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FORT LAUDERDALE CITY COMMISSION
NOVEMBER 4, 2003**

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE, FLORIDA
NOVEMBER 4, 2003**

Meeting was called to order at 6:00 p.m. by Mayor Naugle on the above date, City Commission Meeting Room.

Roll call showed:

Present: Commissioner Christine Teel
Commissioner Dean J. Trantalis
Commissioner Cindi Hutchinson
Commissioner Carlton B. Moore (entered at 6:02 p.m.)
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 B. Dietrich & D. Lewis

Invocation was offered by Reverend Dr. Richard B. Anderson, First Presbyterian Church 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).

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to approve the agenda and minutes of the October 21, 2003 meeting.

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

Presentations

OB

1. Expressions of Sympathy

The Mayor and City Commission expressed sympathy to the families of Barbara Ericksen and Emily Rose Lipton.

2. Smoke Detector

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

3. Sister Cities

Mayor Naugle introduced Dr. John Fletemeyer who was going to make a presentation on behalf of Sister Cities.

Dr. John Fletemeyer stated that he had learned about Fort Lauderdale's Sister Cities Program about 6 months ago from Mayor Naugle, and that Cape Haitien was to be adopted as a Sister City. After some discussion, they had decided to start an aquatic safety initiative, and after much research he had discovered the seriousness of drowning in Cape Haitien. He stated that he had contacted Eddie Remy, President of the American Haitian Council, and decided to start their program with 3 important objectives in mind. The first objective was to provide as many Haitien children with water safety lessons, and a special book was written in French Creole and distributed to more than 8,000 individuals. The next objective was to teach as many Haitian children as possible how to swim which was problematic because the pools had no water in them due to fresh water being at a premium. Consequently, they could only fill one pool, but did so and trained 450 children. The third objective was to provide water training to members of the Fire and Police Departments. He stated that during their 5-day stay, 32 officers were given expert training.

Dr. Fletemeyer stated in regard to the program development, they had to overcome the hurdle of funding to pay for air transportation, equipment, and supplies. He announced that besides the International Swimming Hall of Fame stepping up to the plate, so did other companies and foundations, including Swims, Inc.; Swim Central, Every Child a Swimmer; Kiefer & Associates, Winn-Dixie Supermarkets; and the South Florida American Haitian Business Council. A team was assembled and their objectives were met.

Dr. Fletemeyer announced that 6 weeks from now they were going to bring Haitien policemen and firemen to Fort Lauderdale to receive some expert training. He stated they also planned on bringing a medical objective to the table and 3 doctors had volunteered their time and expertise to the program.

Dr. Fletemeyer recognized Ocean Rescue Lifeguards William Boyle, Eric Jersted and Randolph Merriweather for volunteering their time and efforts to the Greater Fort Lauderdale Sister Cities International organization to provide swimming and aquatic safety lessons to the children of Cape Haitien, Haiti.

4. United Way Campaign

Boe Cole, City Treasurer, stated that this was his first year in working on this campaign. He announced that Rachel Hirsh, United Way, would distribute forms to the Commission. Last year the City had raised \$84,025 which was part of the \$13 Million raised by United Way, and they were able to return about \$.81 out of each \$1.00 received. He stated that the monies raised stayed in Broward County, and their goal this year was to collect \$100,000.

Rachel Hirsh explained they had distributed 211 sheets which offered over 3,000 programs for the citizens of this City.

5. Allen Babcock Cat and Dog Rescue

Commissioner Hutchinson recognized Brasserie Las Olas for hosting the Allen Babcock Cat and Dog Rescue event held on October 2, 2003. She stated this was a "no kill" organization that helped animals throughout the County. She proceeded to thank Shirley Whelan and Doug Zeif for hosting the event which had raised over \$11,000.

Commissioner Hutchinson then proceeded to recognize the Host Committee.

6. Thanksgiving Food Drive

Mayor Naugle announced that the Fire-Rescue Department and the Fort Lauderdale Firefighters Benevolent Association will kick-off their annual Thanksgiving Food Drive on Saturday, November 1, 2003 which would run until Friday, November 21, 2003. Donations could be made at any Fire-Rescue Stations from 8:00 a.m. to 8:00 p.m., 7 days a week. Items could also be brought to City Hall, 1st Floor, and to the Fort Lauderdale Ocean Rescue Headquarters located at 501 Seabreeze Boulevard from 8:00 a.m. to 5:00 p.m. For additional information, one could call the City's Public Information Line at 954-828-4755.

**Downtown Master Plan – R-1 and
Amendments to the Employee Health Benefit Plan – R-6**

Mayor Naugle also announced that Item R-6 would be deleted from tonight's agenda and would be discussed at a future meeting. He also stated that Item R-1 would be deleted from tonight's agenda due to the Commission deciding to have a workshop on this matter on November 12, 2003. A final formal vote would then be taken on the matter on November 18, 2003.

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 – Orange Bowl Team Party**(M-1)**

A motion authorizing the proper City officials to execute an event agreement with the **Orange Bowl Committee** to indemnify, protect and hold harmless the City from any liability in connection with the **Orange Bowl Team Party** to be held **Saturday, December 27, 2003 from 12:00 noon to 4:30 p.m.** at South Beach.

Recommend:

Motion to approve.

Exhibit:

Memo No. 03-1539 from Acting City Manager.

Event Agreement – Eagle Dolphin Celebration**(M-2)**

A motion authorizing the proper City officials to execute an event agreement with the **North Beach Square Neighborhood Association, Inc.** to indemnify, protect and hold harmless the City from any liability in connection with the **Eagle Dolphin Celebration** to be held **Saturday through Monday, December 13 to 15, 2003 from 12:00 noon to 11:00 p.m. each day**; and further authorizing the closing of Sunrise Lane from N.E. 9 Street to the north end of the Parrot Lounge from 8:00 a.m. December 13, to 12:00 midnight Monday, December 15, 2003.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1538 from Acting City Manager.

Event Agreement – Military Vets Fund Raiser**(M-3)**

A motion authorizing the proper City officials to execute an event agreement with **U.S. Military Vets M/C Inc.** to indemnify, protect and hold harmless the City from any liability in connection with the **Military Vets Fund Raiser** to be held **Sunday, November 9, 2003 from 11:00 a.m. to 6:00 p.m.**; and further authorizing the closing of Sunrise Lane from N.E. 9 Street north to Sunrise Boulevard from 7:00 a.m. to 9:00 p.m. on the event day.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1468 from Acting City Manager.

Event Agreement – Mission Festival**(M-4)**

A motion authorizing the proper City officials to execute an event agreement with the **First Presbyterian Church of Fort Lauderdale, Inc.** to indemnify, protect and hold harmless the City from any liability in connection with **Mission Festival** to be held **Sunday, January 11, 2004 from 8:00a.m. to 12:30 p.m.** at the Church; and further authorizing the closing of Tarpon Drive from Tarpon Terrace to Brickell Avenue (400 block) from 12:00 noon Saturday, January 10, to 12:00 noon Monday, January 12, 2004.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1467 from Acting City Manager.

Event Agreement – USS Ronald Reagan All Crew Picnic**(M-5)**

A motion authorizing the proper City officials to execute an event agreement with the **Navy League of the United States-Fort Lauderdale Council** to indemnify, protect and hold harmless the City from any liability in connection with the **USS Ronald Reagan All Crew Picnic** to be held **Wednesday, November 12, 2003 from 11:00 a.m. to 3:00 p.m.** at South Beach.

Recommend: Motion to approve.

Exhibit: Memo No. 03-1541 from Acting City Manager.

Grant Agreement - Florida Department of Transportation (FDOT) - (M-6)
Highway Safety Funds – Bicycle and Pedestrian Safety

A motion authorizing the proper City officials to execute a grant agreement with FDOT for highway safety grant funds for one year in the estimated amount of \$64,500.

Recommend: Motion to approve.
Exhibit: Memo No. 03-1364 from Acting City Manager.

Return of Funds and Settlement Offer - (M-7)
In re e.spire Communications, Inc. et al, Bankruptcy
Case No. 01-00974(JWV), U.S. Bankruptcy Court,
District of Delaware

A motion authorizing the proper City officials to reject the bankruptcy trustee's request for return of funds and offer to settle claim a proposed in the September 29, 2003 correspondence from Special Counsel Kelly J. Shannon; and further authorizing the City Attorney or his designee to negotiate a settlement whereby the City would pay the bankruptcy estate up to 10 percent of \$42,794, or up to \$4,279.40, to settle the bankruptcy trustee's claim.

Recommend: Motion to approve.
Exhibit: Memo No. 03-2333 from City Attorney.

First Amendment to Development Agreement - (M-8)
New River Development Partners, Ltd. – Marshall's
Point (also known as Esplanade on the New River)

A motion authorizing the proper City officials to approve a first amendment to development agreement with New River Development Partners, Ltd. for modifications associated with Marshall's Point (also known as Esplanade on the New River).

Recommend: Introduce motion.
Exhibit: Memo No. 03-1489 from Acting City Manager.

Agreement – Comcast Cable Corporation - (M-9)
Institutional Network

A motion authorizing the proper City officials to execute an agreement with Comcast Cable Corporation for the provision of an institutional network for voice and data communications between major City buildings, in accordance with the cable services franchise agreement approved January 8, 2002.

Recommend: Motion to approve.
Exhibit: Memo No. 03-1533 from Acting City Manager.

Transfer of Parking Services Fund to Project 10392 - (M-10)
City Hall Garage Repairs and Improvements

A motion approving the transfer of \$33,228 from Fund 461, FD461.01/9922 (Parking Services Fund, Administrative Reserves, Renewal and Replacement) to Project 1392.461, City Hall Garage Repairs and Improvements.

Recommend: Motion to approve.
Exhibit: Memo No. 03-1479 from Acting City Manager.

Change Order No. 2 – Tenex Enterprises, Inc. - (M-11)
Project 9849 – Idlewyld Neighborhood Storm Drainage Improvements

A motion authorizing the proper City officials to execute Change Order No. 2 with Tenex Enterprises, Inc., in the amount of \$6,120 for additional work under the storm drainage improvements project for the Idlewyld Neighborhood.

Funds: See Change Order
Recommend: Motion to approve.
Exhibit: Memo No. 03-1473 from Acting City Manager.

Task Order No. 2 – Kimley Horn and Associates, Inc. - (M-12)
Project 10462 – Executive Airport Access and Security Program, Phase 2 (Upgraded Fiber Optic System for Gate Access)

A motion authorizing the proper City officials to execute Task Order No. 2 with Kimley-Horn and Associates, Inc. in the amount of \$242,425 for providing planning, design and construction services for installing an upgraded fiber optic system to manage gate access at Executive Airport. (Also see Item M-13 on this Agenda)

Funds: See Memo
Recommend: Motion to approve.
Exhibit: Memo No. 03-1480 from Acting City Manager.

Task Order No. 3 – Kimley Horn and Associates, Inc. - (M-13)
Project 10462 – Executive Airport Access and Security Program, Phase 2

A motion authorizing the proper City officials to execute Task Order No. 3 with Kimley-Horn and Associates, Inc. in the amount of \$18,600 for providing DBE support and monitoring services for the Executive Airport Access and Security Program, Phase 2 project. (Also see Item M-12 on this Agenda)

Funds: See Memo
Recommend: Motion to approve.
Exhibit: Memo No. 03-1481 from Acting City Manager.

Task Order No. 4- Kimley Horn and Associates, Inc. - (M-14)
Possible Impacts on Aviation at Executive Airport of
Airfield Development Alternatives proposed for Fort
Lauderdale/Hollywood International Airport

A motion authorizing proper City officials to execute Task Order No. 4 with Kimley-Horn and Associates, Inc. in the amount not to exceed \$40,000 to review possible impacts on aviation at Executive Airport of airfield development alternatives proposed at Fort Lauderdale/Hollywood International Airport.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-1531 from Acting City Manager.

Task Order No. 13 – CH2M Hill, Inc. - Project (M-15)
10365 – Temporary Program Management Office –
Water and Wastewater Master Plan Capital Improvement
Plan (WaterWorks 2011)

A motion authorizing the proper City officials to execute Task Order No. 13 with CH2M Hill in the amount of \$514,756 for the third and fourth years of the lease for the temporary program management office at 200 North Andrews Avenue for WaterWorks 2011, for the period through March 2006.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-1482 from Acting City Manager.

Payment of Portion of Design Fees – EDSA - (M-16)
Project 15393 – Downtown Development Authority
(DDA) 2nd Street Streetscape Improvements

A motion approving payment of \$22,700 to share costs with the DDA of additional design fees incurred by the firm of EDSA for preparation of plans and specifications for the 2nd Street Streetscape Improvement Project.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 03-1564 from Acting City Manager.

**Mutual Aid Agreement – City of Miami - Law
Enforcement Assistance for Free Trade Area
Of the Americas Ministerial Meeting – November 16-21, 2003**

(M-17)

A motion authorizing the proper City officials to execute a Mutual Aid Agreement with the City of Miami to provide law enforcement assistance during the Free Trade Area of the Americas Ministerial meeting to be held in downtown Miami November 16-21, 2003.

Recommend: Motion to approve.
Exhibit: Memo No. 03-1563 from Acting City Manager.

**Appointments to the Enterprise Zone Development
Agency (EZDA)**

(M-18)

A motion approving the appointment of five members to the EXDA; and further approving the staggering of terms as recommended.

Recommend: Motion to approve.
Exhibit: Memo No. 03-1336 from Acting City Manager.

PURCHASING AGENDA

Emergency Repair of Elevator at City Park Garage

(Pur-1)

An agreement for the emergency repair of the elevator at City Park Garage is being presented for approval by the Administrative Services, Parking Services Division.

Recommended Award: Florida Coast Elevator, Inc..
Fort Lauderdale, FL
Amount: \$ 32,000.00
Bids Solicited/Rec'd: 3/2
Exhibits: Memorandum No. 03-1507 from Acting City Manager

The Procurement and Materials Management Division reviewed this item and recommends approving the after the fact emergency repair.

Proprietary – Software Enhancements for Alarm Billing Systems (Pur-2)

An agreement to purchase software enhancements for alarm billing system is being presented for approval by Police and Administrative Services, Information Technology Division.

Recommended Award: Sunguard Pentamation, Inc.
Bethlehem, PA
Amount: \$ 20,000.00 (not to exceed)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-1518 from Acting City Manager

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

Proprietary – Parking Meter Parts and Materials (Pur-3)

An agreement to purchase parts and materials for multi-space parking meters citywide is being presented for approval by the Administrative Services, Parking Services Division.

Recommended Award: Schlumberger
Morristown, NJ
Amount: \$ 131,350.00 (estimated)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-1516 from Acting City Manager

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

542-8936 – Electrical Repair Services – Rehab Housing Program (Pur-4)

A one-year agreement for emergency electrical repair services is being presented for approval by the Community and Economic Development Department.

Recommended Award: D.G. Electric of Broward, Inc.
Amount: \$ 40,000.00 (estimated)
Bids Solicited/Rec'd: 63/3 with 1 no bid
Exhibits: Memorandum No. 03-1536 from Acting City Manager

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

State – 70 Chairs for Fire Stations**(Pur-5)**

An agreement to purchase 70 chairs for fire stations is being presented for approval by Fire-Rescue Department.

Recommended Award: Apricot Office Furniture (MBE)
Fort Lauderdale, FL
Amount: \$ 31,348.80
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-1008 from Acting City Manager

The Procurement and Materials Management Division recommends awarding purchase from the Florida State Contract.

Proprietary – Medical Evacuation Stair Chairs**(Pur-6)**

An agreement to purchase 25 medical evacuation stair chairs is being presented for approval by the Fire-Rescue Department.

Recommended Award: Stryker Corporation
Kalamazoo, MI
Amount: \$ 43,130.00
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-1140 from Acting City Manager

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

**Proprietary – Automated Fingerprint ID System
Maintenance****(Pur-7)**

An annual maintenance agreement the automated fingerprint ID system is being presented for approval by the Police Department.

Recommended Award: Printrak International
Anaheim, CA
Amount: \$ 45,972.00
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 03-1380 from Acting City Manager

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

Bridge Tending Services – 11th Avenue Swing Bridge**(Pur-8)**

An agreement to purchase bridge tending services on the SW 11th Avenue Swing Bridge is being presented for approval by the Public Services Department.

Recommended Award:	General Electric Company Duluth, GA
Amount:	\$ 71,415.00
Bids Solicited/Rec'd:	N/A
Exhibits:	Memorandum No. 03-1510 from Acting City Manager

The Procurement and Materials Management Division reviewed this item and recommends approving payment for services in accordance with Miami-Dade DOT Contract.

Motion made by Commissioner Hutchinson and seconded by Commissioner Trantalis that Consent Agenda Item Nos. M-1, M-2, M-3, M-8, M-14, M-15, M-17, M-20, Pur-3, Pur-5, and Pur-8 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda items be approved as recommended. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Event Agreement – Orange Bowl Team Party**(M-1)**

The City Attorney stated that he had pulled this item, and wanted it approved subject to later approval by his office.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that this item be approved as stated. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Event Agreement – Eagle Dolphin Celebration**(M-2)**

Mayor Naugle stated that he had pulled this item, and asked if this was tied to a charity or was it being done for the merchants. He stated that he had been informed there were to be liquor sales.

Sue Molnar, Special Events Coordinator, stated that this event was being put on by the North Beach Village Square Merchants Association. She advised that liquor would be sold and all funds would go towards the North Beach area.

Tim Schiavone explained this was the same organization they always used for their block parties over the last 20 years. He stated they were a non-profit merchants association, and explained they had to qualify with the City to be non-profit in order to close the street. He stated they were also required by the State to pull the temporary liquor license to be non-profit.

Mayor Naugle stated that normally when the City allowed merchants to use the street for commercial commerce, it was usually tied to a charity. Mr. Schiavone reiterated they had

to be non-profit, and explained that the funds would go back into the neighborhood to pay for security and create a beautification fund.

Mayor Naugle announced that they were looking for funds for the fiber optic lights along the wave wall.

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

Event Agreement – Military Vets Fund Raiser

(M-3)

Commissioner Trantalis stated that he had pulled this item and was questioning the name of this organization, and asked if the MC stood for motorcycle.

Sue Molnar, Special Events Coordinator, confirmed.

Commissioner Trantalis stated that he constantly received complaints from individuals regarding motorcycles going up and down A-1-A, and he was concerned that this event would cause more complaints. He stated that he was concerned that the individuals who had the motorcycles would have the noise elimination devices removed from them, and the beach would be very noisy on that day. He asked if such consideration had been given regarding this event.

Bill Tessaro, corporate officer for the organization, stated that they were a charitable non-profit organization who gave away their excess monies. Commissioner Trantalis reiterated that there was a lot of motorcycle noise for the Boat Show. He asked what assurances could be given that the individuals that would attend would have a noise muffling device on their motorcycles. Mr. Tessaro stated that there were statutes which required the level of noise permitted by motorcycles, and an individual had to adhere to such rules or they would be liable for fines. He stated they asked individuals riding motorcycles to any of their events to acknowledge the fact that some people do not appreciate the noise, and to operate their vehicles in a friendly manner.

Bobby Ofranós, owner of Bikini Bob's, stated that they told their customers not to go down the condo block, and they also distributed flyers telling them to keep their pipes down. He remarked they kept their establishment orderly and added that most of the customers were businessmen.

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

**First Amendment to Development Agreement – New River
Development Partners, Ltd. – Marshall's Point (also known
As Esplanade on the New River**

(M-8)

Commissioner Hutchinson stated that she had pulled this item, and stated that some discussion regarding this matter took place at her district meeting.

Scott Strawbridge, Chair of Riverwalk Trust Master Plan and Projects Committee, stated that Paul Rosen of Esplanade had been a terrific partner to work with, and his project was part of a development agreement with the City. He stated that it had come to their attention that there were to be 16 boat slips and 16 dedicated parking spaces. He further stated that he had discovered at the Marine Advisory Board meeting that the City had accepted a grant from the County for \$330,000 for this construction, and as a component they were obligated to provide half of the dockage for small boat day dockage which was something that was needed in the Downtown. He explained there was no code requirement for the parking places. He stated that they wanted to eliminate the 8 parking spaces on the water side. He explained that Mr. Rosen's architect had drawn up an alternative plan, and he felt this was their last chance to claim some extra green space.

Mr. Strawbridge stated that he hoped the Commission, in approving the extension, would send a message to staff to attempt to work out a modification to the development agreement.

Commissioner Moore left the meeting at approximately 6:35 p.m.

Tom Gleason, Chair of Marine Advisory Board, stated that he was present tonight to reinforce the recommendation made by the Board. He reiterated that they were recommending the project as designed and asked the Commission to not make any modifications, and to let the project move forward. He further stated that it was his understanding that staff had confirmed that it was not a requirement of the grant as to the dedication of the space. He continued stating they had always fought hard for the parking associated with the docks on the River, and the flexibility of retaining those spaces was needed.

Mayor Naugle stated that he had not had the benefit of looking at all the drawings and information. He realized that they were to approve some amendments to the agreement this evening, and he asked if the issue regarding the parking spaces could be scheduled for a Commission Conference Meeting.

Commissioner Hutchinson asked if they extended the completion of the different phases, could they still review the plan on November 18, 2003. Mayor Naugle stated that would give everyone time to offer their input on this matter. Commissioner Hutchinson stated that she wanted to see the exact language of the grant.

Commissioner Moore returned to the meeting at approximately 6:36 p.m.

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to approve the revised date for the completion of construction at Marshall's Point.

Len Beck, resident, stated that the neighbors wanted to raise the issue of traffic that would pass through the Esplanade. He stated there was presently a one-way area that was shared by everyone, and they were concerned about the increase in traffic and the safety for the children in the area. He further stated that they would like to have the 5th Avenue traffic stop opened up, and have the flow of traffic reviewed as to what they could expect in the future.

Mayor Naugle asked if this was part of the agreement that was to be approved this evening.

Hector Castro, City Engineer, stated that this had to do with scheduling and construction phasing, and would not preclude some design changes as long as the developer and the Tarpon River Civic Association and the City agreed.

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

Task Order No. 4 – Kimley Horn and Associates, Inc. – Possible (M-14)
Impacts on Aviation at Executive Airport of Airfield Development
Alternatives Proposed for Fort Lauderdale/Hollywood
International Airport

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

Task Order No. 13 – CH2M Hill, Inc. – Project 10365 - (M-15)
Temporary Program Management Office – Water and Wastewater
Master Plan Capital Improvement Plan (WaterWorks 2011)

Commissioner Trantalis stated that he had pulled this item due to the fact that some concerns had been raised at his district meeting regarding the spending of \$500,000 for a two-year lease. He asked if some further clarification could be offered as to the amount being spent.

Paul Bohlander, Assistant Utilities and Services Director, stated that it was his understanding that the \$16.50 for the first year, and the \$17.00 per square foot was a competitive rate. He stated those figures translated to roughly about \$175,000 per year for the lease portion of this Task Order, and explained that the remainder was for the maintenance of the office and for necessary improvements therein during the course of the lease period.

Commissioner Trantalis asked how many people worked on the site. Mr. Bohlander stated there were about 35-40 people, and due to some transitions that might occur there could be another 5-8 individuals.

Commissioner Moore suggested that this item be tabled so the Commission could have the opportunity to meet further with staff.

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

Mutual Aid Agreement – City of Miami – Law Enforcement Assistance for Free Trade Area of the Americas Ministerial Meeting – November 16-21, 2003

(M-17)

Commissioner Teel stated that he had pulled this item and asked if these officers would be working on overtime or scheduled during their regular shifts.

Chief Bruce Roberts, Police Department, explained that they had assembled a field force of about 50 officers from their specialized units, and their duty hours would be changed so as not to incur overtime. He further explained they were one of many agencies in South Florida responding to Miami's call for assistance. He stated they were only staffing one shift for one day.

