendment to Chapter 28 – Water and Wastewater (PH-5)
Master Plan – WaterWorks 2011 Program - Connection
Fee for Riverland Annexed Areas (Chula Vista, River
Landings and River Woods)

A public hearing to consider an ordinance amending Chapter 28 entitled “Water, Wastewater and Stormwater,” of the Code of Ordinance, providing an exception for owners of property within the Riverland Annexed Area from the requirement to pay the connection fee for connection to new sewer facilities under WaterWorks 2011; specifying that owner-occupants of residential properties may finance that portion of the connection fee that represents the dwelling unit occupied by the owners; including the connection fee for two family homes; and amending such other sections of Chapter 28 necessary to make all sections consistent. Notice of public hearing was published October 9 and 16, 2003. (Also see Item PH-4 on this Agenda).

Jackie Sulak, resident of Riverland, stated that she and her neighbors were concerned about the program. She continued stating that there were two distinct areas in the neighborhood and several dead-end roads were located to the north of Riverland Road, where the roadway was owned by the actual property owners. She stated the road was about 10' wide and trees and other vegetation outlined the area. She explained that when the different options were first introduced to their area regarding annexation, they were told there would be a master plan and if they became part of the City there would be a review, and the uniqueness of their area would be taken into consideration. Then, she had been informed that other areas had been excluded from upgrading the sewage because of the restrictions of the area. After extensive discussions, they wanted to know what was involved in being excluded due to the uniqueness of their area. She submitted pictures of the neighborhood.

Commissioner Moore asked why they wanted to be excluded. Ms. Sulak replied that they had seen what was happening with the sewage system being built on 31st Avenue, and the difficulty of getting to their homes and having the sewage system built would cause great inconvenience in getting to their homes, and would alter the area because a large number of trees would have to be removed.

Greg Kisela, Assistant City Manager, stated that there would have to be a two-step process in order to eliminate that neighborhood from the sewer program.

Commissioner Moore left the meeting at approximately 7:50 p.m. and returned at 7:51 p.m.

Mr. Kisela stated that first they would have to check with the County because pursuant to the Interlocal Agreement for the annexation, they had agreed to sewer the areas. The second step would be that a ballot would have to be done to confirm that the property owners wanted to be excluded from this program.

Mayor Naugle stated that before that process, he felt they needed to explain to the residents how they would be able to get to their homes if the project was done and what would have to be done. He felt they should see if it was technically feasible to do it in a way the neighbors could agree to so their lives would not be disrupted. He added that the area was in the River Basin and had poor soil conditions, and was one of the few areas in the City that would benefit from sewer installation. Mr. Kisela stated they would do that.

Commissioner Hutchinson stated it was an incredible area north of Riverland Road. She stated that the River Landings Homeowners Association had the same issues. She added they had drainage problems to solve, but they had the same 10' or 13' wide streets and wondered how they would be able to get to their homes during such a process. She felt the property owners should be given some direction, and then let them make their decision. She added that some streets south would also have the same problems.

Mayor Naugle stated it might be feasible to exclude some areas if there would be no way to physically have the owners get to their homes. Mr. Kisela stated that it might not be feasible to obtain additional easements. He further stated they could possibly look at a low pressure system, and added that there were different alternatives to sewerage without conventional gravity cuts.

Commissioner Moore asked if this area was eliminated would it push another neighborhood to the forefront in the process, and how many homes would be impacted. Mr. Kisela stated it was a small area and did not think it would dramatically impact the schedule. He stated there were 870 homes and he did not know how many were impacted by the smaller ingress and egress. He added that there might be 10 homes per lot.

Mayor Naugle stated that they could possibly take this neighborhood off the list, but then they would need their help in selling the County to do the same.

Commissioner Moore wanted to know what impacts there might be to running the system due to the calculations which had previously been made involving how the sewage would be paid, along with the capital improvements. Mr. Kisela stated that he would provide that information.

Commissioner Hutchinson reiterated that this area came into the City after such calculations had been made. Mayor Naugle added that they were going to lose about \$13 Million in that area. Mr. Kisela stated that financially, this exclusion would be a positive for the City.