Commissioner Teel asked if they were agreeing to extend mutual aid for other times in the future. Chief Roberts confirmed, and added it was a mutual aid agreement which expired in 2008, and they had plans how Miami could assist them in the future.

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

Proprietary – Parking Meter Parts and Materials

(Pur-3)

Commissioner Trantalis stated that he had pulled this item, and asked if there had been any attempt to consider modifying parking meters which they had that were at \$1.00 and \$1.25 per hour.

John Hoetzle, Assistant Parking Manager, stated that this item was for Schlumberger parts and that meter was their multi-space meter which accepted coins, credit cards, and bills. He stated they were constantly looking at other areas in the City where they could utilize such meters. He stated there were no plans at this time to install more of these meters.

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

State – 70 Chairs for Fire Stations

(Pur-5)

Commissioner Trantalis stated that he had pulled this item, and added that this matter had been raised during his district meeting.

Kirk Buffington, Procurement Manager, stated that if this was a purchasing procurement contract question, he could speak to that, but if it was a question of need the Fire Department could speak on that component.

Commissioner Trantalis stated that the community was hearing about the City's budget problems, but yet they were spending \$500 per chair. He asked if this was consistent

with past practices and was there some particular need that developed requiring these chairs.

Mr. Buffington explained that from a procurement point of view, they had obtained a competitive price for the chairs based on State contract. He explained further they had purchased these same types of chairs in the past.

Mayor Naugle stated that they had not gone out for competitive bids last time, and had done a proprietary purchase with poor performance results. He added these chairs were commercial and would hold up very well.

Mr. Buffington agreed and stated they had found a better chair on State contract with an additional negotiation clause.

Keith Allen, Fire-Rescue, stated that the previous chairs were 5-years old and had been residential chairs that did not hold up well and were beyond repair. He explained the ones they were now purchasing were commercial chairs that would hold up much better.

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

Bridge Tending Services – 11th Avenue Swing Bridge

(Pur-8)

Mayor Naugle announced that this was the only bridge under the City's control.

Commissioner Trantalis stated that he had pulled this item, and stated that the back-up material was unclear as to the amount of time this represented. He asked if this was a full year contract.

Kirk Buffington, Procurement Manager, stated that this was for a partial year that ran from April through September 30th. He further stated that two weeks ago they had awarded a new contract, and added they had some problems in piggybacking the original contract that was let by Miami DOT. He stated the since the City only had one bridge, they did not carry a lot of leverage if they did their own bid for bridge tending services. Therefore, traditionally they piggybacked DOT contracts. He stated that this represented from April through September. He further stated that the new contract was for \$150,000.

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

Interlocal Agreement – City of Oakland Park – Lightspeed Development of Regional Impact (DRI) (PZ Case No. 109-R-00)

(M-19)

A motion authorizing the proper City officials to execute an interlocal agreement with the City of Oakland Park for the Lightspeed DRI.

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

**Installation of Speed Humps – Harbor Beach Neighborhood -
Barbara Drive (S.E. 25 Avenue to South Ocean Drive)**

(M-20)

A motion approving the installation of speed humps in the Harbor Beach Neighborhood on Barbara Drive between S.E. 25 Avenue and South Ocean Drive.

Mayor Naugle remarked that the area was Harbor Inlet.

Peter Partington, Acting Assistant City Engineer, stated that this was a follow-up on the Harbor Inlet assessment project. He explained they had been requested to look at traffic speeds on two roads in the neighborhood. He stated they had followed the same criteria and guidelines that they had used in the other neighborhoods to determine whether either of the roads met the criteria for the City to consider the funding of speed humps.

Mr. Partington stated that regarding Barbara Drive, they had found that the criteria had been met for the length between Ocean Drive and 25th Avenue. Pictures were shown of the subject streets. He added that two speed humps were being proposed. He further stated that regarding the other road they had been requested to look at which was Harbor Inlet Drive, it did not meet the criteria, and therefore, staff was not recommending the installation of speed humps.

Robert Polan, 2619 Barbara Drive, stated that their neighborhood was one of the pioneer projects with the neighborhood improvement projects, and part of that project was centered around beautifying the neighborhood, including traffic calming devices which had been installed. He showed a photograph of the entryway into the neighborhood. He stated the traffic calming device which had been “pinch downs” had not worked. He showed a photograph which depicted skid marks on the roadway.

Mr. Polan stated that the residents on Barbara Drive were surveyed by the City in July, and the residents overwhelmingly voted in favor of speed humps. He stated that the City also required input from the adjacent property owners affected by the speed humps, and those residents had voted affirmatively for the speed humps. He urged that the two speed humps be approved for Barbara Drive.

Mr. Polan further stated they had requested the installation of a third speed hump to be installed in front of the community entrance due to people racing down the road in an attempt to make the bridge. He stated that even though they did not qualify under the previous plan, they had monies left over from their neighborhood improvement projects which had been designated for decorative street poles, and were asking that those monies be converted in order to pay for the additional speed hump. He added that the Harbor Inlet Association was also contributing money towards that speed hump.

Cheryl Abernathy, 2501 Barbara Drive, pleaded that the speed humps be installed. She stated there were over 100 children in the neighborhood and to walk and attempt to cross the streets was very dangerous. She stated that she had a copy of the Broward County Traffic Study which had been done in August, and it showed that 1/3 of the cars

in the area had been going the speed limit, 1/3 were slightly speeding, and 1/3 were going at excessive highway speeds. She reiterated that the speed hump at the gatehouse was important to set the tone for the neighborhood.

Cynthia Wormer, Marietta Drive, stated that she was present to show support for the ever-increasing families coming into the neighborhood. She stated the traffic needed to slow down and speed humps were needed.

Jennifer Uvolee, 2124 SE 18th Street, stated that she was also present on behalf of the Association. She stated that their beautification project was one of the first to be handled by the City, and one of the original purposes of that project dealt with speed calming. She stated that the neighborhood was going to be assessed over \$1300 per property making the total contribution of the neighborhood over \$400,000, and a contribution from the City in the amount of \$250,000. Therefore, their total project value was over \$600,000. She stated that in addition to approving the speed humps for Barbara Drive, they were requesting approval to use funds from their neighborhood fund to install speed humps on SW 23rd Street. She further stated that the City had ordered and received 22 poles and brackets for street signs and the cost of those was \$43,000. She advised that the City had installed 20, therefore, creating an amount of \$4,000 which was left in their fund. She continued stating that such poles were used throughout the City and were interchangeable, thereby not making it necessary to create a stockpile. She stated they did about a commercial area, and they wanted a speed hump installed in front of the gatehouse, and she asked the Commission to direct the Engineering Department to allocate funds which had already been assessed to their neighborhood in the amount of \$3,999.00 for the construction of such speed hump.

Chris Kineston, resident of Everglades House and member of the Harbor Inlet Association Board, stated that they had just been informed of this matter yesterday. She reiterated that Barbara Drive was a major ingress and egress roadway to the area, and the roundabouts had slowed down the traffic. She hoped they would reconsider this item and take into consideration that many individuals had not been aware of this matter.

Helen Jackson, 2000 S. Ocean Drive, stated that they had been given short notice about this matter. She explained that the roundabouts were supposed to be the panacea for the traffic, but evidently from what they were hearing they had not worked. She did not feel that installing speed humps would be the solution, and she felt more education and traffic enforcement was what was needed.

Alexis Yarbrough, attorney for Point of Americas, stated that their association had just recently heard about this matter. She stated Point of Americas was asking that the Commission not vote on this issue until they had the opportunity to review and comment on it. She stated further that the Commission was due to hear another item regarding the other road in the neighborhood, and asked if those two issues could be reviewed together. She stated that the Point of Americas had not been surveyed and in speaking with the City Attorney's Office she had been informed that only 25 surveys had been done. She stated they were requesting that the Commission defer voting on this matter at this time.

Ted Abernathy, 2501 Barbara Drive, stated there were many children in this area, and wanted to point out that there were other roads leading out of the neighborhood. He

stated this was also a public access route to the Beach. He stated that he was requesting the Commission to vote in favor of the speed humps.

Marsha Paige, Harbor Inlet Drive, stated that they wanted the speed humps on both roads.

Bill McShane, 1850 S. Ocean Drive, stated that cars went through the neighborhood at very fast speeds, and he was in favor of the speed humps.

Genia Ellis, Harbour Inlet Homeowners Association Board Member, stated that their project was one of the first self-assessment projects, and their criteria was clearly spelled out which included traffic calming, safety and beautification. She stated that staff should be commended in their work with the neighborhood. She added that the criteria was met for the speed humps, and they elected to use their funds to put a speed hump at the entryway. She stated further that it would delineate the commercial area from the residential area. She added that they wanted their speed limits maintained.

John Gettuso stated that he lived at the intersection of South Ocean Drive and Barbara and was also the President of Breakwater Surf Club. He stated he wanted any efforts that were possible to keep down the speeds of the cars, and they wanted the speed limits maintained because it was a residential area.

Commissioner Hutchinson stated that this was the first vote she had made in 2000 and added that this neighborhood was active in their assessment project. Some of the criteria involved beautification, but the other was traffic calming. She added that the "pinch downs" had not worked correctly, and the neighborhood had paid for them. She advised that they had funds which could be redirected, and she felt if they wanted to redirect such funds, she did not know why they could not do so. She stated her recommendation was to allow the neighborhood to redirect their monies.

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

Commissioner Teel stated that it appeared from the back-up that the City had to contribute to the cost of the speed humps.

Peter Partington clarified that the recommendation was that they fund the speed humps on Barbara Drive from the City's annual contract and the ongoing provision which was made for speed humps. Regarding Harbor Inlet Drive, the suggestion was that the City take the value of the spare poles, and apply that towards a speed hump located in front of the gatehouse on Harbor Inlet Drive. Commissioner Teel asked if such monies were available and were there other neighborhoods waiting and would they be taken out of turn. Mr. Partington explained that the assessment of the neighborhood sentiment was slightly taken out of turn because it was handled by the neighborhood services group. He stated that under the City's funding process for speed humps, this was coming before 2 or 3 others. He stated there were still funds available in the speed hump budget that could pay for this speed hump and the subsequent roads already in the system.

Commissioner Teel asked if they had looked at other streets because traffic always found other routes to take. She added that the police had told her in the past that in most

cases the speeders were residents of the neighborhood. She further stated that she was concerned about removing the problem from one street, and putting it elsewhere.

Mr. Partington stated that they did try and look at those issues up front, and they had made the assessment that they did not think there was a potential of that happening. He stated if the speed humps were approved, they would monitor the situation.

Mayor Naugle remarked that the motion before the Commission were speed humps for Barbara Drive only. Mr. Partington confirmed.

Commissioner Teel stated that the neighborhood looked beautiful and she had been very impressed.

Commissioner Moore stated that in seeing what this neighborhood had done in an effort to create its charm and identity, he was inclined to support their request. He added they were putting their money into the process in order to make the change, and he felt they should applaud such a move. He hoped they would be able to find a consensus process. He added that the original policy was that there had to be 70% of the community to participate in a vote regarding such changes. The Commission began discussions regarding that policy and had caused this to happen.

Commissioner Moore stated that the individuals in the condominium who stated they had just recently heard about this issue, he felt were not the speeders and the humps would not impact them in any negative way. He reiterated that he supported this item.

Commissioner Teel stated that her neighborhood was in need of a pole since FPL had destroyed one. She added that she was in support of this item.

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

Mr. Partington clarified that the approval was for all 3 speed humps for Barbara Drive and Harbor Inlet. Mayor Naugle stated that the recommendation had been for Barbara Drive only. Commissioner Hutchinson stated she thought her recommendation was for all three speed humps.

Commissioner Moore asked if they wanted to reconsider the motion. Commissioner Hutchinson confirmed.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to reconsider the previously passed motion. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore, and Mayor Naugle. NAYS: None.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore that three speed humps be installed in the neighborhood.

Mayor Naugle asked regarding 23rd Avenue was it a two-lane speed hump. Mr. Partington confirmed and stated the speed hump would be located at the gatehouse.

The Acting City Manager clarified that the third speed hump would be paid for out of the neighborhood's assessment funds. Commissioner Hutchinson confirmed, and stated that

once this issue and other landscaping issues were resolved, the City could then bill them for their assessment which began in 2000.

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

**Consent Election Agreement for Representation Election
For Police Captains**

(OB)

Motion made by Commissioner Teel and seconded by Commissioner Hutchinson to approve the consent election agreement for the representation election for police captains. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, and Mayor Naugle. NAYS: Commissioner Moore.

**Rezone RD-15 to RC-15 – Sovereign Development VIII
(PZ Case No. 14-Z-03)**

(PH-1)

At the September 17, 2003 Planning and Zoning Board regular meeting, the following application was approved by a vote of 7-0. Notice of public hearing was published October 23 and 30, 2003.

Applicant:	Sovereign Development VIII
Request:	Rezone property from RD-15 to RC-15
Location:	2881 S.W. 18 Terrace

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

Commissioner Moore introduced the following ordinance on first reading:

ORDINANCE NO. C-03-38

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE FROM RD-15 TO RC-15, ALL OF BLOCK "A", "CLAIR LAKE", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 28, PAGE 26, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED BETWEEN SOUTHWEST 19TH AVENUE AND SOUTHWEST 18TH TERRACE, SOUTH OF SOUTHWEST 28TH STREET AND NORTH OF THE WESTERLY EXTENSION OF SOUTHWEST 30TH STREET, IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND AMENDING THE OFFICIAL ZONING MAP AND SCHEDULE "A" ATTACHED THERETO TO INCLUDE SUCH LANDS.

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

**Site Plan Level IV – City of Fort Lauderdale, Fort
Lauderdale Community Redevelopment Agency (CRA),
and Palazzo Las Olas Group, LLC – Palazzo Las Olas
(PZ Case No. 101-R-02)**

(R-7)

At the March 19, 2003 Planning and Zoning Board meeting, the following application was approved with conditions by a vote of 5-4; (Also see the CRA Item No. 3 on this Agenda, and Items M-21, PH-2, PH-3 and PH-4, all on this Agenda)

Applicant:	City, CRA and Palazzo Las Olas Group
Request:	Site plan level IV approval
Location:	200 Las Olas Circle

Mayor Naugle announced that this was a quasi-judicial matter. All individuals wishing to speak on this matter were sworn in.

Don Morris, Planning and Zoning, stated that the City had selected this proposal from those submitted in response to an RFP to redevelop CRA owned property located on the north and south sides of Las Olas Boulevard immediately east of the Intracoastal Waterway. He explained that the request included two development sites which were north and south, and were separated by Las Olas Boulevard. He further stated that for purposes of this analysis, the proposal had been reviewed only pursuant to the ULDR. Compliance to the approved RFP was reviewed by CRA and legal staff.

Mr. Morris continued stating that the north and south development sites were evaluated separately. He explained that the north development site included three 7-story mixed-use buildings. He stated that Building No. 1, or the north building, included 15,788 sq. ft. of retail space.

Bill Scherer, attorney representing Palazzo, stated that he wanted to state a point of order in terms of the presentation. He asked if his group would be permitted to set up their equipment, and asked if cross examination of this witness would be allowed.

Commissioner Moore left the meeting at approximately 7:28 p.m.

Mayor Naugle explained the procedure was that everyone had a chance to speak, and at the end cross examination could take place. He also stated that he was going to ask their team how much time would be needed for their presentation so the matter could be discussed. He explained that normally presentations to the City Commission lasted about 15-20 minutes and that issue could be discussed and negotiated. He stated that these meetings were according to procedure normally followed, and he was attempting to accommodate everyone.

Mr. Scherer further stated that these quasi-judicial hearings of this nature and size did not come along very often. Mayor Naugle stated that he probably had heard about 200 to 300 of them, and no one had ever interrupted staff before during their initial presentation. Mr. Scherer reiterated that they had the right to cross examine. Mayor Naugle explained that at the end of all the testimony, cross examination could take place.

Commissioner Moore asked how much time was required for his group to set up for their presentation. Mr. Scherer stated they needed approximately 5 minutes. Commissioner Moore suggested that the Commission recess for 5 minutes so both presentations could be set up.

Mayor Naugle asked what was involved for their group to set up. Mr. Scherer explained that they had electronic monitors and a great deal of evidence that had to be put in the record. He stated they wanted to do this in an organized way consistent with their due process rights.

**MEETING WAS RECESSED AT 7:28 P.M.
RECONVENED AT 7:35 P.M.**

(Commissioner Moore returned at approximately 7:37 p.m.)

Mayor Naugle asked the Palazzo team how much time they were going to need for their presentation. Mr. Scherer stated that they needed more than an hour. Mayor Naugle asked the Commission if they wanted to proceed with the other items on the agenda before hearing this matter. Commissioner Hutchinson suggested that the other items on the agenda be heard so that individuals not wanting to stay could then leave. It was the consensus of the Commission to proceed with the agenda.

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

(O-1)

At the August 27, 2003 Planning and Zoning Board regular meeting, the following application was approved by a vote of 6-0. Ordinance No. C-03-35 was published October 9 and 16, 2003, and passed on first reading October 21, 2003 by a vote of 5-0.

Applicant:	Jack and Jill Children’s Center, Inc.
Request:	Rezone from RMM-25 to XP, that includes site plan approval
Location:	East side of N.W. 14 Avenue, between West Broward Boulevard and N.W. 1 Street

Commissioner Hutchinson introduced the following ordinance on second 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 Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None

Amendment to Chapter 28 – Water and Wastewater Master Plan – WaterWorks 2011 Program – Connection Fee for Riverland Annexed Areas (Chula Vista, River Landings and River Woods) (O-2)

An ordinance amending Chapter 28 entitled “Water, Wastewater and Stormwater,” of the Code of Ordinances, 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 owner; including the connection fee for two family homes; and amending such other sections of Chapter 28 necessary to make all sections consistent. Ordinance No. C-03-36 was published October 9 and 16, 2003, and passed on first reading October 21, 2003 by a vote of 5-0.

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to defer second reading to Tuesday, February 3, 2004 at 6:00 p.m. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, and Mayor Naugle. NAYS: None.

Option to Change Payment for Sewer Improvements from Special Assessment to WaterWorks 2011 Program (O-3)

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. Ordinance No. C-03-37 was published October 11 and 25, 2003, and passed on first reading October 21, 2003 by a vote of 5-0.

Commissioner Moore returned to the meeting at approximately 7:37 p.m.

Commissioner Hutchinson introduced the following ordinance on second reading:

ORDINANCE NO. C-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 MTEHOD 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 Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Amend Chapter 28 – Increase Stormwater Management Program Rates (O-4)

An ordinance amending Chapter 28 of the Code of Ordinances, entitled “Water, Wastewater and Stormwater,” by amending Section 28-197 thereof to increase Stormwater Management Program rates effective December 1, 2003. Notice of proposed ordinance was published October 25, 2003.

Commissioner Hutchinson introduced the following ordinance on first reading:

ORDINANCE NO. C-03-39

AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, ENTITLED “WATER, WASTEWATER AND STORMWATER,” BY AMENDING SECTION 28-197 THEREOF, TO INCREASE STORMWATER MANAGEMENT PROGRAM RATES.

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

Notice of Proposed Change – Extend Development of Regional Impact (DRI) Buildout Date – Spectrum Business Park Association (PZ Case No. 40-R-03) (O-5)

At the October 15, 2003 Planning and Zoning Board regular meeting, the following application was approved by a vote of 7-1. Notice of proposed ordinance was published October 25, 2003.

Applicant:	Spectrum Business Park Association
Request:	Notice of proposed change – extend DRI buildout Date to November 29, 2010
Location:	Southwest intersection of N.W. 21 Avenue and West Commercial Boulevard

Commissioner Hutchinson introduced the following ordinance on first reading:

ORDINANCE NO. C-03-40

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING ORDINANCE NO. C-84-55 AS AMENDED BY ORDINANCE NO. C-86-13, ORDINANCE NO. C-89-24, ORDINANCE NO. C-90-97, ORDINANCE NO. C-93-70 AND ORDINANCE NO. C-98-24 OF THE CITY OF FORT LAUDERDALE, FLORIDA, WHICH ORDINANCES APPROVED AND AMENDED THE DEVELOPMENT ORDER FOR THE SPECTRUM DEVELOPMENT OF REGIONAL IMPACT ("DRI") LOCATED IN A PORTION OF SECTION 16, TOWNSHIP 49 SOUTH, RANGE 42 EAST, SOUTH OF COMMERCIAL BOULEVARD, BETWEEN NORTHWEST 15TH AVENUE AND NORTHWEST 21ST AVENUE, WITHIN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA; FINDING THE PROPOSED CHANGE TO THE SPECTRUM DEVELOPMENT OF REGIONAL IMPACT TO BE A NON-SUBSTANTIAL DEVIATION, PROVIDING FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW, PROVIDING FOR EXTENSION OF THE BUILDOUT DATE TO NOVEMBER 29, 2010, AND PROVIDING FOR RECORDATION.

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

CITIZEN PRESENTATIONS

P.J. Hardy – Police Department

Mr. Hardy stated that he wanted to discuss 3 incidents concerning the same police officer. The first incident was in regard to someone breaking into his car. He explained that the police officers had found the burglar in his car and had let the canine dogs attack the individual. Another incident was in regard to seeing a police officer attacking a black man. When he attempted to intervene, the police officer had stopped his call to 911, broke his phone, and placed him in handcuffs. Then, the officer began slamming the door on his legs breaking a foot and fracturing his wrist. Another incident occurred on Halloween night. He explained that he had been handcuffed and DUI tests ran on him. He asked why this test was run for no reason. He stated he was asking the Commission to take some form of action in such instances.

Mayor Naugle stated that any citizen who had complaints could file them with the Chief and then Internal Affairs would investigate the matter. Afterwards, the issue would be

brought before the Citizens Review Board followed by a recommendation from the Police Chief.

(Continued on page 29)

Emily LaRosa – Parking Meters on East Las Olas Boulevard and S.E. 8 Street

Emily LaRosa stated that she was a retailer on E. Las Olas Boulevard at S.E. 8 Street. She stated that the meters in her area were now up to \$.75 per hour, and the customers on the Boulevard were no longer able to shop because they did not carry lots of quarters in their pockets. She stated they didn't mind the amount being raised, but the correct machines should be used so that dollar bills, credit cards, and coins would be accepted. She further stated if purchasing new meters was not in the budget, then she suggested that the amount be lowered back to \$.25 until the proper meters could be installed. She stated the customers ran in and out, the parking lot was empty, and the retailers were suffering. She announced that she was also being supported by the Las Olas Association in regard to this matter. She stated the equipment was not customer friendly and reiterated that the area needed the business because 13 shops had closed during the last 3 months. She emphasized that they needed a good season and tourists needed to be invited to stroll through the area and not be rushed due to expiring parking meters.

Mayor Naugle asked if the City had plans to install different machines in the area.

Doug Gottshall, Parking Services Manager, stated that they had plans to explore the use of debit cards in the meters at the back streets of Las Olas in H lots, and some of the other lots. He further stated that the Schlumberger machines on Las Olas did take bills, coins, and credit cards. He explained they were willing to explore implementing those processes in the larger lots throughout the City, but stated they were very expensive and they would not be able to afford such machines if they rolled back the rates.

Commissioner Hutchinson asked if they could use the Schlumberger machines in the back because they had been installed in the Himmarshee area. Mr. Gottshall stated it was an expensive proposition, and they would explore the matter because he did not know if the fund could sustain such an expense at this time. He believed after a year of revenue increases, the option might be available. He stated that in the meantime the existing meters could be converted, and they were exploring that at this time with the manufacturer. He added that recently the Commission had authorized the purchase of the Smart Park device which was the personal parking meter that any individual could purchase and use with unlimited capability.