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

Commissioner Hutchinson stated she would not want to approve this at second reading, if the issues were not resolved. Mr. Kisela stated that between now and the second reading staff would arrange for a meeting with the neighborhood to see if the issues could be resolved. He stated that an amendment could be made at the time of the second meeting.

The City Attorney stated they could make an amendment as long as it would fall within the title that had been advertised.

Commissioner Hutchinson stated that she wanted those residents to have a comfort level when leaving here this evening that the City would move forward with their request.

Mr. Kisela stated if there were solid technical reasons that sanitary sewers could not be installed in those streets that should be part of the criteria, but they had to be careful or the whole "house of cards" could crumble down. Commissioner Moore stated that when adjustments began being made from one to another, other residents could come forward and request the same.

Elizabeth Bennet, Riverland resident, stated that she was not leaving with a comfort level regarding this matter. She stated their roads appeared to be private driveways and really were since the taxpayers owned them. She felt the City should not be able to come in and state they were going to do something without giving the residents more information, and consider their input.

Mayor Naugle stated that between now and 2006 the matter would have to be resolved and a process would be held whereby the residents would be able to address the Commission. He stated that he doubted if anything would be resolved by the second reading.

Mr. Kisela further stated that if some of the roads were private, the City might not have the legal right to sewer them. Commissioner Moore stated the City did not have the right to go on anyone's property and asked that more detailed information be provided. Mr. Kisela confirmed. Commissioner Moore stated he also wanted to know the consensus of the community.

Commissioner Hutchinson introduced the following ordinance on first reading:

ORDINANCE NO. C-03-36

AN ORDINANCE AMENDING CHAPTER 28, "WATER, WASTEWATER AND STORMWATER," OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING AN EXCEPTION FOR OWNERS OF PROPERTY WITHIN THE RIVERLAND ANNEXED AREA FROM THE REQUIREMENT TO PAY THE CONNECTION FEE FOR CONNECTION TO NEW SEWER FACILITIES UNDER WATERWORKS 2011; SPECIFYING THAT OWNER-OCCUPANTS OF RESIDENTIAL PROEPRTIES MAY FINANCE THAT PORTION OF THE CONNECTION FEE THAT REPRESENTS THE DWELLING UNIT OCCUPIED BY THE OWNER; INCLUDING THE CONNECTION FEE FOR TWO FAMILY HOMES; AND A MENDING SUCH OTHER SESCTIONS OF CHAPTER 28 NECESSARY TO MAKE ALL SECTIONS CONSISTENT.

Commissioner Hutchinson clarified once more that staff would make a site visit between now and the second reading so when the second reading took place, there could be the possibility of adding some type of amendment, if necessary. Mayor Naugle confirmed.

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

Option to Change Payment for Sewer Improvements (O-1)
From Special Assessment to WaterWorks 2011 Program

An ordinance providing a method for owners of certain properties that are specially assessed for sewer improvements to elect to pay for these sewer improvements through the WaterWorks 2011 Program; providing a method to make such election; providing that a property owner making such election shall be subject to the regulations applicable to WaterWorks 2011 customers; providing that all property owners making such election shall be required to pay connection fees, surcharges and such other charges applicable to Waterworks 2011 customers as provided in Chapter 28 of the Code; providing for refunds of special assessment fees paid and providing for release of liens. Notice of proposed ordinance was published October 11, 2003.

Commissioner Hutchinson introduced the following ordinance on first reading:

ORDINANCE NO. 03-37

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING A METHOD FOR OWNERS OF CERTAIN PROPERTIES THAT ARE SPECIALLY ASSESSED FOR SEWER IMPROVEMENTS TO ELECT TO PAY FOR THESE SEWER IMPROVEMENTS THROUGH THE WATERWORKS 2011 PROGRAM; PROVIDING A METHOD TO MAKE SUCH ELECTION; PROVIDING THAT A PROPERTY OWNER MAKING SUCH ELECTION SHALL BE SUBJECT TO THE REGULATIONS APPLICABLE TO WATERWORKS 2011 CUSTOMERS AND SHALL BE REQUIRED TO PAY CONNECTION FEES; SURCHARGES AND SUCH OTHER CHARGES APPLICABLE TO WATERWORKS 2011 CUSTOMERS AS PROVIDED IN CHAPTER 28 OF THE CODE; PROVIDING FOR REFUNDS OF SPECIAL ASSESSMENT FEES AND PROVIDING FOR RELEASE OF LIENS.

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

Florida Department of Transportation (FDOT) - (R-1)
Local Agency Program (LAP) Agreement –
Bridge Replacement Project

A resolution authorizing the proper City officials to file an LAP application with FDOT for funding the design and bridge replacement project in the City and further authorizing the proper City officials to execute an LAP funding agreement with FDOT.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 03-159

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO FILE A LOCAL AGENCY PROGRAM APPLICATION WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION AND FURTHER AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO A LOCAL AGENCY PROGRAM AGREEMENT PERTAINING TO THE DESIGN OR DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO FIFTEEN BRIDGES LOCATED IN THE CITY OF FORT LAUDERDALE (BRIDGE REPLACEMENT PROJECT).

Which resolution was read by title only.

Commissioner Trantalis asked if the neighborhood would be permitted to participate in the design aspect regarding the bridge replacements.

Hector Castro, City Engineer, stated that for the most part they would be able to provide some input regarding the cross section, design and appearance. He stated that there were some issues on Las Olas Isles where some of the community did not want the bridges rebuilt, but from an engineering standpoint there was no choice in the matter. He reiterated that the bridges could be rebuilt in the same appearance as they were now.

Mayor Naugle stated if they participated in the design aspect, they could suggest ways to enhance the bridges.

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

**U.S. Coast Guard Bridge Regulatory Section – Request (R-2)
For Extension of New River Mandatory Bridge Closure
Schedule; and Broward County Traffic Engineering
Department – Request for Sequencing of Traffic Signal Lights**

A resolution authorizing the proper City officials to request the U.S. Coast Guard Bridge Regulatory Section to consider extending the mandatory bridge closure schedule effecting certain drawbridges on the New River; and further requesting the Broward County Traffic Engineering Department to review the current sequencing of traffic signal lights west of the approach to the Davie Boulevard Bridge to the New River for possible adjustment.

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-160

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA AUTHORIZING THE PROPER CITY OFFICIALS TO REQUEST THE U.S. COAST GUARD TO CONSIDER EXTENDING THE MANDATORY

BRIDGE CLOSURE SCHEDULE AFFECTING CERTAIN DRAWBRIDGES OVER NEW RIVER, SUCH DRAWBRIDGES BEING FURTHER DESCRIBED BELOW, AND FURTHER REQUESTING BROWARD COUNTY TRAFFIC ENGINEERING TO REVIEW THE CURRENT SEQUENCING OF TRAFFIC SIGNAL LIGHTS WEST OF THE APPROACH TO THE DAVIE BOULEVARD BRIDGE OVER NEW RIVER FOR POSSIBLE ADJUSTMENT.

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

Site Plan Level III/Conditional Use/RAC-UV – Tamatsu and Maizel Kobayashi and Charles March – Flagler Junction (R-3)
(PZ Case No. 130-R-02)

A resolution to consider an application filed by T. Kobayashi and C. March for approval of a Site Plan Level III/Conditional Use/RAC-UV as follows:

Applicant: Tamatsu and Maizel Kobayashi, and Charles March
 Request: Site plan level III/conditional use/RAC-UV approval
 Location: 721 N.E. 4 Avenue

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to defer first reading to November 18, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis, and Mayor Naugle. NAYS: None.

Site Plan Level IV Approval/IOA – Royal Atlantic LLC (R-4)
(PZ Case No. 135-R-02)

At the April 23, 2003 Planning and Zoning Board regular meeting, the following application was **denied** by a vote of 3-6. On June 17, 2003, this item was deferred for consideration to July 15, 2003 by a vote of 5-0; on July 15, 2003, this item was deferred for consideration to September 3, 2003 by a vote of 5-0; and on September 3, 2003, this item was again deferred for consideration to October 21, 2003 by a vote of 5-0. (Also see Item R-5 on this Agenda)

Applicant: Royal Atlantic LLC
 Request: Site plan approval/IOA
 Location: 435 Bayshore Drive

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to defer this item to November 18, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis, and Mayor Naugle. NAYS: None.