Mayor Naugle asked how many spaces were in the H lot. Mr. Gottshall replied there were about 124 spaces. Mayor Naugle asked when they were planning on installing a multi-space device. Mr. Gottshall reiterated they had no plans at this time to install a multi-space device in the lot because the current meters there have the capability of accepting a debit card, and they were exploring the installation of that with the manufacturer.

Ms. LaRosa stated that they were now entering the season, and she felt the meters should be reduced back to \$.25 until something logical was done. She stated the meters had been changed overnight and no notice had been given, therefore, she felt they could be reduced in the same way. She stated that the Smart Pass was not for tourists and shoppers, but was more for a business person. She stated that lot brought in a lot of

revenue and announced that she had about \$800 in tickets in that lot. She advised that she was also a member of the Las Olas Merchants Association, and they were supporting her in this matter, but stated that a lot of the stores were not owned by the Association.

Mayor Naugle suggested that possibly someone from the Parking Division could attend the Association's next meeting and discuss this issue.

Ms. LaRosa stated that she had written a letter to the Parking Manager, and the only recommendations the department had made was in regard to the Smart Cards. She reiterated that while matters were being explored, time was ticking away. She emphasized that until a decision was made, the meters needed to be reduced to \$.25. She reiterated if they were going to do something, they should do it the right way.

Mayor Naugle asked the District Commissioner if it would be a good idea to have a meeting with the merchants, along with the Parking Division. Commissioner Hutchinson agreed and asked for the costs to be provided involving the installation of the Schlumbergers versus converting the meters to debit cards.

Mr. Gottshall stated that the cost to convert the machines to debit cards would be significantly less than installing the multi-space meters. He added that the multi-space meters normally ran between \$9,000 to \$10,000 a unit, and that lot would probably require 5-6 such machines.

Commissioner Hutchinson asked how many parking spaces were there on Las Olas and A-1-A at the surface lot. Mr. Gottshall stated that there were 274 spaces at the Oceanside lot, and there were 6 Schlumbergers in that lot. He explained it was not so much the number of spaces in the lot, but the design of the lot.

Ms. LaRosa stated that at this time the lot was empty during the day, and they were losing revenue.

(continued on page 29)

Skip Ferrera – Trash Transfer Station

Skip Ferrera stated that he owned property in the Riverside Park Subdivision, and stated that the trash transfer station had been established due to illegal dumping throughout the City. He further stated that originally there had been no charge in order to attract individuals to use the station. Now, he stated the City had grown and he felt there was a need to maintain public and private property, and the bulk pick-up program was not adequate. He announced that about 1,000 loads of trash was brought into the station by City residents on a weekly basis, and at the present rate of \$10 per load which was reasonable compared to charges at other locations, \$500,000 annually was received in revenue. He stated that it was his understanding that the station needed \$1,500,000 to \$2,000,000 for operating costs with a deficit of \$1 Million to \$1.5 Million. He stated it was obvious that the fee for the station needed to be increased. If the station was closed, he felt there would be more illegal dumping throughout the City.

Mr. Ferrera asked if the station was ultimately closed, what would the land use be for that facility. He had been told that the property had originally been used for the burning of trash prior to the opening of the Wingate facility. He realized that the City was facing

many financial problems, and he did not expect this matter to take precedent over some of the issues, such as employee salary reductions, but he urged the Commission to revisit this matter.

Mark E. Thompson – Affordable Housing

Mark Thompson stated he was the volunteer Director for a non-profit organization known as the Southeast Affordable Housing. He explained that since mid-May they had been working closely with the Community and Economic Development Office on behalf of 13 potential first-time home buyers. He stated the program provided grant assistance for such individuals based on income qualifications and other criteria. He stated they had received a list of buildable sites which were available, but there appeared to be issues regarding the conveyance of the properties. He stated they had met with Mr. Bentley in late August who had suggested they approach the Commission. They had been informed that staff could request the Commission to deem properties to be available.

Mayor Naugle asked for staff to supply some further information, and asked what was the hold-up on the lots.

Commissioner Moore stated that this was a time for individuals to state their concerns, and he did not think it was appropriate to enter discussions regarding the matter. If there was an interest on behalf of the Commission in this matter, then the item could be placed on the agenda for further discussion.

Mayor Naugle asked Mr. Bentley why he had suggested that this individual approach the Commission. He asked if this was a policy decision to be made by the Commission.

Bud Bentley, Assistant City Manager, stated that the ultimate distribution of these properties would be a Commission decision, and certain legal issues were presently being addressed. He further stated that they hoped to have this matter as a conference item in the near future.

(continued on page 30)

P.J. Hardy and Emily La Rosa

(continued from pages 26 and 27)

Commissioner Moore stated that two citizens had made some comments which concerned him, and he had not addressed those issues at the time due to the procedure of how those items were brought before the Commission.

Commissioner Moore stated that regarding the individual who had addressed the police incidents, he asked if the Police Chief had made any attempt to speak to the individual and attempt to resolve the matter.

Chief Bruce Roberts, Police Department, stated that the one case that was alluded to they had investigated time and again and advised it had also been reviewed by the State Attorney's Office. He explained that some of the allegations which he had made had been captured on the tape at the Communications Center which refuted his claims as to what had occurred. He stated the most recent arrest which had been mentioned as

having taken place on Halloween, they had just been informed and Internal Affairs was looking into the complaint.

Commissioner Moore asked if the department was aware as to the identity of the police officer involved. Chief Roberts replied that they were aware of the officers involved in both instances, and the individual knew the officer by name.

Commissioner Moore stated that in regard to the parking meter issue, he did not have any problem regarding the suggestion made in regard to the matter, but he wanted everyone to recall why the recommendations had been made for the increase of the rates for that area. He further stated that he hoped staff would submit an assessment regarding the design of the parking lot.

Mark E. Thompson –

(continued from page 29)

Commissioner Moore stated that this Commission, along with the past Commission, had discussed the availability of lots in the City and a process to be used in regard to those lots. Recently, the Commission had accepted two individuals who had responded to an RFP who were dealing with a model row-home development. He stated that he wanted the Commission to be aware of the fact that they had gone through a public process, as they would do with any publicly owned property, and a competitive process was established. He believed that the development agreement was recently completed regarding that project.

Downtown Master Plan

(R-1)

A resolution accepting the Consolidated Master Plan for the downtown and discussing an amendment to Section 47-13.20, Downtown Regional Activity Center (RAC) Review Process and Special Regulations and such other sections of the Unified Land Development Regulations (ULDR) to provide requirements for the allocation of any dwelling units in excess of the 5,100 dwelling units presently permitted in the Downtown RAC. Notice of public discussion was published October 25, 2003.

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel to defer consideration of this item to November 12, 2003 at 3:00 p.m., and a formal consideration for a vote on November 18, 2003 at 6:00 p.m. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Plat Approval – Dad and Lad Enterprises, LLC
“Edgewood Landings” Plat (PZ Case No. 4-P-03)

(R-2)

At the September 17, 2003 Planning and Zoning Board regular meeting, the following application was approved by a vote of 7-0.

Applicant:	Dad and Lad Enterprises, LLC
Request:	Plat approval for the “Edgewood Landings” Plat
Location:	1600 S.W. 32 Place

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-163

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING A PLAT KNOWN AS "EDGEWOOD LANDINGS."

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

Lot Clearing and Cleaning Charges**(R-3)**

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

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-164

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, ASSESSING AGAINST THE PROPERTIES DESCRIBED IN THE SCHEDULE ATTACHED HERETO THE COST AND EXPENSE OF CLEARING LOTS FOUND TO HAVE AN UNLAWFUL OR EXCESSIVE ACCUMULATION OF RUBBISH, DEBRIS OR TRASH UNDER CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, AND IMPOSING SPECIAL ASSESSMENT LIENS AGAINST SUCH PROPERTIES FOR THE COST AND EXPENSE INCURRED IN CLEANING AND CLEARING SAME; AUTHORIZING AND DIRECTING THE PROPER CITY OFFICIALS TO RECORD A NOTICE OF SPECIAL ASSESSMENT LIEN IN THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

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

Demolition of Buildings**(R-4)**

At its meeting of October 16, 2003, the Unsafe Structures and Housing Appeals Board recommended the City demolish the following buildings and assess the properties with all the appropriate costs.

- A. 528 N.W. 7 Terrace
- B. 3111 Houston Street
- C. 1717 and 1721 N.W. 6 Place
- D. 1725 N.W. 6 Place

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-165

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

Which resolution was read by title only.

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

Commissioner Moore stated he wanted to commend staff on their attempt in getting the buildings demolished, but he still felt it was taking too long.

Florida Water Law

(R-5)

A resolution urging the Governor and State Legislature to oppose modifications to the existing Florida Water Law as proposed by The Council of 100.

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03-166

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, URGING THE GOVERNOR AND THE FLORIDA LEGISLATURE TO SUPPORT EXISTING FLORIDA WATER LAW AS IT RELATES TO THE SALE OR TRANSFER OF WATER ALLOCATIONS, LOCAL SOURCES FIRST, OR ANY OTHER PROVISIONS IN LAW THAT PROTECT THE STATE'S WATER RESOURCES OR ITS AUTHORITY TO PRESERVE WATER FOR THE NATURAL SYSTEM AND URGING THE GOVERNOR AND LEGISLATURE TO OPPOSE MODIFICATIONS TO FLORIDA WATER LAW THAT SHIFT WATER SUPPLY ALLOCATIONS FROM A PUBLICLY REGULATED PROCESS TO A MARKET DRIVEN PROCESS OR THAT UNDERMINE THE FUNDAMENTAL PRINCIPLES THAT ESTABLISH A RIGHT-OF-USE, NOT A RIGHT-OF-OWNERSHIP OF FLORIDA'S WATER RESOURCES.

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

Amendments to the City's Employee Health Benefit Plan – PPO and EPN Benefit Levels**(R-6)**

This item had been deleted from tonight's agenda.

Proposed Lien Settlements – Special Master and Code Enforcement Board Cases**(M-22)**

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

1. 801 NW 14 Way (CE02102351) – L. Rizor, Jr. and Mary B. Rizor - \$5,500.
2. 742 NW 10 Terrace (CE00051884) – Wesley Lovett and Johnny Bynes - \$152,100.
3. 1467 SW 18 Avenue (CE02090642) – Christa Alban Lakaschus - \$850.
4. 268 SW 32 Court (CE02110294) – Worldwide Yacht Sales and Charter - \$1,200.
5. 1220 Riverland Road (CE03031342) – John Greenfield - \$7,500.
6. 537 NW 7 Terrace (CE03012074) – Ada Rappaport - \$4,700.
7. 2200 NW 6 Court (CE02022054) – Flamingo Capital Inc. - \$12,225.
8. 900 NW 24 Avenue (CE03011017) – Tonya Sevalia and Cynthia Walden - \$2,300.
9. 647 NW 14 Terrace (CE00121091) – Viola Blount Est. % Mr. Beres E. Muschett - \$12,160.

Mayor Naugle suggested that these items be deferred until November 18, 2003. He then proceeded to ask if anyone had a time problem and could not wait until that date.

Tonya Sevalia stated that she was present in regard to No. 8 900 NW 24 Avenue (CE03011017). She explained that she had been before the Commission last month and had spoken regarding her property. She advised there would be a closing on her property. She stated further she was not in agreement with the settlement being proposed, and asked if the fines could be waived.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to approve Item No. 8 as recommended. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to defer all other lien settlements listed above until November 18, 2003. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Site Plan Level IV – City of Fort Lauderdale, Fort Lauderdale Community Redevelopment Agency (CRA), and Palazzo Las Olas Group, LLC – Palazzo Las Olas (PZ Case No. 101-R-02)**(R-7)**

Matter continued from page 22.

Commissioner Trantalis asked if staff could start their presentation from the beginning.

Commissioner Moore left the meeting at approximately 8:13 p.m. and returned at 8:18 p.m.

Don Morris, Planning and Zoning, stated that the City had selected this proposal from those submitted in response to an RFP to redevelop CRA owned property located on the north and south sides of Las Olas Boulevard immediately east of the Intracoastal Waterway. He explained that the request included two development sites which were north and south, and were separated by Las Olas Boulevard. He further stated that for purposes of this analysis, the proposal had been reviewed only pursuant to the ULDR. Compliance to the approved RFP was reviewed by CRA and legal staff.

Mr. Morris continued stating that the north and south development sites were evaluated separately. He explained that the north development site included three 7-story mixed-use buildings. He stated that Building No. 1, or the north building, included 15,788 sq. ft. of retail space, a 4,000 sq. ft. restaurant located on the 7th floor, 1,434 sq. ft. police substation office, 40 residential units, and 317 parking spaces. He explained that Building No. 2, central building, includes 21,158 sq. ft. of retail space, 2,032 sq. ft. lobby/management office, 29 residential units, and 864 parking spaces. He stated that Building No. 3, south building, includes 31,199 sq. ft. of retail space, 1,562 sq. ft. residents health club, 29 residential units, and 397 parking spaces.

Mr. Morris stated that the following and building yard modifications were requested as part of the north development site plan level IV approval:

Building No. 1 had a request for an east yard modification of 0-20' where 20' was required. An east/west structure with modification of 32.33' to allow for a 232.33' wide structure where 200' was the maximum permitted.

Building No. 2 requested an east/west structure with a modification of 76' to allow for a 276 wide structure where 200' was the maximum permitted. A north/south structure link modification of 24' to allow for a 224' long structure where 200' was the maximum permitted.

Building No. 3 requested a south yard modification of 9' – 11' where 20' was required. An east yard modification of 12.5' to 16' where 20' was required. An east/west structure with modification of 22.33' to allow for a 222.33' wide structure where 200' was the maximum permitted.

Mr. Morris explained that the buildings were separated by public access easements which align with Poinsettia and Banyon Streets to the east running from Birch Road to provide a connection to Las Olas Circle. He stated that 21 on-site spaces were provided along the assess easements, as well as 11 parking spaces along Birch Road. He further stated that the ULDR required a minimum building separation of 20% of the height of the tallest building, and in this instance the tallest building was Building No. 1 which was 90'2", and therefore, an 18.03' separation would be required. Buildings Nos. 1 and 2 had a separation of 53.5', and Buildings Nos. 2 and 3 were separated by 44'2".

Mr. Morris continued stating that the building facades were treated with an Italian architectural theme which included cornices, canopies and balconies. He explained that

a pedestrian arcade was proposed along the restaurant and retail uses on the ground floor and would face Birch Road, Las Olas Circle and Las Olas Boulevard. He further stated that a clock tower was also proposed at the southeast corner of the south building.

Mr. Morris explained there were 551 parking spaces required to accommodate the various uses within the 3 buildings, and the applicants had provided 554 parking spaces, and pursuant to the RFP an additional 1,045 City spaces had also been provided. He announced that there would be a total of 1,599 spaces on the north development site. He stated that the south development site included a 15-story condominium tower.

Mayor Naugle asked how many spaces out of the 1,599 would be valet. Mr. Morris stated that he would have to check on that matter.

Mr. Morris stated that the south development site included a 15-story condominium tower and a 2-story office building for City use. He explained that the condominium tower would include 75 residential units, and 136 parking spaces. He stated that recreational amenities included a pool, weight training and aerobic areas, as well as conference and meeting rooms. He further stated that a 32 space exterior parking lot was proposed east of the building.

Mr. Morris stated the following modifications and yard modifications were being requested for the condominium tower as part of the site plan level IV process:

A north yard modification of 20' for a 0 yard where 20' was required. An east/west structure with a modification of 63.92' to allow for a 263.92' wide structure where 200' was the maximum permitted.

Mr. Morris stated that he had been informed that there were 118 valet spaces out of the 1,599 spaces.

Mr. Morris advised that the City building would include 3,000 sq. ft. of office space and a 12-space exterior parking lot which was proposed south of the building. He explained that no building or yard modifications were being requested.

Mr. Morris explained that the architectural theme of the tower mirrored the theme of the north development site. However, since this was not a mixed-use building, an arcade would only be provided along the north elevation which was Las Olas Boulevard. He added that simulated arcades would be provided along the remaining elevations. He stated further that the architectural theme of the City building was also Italian but varied in the balcony and window design. He stated that the condominium tower required 158 parking spaces, and the City building requiring 12 spaces for a total of 170 parking spaces. He advised that the applicant would provide 180 spaces. He stated that 21 additional parking spaces were proposed under the Las Olas Bridge for the use of the marina, and were not included in the parking analysis for either development site.

Mr. Morris further stated that the two sites would remain connected by Las Olas Circle and the applicant had proposed improvements in the form of landscaping and pedestrian crosswalks. The intersection of Birch Road and Las Olas Circle would also be reconfigured to improve traffic flow. He also stated that the applicant had provided a traffic study indicating the number of net trips that would be generated by this

development. The City's traffic consultant, Hughes, Hughes, Inc., had reviewed the study and based upon the submitted information had determined that 400 new net trips would be generated by this proposal. He stated that the maximum number of trips allowed in the Central Beach RAC was 3,220.

Commissioner Trantalis asked if the 400 additional trips were per hour. Mr. Morris stated that he would have to defer to the traffic consultant for that answer.

Mr. Morris continued stating that to date the total approved net trips in the Central Beach RAC were 1,643. He stated that including this proposal, there were 5 other developments pending that would generate an additional 443 trips. If those developments were approved, the remaining trips in the Central Beach RAC would be 1,132.

Mr. Morris stated that additional comments regarding the applicant's traffic study and site plan had been provided as Exhibit 2.

Molly Hughes, traffic consultant, stated that the peak hour trips were during the weekday which was the portion of the week they monitored for the beach action plan. Commissioner Trantalis clarified that they were saying that 3,000 cars could pass through the Circle at peak hour. Ms. Hughes stated this was a reference to the total number of trips, and the larger number were those trips which had been pre-approved in a Commission action several years ago with regard to total trips that the beach could handle. Commissioner Trantalis asked how many trips could the Circle handle. Ms. Hughes stated that she could make some calculations and then provide an answer. Commissioner Trantalis stated if they were anticipating approximately 400 trips generated for the Circle during peak hour during the week, how would that relate to the traffic study in terms of what the Circle area could properly handle. He asked how that would compare to the 400 figure provided. Ms. Hughes clarified that the applicant's traffic study showed that 400 weekday p.m. peak hour trips would be generated on the network, and many of them would be on the Circle. She further stated that the current capacity of the Circle was somewhere in the 8,000 to 11,000 daily trips range. She explained that the number of daily trips that this project would generate would be about 4,500. She reiterated that the amount of capacity would be significantly affected by this project. She stated the volume as of today was low and in about the 4,000 range.

Commissioner Trantalis asked who had made the decision that the area could handle 10,000 cars per day. Ms. Hughes stated that was a rough estimate of the capacity of that particular roadway.

Mr. Morris continued stating that the proposal was consistent with the Comprehensive Plan Policy 6.1 which stated: "Facilitate desirable redevelopment activities through innovative land development techniques." He further stated that Objective No. 11 stated: "Utilize the Beach Design Guidelines to create and enhance a positive image of the Central Beach." He stated that this item had been reviewed by the Planning and Zoning Board on March 19, 2003, and they had recommended a 5-4 approval of this request with the following conditions:

1. A valet parking agreement would be required.
2. Speed limit on Las Olas Circle would be limited to 10mph

3. Construction Mitigation Plan to be provided which included the mandatory wrapping of the building using the materials shown
4. De-watering filters were to be utilized.
5. Regular meetings were to be scheduled with the neighborhood groups.
6. A telephone number, along with the name of a contact person, was to be provided to the residents.
7. Additional insurance was to be available for area condominiums.
8. Boat maintenance was to be provided as described.
9. Street closure plan was to be set in place similar to that of Alhambra and Jackson Tower guidelines.
10. Trash management plan to be provided.
11. Plan addressing the combination for the Boat Show was to be executed.
12. Welcome Center located on Parcel "B" shall be addressed.
13. Developer shall contribute \$300,000 towards the traffic light at Cortez and Seabreeze.

Mr. Morris stated that the applicant had submitted a narrative addressing each condition and was included in the project narrative as Item No. 3 and Exhibit 3 in the Commission's memorandum. He stated further that Section 47-12.5.A.5.vi allowed the Planning and Zoning Board to approve uses in the PRD, and as a result part of the Board's approval would include approving the proposed uses in Item No. 21 of the project narrative.

Mr. Morris further stated that the City Commission was to determine whether the proposed development met the standards and requirements of the ULDR for site plan level IV review. They could then either approve the proposal or approve it with conditions to assure compliance with the standards. He explained if the Commission determined that the proposed development or use did not meet the standards, requirements and criteria, the Commission could then deny the application. He stated that if the Commission approved this development the following conditions were proposed by staff:

1. Based upon the studies and materials reviewed and information supplied by FDOT the following updated traffic related conditions were recommended:
 - To reduce queing on Las Olas Circle during the various times a day that large delivery trucks would be backing into or exiting the supermarket loading bay.
 - Relocate the Palazzo Condominium south driveway to its frontage on Banyan Street, and redesign the loading bay access to accommodate the loading maneuvers required to access the loading bay.
2. To improve the safety of the vehicles accessing the under bridge marina parking lot while large delivery trucks backed into or exited the adjacent supermarket loading bay by reducing the number of vehicle conflicts:
 - Close the north entrance to the under bridge marina parking lot and post new speed limits along Las Olas Circle reducing the limit from 15 mph to 10 mph.
3. To ensure the safety of the project's pedestrians and other modes of automobile traffic at the intersection of Seabreeze and Cortez Street:
 - Obtain a commitment from the applicant to advance the construction of a traffic signal with full pedestrian features at this location o be reimbursed by the City at which time the City received said funding from the Florida Department of Transportation.

- Valet parking agreements must be recorded and copies provided to the City prior to the issuance of any temporary or permanent certificate of occupancy for each building as proposed a valet parking arrangement.

Mr. Morris continued stating that modifications of the building widths and lengths for Buildings Nos. 1, 2, 3 and the Tower, and modifications to the yard requirement on Building No. 1, 3 and the Tower shall be approved by the City Commission. He stated that the proposed right-of-way vacation 17-P-02, 18-P-02, and 19-P-02 which would be heard later this evening, as well as easement vacations 13-M-02, 14-M-02, and 15-M-02 which would be heard at a later date shall be approved by the City Commission.

Mr. Morris stated that the building permit should not be issued until the agency, which was the CRA or the City, received confirmation from the State that the development agreement and the lease complied with current deed restrictions.

Bill Scherer, attorney for Palazzo, announced that they were going to use a multi-media presentation that would take about one hour. He stated that he wanted to submit the exhibits into evidence for purposes of the record.

Mayor Naugle asked the Commission for their input regarding the amount of time needed for the applicant's presentation. He stated that to his recollection, no one had ever been allowed an hour for their presentation, and he realized this was a complex matter, and possibly an hour could be considered. He asked the applicant to limit their presentation to one hour. Mr. Scherer stated they would do the best they could.

Commissioner Trantalis suggested that the presentation be limited to 30 minutes, and at that time they could determine where along in the presentation they were. He stated that if individuals were given a set amount of time, they tended to use the full amount when a presentation could have been done in less time.

Mr. Scherer stated that by allowing them 30 minutes that would not meet minimum due process which had taken 2 ½ years, and \$5.4 Million had been spent.

Mayor Naugle stated there was consensus among the Commission to allow an hour presentation, and asked for them not to go beyond that time limit.

Mr. Scherer stated there was an exhibit list which was provided to the City Attorney, and they wanted to incorporate those exhibits into the record. He explained they consisted of the entire record in the case, including filings with DRC, development review commission, all documentation with the City, and they also incorporated the planning and zoning complete record which they wanted to incorporate by reference. He continued stating they had thousands of pages of other documents that were listed and placed in the boxes before the Commission. He asked for those documents to be incorporated into the record.

Mr. Scherer stated further they had some graphics which had been provided to the Commission and would use those in their multi-media presentation. He stated that they contained the significant events during this entire process which led up to the issuing of the RFP and awarding it. He stated that in addition there were other graphics which had been worked into the presentation. He advised that he and Mr. Blosser would make the presentation, and stated that their consulting witnesses were also present, and affidavits

had been filed. He stated they did not intend to put anything into the record unless it was deemed necessary for purpose of the presentation.

Mr. Scherer referred to the graphic representation entitled "I Support Palazzo." He added that they also had the executed lease and development documents they were tendering at this time. He stated it was their position that those documents needed to be signed, had been fully negotiated and were mature, and all that was and had been necessary was for this Commission to ministerially empower their execution pursuant to Code. He stated those documents were in the boxes before the Commission and had been placed on the exhibit list.

Mr. Scherer stated they had three affidavits from two former Commissioners and a former Manager who they had dealt with in the past. He explained they had submitted those affidavits in order to help establish reliance, estoppel issues as they may arise because it was their position that this site plan must be approved, and there was no discretion in the Commission at this time because of the prior dealings with the applicant from the beginning to the present time which would be described during the presentation.

Mr. Scherer explained that Jim Blosser would give an introduction at this time. He proceeded to submit the executed contract documents, including the lease and development documents which had been signed.

Jim Blosser, Poole, McKinley & Blosser, stated that he wanted to introduce the principals of the development, the legal team involved, and the experts present this evening. He introduced Lawrence DuPrey, Chairman of the Board of Colonial Development; Joe Cook, CEO of Colonial Development; Dan Adache, President of Colonial Development; Gerry Kristoff, Vice-President of Colonial Development; and John Dynehart, Project Manager. He announced that the legal team was Bill Scherer, Al Frivola and his partner, Stephen Tilbrook of Shutts & Bowen, and Donna Brown of Hunt Cook, along with some of his associates. He stated the experts who were available this evening were Doug Coolman and Paul Kissinger of EDSA dealing with the architecture, landscape and project design; Daniel Catafulmo and Edward Meinzinger of Catafulmo Construction; Richard Eppy of Adache Architecture; Tim Hart, General Civil Engineering; Kristen Stuart, Keith & Schnars, Marine Biologist; John Hagen of Hagen & Associates, appraiser; Peter Haliburton and John Seiger of Kittelson & Associates, traffic engineers; Chris Hamlen of Goodkin Consulting, deal analysis; John Kenzinger of Thornton Thomasetti, parking engineer; Robert Cruz of Washington Economic Group, economic impact; Laura Meisner of Colonial Development, CFO; and Thomas Teffer of Dunckelburger, de-watering experts.

Lawrence Duprey stated it was his pleasure to come before this Commission and make a presentation of the Palazzo project. He also thanked the Commission for selecting their group to develop the site. They hoped that approval would be granted this evening so that the project could move forward. He thanked all their supporters for attending this meeting, along with their opponents because they wanted to hear whether their opposition was justified or not.

Mr. Blosser stated he felt it was important to put into perspective some history regarding this site involving the time, energy and dedication, along with untold resources of the City, that had gone into the study of the Central Beach area. First, he stated that the City

had acquired this property from the State in 1958, and except for an effort to erect a convention center at the site in the mid-80's very little had taken place. He stated that by 1989 the City, business interests, and residents of the Central Beach area wanted to do something about the deplorable condition at the Beach, especially after spring break. Therefore, in 1989 there was a resolution adopted by the City Commission which determined the Central Beach area as blighted and a slum area. It was a necessary finding in order to enable the City to create a community redevelopment area that would have many tax benefits, and allow for planning. He stated that since the creation of the CRA, eleven years of planning effort had gone into this location all of which centered around the utilization of this property for a multi-use development incorporating a major parking facility. As late as the year 2000, this site remained as an undeveloped site.

Mr. Blosser further stated that during the '80's and '90's the Central Beach Alliance and the business constituents on the Beach, had numerous studies undertaken leading up to the effort for redeveloping this site. He stated it was the unanimous vision of this City in cooperation with all of those interests that the RFP had been put together in the year 2000, and ultimately issued in August, 2001 to the Palazzo group with competition from two other firms. At the time this was approved to transform the lot into the vision which had been mutually agreed upon by hundreds of individuals working with the Commission over a long period of time, the Palazzo project was created. He stated that the City vowed to work in partnership with the developer with the assistance and unyielding support of City staff and the community, along with continuing support of the Beach area residents, including the Central Beach Alliance. He continued stating that 2 ½ years later and \$5 Million in out-of-pocket expenses by the developer, \$9 Million in accrued liability, and a minimum profit agreed upon of \$26 Million as a fair return to the developer, the decision this City makes tonight would, over the next several years, decide whether the parking lot would be developed into a world-class destination or not. He stated they had over \$100 Million in presales at this time. He proceeded to show various views of the project.

Commissioner Moore left the meeting at approximately 9:07 p.m. and returned at 9:12 p.m.

Mr. Blosser stated they were going to give another brief history and demonstrate to the Commission and the audience that the Palazzo project complied with the RFP, the City, staff and community vision, that it met all applicable City codes, along with the Redevelopment Plan and the Design Criteria, had been approved by the Development Review Committee of the City, the Marine Advisory Board, the Economic Advisory Board, the Beach Redevelopment Board, and the Planning and Zoning Board. He stated the economic deal was outstanding for the City.

Mr. Blosser proceeded to show a video regarding the Palazzo project.

Mr. Blosser stated this project was the result of 15 years of planning by staff, the community, and the Commission. He stated that the Commission for over 20 years had spearheaded efforts to clean-up and redevelop the Beach and this site. In July, 1988 the Commission had adopted the Central Beach Revitalization Plan which envisioned that the land would be assembled into larger tracts in order to allow an integrated, mixed-use development. He stated the plan contained the goals, objectives and the public/private sector design guidelines governing the Central Beach redevelopment. He stated that in September, 1988 the Commission had sponsored an Urban Land Institute panel

advisory study and the result of that study showed a heavy, dense hotel/residential mixed-use development. In 1989 the Community Redevelopment Agency was formed as the basis upon which the development could move forward.

Mr. Blosser further stated that he wanted to supply some information regarding the historical background of the Central Beach redevelopment. He stated that the City desired to foster a multi-phased mixed-use redevelopment project, including residential, specialty retail, public/private parking, and pedestrian walkways and amenities. In 1990, the City issued an RFP for the Birch/Las Olas Parking Lot, but no developer was selected. Again in 1994 the City issued another RFP for Birch/Las Olas Parking Lot, and again no developer was selected. He stated that in 1997 the Beach Redevelopment Advisory Board held a workshop with community leaders which resulted in the Fort Lauderdale Beach 2020 Vision Statement. He reiterated that the Palazzo project met the criteria. He quoted: "Fort Lauderdale Beach was a well-planned resort and urban seaside village. A balance mixed of quality retail and residential uses through economically viable development, redevelopment, adaptive re-use, historic preservation that incorporates well-designed open spaces, public facilities, and pedestrian walkways." He stated that was a description of Palazzo.

Mr. Blosser explained that in 1998 the City had imposed a moratorium that lasted two years, and City documents described this point in history. He explained further the purpose was to address traffic, parking, and develop standards. He stated that a critical component of that study was that a mixed-use development of the Las Olas Lot continued to be recognized as a priority. He further stated that the Beach moratorium allowed time for study and recommendations concerning refinement to the development regulations, design guidelines, traffic circulation, and parking. He stated this dialogue had been going on for 15 years, and now there was a "ground swell" of opposition and surprise as to why this lot was being developed as proposed. He stated the history was there and it was very compelling.

Mr. Scherer stated that he wanted to briefly discuss the RFP, and the community input which went into what the Commission had requested.

Mr. Scherer stated that some of the members of the Central Beach Alliance were not happy with this project due to the growth on the Beach. He reminded everyone that the CBA was a large part of what had gone into the RFP. He proceeded to show what their demands had been regarding the RFP, and further stated that their demands had been met by Palazzo. Some of those demands were as follows:

- 4-story parking garage over ground level retail with rooftop amenities.
- Closed garage.
- First-class design criteria.
- Breaking up of surfaces with atrium ground levels, walk-throughs, and lush plantings.
- Police Substation.
- Marina parking.
- City-Beach Patrol equipment storage.
- Ground-level retail to serve the needs of the marina residents and tourists.
- Generous sidewalks for outdoor dining.
- CBA did not favor commercial, entertainment or office.

- Ribbon of greenery weaving through the complex east of the Marina.
- Life-style section of the Vision 2020.
- Maintain public connection of Las Olas Circle under the bridge with Birch Road.

Mr. Scherer stated that prior to the time of the RFP and after the moratorium, a parking study had been done by the City to arrive at a concept of "capture garages" so traffic entering the Beach could go in the large garages. He proceeded to show what had been designed by the City's consultant for the north lot on the Beach. He explained the photograph was the Walker Study Parking Garage which consisted of two models. One was for 1,000 spaces, and another for 1,235 spaces that were open-air, vented, monolithic structures with no architectural design. He stated that the Walker study had estimated the cost would be \$22 Million to \$26 Million. He stated that was important because City staff and the Planning Department knew to build the kind of parking garage that was envisioned and requested in the RFP could not be done with 200' x 200' limitations, and the intent from the beginning was to waive the modifications as they related to the development.

Mr. Scherer then stated that the City had requested there be 1,000 parking spaces in the garage and that it was to be built in two phases. He stated they had talked about the exact things that they wanted to be put into the RFP. He explained that the City had voted unanimously in favor of leasing and then redeveloping the parking lot. The City then set out the plan to invite developers to participate so the City could implement the planning.

Mr. Scherer continued stating that the RFP was important in this case and in a legal context. He stated that the RFP was organized along the format of the City's Purchasing Department, and was not an open-ended request for proposal as had been done before. He explained it was a very specific proposal and was meant to be so as stated in the affidavits of Mr. Johnson and the former Commissioners. The RFP attested to the fact that the City intended to lock down the respondents, and lock the developers into the design with limited flexibility. He stated that legally this was important because contracts were determined on the basis of the parties' actions, relations and what they intended. He stated that locking down the language meant that not only was the developer to be locked down, but the developers had every right to believe in going through the process and spending large sums of money in response to the City and Planning Department's request to build the project, that somewhere along the line a contract was formed. He stated they would use terms of fairness, fair play, and due process. He reiterated that these were legally binding provisions in the RFP.

Mr. Scherer stated that in regard to what the City wanted built, it had been pretty well laid out. He continued stating that it talked about the condominium to the south and stated it could not be bigger than the Venetian on the north. It also had laid out the City's plan and vision. He reiterated that what the City wanted was exactly what they were proposing, and had spent over \$5 Million to do. He further stated that the City wanted 1,000 parking spaces, which could be built in two phases. In order to build those spaces for the City and the retail, and to build enough for the residential component which drove the economics of this project, it could not have been built unless it was contemplated that some minimal waivers of the length and width requirements and side setbacks would be entertained. He stated it was their view that along this process, the City and its staff exercised their discretion to move forward with this project knowing that these slight modifications would be required. Consequently, it was their position that under the facts

of the record, the City was really bound either under contract terms or equity terms to approve this site plan.

Mr. Scherer further stated that he wanted to direct everyone's attention to what the City had said about the site plan and the applicable code. He stated that it had made reference to the 200' length and width requirements, and stated they were modifiable through the Building Department. He stated that later on he was going to show a quote from the City Commission when the 200' x 200' length and width had been passed by the City, and a specific comment had been made that it would not apply to the Birch lot because no one would be able to develop that site within the 200' x 200' design requirements.

Mr. Scherer stated that what the City stated about the lease term and the deed were also important. The City had stated that the term of the lease would be 100 years with another 100 years, if necessary. Negative comments had been made that this was something the developer had asked for. He reiterated these comments were in the RFP. Initially, the City had approved their request for the second 100 years because it was needed and necessary for the economics of the deal. He announced that time period had since been limited to 50 years. He further stated that the RFP had also stated that the title to the property had a deed restriction, and that the City would secure any prior approvals that may be required from the State in order for the City to lease the property to the CRA. He felt the City would be able to accomplish that with their assistance, but these facts had been known from the beginning. He continued stating that it also gave the City the right to modify the project. He remarked that one could not build a \$100 Million project without changes made as the project evolved.

Mr. Scherer stated that in Mr. Johnson's affidavit he had stated that the City had never done a project or an RFP with such planning, input, and specificity. He further stated that the changes which were a result of the design process and input from the community and the City, along with the CRA, were anticipated, lawful and not outside the purview of the RFP.

Mr. Scherer continued stating that he wanted to discuss the awarding of the RFP. He stated that after the selection process, Palazzo had been rated No. 1 and had received overwhelming support. He added that the CBA had selected Palazzo and that it best represented the vision. He proceeded to show the rankings for the project. He further stated that before the Commission awarded the bid to Palazzo, there had been a request for information from the City for staff to evaluate the top two proposers to ensure that they could financially underwrite a project of this size. Additionally, there had been negotiations because the City had asked Palazzo to build this project in one phase. He explained Palazzo's initial response was to build the garage in two phases, but stated they could do it in one phase, but it would necessitate a larger structure. He stated that was important because if the City was not in favor of the project moving forward with its size, and if the City was of the opinion that the mass was too great or the density was too great, he reiterated this was what the City had requested.

Mr. Scherer stated that in August, 2001 the CBA had reaffirmed their support for the Palazzo project and had stated: "The Palazzo design most closely met the Alliance criteria developed from the City sponsored Vision 2020." He then stated that in August, 2001 the City had been advised that in answer to the question as to whether both projects could be constructed and completed as proposed, both projects had conflicts

with the ULDR requirements based on preliminary DRC review. He stated that both projects would require adjustments to building siting and possible building size. He stated that the ULDR allowed modifications to obtain final development plan approval that would be required for both building programs. "Based on the building height requirements set forth in the RFP as the policy of the CRA/City Commission 6 stories for the north side development and consistency with the Venetian Condominium for the south side development. Palazzo Las Olas would require a waiver of the RFP requirements to provide the full 1,000 space parking garage in addition to the development meeting its own parking requirements. He clarified that the above comments were in the City's documents dated August 24, 2001. He stated that if the City was of the mind to enforce the 200' x 200' length and width rule and not modify the slight modifications, then the City should have spoken up at that time and state that they did not want to go forward, but they had not done that.

Mr. Scherer stated further that his clients had spent \$3 Million to \$4 Million since that time of the \$5.4 Million spent. He stated there was a more detailed analysis on August 24, 2001, that he wanted the Commission to consider. He stated these were quotes from the City's meetings and more detail was provided in Exhibit 3 of the August 24, 2001 memorandum. He explained that Exhibit 3 addressed the buildings on the north side of the Las Olas Bridge. He stated if they wanted a 1,000 space garage the options were as follows: One floor would have to be raised exceeding the RFP building height restrictions in order for the development to provide the full 1,000 spaces. He explained that one floor would have to be raised or two floors in the middle. He stated the Commission had made their choice at that time, and a vote was taken to approve the 1,000 space garage. He continued stating that Commissioner Katz had urged the City Manager once the vote had been taken to enter into negotiations and include the items discussed such as the 1,000 spaces. A vote was taken to include the 1,000 spaces into the concept. He explained it was their view that the City could not change its mind at this point, not after the money they had spent, not after the time they had spent, and not after this history. He stated this was not all of the history, and reiterated that there was a lot more.

Mr. Scherer advised that the City Commission had reviewed this project on numerous occasions and never once had they been able to determine from reading the records, that a concern or objection had been raised over the specifics that were being given, and the direction that Palazzo and the City was receiving. He stated they were working as a team to develop this project, and were reporting to the Commission and the CRA as their principles. He proceeded to show a memo dated April 17th that stated: "The refinements to the site plan are substantially similar to the original proposals with the exception of modifications made to reflect comments from the community, staff and the Commission made during the selection process and input arising during the negotiation process." He stated that memorandum had been written by the City Manager to the Commission.

Mayor Naugle asked if the Commission had taken a vote regarding the memorandum from Pete Witschen. Mr. Scherer stated these were part of the City's records and was back-up to the meeting. He further stated that again on April 17th a report had been submitted to the Commission that was in the record in regard to the 1,000 space parking garage. He reiterated that since this was an issue regarding a 7th floor miraculously appearing on top of the parking garage, he wanted to draw everyone's attention to page 2 of that memo. He stated further that the importance of this from their standpoint was to try and lay out the facts they had relied on, and the facts upon which they had spent the large amounts of money in order to get to this stage. He stated that responsible

developers did not spend large amounts of money without having a concrete foundation upon which to build. He stated he wanted to direct everyone's attention to the 1,000 space parking garage. He read as follows: "The revised preliminary plan is based upon the full amount of public parking being provided as part of the initial construction and not as part of the future phase. All three buildings located north of Las Olas Bridge would be constructed at six levels with rooftop parking. The northern building will also have a rooftop restaurant adding a 7th level to this portion of the building. Not reflected by the plan was the considerable input, review, and discussion involving the City's Parking Garage Consultant and Parking Operations staff. From an internal design perspective, the garages will comply with the design criteria of the RFP as amended and the ULDR." Mr. Scherer stated they had been in attendance at all of the meetings and expect that the City would honor what they had said, and what they were doing here.

Mr. Scherer stated there was an issue which had arisen lately that there had been a request for a side setback waiver by the DOT property near the bridge. He stated that was not new and had been discussed on April 17, 2002. In regard to the condominium building, he read as follows: "Proposed Condominium Building. The revised site plan has been able to shift the building and the parking lot design to avoid encroachment onto the DOT right-of-way. The revised plan will require approval of 100% modification to the required 20' side yard setback in lieu of proceeding with acquisition of the property from DOT." He stated that he did not think prior to this time that anyone was aware that DOT owned the property, and time would be needed. The solution was to be a waiver of the side setback requirement. He stated the Commission had the power to do that, and it was something they had the discretion at that point to say no we would not do that.

Mr. Scherer reiterated that at any point in the process had the Commission decided not to go forward, perhaps they would not be in the position they were in today. Perhaps they would not be in the position to say that this site plan had really been approved either tacitly, implicitly, directly or in equity. Again, he stated that no objections had been made in regard to all of these points. He stated the 7th story was rooftop amenities which represented about 5% of the whole space, and were set back to help with the design criteria for the area. He stated it was not much of an issue unless it was a pretextual reason to attempt to torpedo a project that had gone on for such a long period of time.

Mr. Scherer stated that in discussing the RFP, he had missed the following point. He continued stating that the RFP had stated that the City would sign the lease which they had executed, and then the site plan process would begin. At the City's insistence, they had begun the site plan process with the City before the lease was signed, even though those documents were ready for signature on a mature, cured deal for a long, long time.

Mr. Scherer continued stating that on July 18th, they came back to the Commission and a meeting had been held giving an update on the negotiations, and they had been advised that they had substantially concluded the term sheet. Both the developer and the City negotiating staff were comfortable with the updated conclusions on the value, and that it would not skew current costs in revenue assumptions in a manner that would significantly alter the feasibility or the key business aspects of this program. He explained they were required to show their return on their investment, and demonstrate that they had the financial capability to build this project. He stated that made it very interesting in a case where they were contending that they were contractually bound because that very feasibility to make a \$25 Million profit in this case was a good claim for damages. He stated they did not have to be clairvoyant to know that commercially

reasonable people had to take commercial actions. He further stated that the very efforts of the City to establish the amount of profit in this deal was an establishment of the damages that would be caused if this project does not go forward. He stated that did not come out as well as he had meant it.

Mr. Scherer stated that on July 15th the Commission had been advised at a meeting that both negotiating parties wished to focus during the August recess on preparation of the actual development agreement, ground lease, parking and management agreement so they could be brought for formal approvals at the meetings in September and early October, 2002. He quoted as follows: "For authorization to enter into a one-year lease so the developer could put a sales office on the site to begin presale." He stated that the City had approved putting in the sales center and pre-selling units. He stated the units had been well accepted in the marketplace, and there was over \$100 Million of units with contracts and deposits. At this time when the City allowed this to go forward, if the City had reservations about the length and width of the buildings and about the ULDR and whether they were in compliance or any other issues, one would have thought that the City would have come forward saying not to sell the units because they still did not like the project. Indeed the City, the Commission, and staff had liked the project and the deal was mature enough to enter the marketplace which they had done.

Mr. Scherer explained that there had been some changes and he was going to attempt to show that those changes had been brought about by the City.

Mayor Naugle reminded Mr. Scherer that he had about 3 minutes of time left for his presentation. Mr. Scherer stated that he could not finish his presentation in 3 minutes.

Mr. Scherer stated that he wanted to address the development requests. He stated the grocery store initially was to be 10,000 sq. ft., and the City asked for it to be increased to 25,000 sq. ft, which was done. He stated that the value of the public improvements to be provided by the developer would total \$24 Million, including the allocation of soft costs. He stated these were the City's estimates. He further stated that individuals had commented on the \$3 Million the City was going to contribute towards the parking garage because the deal justified it, and that \$3 Million had been removed by the developer as an additional incentive for proceeding forward. He stated this had been misinformation. Mr. Scherer further stated that the financial return stated in the City's documents was \$20 Million to \$26 Million, plus another \$5 Million for the developer's fee.

Mayor Naugle asked Mr. Scherer how much additional time would they need for their presentation. Mr. Scherer replied about 20 minutes, and then stated that he could not do it in that amount of time because they had not yet addressed the site plan. He stated this information needed to be placed in the record. He stated they were not dealing with a small matter. Mayor Naugle told him to proceed.

Mr. Scherer stated that the next step was to submit the plans for development and review approval, but the RFP contemplated that after entering into the lease and the documents would have already been signed before that stage. He added that the City owned this property and had not been prescribed from exercising regulatory discretion as they went through the process, and the City's intent to talk about the minor modifications that would be necessary in order to build what they wanted. In their view, the fact that the City permitted them to go this far and spend large amounts of money, had meant that there had been approval of the documents and the concept of the

development. He stated they also wanted to make clear that there had been a meeting of the minds between them and the City regarding all the material terms, and that meeting occurred in 2002, but no later than March, 2003. He proceeded to show various documents regarding that meeting. He explained that the evidence shown in the record showed that the parties were in substantial agreement, and they were far enough long to report they would be finalized for the City's approval. He stated that information had been contained in a memorandum in December to the Commission from the City Manager regarding all substantial terms of the agreement. That memorandum further stated: "At this point we are ready to commence the property conveyance process to the CRA as authorized." He stated they had given their permission to do that and had been advertised in a public hearing which took place according to State law. He stated that was more evidence of intent for this deal to proceed forward as they were bringing it forward today.

Mr. Scherer proceeded to refer to the February 28th memorandum which stated: "We recommend that the Board authorize the CRA to execute the following: (the deal documents were listed)." In March, 2003 there was an important piece of evidence that he wanted the Commission to consider which was a memo from the City Manager to the Commission, and one from the City Attorney giving the status of the Palazzo Beach development. "We have come to a meeting of the minds as to the terms of the agreement between the City and Palazzo."

Mayor Naugle proceeded to read the information below that statement as follows: "Unfortunately, due to the complexity of the issues we have yet to completely conform the documents to each party's understanding of the agreement."

Mr. Scherer stated that the changes were ministerial from that point on, and had been so. He explained if only such details remained, there were certain obligations on behalf of the City.

Mayor Naugle asked if the executed documents they had were executed, were the ones listed, or were they more recent. Mr. Scherer explained that documents were almost identical to what had been negotiated except for certain ministerial changes.

Mr. Scherer stated that staff had agreed and supported everything so far in the presentation concerning the meeting of the minds, the fact that they were building what the City requested, and he wanted to direct their attention to a memorandum dated October 31, 2003 which was important. He stated that he understood it was a draft and that a change had been made which he received this morning, but the important part of the memo was that it stated exactly the facts up to the present time, and gave compelling reasons why the project should be approved, including the changes and the need for changes which were brought about at the City's request. He explained that such changes included the site plan changes based on facts which the City knew existed, including economics, fair value in the lease, and everything else pertaining to the case. He stated there was a recommendation that the Commission sign and execute the agreements.