Plat Approval for “Royal Atlantic” Plat – Royal Atlantic LLC (PZ Case No. 31-P-02)**(R-5)**

At the April 23, 2003 Planning and Zoning Board regular meeting, the following application was approved by a vote of 9-0. On June 17, 2003, this item was deferred for consideration to July 15, 2003 by a vote of 5-0; on July 15, 2003, this item was deferred for consideration to September 3, 2003 by a vote of 5-0; and on September 3, 2003, this item was again deferred for consideration of October 21, 2003 by a vote of 5-0. (Also see Item R-4 on this Agenda)

Applicant: Royal Atlantic LLC
Request: Plat approval for “Royal Atlantic” plat
Location: 435 Bayshore Drive

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to defer this item to November 18, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis, and Mayor Naugle. NAYS: None.

Amendment to Resolution No. 03-49 – Intent to Sell Surplus Property – Fire Training Bureau Facility and Fire Station No. 29 – 2000 and 2002 N.E. 16 Street**(R-6)**

A resolution amending Resolution No. 03-49 to revise the minimum bid price from \$1,500,000 to \$1,250,000 for the property known as the Fire Training Bureau Facility and Fire Station No. 29 located at 2000 and 2002 N.E. 16 Street.

Commissioners Moore and Hutchinson stated that they could not support this item and wanted the money.

Horace McHugh, Assistant to the City Manager, stated that the Commissioners were suggesting it be sold and they obtain the money, and that was what this recommendation was about. He stated the only difference was that there was a minimum bid that was stipulated, and they wanted to remove the minimum bid and let the market dictate the amount. He stated the private sector would be able to do an assessment of the environmental condition, and whatever opportunities were available to underwrite or perform the mediation at a lower cost would be factored in.

Commissioner Moore reiterated that the memo stated that they were reducing the amount from \$1.5 Million to \$1,250,000. Mr. McHugh stated that the heading on the memo stated the bid was being reduced and that was an error and he was attempting to clarify the situation. He explained that the memo stated they were going to delete the minimum bid and have the market dictate the amount they would accept.

Commissioner Moore suggested that this matter be tabled until a memorandum could be provided that would be clearer as to what was being proposed.

Commissioner Moore asked if additional property had been acquired to sell this jointly. Mayor Naugle stated they had discussed that, but it had not been done. Commissioner Moore asked if there were contaminants at this site. Mr. McHugh confirmed. He further explained that the appraisal on the property had not taken into consideration the

environmental issues. Commissioner Moore reiterated that he was still not in support of this item.

Commissioner Hutchinson asked about the status of 826 E. Sunrise Boulevard. Mr. McHugh advised that the property had been purchased. Commissioner Hutchinson asked if some of the money would be used to pay themselves back. Mr. McHugh confirmed. Commissioner Hutchinson reiterated that she still would not support this item.

Mayor Naugle suggested they keep the minimum bid and see what happens.

Commissioner Trantalis stated that when this matter first came up there had been discussions regarding selling this to purchase property near the Executive Airport, and he asked when had it been decided to sell the property instead of retaining it and using it for public purpose. Commissioner Hutchinson stated that had been decided a while back. Mayor Naugle stated discussions were held to declare this surplus when they had bought the property on Sunrise.

Mr. McHugh further clarified that the site had a fire station and training bureau, therefore, a portion of the funds would be used to fund the training building near Executive Airport, and another portion would be used to fund the construction of Fire Station No. 29. He stated the determination had been made by the Commission and they had directed staff to move forward. He felt the issue now was the minimum bid, and he was hearing the consensus was not to do that, but the other issue was to modify the stipulation that a portion of the property be sold.

Greg Kisela, Assistant City Manager, explained that if the minimum bid continued as \$1,500,000, the Commission would not have to take any action at this time. He stated that he understood the Commission's concern, but when the minimum bid had been set, they thought the site was clean. They now knew the site required remediation. He cautioned that if they did not receive any bids, then they would lose time if it had to be adjusted in the future.

The Acting City Manager stated that he was going to clarify that if the Commission did not want to go down to the \$1,250,000, if they could still go forward with the \$1,500,000.

Request for Additional Dwelling Units/Downtown Regional Activity Center (OB)

Mayor Naugle stated that there was a request for additional dwelling units to be made to the Broward County Planning Council.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that a request be made to the Broward County Planning Council for additional dwelling units.