Mr. Scherer advised the Commission that the law of contracts prevailed here also, and the law of estoppel applied against the City just as if it was an individual. He explained it applied when a City made a representation that was relied upon by a developer, and the developer changed his position or incurred extensive obligations. He stated that the

Hollywood Beach Supreme Court case was famous which stated that every citizen had the right to expect that he would be dealt with fairly by the government. Unfair dealings by municipalities could serve as the basis for invocation of estoppel. In their view, the developer had treated the City fairly, and the City had treated the developer fairly throughout the entire process, otherwise, they would not have spent the money they had to get to this place, but the obligation of fairness continued yet tonight. He explained that a leading case on estoppel where there had been a change in the composition of the governing board was a Coral Gables case. It stated: "The basic concept of estoppel preclude the notion of such instability in a municipal action merely because his business was conducted through a body whose membership was subject to change." He stated that the City Attorney had cited a case that was important and precedent in this case if the City Commission did not approve the site plan, and that case was the Homestead City of Rainee Case which had been submitted to the Commission in regard to the Lauderdale Beach matter. He stated that it was the same legal principle.

Mr. Scherer stated he was not suggesting that there was retroactivity here, but the Commission was being urged to act retroactively. If the Commission did, it was their view that they would breach their contractual rights and their other substantial property interests and property rights that they had earned during this process.

Mr. Scherer further stated that he wanted to mention the issue of due process. He stated they were entitled to be treated equally here, and the efforts to undermine this project because individuals did not like it now because of other development after this had already begun was not fair, and that would not be treating them equally since the process had begun long ago. He stated that he wanted to show the other 17 modifications and approvals which the Commission had undertaken in the Central Beach area. He advised this was not a complete list. He explained there were side setbacks, and some had length and width setbacks because they were needed for a quality type development. He stated that all of these would be compared against this, if they were denied today because they were entitled to equal treatment. He further stated that individuals were contacting the future residents of this development who had signed contracts in an attempt to have them cancel their contracts. He stated people were distributing misinformation which was inconsistent with what he had shown on the record this evening which was an interference with their business relationships. He stated that Mr. Duprey and the company had been very quiet about what he considered to be breaches of civil law.

Mr. Scherer proceeded to show some of their reliance damages. He explained they had direct out-of-pocket expenses at about \$5.4 Million, accrued liabilities totaling over \$8 Million, lost profits according to the City's calculations in the amount of \$26 Million. He reiterated there were total damages in this case over \$40 Million. He stated Palazzo's deposits were almost \$100 Million in sales. He stated they were not in a position for a "do over."

Mr. Scherer further stated that he wanted Paul Kissinger to discuss the site plan and the details as briefly as possible.

Paul Kissinger, EDSA and Project Manager for the Palazzo project, stated that he wanted to orient everyone with the site and proceeded to show its location on the map. He explained that located at the top right-hand corner was Parcel "B" where they had created an urban park with a small municipal building and welcome center consisting of

3,000 sq. ft. of space, along with the 12 required parking spaces. He added also at that site would be a transit stop and landscape special paving which was adjacent to the canal. To the west, he stated the project included a luxury condominium building consistent with the height of the Venetian at 15 stories, but contains only 75 residential units.

Mr. Kissinger stated that Las Olas Circle had been discussed for several years. He stated the importance of that to the Barrier Island was to maintain the traffic patterns, but at this point would open up Banyon and Poinsettia. He added that per staff intersections had been aligned which set up the frame work for the urban plan for the north side improvements. In addition, the circulation pattern would allow for the opportunity to enhance the pedestrian experience along the Intracoastal waterfront. He stated that the Cortez intersection would maintain the circulation and creates an opportunity for a green space enhancement and its connection to Birch Road. He further stated that the project along Birch Road would promote pedestrian connectivity through the use of arcades, continuous sidewalks, and a transit stop adjacent to the central building. He explained that the north side of the project would consist of 98 residential units, 76,145 sq. ft. of community retail, including the neighborhood market. He stated that the north side parking requirements included the 1,000 public spaces with a total requirement of 1,596 spaces, and they were going to supply 1,599. He explained the south side parking requirements were 170 spaces, and they were supplying 180 spaces.

Mr. Kissinger stated that integral to the project was landscape, architects and planners with incorporation of open and green space. He stated the project requirement was 47,354 sq. ft. of green space in accordance with the ULDR, and the project included 28% more than what was required for a total of 60,388 sq. ft. of green space. He stated that in regard to the public and park improvements, they totaled 3.46 acres. He stated those areas included special paving, pedestrian seating, landscaping, and lighting along the waterfront.

Mr. Kissinger stated further that minor modifications to the existing right-of-way lines were being requested. He proceeded to show those on the map. In regard to neighborhood compatibility, he stated that since the inception of the project the community had brought to the forefront design issues with the idea of a beach side village. He stated that this had been one of the driving forces in regard to the planning of the project. He explained that the buildings were either the same height as their neighbor on the south side, and in the north side they were shorter and provided interesting views from above. He explained further that the buildings had been delineated as three structures separated by the urban framework of the driveways that align Poinsettia and Banyon, thereby breaking up the mass of the buildings. He continued stating that the development of a pedestrian scale landscape area and promenade would create a safe vibrant walking environment for the Barrier Island residents. With the use of the arcades, special paving and pedestrian level lighting, they had maintained a village feel for the Beach that would be compatible for such a lifestyle. He stated that the pedestrian circulation, as well as the scale and experience, were important not only for the project, but also for the neighborhood. He stated they had created a pedestrian environment that encountered the water's edge and integrated the City's marina, as well as enhancing the Las Olas address. They felt having the walkway along the water was vital since it was a great attraction.

Mr. Kissinger explained that the promenade would encircle the site primarily on the water's edge, but on the north side they created one that went from the water's edge to the arcade of the building. He added they were still maintaining the circulation of Las Olas Circle. He explained that the sidewalks would be 12' wide, and in many cases 22' which would be landscaped with areas of strategic points providing rest areas. He stated that the promenade would also provide opportunities for art shows and other special events along the waterfront, while still maintaining access to the Island through the use of Poinsettia and Banyon Streets, which does not currently exist.

Mr. Kissinger stated that the master planners for the CRA Beach Streetscape Master Plan focused on aesthetic improvements for the streetscape on the Barrier Island, and pedestrian connectivity was vital. One of the studies recommendations was to designate Poinsettia as a people street east of the project. He explained that pedestrian connectivity was also important as Poinsettia would connect to the Beach. He stated this was a strategic project in providing pedestrian connections from the community, to the Intracoastal, and to the Beach.

Commissioner Moore left the meeting at approximately 9:48 p.m. and returned at 9:49 p.m.

Mr. Scherer stated that regarding traffic and transportation, the project complied with all the applicable standards and the criteria of the ULDR. He stated that the local and regional transportation network had sufficient capacity, and the project was an integral part of the City's accepted plan for addressing parking, traffic, and transit issues. He advised that their experts had testified to those issues at the Planning and Zoning Board Meeting, that was what they would testify to this evening, and that was what their affidavits stated.

Mr. Scherer stated that they had submitted their plans to DRC who had approved them with some conditions which were complied with, and no complaints had been registered regarding the project. He stated they had also submitted their project to Planning and Zoning and had received their approval with conditions. He reiterated that no objections had been raised by staff. He stated that their Code and what was required of them today was that the Commission **shall, not can**, consider the application, the record, and the recommendations forwarded by the DRC Planning Agency and the Planning and Zoning Board. He stated that the word "shall" was defined in the Code, and the word "can" was not in the Code. In their view, there were strong inferences, perhaps even presumptions, that the Commission needed to follow their recommendations and the record tonight, in addition to all of those compelling legal arguments that they had already approved this project, including the minor modifications. He reiterated that "shall" was mandatory and not being permissive. He further stated that the ULDR stated: "That during a public meeting the City Commission shall consider the application and the record, and the recommendation forwarded by the Department." He stated that record was one of approval.

Mr. Scherer stated he believed there were at least 11 significant times during the process from the crafting of the RFP through February, 2003, where the Commission had exercised discretion with respect to this project, permitted it to go forward, blessed it, and actually asked for some things to be changed which compelled the approval of this project.

Mayor Naugle asked if a motion had been made on the dates shown on the last exhibit, or a vote taken of the City Commission. Mr. Scherer stated he felt there had been affirmance, acquiescence by the Commission on all of those times as stated in the record.

Mr. Scherer proceeded to show an editorial which had been in the Sun-Sentinel that he felt "hit the nail on the head." He said that the article stated that concerns should have been raised and thoroughly debated long before the project got this far along in the process. "The density was not excessive and if it was slated for a privately owned lot it would be a winner. The City, however, designed the specifications and issued the Request for Proposal. Colonial then met the City's requirements. Colonial had spent \$5 Million on this to date. Colonial could have a sound basis for a lawsuit that could cost Fort Lauderdale dearly." He added that they were hopeful it would not come to that because they were hopeful the Commission would approve this project because it had been built to the City's stringent requirements from the time of the RFP to the present time.

Mr. Blosser stated that on a positive note, as opposed to the liability note, he wanted to state what this project could be and would be. In regard to the economics, he stated they had commissioned a Washington Economic Group Study which was in the record and had been supplied to the City Commission which verified in detail that on an annualized basis, this would generate new ad valorem tax income for the benefit of the CRA of a minimum of \$1.5 Million to \$1.7 Million and increasing. He further stated that the cumulative effect through 2020 was between \$24.9 Million and \$28.2 Million which would allow the City flexibility in achieving capital improvements on the Beach. He stated no tax income was being generated from the lot in its current condition. Additional points in the economic study were the new buying power that would come to the Beach which was about \$19.9 Million in retail spending, 383 new jobs producing \$79.1 Million in labor income, cost of construction of which 30% was a minority set aside guarantee by Mr. Duprey, and the total contract budget was \$216 Million. He added that the contract itself was about \$90 Million. He stated that did not include the added parking revenue from the 1,000 car garage that was debt free and given to the City as part of the \$25 Million plus that the City would be receiving from this project.

Mr. Blosser stated they had placed into the record the comments regarding the \$24 Million in public improvements, the \$25 Million in TIF financing, and additionally an important point which was the opportunity to apply for matching funds from the Federal government which would total about \$20 Million. He referred everyone to a document which had been filed on behalf of the City with the Federal government dated March 29, 2002, which stated: "The Birch/Las Olas Project has been incorporated into the program as a mixed-use transit terminal parking facility providing 1,000 parking spaces above code requirement for joint uses." He explained that qualified the City for Federally matched funds. He stated the City relied on that income to make a Federal application. He stated further that the Goodkin report on the economics verifies the \$25.7 Million in economic benefits to the community, and that firm concluded that this was indeed a superb economic transaction for the City.

Mr. Blosser stated that in conclusion the development of this property had been in the making by this City for over 15 years and the Agency through a deliberate process involving the entire central beach arena, numerous studies commissioned by this committee and the CRA. He stated that traffic and parking had been studied and

voluminous input had been contributed by the community. He added that long-term visions were promulgated, and two decades of work led to the redevelopment of this site. Palazzo was not trying to develop this property as its own property and impose its vision on the City, but had been invited and induced to implement the City's vision. He advised that all City Commissioners had voted to redevelop this site, and the City had reached out to the development community with the full support of the Central Beach community and induced developers to make proposals. After an extensive competitive process where the City's vision was clearly set forth, this Commission selected Palazzo as the project which most fulfilled the City, the CRA, and the community's vision. For 2 ½ years, the City, the Agency, and the Palazzo teams had worked in harmony and in good faith to create this magnificent project. Palazzo trusted the City, and at each stage they sought input and advice from the City, the Agency, and sought constant support from the community, and in each instance relied and complied with the input. Palazzo trusted the City.

Mr. Blosser continued stating that after 2 ½ years and thousands of hours of cooperative effort and over \$5 Million out-of-pocket investment in reliance on the City's actions, two things happened. First, the Central Beach Alliance had elected new officers at the end of 2002, and a City election took place in February and March, 2003. These bodies were now calling for retroactivity, and they believed potentially acting in bad faith to renege on a deal that was long past the point of no return. He stated that the new influences had engaged in a proverbial shell game, skulking from issue to issue without any regard to the truth. In some cases, they had made outright misrepresentations about what this project was and was not. He stated that their efforts to derail the project could lead this City to significant financial hardship, and leave the community with another blighted parking lot, instead of the successful completion of a vision begun over 10 years ago. These detractors had placed Palazzo in a position of defending the City, and the Agency's vision for redevelopment of this site. The truth was that Palazzo did not create the vision of the Central Beach, the City and the Central Beach community did so. He added that Palazzo had not created the parking and traffic studies which had supported the vision and led to the invitation to the developers. Again, he stated that the City and community had done so. He reiterated that Palazzo was invited, wined and dined, relied and complied, and with the help of the City and the community developed a magnificent project that would provide the Central Beach with a world-class icon at the entrance of the Beach at the Las Olas Bridge. Palazzo trusted the City.

Mr. Blosser stated that these "eleventh hour" public debates ignored, and indeed, flaunted concepts such as fundamental fairness, good faith, trust, and responsible business practices. At a time of extraordinary financial stress on the City, to take on the extraordinary potential risk of denying this project was certainly not within the scope of reality. Simply put, the credibility of this City and the Agency are at stake in this process. As the Florida Supreme Court stated in 1953: "Fair dealing is required by all parties and public officials and should set the example." Again in 1963 the same Court stated: "Basic concepts preclude the notion of instability in municipal action merely because the business is conducted through a body whose membership is subject to change." Again, in 1976 the Supreme Court stated: "Every citizen has the right to expect that he will be dealt with fairly by his government. Unfair dealing by a municipality can also serve as the basis for the invokement of equitable estoppel."

Mr. Blosser continued stating that the decision as to whether to proceed forward with this project was made in August, 2001, when the Agency awarded this project to Palazzo to

accomplish the vision and the plan. He stated we were now 2 ½ years, with multiple public hearings, up to 20 official actions, millions of dollars in out-of-pocket expenses as authorized by this City, and over \$100 Million in sales. He felt it was folly to suggest that the City and the Agency are not bound to proceed with this project contractually, ethically, and in good faith to ratify these agreements and to approve the site plan. He proceeded to thank the Commission for their consideration.

Commissioner Moore asked for everyone to hold their signs up either for or against this project, and therefore, the Commission would not be interrupted tonight during the discussions.

Ina Lee, Chair of Beach Redevelopment Advisory Board, stated that she had been deeply involved from the beginning with this entire process. She stated that in 1985 she had chaired and founded the Beach Council of the Greater Fort Lauderdale Chamber of Commerce, and they had taken on the blighted area. She stated that for the past six years she had served at the Commission's direction as a member of the Beach Redevelopment Advisory Board. She stated that her business was tourism and she owned TravelHost Magazine, and served on the Hospitality Board for many years. She stated that the Beach Redevelopment Advisory Board had overseen the process for the RFP. She further stated that they had recommended their selection to the Commission, and stated that Palazzo had fulfilled their vision. She added that she had been the person who had implemented and created what had become Vision 2020. She stated they had selected Palazzo because it created a world-class destination, if it is permitted to continue in its rightful manner. She stated it fulfilled what was needed in regard to captured parking, and created an urban vision which had been recommended not only by their Board, but also by the ULI twice. She added that it would create a world-class destination for both tourists and residents. She stated it was creating what the ULI had asked them to do the first time around which was a link between the Intracoastal and the Ocean creating a destination on the Intracoastal itself. Since that time, their Board had reaffirmed their vote on several occasions. She stated that the developer had bent over backwards to fulfill what the City and the residents had requested and were continuing to request.

Ms. Lee reiterated that this project was a dream come true. She begged the Commission to put aside political viewpoints, positions that might be stuck in righteousness, and act as leaders of a world-class City to make this a reality. She pleaded for them not to kill a vision that so many people in the community had given their heart and soul for over many years.

Commissioner Moore left the meeting at approximately 10:15 p.m.

George Richardson, Harbor House East Condominium, stated that approximately 4 years ago they had attended a meeting, and they had discussed the needs of the residents in the area. He continued stating that the needs were actually what was being provided for in this project. He stated they wanted to thank the Commission and Palazzo for coming together with this attractive package. According to the meeting this evening, there had been conflicts, and they hoped they would be resolved since these facilities were needed by the people at the Beach. He stated they would appreciate it, if the Commission could make this come to pass.

Judy Schea, President of Birchcrest Condominium, stated that they hoped they would not have to pay for the mistakes of the former Commissioners, and that this new Commission would vote against the Palazzo and listen to the voters who supported them. She stated they did not want this project, and never wanted it. Now, they hoped the new Commission would hear them and listen to them.

Diane Smart stated she was speaking as an original officer of the Central Beach Alliance and as a current officer, and she was also speaking on behalf of the Board of Directors for Birch Square. She continued stating that this was publicly owned land, and asked if Palazzo was a good deal for tourists, residents, and the Broward County beach-going public. She stated that at first the Central Beach Alliance thought so. On April 26, 2001, three development teams made presentations to the Alliance membership, and by written ballot that evening the Board Members ranked the plans based upon the comments of their membership. She stated that the Board's conclusion was that the Palazzo plan was the least dense of those presented, and offered the most open space. Therefore, they had received the Board's recommendation. She stated it was not a membership vote, but a board vote, and had become an unpopular board vote. Since then, she stated that the majority of the members had rejected that board's support of Palazzo, and the current Board now reflects the majority membership's opposition. Along the way between 2001 and today, Palazzo lost the public component of its initial support in terms of the Central Beach Alliance membership. On October 5, 2000, a plan was announced for the Birch lot. She explained that their group had asked for apartments in a park-like setting with a village atmosphere which would include retail serving basic village-type needs, including an affordable grocery, pharmacy, laundry, dry cleaners, coffee cafes, and recreation amenities consisting of tennis courts, lawns for strolling, and rollerblading.

Ms. Smart continued stating that the quest for open space had become a priority for the Central Beach Alliance. She added that with each ensuing presentation made by Palazzo to their membership, the grocery became a gourmet grocery with home delivery, retail became upscale shops, and an elegant restaurant left the tennis courts far behind. She further stated that Parcel "A" which was to be left as a park-like entrance to the 15-story condominium became an asphalt surface guest parking lot. She stated that the least dense of the three proposals had become the most dense. She asked where was the park-like setting and the recreational amenities mentioned. She stated further there was no ribbon of greenery and park-like setting. She asked where would the children play when families moved in.

Mr. Scherer stated he wanted to make a point of order and asked if they were going to have the opportunity to ask questions. Mayor Naugle stated they could ask questions after the public comments.

Eileen Helfer, member of the Beach Redevelopment Advisory Board, stated that she supported this project. She reiterated that she had been the founder of the Central Beach Alliance, and had served as Vice-President and newsletter editor. She stated that in January, 1999, Mayor Naugle and Commissioner Smith had attended their meeting, along with 250 residents in attendance, and those residents had given their "wish list" for the Barrier Island. She stated that their September, 2000 newsletter indicated that the City Manager had promised that the CBA would have input as to what would be developed at the site. Input was asked from the members and a proposal was presented to the City. The three groups who had responded to the RFP made presentations to

them, and each proposal had been evaluated and it was felt that the Palazzo project best met the criteria sent out in the RFP. She stated they supported this project at the City Commission meeting. She continued stating that during the entire process no concern was raised that they were giving away the last parcel of green space or giving the developer a long-term lease. The new CBA board was not in favor of this project. She reiterated that this project consisted of the things that the residents had asked for, and the majority of residents in her building supported this project, along with other residents adjacent to them. She stated that they realized that none of the businesses were confirmed or committed at this point, but they looked forward to such retail activity. She reiterated that she did support this project.

Dan Catalfumo stated they were bringing forward a commitment of excellence. He stated what had been promised in the very beginning was what the residents would receive.

Mayor Naugle asked if Mr. Catalfumo was originally a principle in this deal. Mr. Catalfumo confirmed. Mayor Naugle asked if they were still an investor or were they the contractors. Mr. Catalfumo stated they were contractor, developer and owner.

Mark Johnson, Board Member of Essex Tower, stated they had 170 units and were against the construction of this project. He stated that in respect to the 5,000 signatures, he hoped they would validate and make sure that they were all residents and registered voters.

Commissioner Trantalis left the meeting at approximately 10:25 p.m. and returned at 10:27 p.m.

Joseph Hessmann stated he had been a resident of the Beach since 1958. He stated that he had begun involvement with this project in 1984. He stated that he was speaking in regard to this project for the last time. Growth east of US1 to the Ocean had boxed them in because of irresponsible runaway development and now there was total gridlock. He announced that yesterday the largest Boat Show in the world ended, and the show alone brought in millions of dollars to the local economy. He stated that Palazzo Las Olas would bring a tremendous loss to the revenue of the Show and to the community. He stated further that the loss would last for three years because the boats would leave during construction. He advised that he had talked to every single boat owner in the marina over the past year. He stated that lost revenue was exactly that. He stated that the land had been given to the citizens of Fort Lauderdale in 1958. It belonged to them because they lived here, they paid their taxes here, and most of all they voted here. He felt that three ex-commissioners understood what the citizens' votes meant today. He stated that he hoped the Commission would vote down this project this evening with no animosity. He continued stating there were some very good ideas that could be used with proper relationship in the development. He felt the City should have total control of this property with the citizens, and he stated that no one had the right to give away his land.

Mr. Hessmann further stated that in 2002 the Las Olas Marina gave the City \$800,000 and had only been in business for 3 years. He stated that figure could increase to \$2 Million or \$3 Million per year with responsible planning and guidance. Plans of this sort were now standing in the background and were waiting on the Commission tonight, and it would then be put into reality.

Leonard Roth, 340 Sunset Drive, stated that he lived one block south of Las Olas Boulevard at the Bridge. He stated that the traffic pattern was bad and it was off season, and he wanted to know if the 4,000 cars mentioned were calculated for during season or off season because they could not get to the Beach during the season. He stated if they had another 5,000 cars driving in the area, the citizens would not be able to use the Beach. He asked how many people in the audience were real estate agents and how many people lived in the area.

Howard Elfman, La Cascade, stated that the residents were looking for the services being offered by the Palazzo project. He reiterated such services were badly needed at the Beach.

J.T. Pehrson, 200 S. Birch Road, stated that he lived east of the proposed project. He stated that he moved from Chicago about 3 years ago and loved it here. He further stated that he hoped everyone had listened to Palazzo's presentation. He stated that many people were in opposition of this project, and he wondered if many of those individuals had visited the Palazzo office and obtained full details about the project. Unfortunately, those individuals against the project had attempted to instill fear in the minds of the unknowing with vague and ambiguous reasoning full of misinformation and false pretense. He reiterated that people came to this City from all over the world to visit and vacation here. He felt most of the opposition he had heard was of a selfish nature. Treasures abound around this City and people need to get off their couch and look around. He stated there was nothing like watching the sun rise over the ocean, and there was an abundance of open space east of A-1-A to the ocean, and he felt this project was fantastic, and there was a great need for it. He was glad for the retail shops and felt it would be more convenient for all residents in the area. He felt the Palazzo project would do nicely in replacing the existing eyesore of the municipal parking lot, and would welcome the proposal. He felt the Commission could only vote yes with fairness and good integrity. He stated that he did have one question, and proceeded to ask where would the children play and he felt they needed to consider them. He urged the Commission to vote yes for the project, but to also consider the children.

Dan Teixeira, registered lobbyist with Palazzo, stated that 90% of their residents had signed letters in support of this project, and their Board followed and supported this project unanimously. He thanked the CBA for placing the neighborhood retail on the priority list. He stated that due to special events in the area, the residents were often held hostage without basic conveniences available. He submitted over 2,000 signatures in support of the Palazzo project.