RESOLUTION No. 03-161

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE CITY MANAGER TO SEND A LETTER REQUESTING THE BROWARD COUNTY PLANNING COUNCIL TO AGENDA THE

RECERTIFICATION OF THE AMENDMENT TO THE CITY OF FORT LAUDERDALE LAND USE PLAN THAT ADDS RESIDENTIAL DWELLING UNITS IN THE NORTH AND SOUTH PORTIONS OF THE DOWNTOWN REGIONAL ACTIVITY CENTER; AUTHORIZING PREPARATION OF AN ORDINANCE REQUIRING DEVELOPMENT IN THE DOWNTOWN RAC UTILIZING ADDITIONAL DWELLING UNITS BE SUBJECT TO DESIGN GUIDELINES THAT ARE PART OF THE CONSOLIDATED MASTER PLAN AS ACCEPTED BY THE CITY COMMISSION.

Which resolution was read by title only.

Commissioner Moore left the meeting at approximately 8:30 p.m.

Commissioner Hutchinson clarified that a letter was needed to be sent to the Broward County Planning Council by October 28, 2003, and wanted that included as part of the resolution. Mr. Kisela confirmed.

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

Commissioner Moore returned at 8:32 p.m.

**Proposed Sketch Plat Near Executive Airport -
Temple Messianique Plat**

(OB)

Bud Bentley, Assistant City Manager, stated that this item had been distributed to the Commission earlier this afternoon and dealt with the Executive Airport. He explained that North Lauderdale and the County was processing a plat which, if approved, would result in a site plan that was inconsistent and incompatible with Airport use. He stated the City had expressed their objections to the County based upon their existing policy, and were now seeking concurrence from the Commission.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that the City object to the potential introduction of new non-compatible land uses on parcels located within a contour of concern.

Commissioner Teel stated that public comments were due to Broward County by October 20, 2003. Mr. Bentley clarified that such comments had been delivered to the County.

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

**Contract Award – Executive Search Firm for Recruitment
For City Manager (Continued from page 25)**

(M-31)

The City Clerk stated that the Assistant City Clerk and Procurement Manager had tallied the votes given by the Commission regarding the search firm to be selected. She announced that she had the ranking in order of 1, 2 and 3 votes. The votes were tallied as follows:

| | |
|------------------------|---------------|
| Performance Evaluation | 2 No. 1 votes |
| MGT of America | 1 No. 1 vote |
| Waters Consulting | 1 No. 1 vote |
| Collins Bassinger | 1 No. 2 vote |
| MGT of America | 1 No. 2 vote |
| Gerald Plock | 1 No. 2 vote |
| MGT of America | 1 No. 3 vote |
| Mercer Group | 2 No. 3 votes |

The City Clerk explained if the Commission wanted to proceed by the ranking, than Performance Evaluation had received 2 No. 1 votes. She further stated if they wanted to go by the number of votes, than MGT of America received 1, 2, and 3. She further explained that it depended on how the Commission wanted to tabulate the votes.

Kirk Buffington, Procurement Manager, stated that they had provided score sheets to the Commission, and if they wanted staff to go through the normal process that could be done. He emphasized this was brought to the Commission as quickly as possible due to the timeline involved.

Commissioner Hutchinson asked if this item could be discussed before the closed door session on October 28, 2003.

Commissioner Trantalis felt that whichever firm received the most No. 1 votes should be the firm selected. Commissioner Moore stated that he had just given names to be considered and had not ranked them in any order. Mayor Naugle stated that he had done the same.

Mayor Naugle stated that on October 28, 2003 at 10:00 a.m. the Commission would meet in public to discuss this matter, and this meeting would be recessed until then.

Mr. Buffington asked if the Commission would like the top 3 firms that had been ranked to give a presentation. Commissioner Moore stated he would prefer that. Mayor Naugle stated that if someone could not be available, then possibly a conference call could be instituted.

Commissioner Hutchinson clarified that some of them had ranked their firms, but some had not, and therefore, she asked if the firms had truly been ranked. She suggested the individuals who had not ranked their firms to do so, and then the calculations could be made and those top firms could make their presentations. Mayor Naugle stated he would rank his firms the way he had submitted them. Commissioner Moore clarified that the

firms which had received 3 and 2 votes should be the ones to make presentations. The Commission agreed and asked for those firms to be announced.

The City Clerk read the names of the top 3 firms as follows:

Performance Evaluation
MGT of America
Mercer Group

Commissioner Moore left the meeting at approximately 8:19 p.m.

Commissioner Hutchinson stated that she would like to have Gerald Plock added to the list because she had ranked her firms, and some had not.

This matter is continued on page 41.

**Florida Power and Light (FPL)/Sunrise Intracoastal
Construction**

(OB)

Greg Kisela, Assistant City Manager, proceeded to show photographs of the site.

Hector Castro, City Engineer, stated that due to comments offered by Commissioner Teel at the Conference Meeting this afternoon, he went to the construction staging area for the FPL construction at Sunrise Intracoastal. He advised that as of 5:00 p.m. this evening, they had removed about 70% to 80% of the dirt pile.

Mayor Naugle asked if they had shown a signed agreement stating they had permission from the owner to use the lot. Mr. Castro stated no such agreement had been shown to him, but he had spoken with the owner of the lot and he had confirmed that he had granted them permission to stage construction material and park equipment on the lot, but not for them to place residue at the site. He stated that the owner was concerned regarding any potential environmental impact as a result of any chemicals that would be present. Mr. Castro stated that the only chemicals he had found were 2 55-gallon drums of hydraulic oil at the site and showed pictures of those drums.

Mayor Naugle asked about the lot next to 751 that had been mentioned earlier today. Mr. Kisela stated they had not yet checked that site. Commissioner Hutchinson asked about the easement for the directional boring. Mr. Kisela stated they had requested copies of the easements from FPL. Mayor Naugle asked if they had followed-up as requested regarding the other lot. Mr. Kisela stated they had not.

Mr. Castro explained he had contacted the FPL representative and they were going to meet tomorrow, along with the contractor who was using the staging area. He advised when he had been to the site neither of the drums had been leaking and the soil around the drums did not appear to show any leakage. He stated he had also walked through the site and had not noticed any evidence of contamination, but that was an issue they would discuss at tomorrow's meeting.

Commissioner Teel asked if they had discussed the possibility of erecting some type of fencing around the lot so children would not be able to gain access to it. Mr. Castro stated he had only spoken with the FPL representative and had not yet spoken with the

contractor. He stated that his instructions to FPL had been that if they continued to use the lot as a staging area, then they would have to fence and secure the area, and would also have to maintain the lot better due to the large amount of debris at the site. He advised they would also be discussing the restoration of the site after completion of the construction. He stated the property owner wanted at least a portion of it excavated due to the possibility of contamination. Mr. Castro suggested that the southeast corner be excavated for such possibilities, and that dirt should be replaced before sodding. He stated that FPL had informed him that the contractor had committed to completely clearing the site by Friday, but had intended to then use the right-of-way as a staging area. He stated that he had informed them that would not be permissible.

Mr. Castro stated that one of the pictures showed a pile of concrete and asphalt rubble which was still there, but they had committed to having it removed by tomorrow.

Commissioner Hutchinson stated that FPL pushes their way into residential areas, and the City was not paying attention. She felt it was unconscionable that the District Commissioner was not aware of this project. She stated that they needed to go above Ms. Shatas and get the area fenced in, and inform them it was a requirement that it be done or the project would be shut down. Mr. Kisela stated they understood.

Commissioner Teel stated she was concerned because not only had they not been informed about the project, but it had gone on for 6-8 weeks and the neighborhood still had not been informed and the situation kept getting worse. She felt the neighborhood was being strung along until the project would have gotten done, and not do anything other than what they had wanted to do with complete disregard to the neighborhood.

Mr. Kisela stated that this had been permitted as part of the expansion for Colee Hammock and Victoria Park. Commissioner Teel stated that she had seen the documents regarding the project from the President of the Homeowners Association, and stated that the City, along with FPL, had 2 years to notify the neighborhood. Mr. Kisela stated that unfortunately more of the focus had been placed on Victoria Park and Colee Hammock due to the tree issue. Commissioner Teel stated they knew about that, and it was her opinion they had not notified their neighborhood because they were afraid they would have the same problems. She felt they were keeping this project under wraps for the same reason. She reiterated that she had lost all faith in FPL because of this and stated they were being very underhanded.