Mark de Sousa, President of Portofino Building, stated they were the northern neighbor to the proposed project. He stated that their board unanimously supported this project and the majority of the residents were in support. He stated they were also in favor of the amenities which were badly needed in the area. He hoped the Commission would approve this project.

Doug Coolman, 1911 Bayview Drive, stated that his firm had been hired by Palazzo, but he was here to talk about how this project fit into and complimented the neighborhood. He stated that this process had begun in 1984 when the City and the Commission had made a commitment to create this City the best of its size by 1994. He stated they had succeeded, and another commitment had been made to continue the redevelopment effort. In 1986 the City and its citizens appropriated over \$14 Million to redevelop the

Beach. As part of the revitalization plan, they were honored to create the beach guidelines. He stated that he was going to read the four beach revitalization goals and objectives.

1. Improve the overall physical environment and appearance of the beach area.
2. Improve the accommodations and facilities for pedestrians and bicyclists.
3. Improve vehicular traffic flow in the Beach area.
4. And compliment other projects or long-range goals which enhance the resort image of Fort Lauderdale Beach as a place for both residents and tourists.

Mr. Coolman stated that he was here this evening to make sure that the Commission understood that not only did Palazzo Las Olas meet the lettered intent of those guidelines, but he felt they far exceeded it and the presentation given this evening had shown that. He reiterated that this had been the third RFP for that area. Failure by this City to approve this project would have negative impacts to the Beach and the City's redevelopment efforts for years to come. He felt it was time to remove the eyesore of the parking lot, and vote for this project.

Walter Morgan stated he was a registered lobbyist, but was here this evening on behalf of the Gill Hotels. He stated they commended the City for having formed the CRA back in 1989, and at that time they had made a commitment to the businesses that this lot would be redeveloped. He stated with each and every RFP the promise was again made that the site would be redeveloped so the CRA could create the money to put back into the community. He stated that everyone agreed that promises should be kept. He stated this developer was a late comer in the process, but the promises made to them when they were selected was that the City would deal in good faith and complete the development, along with the necessary agreements. It would enhance the beach for everyone, and urged the Commission to vote in favor of the project. He reiterated that the Commission had the political power to turn the project down and write the developer a check for damages due, and that would have to be done if the promise was broken. He stated that if the project was denied tonight, they could not compensate the businesses on the beach for breaking the promise. He stated they deserved it.

Midge Clark Backowicz stated that she was here this evening as a person who loved the beach and felt the Commission had the City's best interest at heart not because of any private agenda but for the picture that everyone saw of the beach being beautiful. She stated that she would be very disappointed if this did not happen because it was a beautiful project.

Commissioner Moore returned to the meeting at approximately 10:45 p.m.

Commissioner Hutchinson left the meeting at approximately 10:45 p.m.

Dr. Paul Bender stated that he had lived on the Barrier Island for the last 4 years. He stated that the Palazzo was a magnificent proposal that would increase property values in the area, and make the neighborhood a more user friendly place. He stated the existing parking lot was an eyesore, and felt it would be desirable to eliminate the t-shirt shops and the "honky tonk" atmosphere which prevails on the beach. He believed that the stores were needed in the area. He reiterated that the beach end of Las Olas should look like the other end of Las Olas, beautiful and tourist pleasant. He asked the Commission to vote in favor of this project.

Commissioner Hutchinson returned to the meeting at approximately 11:47 p.m.

Shirley Smith stated she lived in the Venetian Condominium and was a member of the Central Beach Alliance Board and their representative to the Council of Civic Associations, and Vice-Chair of the Beach Redevelopment Board. She announced that she was also a realtor. She further stated that when the Palazzo first went to the CBA for approval, it was with three other projects. She asked if a fourth choice could be given to them, but she had been informed that the Commissioners wanted a project on that lot and it was going to pass so they had better pick the best of the three. She advised they had chosen the lease dense of the three projects presented. She stated that they could not convince their Commissioner Tim Smith not to approve a project. She continued stating that if this project was approved, there would be more traffic on the Barrier Island and more problems. She stated that this lot could not be out of commission for 2 years or longer creating more problems. She stated that large developments did not generate enough benefits to offset the costs of services for police and fireman and added additional strain to the infrastructure. She stated there was already a wonderful walkway in the area, and asked what were they attempting to do. She reminded everyone that the maintenance of the garage would cost the City additional monies. She reiterated that she walked in this "blighted and crime ridden area" without a problem. She asked the Commission not to approve this project because the citizens wanted to keep the land on the Beach for the benefit of the people, and not to support a high density development.

Mel Rubenstein, President Central Beach Alliance, stated that this matter had been going on for a long time. Everyone wanted to do what was right for the Beach. He stated he would be brief and was not going to list all the quality of life and financial reasons as to why this project should be defeated because everyone knew those facts already. He added that they believed that discussion of this matter had been delayed too long and the time has come to "put this to bed." He stated they were asking for two things tonight. One that the City Commission vote tonight and oppose this project while they still had something to save on the Barrier Island. Secondly, they believed the Commission should support the Mayor's proposal to place on the ballot that the development of public lands be subject to public approval.

Richard Hackmeister, Venetian, stated that he was opposed to this project. He stated that some other members of his community were present tonight and also opposed the project which threatened to destroy their neighborhood. He asked the members to show their signs in opposition. He stated they wanted to discuss the 7 ½ acre park which was the front yard for many members of the community. He proceeded to show pictures of the northern view and reiterated that it was not blighted and was worth a lot of money in terms of property value. He stated that he wanted to point out some negative issues regarding this project as follows: Traffic, reduction of property values, loss of privacy, deterioration of their quality of life, and lack of bridge capacity to accommodate emergency vehicles during special events. He further stated that public lands that had been deeded in perpetuity were for public use and not for personal profit. He stated there was unanimous opposition of the CBA because there would be loss of tourist revenues, the size and scale of this proposal were inappropriate, along with the fact that the ULI had also opposed this project, and tremendous financial rewards would be reaped at the expense of the public. He stated that the proposal was bigger in mass and more intrusive than originally planned. He showed pictures of what the project was to look like. He added that the community was not just a vocal minority, but were the

community of voters, taxpayers and citizens with substantial stakes in the health and well-being of the Barrier Island. He felt this project would diminish the residents' quality of lives, and given to the gloom over the economy he felt there was no additional need for high-rise vacancies. He urged the Commission to vote against this project.

Christopher Pollock, President of the Greater Fort Lauderdale Lodging and Hospitality Association, representing over 125 hotels, both large and small, and about 200 other businesses. He stated that their Association and membership full support this project because it was the right project for this site, and would have a welcome center which was desperately needed. He urged the Commission to approve this project, and they hoped the City would fulfill their obligation and added that the businesses did not need any additional tax burden.

Page Lord, 1111 E. Las Olas Boulevard, stated that she owned a boating newspaper and felt that one of the things missed in the presentation was what this project would mean to the marine industry. She stated that she had a report regarding the economic impact of mega yachts in South Florida and would comment on it briefly. She stated that the input to the tri-county community was \$576.3 Million and the industry created 5,968 jobs with a labor income of over \$203.5 Million with \$34.6 Million in business taxes. She stated that she supported this project because she felt it was a vital interest for the marine community, and she felt the project would also support the mega yachts that were coming into the Las Olas Marina and at Bahia Mar.

Dr. Rovon Locke stated he was happy to live in America because he came from a poor town in Jamaica. He stated that Mr. Duprey was a very intelligent man that he had the opportunity to meet with him. He stated that this was a very racist town. He felt this project gave the City the opportunity to change and they should live up to their commitment. He felt the evidence was overwhelming and he did not think that City staff would put themselves in a risky situation.

Jason Barnett, 200 S. Birch Road, stated that he was against this project and felt it made no sense for the City and the taxpayers. He stated that many of the concerns had already been mentioned this evening, but it appeared that the largest benefit which was being pushed were the 1,000 parking spaces for the City. He announced that he lived over the parking lot and he was concerned since this project had been proposed, and had been paying more attention to the capacity of the lot. He further stated that the lot was about 75% empty around 99% of the time. He stated that he did not think the City would give away a piece of land for 200 years or more for a lot which now sits empty and would probably continue to sit empty. He saw no increased revenue on the horizon. He stated that another of his concerns was if they were going to charge a fee for parking for the retail stores. He continued stating that if there was discounted or free parking for the stores that would even encourage the City lot not to be used. He believed that the City was not going to see one dime of revenue from this project, and would probably lose money due to maintenance costs. He added there were promises of retail stores and asked if there were any letters of intent or signed contracts to that effect. He stated the reality of the situation was that there was supply and demand, and unfortunately, the reason certain shops thrived on the Beach was because they were what the users of the Beach desired. He stated most individuals would not shop at high scale stores and Beach Place was a good example of that. He urged the Commission to vote against this project, and he believed the citizens of this City deserved better.

Stewart Dougherty stated he lived on the Barrier Island for the last 3 years. He stated that in the parlor game the famous financier Baron Rothschild was asked what were the 7 wonders of the world. He answered that he could not tell the first 7, but could tell them the 8th wonder of the world which was compound growth. In the past several decades property values in the United States had increased at about 7% per year which was double that every 10 years. The average increase in property values in this City during the past year was 13.7%. He stated one report he had read stated that the property value of the Las Olas lot was around \$20 Million a year ago, so if one applied the 13.7% increase the value would be about \$22.7 Million. The so-called lease was for 100 years, but the Florida Supreme Court stated that a lease of that length was tantamount to a sale. He proceeded to show an illustration regarding the compound growth rates applied to the value of the land. He stated that after 100 years the value was \$2.99 Billion and even with inflation he stated that waterfront property had historically appreciated at a faster rate than inflation. He realized there would be a big gap, but the probable value of the property in 100 years would be \$2.99 Billion. He then applied the 7.5% compound annual growth rate and applied it to the value of the land and that totaled \$31.4 Billion within 100 years. He advised that Einstein had stated that the power of compounding was magic.

Mr. Dougherty continued stating that the citizens were losing an extremely valuable 7 ½ acre parcel of land forever if this project was approved, and in exchange they were receiving some gratuitous public improvements of which many were required by the project itself, and the values were somewhat inflated. He stated what was happening was that a \$3 Billion public asset was being transferred to private individuals at the expense of the citizens for profit. He stated that the developer had stated they wanted to be a model corporate citizen, but when the taxpayers and citizens had voiced legitimate doubts about the deal, the developers and their lawyers had stated that if they did not get everything they wanted, they would sue the City. Frankly, he was disappointed this evening because he heard not comments from a good neighbor, but bullying. He stated if the Commission voted according to their consciences, he was confident that the citizens would stand behind them all the way.

Margie Garcia, Chamber of Commerce, stated that this City should engage in a decisive and productive course of action in order to continue its 20-year old effort to revitalize and redevelop the Beach as a unique asset in this competitive region. She stated that the business community wanted to ensure that they had a voice in this process because they were concerned about the lack of momentum. She stated the Beach was ripe for investment and such measures had been shown in order to provide long-term economic benefits. From an economic standpoint, beach redevelopment projects such as Palazzo would revitalize the area, stimulate the retail economy powered by the millions who visited the Beach, provide new housing and additional buying power, generate employment, improve the tax base, and act as the catalyst for further investment in the area. She stated that the Chamber, along with their 1,750 members, wanted to help create a successful beach front area stimulated by private investment that would generate jobs and offer quality of life benefits. She reiterated that the Commission had already approved this project, and asked the Commission to reaffirm their earlier decision and vote in favor once again.

Steve Glassman, Vice-President of Central Beach Alliance and President of Board of Directors Jackson Towers Association, stated that he wanted to comment on two points which involved parking and process. He stated there were currently 451 public spaces in

the parking lot, along with 18 metered spaces on Birch Road and 49 spaces for the Marina. He stated that the proposed parking garage would provide 1,000 public spaces, 36 spaces for the Marina, 6 spaces for public office, and 372 spaces for commercial use. He stated that the City's Parking Manager was authorized to issue guest permits to the Palazzo residents estimated at 196 spaces, and employee permits as determined by the City. He asked if the public was actually getting 531 additional parking spaces. He added that the City was also obligated to pay \$125,000 for restrooms, along with its pro-rata share for maintenance costs for the garage, and the developer would retain the revenues from the valet parking and metered private parking spaces. He added that the City must share net profits 50/50 with the State which was something that had not been discussed very much. He stated that he hoped the parking would be long-term because with 4,000 cars at peak hours at the reduced rate of 10 mph, it would take approximately 4 hours to go around Las Olas Circle.

Mr. Glassman stated that a lot of comments had been made about process tonight, and he wanted to say that no one forced anyone to spend \$5 Million to this point, and the last individual who had raised such a point had been involved in a lawsuit against the County who was the developer of the Convention Center Hotel, and the courts ruled that he had spent the money at his own risk and did not hold the County liable for those funds. He further stated that the Sun-Sentinel had eloquently said this was too late in the process, but he had always thought the process was over when it was over.

Mr. Glassman stated that the CBA Board had been accused of being a closed process, and that the former Board was an open process, but the former Board had not stated that he had not received much correspondence in the two years he had been there. He stated the new Board sent out monthly newsletter and commanded 125 to 150 residents to every meeting. He reiterated that when the Mayor attended their meeting to speak about this project, not one member out of 125 spoke in favor of this project.

Steve McRea stated that he and his wife supported this project for 3 basic reasons. He announced they lived in the Las Olas Isles area and most residents had to drive about 8 miles just to get groceries. They felt this project would provide the stores that were much needed making them only go 2 miles for their purchases. Out of self-interest, he looked forward to the development of this project. He felt these were the types of benefits that came with good, smart growth. He applauded the City for attracting a good mixed-use development that would be world-class. He stated such developments were all over Europe and thriving. He felt Palazzo would be a reflection of this City's Old World roots. He announced that each year over 1 Million visitors came to this City. Outside of City Hall there was a statute of a bear from the people of Berlin reflecting the goodwill that international visitors felt towards this City. He stated that he was an English teacher and some of his students expressed how they loved the "Venice of America." He urged the Commission to stay the course and permit Palazzo to turn the parking lot into a restaurant/shopping district that would be like the mixed-use areas of the Old World.

Commissioner Moore left the meeting at approximately 11:22 p.m.

Dr. Yusoof Hamuth stated that this debate was occurring between the big developers and the little guys. He stated that he was concerned most about the traffic and stated that many times when he had to go out it was a nightmare, especially on weekends. He stated it would be difficult for the service individuals to move around if this project was approved. He felt the area would not be able to accommodate the increased traffic.

Charlotte Rodstrom stated she had lived off the Las Olas Isles for the last 18 years and had been a resident of Florida for 48 years. She stated that she served as a Board of Director of her homeowners association. She stated that a vote had been taken and the members had voted unanimously against this project. She stated that so much time and effort had been spent on this issue, both for and against the project, along with much confusion and misconceptions. She stated that one thing was for sure that this Commission had the power tonight to change this for the citizens. She stated there were plenty of developments going up on the Beach with more approved. She felt that using their open space for another residential development was an inappropriate use of precious land. She stated this was the last open space on the Barrier Island and when it was gone, it would be gone. She stated that the land was a gift from the State of Florida to the City which made it a treasure and worth more than what any developer should be able to afford. She felt they could do a lot better.

Mrs. Rodstrom stated that she wanted to read a letter from her husband Commissioner John Rodstrom which had been sent to his constituents on October 24, 2003:

“The voters of Broward County approved the purchase of up to \$400 Million of open space in order to preserve land from development. The City had asked its residents on at least 3 occasions to support either the purchase or the preservation of open space within the City. Each time the voters overwhelmingly supported the preservation of open space.”

Mrs. Rodstrom reiterated that the Commission had the opportunity tonight to go on record as the Commission that preserved open space or the Commission that gave it away. Their decision this evening would be their legacy to the City, and the message they send would determine the future of the City. She stated that she also wanted to beg the Commission to use their vote wisely and save their open space this evening.

Patrick Richmond, 100 S. Birch Road, stated he was a Board Member of the CAB and the Jackson Tower Condominium Association. He continued stating that this was a 7 ½ acre of prime land which was not blighted or unsafe. He stated the property was valued between \$20 Million and \$25 Million in today's market. He reiterated that this was to be a 100 year lease with a 100 year add on. He asked if the City really wanted to give that land away for a parking garage. He stated that additional parking was not needed in the area and they could not handle any increase in traffic. He urged the Commission to vote their conscience which he hoped would be no.

Romney Rogers, Chair of the Greater Fort Lauderdale Chamber of Commerce, stated that he wanted to invite everyone to their “Salute to Business Awards” where they were going to honor many of their business leaders to be held on November 12, 2003. He stated they had a long-standing partnership with the City and urged the Commission to stay the course of the economic development. He distributed a copy of their Board policy which had been passed in August regarding the beach redevelopment. He stated as a business organization the Chamber of Commerce was concerned about various matters. He continued stating that they looked at the responsible growth which needed to take place on the Beach, and this project was answering that call for such growth. He added that the developer was giving the City what they had asked for, but now the City was intending to renege on what should have been a wrapped up deal. They felt this would be the wrong message to send to the business community.

Commissioner Moore returned to the meeting at approximately 11:27 p.m.

Mr. Rogers further stated that confidence and reliance on the political decision making process were essential ingredients to a positive business environment, along with consistency, certainty and good faith which were rights every businessman should expect from the City. He stated they urged the Commission to vote in favor of this project and avoid a potential fiscal devastating lawsuit that the City could not afford.

Mr. Rogers stated that this project spanned on both sides of the Las Olas Bridge and announced that the bridge had been named after his grandfather who had been the first Congressman from this area. He added that he felt there were 3 things that his grandfather would smile down on which were that he wanted to see a bustling thriving development versus a vacant lot, he would want to be sure that the Commission would continue to follow the visionary plan that had been developed for this Beach, and finally he would want to be sure that this Commission honored their agreements which everyone felt was very important and fundamental in doing business with this City.

Commissioner Trantalis left the meeting at approximately 11:32 p.m.

Glenn Joseph, Great Caribbean American Chamber of Commerce, stated that over the years the City had been friends of the Caribbean and African-American communities at large, and the Mayor had particularly stressed the minority empowerment over the years. He felt this was the perfect opportunity for him to "put his money where his mouth was" because they now had a minority developer who had come forward and done everything asked of him and then some, and was willing to go the extra yard. He reiterated that a good government had to do 3 things which were fiscal prudence, astute policy creation, and above all good government. He felt this City had the opportunity to do all 3 because they could protect the City by making sure an affirmative vote would be given tonight regarding this project, and echo the sentiments they had long ago espoused.

Albert Miniaci stated that he was a member of the Beach Redevelopment Advisory Board, and had been involved with beach redevelopment since 1974.

Commissioner Trantalis returned to the meeting at approximately 11:35 p.m.

Mr. Miniaci stated that it had always been known that this lot eventually would be given up for some type of development. He stated the parking lot was not a nice sight to look at since he lived across the Intracoastal, but wanted the Commission to think about the commitment made that put developers through a process, along with some financial investment, and what they had been encouraged to do. He further stated that in all fairness the Commission needed to take all that into consideration. As a taxpayer he stated that he did not want to be involved in a lawsuit. He asked the Commission to approve this project so they could move forward with the City's vision.

Dick Winer, resident of Sailboat Bend, stated this project was as much a concern of his as the residents in the immediate area. He continued stating that the attorney for Palazzo had stated that if this project was completed would help the City maintain their urban seaside village image. He felt that was like calling lower Manhattan an urban riverside village. He stated that many initials were used in conversations tonight and he was not sure if he understood them all, but he had his own initials to use which were

BBBC which stood for big, bleek, blab of concrete. He stated that was all he saw from his windows and he did not feel the City needed any more high-rises. He stated there were individuals present tonight wearing signs stating "jobs, jobs, jobs," but if one visited the construction sites in the City over half of the workers did not live in Fort Lauderdale. He stated articles were in the newspaper announcing that the budgets would have to be cut for the police and fire departments. He asked how could the City consider giving away a piece of property, when they would end up having to provide additional services for the residents of this project. He thought that did not make sense. He stated if the City insisted on giving away this last piece of open space, he hoped they would at least give it to someone who would help the entire County.

Kyle Campbell stated he owned some units at Leisure Beach South, and stated there was a reason Tim Smith was not sitting with the Commission this evening and that was that Leisure Beach South opposed Palazzo. He hoped the Commission would not vote in favor of this project.

Anne Hilmer stated that regardless of all the statistics which had been quoted this evening as to how much this project would cost, and how much revenue would be generated, she felt they were losing sight of the true cost which was giving away public land for commercial development. She also stated that what was invested to promote a deal was the cost of doing business, and without a signed, sealed and delivered contract there was no deal. She stated that no amount of whining would obligate the City and the Commissioners to feel guilty and approve something that went against the best interests of the City and its residents. She urged the Commission to vote against this project.

Julia Snow Jones stated that she had lived in this City for over 83 years and was opposed to this project due to its size. Mayor Naugle stated that she also had a bridge named after someone in her family which was the 11th Avenue Bridge which was named after her father. She felt they were being overdeveloped, especially with high-rises. She stated that she had learned a lot about this project this evening, and the only thing she liked about it, other than its beauty, was the fact that they would have some neighborhood retail stores. She stated she did not think that publicly owned land should be used for any private enterprise and personal gain.

Nick Sakhnovsky stated that he did not have a real opinion about this project, but wanted to point out some things he had observed. He stated that he wanted to comment about democratic process and one comment made was that "but for an election this would have been a done deal." He stated that he had lost in the last election, but he still respected the democratic process, and elections were why they were here and the government was based upon them. He did not think that elections were an inconvenience. He also stated that tonight this matter could be compared to a suitor and the person being pursued, and he felt there was confusion regarding the marriage and the pursuit thereof. If this happens, this would be the wedding which did not take place two years ago. Another point was that part of the wedding process was that in addition to what one was getting, they were also buying into who one was getting it with, and he felt there were issues in regard to both counts. He explained that the suitor who had showed a video had stated that thousands of postcards had been sent to the City in support of this project, but during the Arts Festival he had been invited to enter a drawing and in fine print the card stated: "I support Palazzo Las Olas." He reiterated that was where all the postcards had come from.

Mr. Sakhnovsky stated that another mention had been made regarding civil attacks upon the suitor. He advised there was a civil law which stated that one should not be touched without permission. He stated that he had walked through the lobby this evening and was slapped physically with a sticker which was an unwanted touching. He reiterated that had been a civil violation.

Mr. Sakhnovsky stated that regarding another behavior of the suitor or their representatives was a sign against the project on a chair next to him which had been ripped apart, and he felt there was no need for such expression. He stated this was the behavior of the suitor and this was not a marriage "until death do us part," but was a marriage for about 150 years which was past "until death do us part." He stated this was all part of the process, and if they wanted to sue that was their right which was another risk they would have to take, along with the monies previously invested.

James Musters stated that he wanted to have the Commission address the point of order which he had attempted to raise earlier in the evening. He stated that in accordance with Roberts Rules of Order, he believed Point of Order had preference at all times, and the point he wanted to raise was the fact that people representing themselves as the lawyers for the applicants were not technically the applicants until the documents were signed. He further stated that the applicant could only be the CRA or the City at this time because they owned the property. He did not think the Commission should have heard an 1 ½ hours of testimony from them, and they should have had 3 minutes like everyone else. He further stated that the subject had been the street closing.

Mayor Naugle stated the subject at this time was the site plan approval.

Mr. Musters continued stating that the City had been the applicant of record, and he did not think that issue had been raised and he felt that was disception. He did not think the Planning and Zoning Board were aware of this fact either. He stated he wanted the Commission to strike from the official record all the testimony which had been presented earlier. He reiterated they were not legally the applicants. He stated further that a video had been presented with people testifying who had not been sworn. He felt these items should be ruled on before he gave his testimony.

Mayor Naugle stated that his points were duly noted.

Mr. Musters stated further that in regard to the back-up regarding today's meeting, it stated on page 6 that the final contracts had not arrived at the Commission office until yesterday, which did not give everyone much time for review. He stated that as a process, they should not be looking at a site plan and also discussing the contract process. He continued stating that the contract process had been discussed and how they got to that point, and he felt that should not have been part of tonight's meeting. He also felt that information should be stricken from the record also. He reiterated that this was a site plan and street closing meeting, and they were not sitting as the CRA and the evidence should not have been admissible.

Mr. Musters further stated that the City was the applicant of record as of this time. He stated that the late notice of the final contracts being filed yesterday had not given the general public time to review the documents. He stated it was his understanding that according to Florida law that it was against the law to offer for sale or execute a contract

of sale on property they did not own. He continued stating that in the contracts the City was taking on a parking lot for 150 years, including its maintenance, pay electricity, pay for and maintain the elevators. The City also was agreeing in accordance with the contracts to hire additional staff and technicians to service the parking meters. He felt it was the Commission's fiduciary responsibility to look as to what those long-term costs were to be based on the revenue the City was to get, if any.

Mayor Naugle reiterated that now they were discussing the site plan approval, and asked Mr. Musters to comment on that portion of the issue.

Mr. Musters reiterated that other individuals had discussed the contractual agreements this evening. Mayor Naugle remarked that he was trying to prevent him from using his allotted time discussing items which did not apply to what was before the Commission at this time.

Mr. Musters stated that he did not think they should have introduced the contracts, and for the Commission to be forced to pass them. He felt the general public was under the impression that this was a hearing as to whether to proceed forward or not on the contracts. Technically, at this point this was a hearing on the site plan and a street closing, and not as to whether this was a good plan or good revenue for the City, but yet the developer was permitted to talk for 1 1/2 hours regarding revenue, the plan, and whether enough green space was being provided. He stated that the developer had no more standing than any citizen in this hearing because he was not the applicant. Therefore, he reiterated that everyone should then be permitted to talk for 1 1/2 hours also on the matter. He emphasized that everyone was equal under the law, and the developers had argued for that, and he did not see why that should not apply to everyone because technically they were not the applicants at this time.

Dan Murphy stated that there used to be angled parking along the beach, and now there were parking lots. He reiterated that the only reasonable parking left on the beach was this lot in question. He stated it was valuable to him personally because he could go at a moments notice, place a few quarters in the meter, and spend the day at the beach. He stated that the plan being proposed was to have 1,500 parking spaces, however, no provisions were being made for the 4,000 sq. ft. restaurant or the employees for the office building, nor were provisions made for the retail outlets, and the customers for the grocery store. He stated that the available beach parking would disappear when this project was implement. He felt they would also take over other spaces in the area which he felt would drive up the cost of parking throughout the beach. He urged the Commission to not approve this plan, and not be "blackmailed" by the attorneys and not take the beach away from the residents.

Daniel Toye stated that he loved this City and had been a resident for 18 years. He stated that traffic in 1985 during spring break was horrendous, and he realized that this project would not bring that much traffic to the area. He stated this development fit well into the community, and the City had worked well with the developer. He realized there were some new Commissioners, but this project had been going on for a long time, and in the future he hoped the Commissioners would do whatever they had to do. He felt if this project was not approved, there would be a liability if the process was not followed. He believed that this project was the best use for this land which had been neglected for a long time. He stated that he supported this project.

Mimi Walters stated she was a private citizen interested in the development of the City's most precious gem which was the beach. She urged the Commission to ask if this was the best use for this piece of land which was the last parcel of open space. She stated seeing the ocean coming over the bridge was the reason many people came to this City. She reiterated that if they evaluated all the money brought in from tourists at the beach versus what was being said regarding the economics of this project, she felt those dollars should not be jeopardized for the benefit of a handful of people. She stated that in hearing all the comments made this evening, the people who would benefit from the development were specifically the developers and the small amount of individuals who would be residents in that area. She did not think that this project would benefit the local business owners because she felt it would be a closed area used primarily by those residents in that area. She further stated that the proposed development was very large compared to what they currently saw in the open space. She stated the additional residential in that area was not really needed, and perhaps some of the project could be salvaged to be the urban seaside village they were promoting. She continued stating that when she thought of an urban seaside village she thought of some of the attractive areas of mixed-use in southern Manhattan, Fisherman's Wharf, and other world-class resorts and cities. She did not think this was the best use for this parcel of land. She questioned when looking at the stickers being handed out that this project would bring in money for the City. She reiterated that she had not seen any evidence this evening as to how this project would bring money to the City. She urged the Commission to look carefully at the numbers being put forth by the attorneys because she did not feel they hung together and questioned the predictions being made. She added that she did not see where this project would bring in additional revenue to the local businesses in the area. She stated that this week her daughter had done a paper on non-development, and had stated "don't pave paradise to put up a parking lot," and she asked if that was what the City was doing in this case. She stated they should not ruin the paradise that was in this area for the sake of another parking lot which was not needed.

Ted Drum stated that in the past there had been a lot of controversy regarding the development of the downtown, but it had been done. He stated there was a lot of controversy when the Commission decided to redevelop the beach and rid themselves of spring break. He reiterated it looked better now than before. He stated that he had been Chair of the Planning and Zoning Board when the Marriott on the Beach issue came forward, and stated that 90% of the individuals on the beach had been opposed to that project. Now, it was one of their greatest assets. He realized that a lot of legal issues were involved in this matter, and gave the Stefano case in Pompano as an example. He stated he was in favor of moving ahead with this project because it was the right thing to do.

Kenneth Stevens stated that he was opposed to the project for two reasons. The first reason was due to traffic and he felt that Las Olas would become a parking lot. The second reason was that this property belonged to the citizens of this City, and this Commission should not take it upon themselves to give the land away, and felt it should be up to the voters.

Shirl Stevens stated that she had seen this beautiful town turned into "cement city." She stated that she lived on the Isle of Venice and traffic was horrible. She stated that all the signatures which had been submitted meant nothing to her, and reiterated that the voters had voted, and there were now new Commissioners because people were against all the high-rises. She stated she was not intimidated by the suits, and only

cared about this City. She stated that she expected the Commission to stand behind the voters. She stated that people win and lose in life, and everyone takes their chances.

Commissioner Moore left the meeting at approximately 12:03 a.m.

Tim Schiavone, owner of Parrot Lounge, stated that in listening to both sides and hearing everyone's opinion, he asked what counted for what had been done so far. He asked if studies had not been done, along with great amounts of research, and asked why all this debate was going on this evening. He reiterated that he was confused. He encouraged the Commission to not vote in favor of this project because they were afraid of a lawsuit or because they were in economic dire straits, but that they should vote in favor of it because it was the right thing to do, and that the previous Commission should be honored and respected for their decision making process. He felt this was how they moved forward and not kept slipping backwards. He stated they had to move forward and they had to make a decision, even though it was a hard one to make. He stated that he believed in this project and felt it would be a brighter day when it was completed. He felt it would put smiles back on the face of the beach which they were in dire need of.

Leola McCoy stated that she had lived here most of her life and had watched the City grow from a tiny, tiny little rascist place to a big old rascist place. She stated there was an issue present now with a minority building who was going to finance a project that everyone wanted. She stated she did not want this project, and it was not in her neighborhood, and she had not been told of anything the developer was going to do for her neighborhood. She stated that it was her understanding that the NAACP, the Urban League and Homeowners Groups in the northwest were backing this project, but the issue here was jobs, jobs, and more jobs but they were temporary and 3 years down the road, there would be no more jobs. She stated that she was trying to figure out why everyone was so "gung-ho" to put another project out of the ground at the City's expense, on their land which was supposed to be for the people. She reiterated that there was enough concrete. She stated people would not use the parking lot because they were going to cruise up and down A-1-A. She stated they had to understand that they had a different impact on the infrastructure. This project would make more of a demand for police, firemen, sewers, and water. She stated everyone was looking at the City's \$15 Million deficit and she was trying to figure out how this project would help the tax base for the City. She felt this project would only drive up the appraised value of the properties.

Commissioner Moore left the meeting at approximately 12:16 a.m.

Ms. McCoy stated there were many other developments coming out of the ground at this time, so if this project did not happen they would not be poor. She added that the same corporate people from Palazzo had done a campaign fund raiser and she also was questioning the ethics of one of the Commissioners who had met with the developer and one of their attorneys, and she felt that Commissioner should abstain from voting on this issue because she felt there was a conflict of interest involved. She asked why they were buying a Commissioner in District III for a project taking place in another district.

Roger Handwidt, past member of the Beach Redevelopment Advisory Board, stated that he had been involved with the beach since 1980 and had attended all the meetings on how to improve the area. He felt the Commission had a responsibility to all the citizens who had looked forward to having these things come to fruition. He stated further that

everyone kept talking about the "land giveaway," yet one of the gentlemen had stated what the land would be valued in the future. He reiterated that they were going to lease the land, and when the City got the land back it would be worth billions. He felt that would be a good return on their investment. He felt density was needed in the area to support the local businesses. He urged the Commission to vote in favor of this project.

Craig Fisher, 200 S. Birch Road, asked what good project needed 31 lobbyists to shove it down everyone's nose. He asked who would spend \$5 Million without any approval by the Commission.

Commissioner Moore returned to the meeting at approximately 12:16 a.m.

Mr. Fisher stated that in comparing this to the OJ Simpson Trial, they would have been murdered because of what they were trying to say, including making them spend \$5 Million. He asked again who would write a check for \$5 Million on a project that was still up for approval. He asked if the developer had placed a deposit on this, and had anything been included in the RFP which stated that they had to spend \$5 Million up front before approval. He stated the developer did that on his own, and the Commission should not be bullied, it was their choice. He stated that the people in favor of this project were full of baloney because when Beach Place opened complaints were received 24/7 about the noise and lights from the garage. He stated there was no way to make everyone happy. He stated further that today was the "day of reckoning," and he did not think the City made the developer spend \$5 Million and he did not think anyone else in this room believed that. He stated that it had been his understanding that Catalfumo had been the original developer, and now there was a minority developer. He stated that was wonderful and great to have equal opportunity for everyone. He stated they needed to put a nail in the coffin and call it a day. He felt if the City had to go and take their licks in Court, he would be a witness for them.

Cara Campbell stated that she represented the Green Party of Broward County and stated they were very much against this project. She stated they had 10 key values, and some of them were that they had grass roots democracy, ecological wisdom, community empowerment, personal and global responsibility, sustainability and future focus. She believed this project was against all those key values that everyone should be working towards. She stated that democracy should not be about developers being able to pay for access to elected officials. She further stated that if this development were really the panacea they were being told it was, she stated that luxury apartments and condominiums were going up all over the City, and if this increase in the tax base were to solve the City's problems that would be great, but the City was not doing well. Most people who had done research on this had come to the conclusion that it cost more than the increase that would be received in the tax base. She stated that all the infrastructure would cost more than what this development would bring in. She stated all individuals who did not have a vested interest in this project agreed on that point.

Ms. Campbell continued stating that the confiscation of public land for private gain was something which had gone on far too long in this City. She felt an example needed to be set and they needed to take a stand now, and show the citizens that they deserved their votes.

Gary Hecker stated he was representing approximately 700 members of the Sierra Club of Broward County. He stated that they were urging this Commission not to support this

project. He stated that 7 ½ acres was a small parcel of land in the overall scheme of things, but in this City they had given money to have parks purchased and green space set aside but yet were falling short of their goals. They could not spend the money to purchase the land because the prices kept rising, but now the City was prepared to give up access to prime real estate for 150 years and that was unacceptable and went against what the Commission had stated was their goal for the future of the City which was to preserve the green space and provide access to the Intracoastal, beaches, and parks. He stated there was only one way to go regarding this project, and that was for the Commission to vote no. Regardless of what had been said previously, this was not the previous Commission, and he felt this Commission had their own mind. He urged the Commission to vote no.

Joe Holland, President of Dolphin Isles, stated that in listening to the testimony this evening, it was surprising to hear Mr. Scherer say that there was no discretion for the Commission this evening, and this was strictly an administrative approval. He felt that was outrageous and they should just throw out the ULDR and forget what it said about public hearings. He said this was what this was all about. He urged the Commission to do the right thing and vote no against this project. He felt the setbacks being requested were ridiculous especially by the water. He stated the public had a wonderful promenade there, but the boats would block the views at grade, and the nice views would be up above. He urged the Commission to vote no on this project and to have the courage to do what was right, and they should not worry about the lawsuits because it was a risk of doing business.

Mr. Blosser replied that they had no rebuttal, and stated that their experts were available as a resource. He announced there were 18 of the lobbyists present also.

Mayor Naugle stated that some time ago the City on a 3-2 vote had selected Palazzo, and had authorized staff to enter into negotiations with them regarding development on this lot. He reiterated that it did not mean that the development had been approved in regard to the site plan, and tonight before them was the site plan approval. He announced that the Planning and Zoning Board had voted 5-4 in support of this project with comments to the Commission. He stated the notion that this project had been approved back then would fly in the face of all the laws, and development which came forward had to go through the process. He stated that the Commission had to consider the site plan.

Mayor Naugle further stated that the 1 ½ hour presentation had covered a lot of ground regarding various exhibits and memorandums which the City Manager and staff had presented to the Commission at various points in time. He explained they were reports, and no action had been taken. It was simply giving status reports to the Commission, and eventually it would go before the Commission for a vote. He felt there was an attempt to "cherry pick" what some of the memos had said. He stated that a comment had been made that the City had asked for a change regarding the grocery store. He explained that the Commission had not made that request and he had not found anything in the minutes of any meeting where they had voted to increase the size of the grocery store. They had simply received a memorandum stating that the developer wanted to change the size. He asked Mr. Adams if the City Commission had made such a request.

Chuck Adams, Redevelopment Services Manager, stated that neither the City Commission nor City staff had requested the increase in the gourmet food market to the grocery store. It was his recollection was that it was something the community had asked the developer to consider.

Mayor Naugle stated that in the memo from Pete Witschen dated July 18th it stated: "Because of changing market conditions, the project had been modified to reduce the number of units north of the Las Olas Bridge from 92 units to 84 units. He asked how many units were in the development on the north side. Mr. Adams stated that the current proposal had 98 units. Mayor Naugle stated if they were to rely on that memo in exchange for increasing the size of the grocery store, they would get less units such as 84. He reiterated it was now back up to 98. He stated that things had changed and had kept going up and down. He reiterated that the Commission had never voted on anything because things kept changing, and they did not vote on projects until they had gone through the process. He emphasized that they were here this evening to consider the comments from the Planning and Zoning Board, staff, and the public regarding site plan approval. He added that there were other items further on in the agenda regarding this project.

Mayor Naugle further stated that many comments had been made stating that they had induced the developer to spend large amounts of money, and the City would be damaged if they did not approve it. He reiterated that did not mean that they could not exercise the laws and require the developer to go through site plan approval and receive the Commission's and public's input. He stated that they had entered into a lease agreement for the trailer for the sales office. He added that articles appeared in the paper stating that he had signed the lease for the trailer, as if that meant the site plan had been approved. In the lease agreement which everyone had signed it stated:

"The City and the Fort Lauderdale CRA was under no obligation to approve the project and enter into the final agreements with the developer, and the City and the CRA had no responsibility for the development of this project now or in the future."

Mayor Naugle stated that had been signed and agreed to when the sales trailer had been set up. The notion that they did not have the right to vote the site plan approval either up or down and apply the development to the laws was nonsense in his opinion. He hoped the Commission would treat this as they had other developments, and look at to how it fit into the community and the laws. He stated what was troubling to him was that they had certain limits, setbacks, maximum length of buildings, and other requirements and sometimes developers made modification requests, but he felt if it was City land they should try and fit the laws. The project should try and comply with the setbacks and maximum building lengths and the other requirements. He stated since they were the landowner, they needed to set an example to the development community that there were rules and they could be followed, and different projects were approved that had followed all the rules and did not have to come before the Commission. He hoped as they deliberated on the site plan that the City should set an example that rules should be followed especially on City owned land.

Commissioner Hutchinson disclosed that she had spoken with Cheryl Dickey, Sidney Callaway, Jim Blosser and other representatives of Palazzo, Mary Fertig, Ellyn Bogdanoff, Barbara Curtis, and various neighborhood representatives. She also stated that she had walked the site numerous times. She stated that she had watched the

Planning and Zoning Board meeting of March 19, 2003, and had also reviewed the Marine Advisory Board minutes from their May, 2002 meeting. Just as other developments came before the Commission for modifications, she did not feel that her feet were being held to the fire and she had to approve this project, and she "shall" do it. She felt that she did not have to do it, if she did not think it met the requirements of a development she was looking for or did not meet specific areas of the Code. She stated since there had been a building moratorium for a number of years on the beach and the community responded in regard to a 200' limit for buildings, she felt the City should adhere to that. She stated in listening to some of Mr. Scherer's discussion especially regarding a memo dated August 24, 2001, she reviewed the May, 2002 minutes of the Marine Advisory Board and it stated: "Mr. Adache had explained that the project had been divided into 3 buildings because the zoning did not permit any building longer than 200 feet." About 8-9 months later, they knew the City had zoning in place regarding a 200' building limit.

Commissioner Hutchinson stated she had asked the City Attorney as to where her comments should focus on the site plan issue, and she had comments mentioned by the Palazzo Group as they related to the amount of money spent. She asked how much of those monies had been spent on defining the area as crime ridden and blighted. She stated that she goes to her favorite breakfast nook every weekend, Harbor Café, and saw full-page ads as they related to crime ridden and blighted area. She proceeded to show a photograph of the area and questioned what was "crime ridden and blighted." She added that the penthouse at Jackson Towers had recently sold for \$4.5 Million and possibly they should advise those people that this was a crime ridden and blighted area. She added that the average unit in Jackson Towers sold for \$600,000 to \$1 Million, and once again those were in a crime ridden and blighted area. She stated if this was their partner in this public/private partnership, they had been "smacked in the face."

Commissioner Hutchinson stated that in regard to the linear park, she stated there was a park, and proceeded to show more pictures of a crime ridden and blighted area where individuals felt safe to walk. She stated if they were going to deal in good faith, then they needed to step up to the plate and say this was not a crime ridden blighted area, and she would go back to a credibility issue on that matter. In looking at the existing linear park, she stated that the City would have to maintain the improvements, and asked what that cost would be for the City. She added that the only improvements which did not exist were the pavers and possibly some benches. She reiterated there now existed a very walkable area.

Commissioner Hutchinson stated she had some questions regarding the beach storage facility. In going through the agreements which they had just received on Monday which was part of the approval, she had been told that this facility would be at no cost to the City, but in reading the documents it stated the developer was only putting up \$150,000 which was for the design and construction of said facility. She asked who would pay the difference because the City did not have the money.

Commissioner Hutchinson stated that it depended on what document one read because she had heard people talk about the current spaces and from all the papers she had read, she gathered there was about 574 existing spaces. She stated if they were going to build 1,000 spaces, then it was only giving the City an extra 426. In looking at the parking agreement on page 25, it mentioned the monthly parking permits, residential guest parking permits, commercial employee parking permits, valet parking, and

restaurant parking. She added there was another paragraph pertaining to restaurant parking and special event parking. In doing the math, she asked if they were really going to be getting anything, and yet have to maintain it.

Commissioner Trantalis stated that it was important that he respond to this issue, and attempt to bring some sort of sanity to the process. He disclosed that he had been to the site, the sales office, and had met with every lobbyist and lawyer. He stated it was his responsibility to hear everyone regarding this matter. Unfortunately, the process turned itself into a "showdown." He stated here they were "showdown politics" and what was being gained. He felt this was no way to build a City, nor a way to plan for the future. Unfortunately, they were here tonight and this was where they had put themselves, but all it had done in some eyes was to place the City in the posture of dissuading business investment from wanting to come to the City. He had been told that if this project was turned down, then no one would want to come and build in Fort Lauderdale. He stated that he did not agree with that statement, but it certainly did not put themselves in a welcome environment. He felt it was important to understand that business investment was important to the City. He stated many individuals had stated during their campaigns and afterwards that it was important to slow down the investment and development. He stated everyone realized there was great opportunity for investment and development, and the issue for him was where to place the development.

Commissioner Trantalis stated that in looking at the beach, there were blighted, slums, and crime ridden areas. He stated that it might not be in this lot, but it did exist. He felt that redevelopment was needed at the beach. Unfortunately, the equation had been to put something there and be glad someone was interested in building. The sales pitch had been if the City allowed them to build, it would clean up the area. When the Palms were built there were two towers, but they still had the same area they started out with and there was no spill-over effect. There were still \$45 motels along the street, prostitution, and all the elements that the development was to clear up. In regard to Jackson Towers the same pitch was made to the City which was that it would revitalize the entire entertainment district and would bring dollars to the beach, and they would get rid of the "honky tonk" and tacky t-shirt shops which were the identity of the beach. He further stated that when Jackson Towers opened two very good restaurants had closed down. The point was when they talked about City planning, they had to understand the dynamics as to how a City worked, how a neighborhood worked, and how those components could be put together.

Commissioner Trantalis further stated that he felt the whole project of putting out an RFP to have a building complex built on a vacant lot along the Intracoastal was probably a false premise to start. He did not think it was a good idea and he would not have been in favor of it then, and was not in favor of it now. He felt that the City needed to take more responsibility as to what they should do with that lot because it was a shame how it looked now. It was only asphalt and trees at this time, and there was more to think about regarding the gateway of the beach. He stated it was a "mish-mosh" of buildings and if all the development that had been approved takes place, they would be slated to experience a wall that would encompass the beach. If the Palazzo was approved tonight, and the Lauderdale Beach Hotel, and every development would be approved, the Central Beach would not be an urban village but a stockade in which the entire area would be surrounded by high-rises. He asked what would happen to the breeze, the sun, and all the things that brings individuals to the beach.

Commissioner Trantalis reiterated that tonight they were here to talk about a site plan and several other components of this project. He stated the issue before the Commission was the site plan, but when one thinks about what was happening to the beach, they needed to look at this holistically and not just with regard to the isolated issue. He stated that "showdown politics" was not the way to go, and he did not want to be a part of it because it was a disservice to the community and the investors, and no one would benefit. He stated they were put in an odd situation as a City Commission because he had to pick up the pieces from the previous Commission. He continued stating that it had been a mandate left by the previous Commission and he had to stick with it. He stated he was sorry to say that he did not feel that obligation because if he had voted against it in a previous Commission, he would not feel any obligation to vote for it tonight.

Commissioner Trantalis continued stating that there were those who stated tonight that there would be a lot of minority involvement in this project which would be good, but this was a "color blind" process, and if they thought of it any differently then they would be doing a disservice to themselves. He stated they were a corporate entity which was attempting to erase a past of discrimination, and it would be wrong for them to feel they were obligated to be in favor of the project because of its minority participation.

Commissioner Trantalis stated that he did not want to, in any way, suggest that he could impose or feel that his beliefs regarding the legal points made this evening were going to be better than the City's counsel or those who stated their opinions this evening. He further stated that the statement which had been made regarding inducement were fighting words in legal terms. To suggest that someone induced one to do something was not just a "throw away" phrase, it had significant meaning. Somehow we were to have lured these people into a trap and now they were responsible for it. He stated he did not accept that because it was a business decision, and was a risk that people took in trying to participate in a transaction.

Commissioner Trantalis continued stating that reliance was another fighting word. Somehow they relied on us and the City's representations and justifiably relied on their representations. He stated they changed their position in terms of having spent money, and therefore, had suffered damages. He stated those were fighting words also. He stated they could not accept that because the reliance was simply a hope and a promise that they held knowing all along that this deal was always contingent upon tonight's vote and upon the State's approval.