Mayor Naugle announced that the franchise would be coming up for renewal soon, and they should take this into consideration.

Mr. Kisela further stated that it was his understanding that notification had been sent to 51 or 52 property owners. Commissioner Teel stated it should have been sent to 52 homeowners, but she only knew of 3 individuals who had received them. She reiterated that she was not saying that the notification had not been sent, but they had not notified the Homeowners Association. She stated that possibly some of the notifications might have been discarded. Mr. Kisela stated they needed to do a better job in notifying the homeowners associations, as well as the District Commissioner, when any utilities planned to be in the area.

Contract Award – Executive Search Firm for Recruitment For City Manager (Continued from page 39)

(M-31)

The City Clerk proceeded to announce the ranking of the search firms as follows:

| | |
|-------------------------|---------|
| Performance Evaluation | 3 votes |
| MGT of America | 3 votes |
| Gerald Plock Associates | 3 votes |

Commissioner Hutchinson stated that she would go along with the consensus, but she felt they were missing out on some others which appeared very good.

It was the consensus of the City Commission to invite the top 3 firms for a special meeting on October 28, 2003 at 10:00 a.m. and consider awarding the contract at that time.

Commissioner Moore left the meeting at approximately 8:30 p.m.

Advisory Board/Committee Appointments

(OB)

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

| | |
|---------------------------|---------------|
| Marine Advisory Board | Peter Zachary |
| Planning and Zoning Board | Judith Hunt |

Commissioner Hutchinson introduced a written resolution entitled:

RESOLUTION NO. 03-162

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, and Mayor Naugle. NAYS: None.

Commission Reports

Building Permit Surcharge to Fund Historic Preservation Department

Commissioner Trantalis stated that as a result of the budgetary process, it was unfortunate that they were unable to fund the Office of Historic Preservation, and asked if the Commission would consider a surcharge be added to the cost of permits so a fund could be created for such a department. He felt if this matter was not taken seriously, they would never be able to engage in the type of preservation that was being discussed.

Mayor Naugle asked if a study or ordinance would be required.

The City Attorney stated that it would require a study and an ordinance.

Commissioner Trantalis stated he wanted to look into the feasibility as to whether that would be appropriate and legal, and if it could be implemented. The City Attorney stated they would return with a recommendation.

Mayor Naugle suggested that possibly the City Manager could estimate what costs would be involved before any further discussions took place. Commissioner Trantalis also suggested if the \$5.00 surcharge would be implemented, based on the number of permits issued yearly, what monies could be projected.

Artist Workplace

Commissioner Trantalis stated that the subject of artist workplace kept arising, and many individuals have approached him stating they had been cited by Code Enforcement that they had been occupying space which was non-conforming. He stated that in the past the City had issued temporary permits in certain circumstances, and asked if temporary occupational or use permits could be issued for such use. He felt that could help encourage artists into areas that had nothing else in their favor and provided the space which was needed for such work.

Cecelia Hollar, Construction Services Director, stated that no one had contacted her regarding a specific issue, but she was aware of the topic of discussion. As a matter of information, she stated that a temporary use permit was required to go before the Board of Adjustment and was only good for one year. She explained that the criteria would be that it had to be in compliance with the City's Comprehensive Plan. She stated that one of the issues they were reviewing as part of the Downtown Master Plan and the precinct planning which would follow were what types of uses should they permit and encourage that were not currently allowed. She reiterated that could be done as part of the precinct planning, along with looking at possible changes to the Code. She reiterated that would require Code amendment. She stated that possibly the issues involved in the complaint made were building and zoning code issues.

Commissioner Trantalis stated it appeared there were zoning code issues involved, and something needed to be done in the interim.

50th Birthday Celebration

Commissioner Trantalis stated he had celebrated his 50th birthday last week and it had been a great success. He explained the purpose was to raise money to plant trees on the Beach, and they had exceeded \$50,000 in contributions. He thanked everyone involved and hoped this would be the first step towards improving the Beach.

There being no other business to come before the Board the meeting was adjourned at 8:40 p.m.

Jim Naugle
Mayor

ATTEST:

Lucy Kisela
City Clerk