Commissioner Trantalis stated that his final point was that this whole issue tonight was almost premature because the City had a partner in this land who they had not yet consulted. The City did not know what take the State would want in this matter. He asked if their share of the revenue would simply be the parking fees or would they want the value of the improvements that were going to be placed on this property. He stated it was not almost a ripe issue at this point until they had some indication from their partner as to what they wanted out of this deal. It would be foolish and wrong for them to make a decision until they consulted their partner. It was his belief while he met a lot of good people in this process and believed that Mr. Duprey's heart was in the right place, and the people working with and for him wanted to do something good for the City, Palazzo was a project which could be built somewhere in the City, but not at this location. He stated there were many opportunities for beach redevelopment and slum clearance, and felt they should work together and find a solution, but he did not think that the only way

through this process was through the Courts. He felt they should talk to one another in an attempt to find a way to create a better environment for the community, and not just talk about suing one another because "showdown politics" was not going to work.

Commissioner Moore disclosed that he had met with many of the representatives who had stated they were lobbyists for this project, and stated that it might be a foregone conclusion by the developer and many of the lobbyists where his particular position was on this matter. He stated it was not because he was of African descent or because he was a person who consistently had supported the development of sites in the City, but was due to his record over the last 16 years who had voted to make this area a community redevelopment one due to its slum and blight. He felt they needed to consider what they wanted the City to be, and do all one could to make it happen. He stated that in doing that it would cause some individuals to have concern about one's vote. He stated that the threat tonight also came from individuals who came and spoke stating they had voted for this Commission, and if they did not do what the citizens wanted they would vote them out. He explained the threat of the developer was that they had come into an agreement with him and led him down the primrose road, and now they would have to continue down that road due to the promise made. He stated everyone looked to the policymakers to do the right thing, and doing the right thing was not always popular and everyone would not agree. He stated he wanted to continue with the effort that they did a few years ago.

Commissioner Moore continued stating that a few years ago they decided there would no longer be a spring break, and they wanted to change Fort Lauderdale's image. They wanted to redevelop the City, and therefore, they went around the Country to see what other entities did. They came back with the concept of a Community Redevelopment Agency. Appropriate studies had been done at that time stating that this area was blighted. He felt that Jackson Towers existed because they had the courage to say good-bye to springbreakers, and had the courage to take the money from other taxing entities to place the infrastructure that was necessary to allow for such redevelopment. In 1994 they stated their mission once again when they said they wanted to be the best city of their size, and asked the voters to give additional tax dollars so they could deal with the amenities that were their strength which were the waterways, Riverwalk, and areas around the beach. He stated they had told people that they felt the Commission was making a bad decision, but in the future they would have a tax base and resort destination. He stated they called in the ULI and asked them to make recommendations as to how they could redevelop the beach. The resort concept was developed which gave a cohesive look as to how to redevelop the beach.

Commissioner Moore remarked that many people spoke of congestion on the beach, and he saw that during spring break. He stated that he had attended conferences regarding public spaces and the concept was different from what he had envisioned. He explained they had discussed how development was done in an urban core and what was public property and public accessibility. He stated that many areas had courtyards and pavilions centered around towering buildings, and the reason those areas worked and were more publicly accessible was because they did not have a court where people would use it. He felt if the only way they could use public property was to plant a palm tree and hope that someone would walk their dog, it would be what they saw on the south side of the river where there were no people around the development a few years ago. He stated that the public space was now being utilized.

Commissioner Moore asked was it the best use to have a parking lot or should they concentrate development on a site that would allow the public greater use and accessibility which would have an economic base and create jobs. He stated they were not here tonight to tell this developer no, but to tell him yes that he had responded to the City's request. He stated that this project had been compared to a marriage, and if one gave a ring and then pulled out of the deal, they would be at a loss. A commitment had been made even though the vows had not been consummated, but a distinct invitation had been made welcoming the relationship. At the beginning of the meeting he had seen something he had never seen before which was a person of African descent who had the wherewithal to respond to an RFP in the City, and be awarded it based on having a product which met the needs of the community. The different interest groups which had the opportunity to say what they wanted on the lot had been met by this developer, and no one in the audience at the time of the discussion had raised the fact about his color. They had only stated that he had offered the amenities that were desired.

Commissioner Moore stated that he had also seen segments of the community tonight work together, and this was an opportunity for the public. Even though he was a Commissioner in one district, and this site was in another it was still public land and everyone should be informed. This developer had made outreach a concern and had visited every community in an attempt to build consensus. He felt this was the first time the City had a public/private partnership and he did not want this Commission to react to the site plan before them and end this partnership. He felt if there were problems with the 200', then deal with it, as well as other problems which arise. He stated that to say to this developer after sending out the RFP and this person competing in the process and being awarded the contract, and tell this developer to "pack his bags," he wanted to find a methodology for this site. He reiterated that because there was a building on this site did not mean it would not be publicly accessible, and he felt it would be more so.

Commissioner Moore further stated that professionals had evaluated the traffic and had stated the impacts. He stated the site plan was the only reason for tonight's discussion. He further stated that open space was important in stating that this was public land, but it did not state it had to be "opened," and only had to have public accessibility. He urged this Commission to rethink on what was public accessibility and what was their opportunity in continuing to have the economic impact of developers coming to the City when sending them a request. He asked how many RFP's had been sent out to interested parties who they felt had the capability of doing the development.

Mr. Adams replied that their mailing list had been over 100. Commissioner Moore reiterated that they had solicited 100 people to bid on this public property, they had gone through numerous public hearings saying they were going to utilize this property in such a manner, a master plan had been done along with a vision and CRA project, in order to state that the development was to be proposed. He hoped the Commission would follow through. He also asked if they had given the developer and any individuals who had responded that the City had certain directives which it wanted to implement regarding the project. Mr. Adams explained that the RFP had laid out the requirements of the City which had been directed by the City Commission. Commissioner Moore clarified that the Commission had utilized the various boards and homeowner groups for input regarding this public property. Mr. Adams stated there was a considerable timeframe of public input both from the boards and the community, as well as professional studies which went into the development of the RFP which had taken about one year. Commissioner Moore asked if it was an open process when they deliberated as to which of the

developers had met the guidelines of the RFP. Mr. Adams confirmed. Commissioner Moore stated that the process had been a competitive one. He asked if there had been a citizen review of the responses to the RFP. Mr. Adams explained there had been a selection committee primarily composed of the Beach Redevelopment Advisory Board, including the Chairman of the Planning and Zoning Board and the Marine Advisory Board. Commissioner Moore asked if there was consensus by that committee that this particular developer and this concept of the development should be implemented by this Commission and the CRA. Mr. Adams stated that the committee's recommendation to the Commission which had been presented at their May 1, 2001 meeting, they had ranked the Arvida development above Palazzo. He stated that from that public meeting and discussion with the Commission, they had short-listed the third proposer. Based on the analysis of the pros and cons of both proposals, the Commission had asked both proposers to come back with responses to specific questions and concerns which was heard before the Commission on August 28, 2001.

Commissioner Moore asked if Mr. Adams recalled how tall the buildings were in the Arvida proposal. Mr. Adams stated that the buildings were probably consistent with the height requirements of the RFP, but it was denser than the Palazzo project. He stated at this point in time, he did not remember the site plan very well. He explained it was definitely denser and there had been more units. Commissioner Moore stated they needed to look at the site plan and he hoped they would continue the deliberations and try to find some way to address the variance issue, if that was the major issue. For over 16 years, they had suggested that this site was to be developed, and now they truly had a person who had the interest of their redevelopment partnership due to their investment, and it was not an issue of either go to Court or get voted out of office. He explained it was how to make this proposal become the vision they had asked for this developer and others to do. He explained that was his point of view.

Commissioner Teel stated she had a few items she felt were necessary to be placed on the record. She proceeded to make her disclosures and announced that she had met with Jim Blosser, Dan Adache, Pete Witschen, Pamela Adams, Walter Morgan, Mr. Duprey, Dan Teixeira, and Sydney Callaway. She stated that she had also spoken with Alan Gabriel, Barbara Curtis, Mary Fertig, and she had visited the sale center and had walked the site. She stated that she wanted to ask some questions and explained she was approaching this strictly as a site plan level IV process. She asked if the site plan as presented in full compliance with the ULDR. The City Attorney stated that in his review of staff's report, it appeared it was not. He suggested that Cecelia Hollar discuss the matter further.

Cecelia Hollar, Director Construction Services, stated that the way the site plan had been proposed was that in order for it to comply with the ULDR the Commission would need to grant the waivers of the maximums provided by the Code. She stated the Commission had the ability to evaluate the site plan and all the impacts associated with the potential waivers of the 200' lengths and widths. She stated they would have to make the determination that it would warrant granting the waivers.

Commissioner Teel stated that as it stood today it did not meet the ULDR requirements without the waivers or the modifications. Ms. Hollar confirmed. Commissioner Teel asked if the north building met the setback requirements of the ULDR. Mr. Morris replied there was a yard modification request at the northeast property line. Commissioner Teel asked if the center building met the setback requirements of the ULDR. Mr. Morris

confirmed. Commissioner Teel then asked if the south building met the setback requirements of the ULDR. Mr. Morris replied that on the east yard they had requested a 12.5' to 16' modification where 20' was required, along with a request for a 9' to 11' modification on the south yard where 20' was also required. Commissioner Teel clarified that was the area next to the Las Olas Bridge. Mr. Morris confirmed.

Commissioner Teel asked if the south tower met the setback requirements of the ULDR. Mr. Morris replied that they were requesting a north yard modification of 20' so there could be a zero yard along Las Olas Boulevard where 20' was required.

Commissioner Teel further stated that she now wanted to talk about the buildings and their lengths and widths and if they met the requirements of the ULDR.

Commissioner Moore asked on the modifications which had just been clarified could they get some response as to why such modifications were being requested.

Commissioner Teel asked if she could continue, and then those items could be addressed. She asked if the center building met the length and width requirements of the ULDR. Mr. Morris stated that the applicants were requesting an east/west structure with modification of 76' to allow for a 276' wide structure where 200' was required. On the north/south structure they were requesting a length modification of 24' for a 224' long structure where 200' was the maximum. Commissioner Teel asked if the center building met the length and width requirements of the ULDR. Mr. Morris replied they did not. Commissioner Teel asked if the south building met the length and width requirements of the ULDR. Mr. Morris replied that it did not meet the width requirements. Commissioner Teel asked if the condominium tower on the south side met the length and width requirements of the ULDR. Mr. Morris replied that it did not meet the width requirements.

Commissioner Teel asked if any of the four buildings meet both the length and width requirements of the ULDR. Mr. Morris replied they did not. Commissioner Teel asked if No. 8, part IV of the RFP on page 22 advised proposers to be familiar with the ULDR. Mr. Adams replied that it did advise the proposers to be familiar with the requirements of the ULDR, and spoke specifically to the 200' building width and length requirements which was zoning in progress at the time. He stated that it did say: "This requirement was modifiable to the development permit approval process." Commissioner Teel asked if the original RFP had disclosed the 200' length and width limitation or requirement. Mr. Adams stated it was zoning in progress at the time it went out.

Commissioner Teel asked further if the RFP had specified the process required for any modifications. Mr. Adams stated that any modification that was permissible through the ULDR would go through the planning and zoning process, including the approval of the City Commission. Commissioner Teel asked if they were required to go through DRC. Mr. Adams confirmed. Commissioner Teel further asked if the RFP guarantee that any of the above groups would automatically grant modifications. Mr. Adams replied it had not. Commissioner Teel asked if the RFP had set height restrictions. Mr. Adams stated that the RFP had established the Preferred Development Program which set the guidelines for height. Commissioner Teel stated she had received a document entitled the First Addendum to the RFP, and asked if it commented on structure height. Mr. Adams confirmed. Commissioner Teel asked if the RFP had specified requirements for setbacks. Mr. Adams stated that the RFP would have referred to the requirements of the ULDR, and stated there might have been some specific questions which had been

addressed in the Addendum. She quoted from the Addendum as follows: "Proposers are advised that setback criteria in the PRD zoning district is 20' from any roadway unless modified through the development review process." Mr. Adams confirmed.

Commissioner Teel asked if there was current parking south of the bridge. Mr. Adams clarified that the parking south of the bridge consisted of 100 spaces per the sales center agreement and was all permit parking. Commissioner Teel asked how moving all the City parking north of the bridge would impact individuals with permits south of the bridge. Mr. Adams explained that the Marina permitted parking was located under the bridge. He explained that the balance of the parking was on site, and part of the requirement of the RFP was that any of the on-site parking dedicated to the Marina, and anything impacted under the bridge, had to be replaced in the garage structure which was a number above the 1,000. Commissioner Teel asked if there was an established area where the spaces would be located. Mr. Adams stated they basically had an understanding with parking that they would be able to select the spaces that they wanted. He believed the current philosophy was that since they did have the spaces under the bridge, they preferred to have the spaces located in the center and north buildings.

Commissioner Teel stated that she found the Hughes report to be quite interesting and revealing. She further stated that she was surprise because Ms. Hughes had stated in Attachment No. 1, page 1: "At the present time, the site contained a total of 625 parking spaces." She stated this was the first time she had heard that number and she felt it was higher than what staff had been quoting. She added that also in the report, it stated there were 520 metered spaces on the north lot, 105 permit spaces on the south lot, and 19 metered spaces on Birch Road.

Ms. Hughes stated that Commissioner Teel was reading the report correctly. She added that earlier today she had recognized the fact that she should not have addressed parking at all because it was not her responsibility. She explained that she had made an attempt to quantify the parking in general terms as a matter of background for the work they were doing. She also explained that she had verified the numbers and this was one way of characterizing it. She stated there were many ways of dividing and segregating the parking, and since this was a comprehensive view, it had included all of the on-street parking in the immediate area that would be affected in some way. Therefore, she felt she had dealt with a slightly different total than many of the individuals who had spoken this evening.

Commissioner Teel stated that when she had read some of the documents explaining what the City was to get with the parking garage, they had addressed on-street parking and she had attempted to determine if they were recounting the on-street parking which was there or not. Ms. Hughes stated that was her attempt, and generally speaking this was how much parking was available that would be replaced with the development. Commissioner Teel further stated that with the 625 spaces and the 19 on-street spaces, she had arrived at a total of 644 existing spaces.

Commissioner Teel further stated that she had found it somewhat confusing or misleading when she had seen the ads during the last year which had always addressed a parking garage. She was visualizing it as a single structure and tourists could identify it and know to park their cars there. In further reviewing the documents, she had found the parking to be in the three buildings, and she questioned how a visitor would know how to

access those spaces. She felt it was not a very user-friendly type of arrangement. She stated she was concerned about the parking spaces being so scattered and would lead to confusion.

Commissioner Teel referred to Attachment No. 1, page 3 which stated: "Queing analysis had not been conducted by the applicant for this driveway at the time of the writing...during the course of the three- point or better turn needed to back a WDB-40 or WDB-50 into the loading bay and those individuals traveling along Las Olas Circle to other destinations suggest que lengths of 6 and 7 vehicles for northbound motorists and perhaps almost as long for southbound motorists. For northbound vehicles the issue goes beyond inconvenience to a matter of safety with the curvature of the road around the marina office, and the presence of large columns supporting the Las Olas Boulevard Bridge which obscures the view of what is ahead for northbound vehicles." She stated that she found that quite frightening. She stated that in reading further, she had seen that Las Olas Circle would go from 15mph to a 10mph limit. Ms. Hughes replied that had been a recommendation of hers also because they had been at a loss as to how to make this safe. She explained that she had a very good illustration which had been prepared by the applicant that showed this graphically, and she felt this was a very serious safety concern.

Commissioner Teel stated that she had also noticed in Ms. Hughes' comments that they had felt that three parking spaces under the bridge would have to be removed in order to address some of the problems. Ms. Hughes replied that her highest priority would be to close the access to the north side of the parking lot so the vehicles would come in from the south. She further stated they could relocate some of the spaces at the northwest corner so the northbound travelers would have better vision. Commissioner Teel stated that she had also read that the trucks would have a problem entering the loading platform, and stated she was astounded that this would be the only way for moving trucks and other delivery vehicles to enter the building. Ms. Hughes explained it was the primary loading area, but stated there were one or two pull-off areas which were large enough for such vehicles. She advised they would then have to cross the street with their deliveries.

Commissioner Teel stated if the bridge was up and vehicles were attempting to make the right-hand turn, it appeared that the traffic could back up for a long distance. Ms. Hughes stated that could be true in the southbound direction, but added that one of the things that would happen on Birch Road was that it was going to grow in its significance for the beach residents. She stated they felt the existing southbound traffic which was low in relation to its capacity would grow with the beach development, and the queue would get longer and at some point back up.

Commissioner Teel felt it was interesting to hear a doctor's concerns this evening regarding the traffic, and she felt this should all be taken into consideration and everyone be aware of those conditions.

Mr. Scherer stated he wanted to make an objection for the record. He stated that Ms. Hughes' report had not been available for the DRC or P&Z process, and they had recently received a copy of it. He stated they had been denied due process, and in addition she was unqualified under City Code to give those opinions. He asked to have her testimony stricken from the record.

Commissioner Hutchinson asked if there was an opportunity for staff or Ms. Hughes to make their comments.

Peter Partington, Acting Assistant City Engineer, stated he wanted to address the unqualified aspect. He stated they had a question regarding Ms. Hughes' qualifications under the contract, and the question had been referred to the City Attorney and it had not been directly related to this development. He explained that the City Attorney had ruled that if she had a qualified professional on staff, which she did, then she would meet the qualifications of the contract regarding traffic review.

Mayor Naugle asked about the timeliness of the report.

Ms. Hughes explained that her first version of this report had been prepared and supplied prior to the planning and zoning review. She stated that the applicant had then resubmitted an entire report, and to benefit the applicant she had then re-reviewed the report which resulted in a revised report from her office. She reiterated this was that revised report. Mayor Naugle asked who had requested her to do that work. Ms. Hughes replied that it was done as a matter of review and all her findings were summarized in a report. Mayor Naugle asked who had paid her for that work. Ms. Hughes replied that she worked for the City. Mayor Naugle asked who had authorized her to bill the City for this product. Ms. Hughes replied it was the same person who had hired her to do the review which was Tim Welch. Ms. Hughes clarified that she would be remiss in not issuing a report summarizing a second submission. Point of fact, this report was very similar to the previous report except that some concerns had been removed by additional materials which had been reviewed in the second review.

Commissioner Moore reiterated that was why they went through the public meeting regarding the site plan. He stated that he did not have any concerns, and realized that the developer would raise his concerns. He further stated that he wanted to focus on how to "tweak" the site plan in order to address the matter. He stated that was why he had attempted to earlier raise the issue as to why these variances were being requested regarding the width and length of the buildings. He stated that he wanted to know why these issues existed. He asked if in the development review had they critiqued how this project could be improved.

Ms. Hollar stated that their department contained the planning and zoning division which was responsible for the review and processing of these developments. She stated that this project was required to go through the Development Review Committee, the Planning and Zoning Board, as well as the City Commission. However, there were different reasons as to why it had to go through that process. She explained that one reason was because the use required a Site Plan Level IV, and because of the modifications to the minimums which were provided for with regard to the maximums of the building lengths, widths and setbacks. She stated that as part of that development and review process, there were triggers for site plan review which also triggered standards which were to be reviewed through the Development Review Committee, the Planning and Zoning Board, and the City Commission. She explained that at each level, each development reviewing authority was to determine whether or not the standards had been met. She stated before the Commission tonight was the use, as well as the modifications being requested. The Commission was to determine whether or not the applicant, in the design of the project and in their supporting documents, had met the standards.

Commissioner Moore stated that when staff reviewed the length and width adjustments being requested, had they a professional opinion as to why these particular things had been done and how they could be modified if necessary. Ms. Hollar stated that she wanted Don Morris, Project Manager read into the record the paragraph that was included in the memorandum regarding the lengths and widths of the buildings.

Mr. Morris proceeded to read from the neighborhood compatibility section as follows:

“Building yards, setbacks and building separation requirements are designed to provide for adequate flow of air and light, and to provide view corridors. As proposed, the buildings on the north development site are separated by public access easements which align with Poinsettia and Banyan Streets to the east running from Birch Road and to provide connection to Las Olas Circle. However, since these are public access easements, there are no minimum setbacks required from the easement. As such the minimum building separation requirements is 20% of the height of the tallest building or 18.03' is required. The north and central buildings have a 53.5' separation, while the central building and south building are separated by 44.2". Although these building separations well exceed the minimum requirement, they are still far less than when compared to the requirement of a 90' separation of the Poinsettia and Banyan Street extensions for public right-of-way. Narrow building separations, coupled with extended building links, lend themselves to an appearance of a continuous wall. Increased building separations and/or the reduction of building lengths are possible ways to mitigate this effect.”

Commissioner Moore asked if staff felt they had done that in this design. Mayor Naugle stated that was what the Commission was being asked to decide. Ms. Hollar replied that the summary of what Mr. Morris had read was basically that in their professional opinion, there should be a wider separation between the buildings or the buildings should be shorter in length or width to mitigate the closeness of the buildings, as they were occurring as a result of the separation and larger building lengths.

Mayor Naugle stated if the Commission decided that the site plan did not meet the requirements of the ULDR and voted to deny the site plan, that would give the applicant the chance to apply with a program that would be in accordance with the ULDR. Also, he stated that during that period of time, possibly they could get an answer from the State regarding their intentions as to their interest in the property.

Mr. Scherer stated he once again wanted to object to the last testimony, and asked for it to be stricken from the record because staff had put that in their report for the first time within the last few days in order to manipulate a pretext to deny this proposal. He reiterated that it had never been raised during the DRC review, nor at the planning and zoning review. He stated that the “canyon effect” had been raised for the first time within the last few days, and they felt it was pretextual and viewed it to be in violation of their due process rights.

Commissioner Moore stated that in regard to the recommendation made by the Mayor in regard to the denial of this proposal, he asked if there was some other course that could be dealt with since there were certain items the developer had received recently, and due to the issue raised in reference to the State. He asked if there was some way they

could allow an opportunity for a review of such comments, as well as an opportunity for the developer in their partnership to look at how these matters could be addressed.

The City Attorney stated that this could all be done at the same time. If the Commission denied the site plan this evening, they could go back to the drawing board and come back with a proposal which met the requirements. He explained it would not be necessary to get to the documents tonight because one of the most important documents was the development agreement, and one of the most important attachments to the development agreement was the site plan.

Commissioner Moore asked if the only way to do that was by denying the site plan. The City Attorney continued to explain that if the Commission denied the site plan, rather than grant any of the variances which were requested, then he would recommend that during that period of time the City take the opportunity and go to the State and ask for an acknowledgment that the documents were in compliance with the deed restrictions placed on the property when given to the City.

Commissioner Moore asked why the developer was requesting the adjustments.

Mr. Scherer replied that the City had requested 1,000 parking spaces, and both plans required modifications to the ULDR. He reiterated that both parties knew that going into this development. He stated it was clearly in the record. He stated also in the record was that nothing had been raised by the planning staff until recently in respect to these requests. He further stated in their view the RFP had stated that they would sign the lease, and then they would move forward for site plan approval. He stated they could not build what the City asked for on the site without such site plan modifications. He stated he could show how it could be done within the Code, and proceeded to show a sketch of the height and width of the structures being proposed within the parameters of what the City was requesting. He stated it showed building within code and nothing but skyrisers, which the City had stated they did not want.

Mr. Cook stated the bottom line was that with the size of the buildings and number of parking spaces given by the City in the RFP, they could not deliver the buildings any other way. He emphasized that they had to have larger buildings because there was simply not enough space.

Mayor Naugle suggested that they reduce the number of units in the buildings. Mr. Cook reiterated that they could not physically deliver what was asked for without having the buildings larger than 200' x 200' and under six stories. He stated that 60% of the mass of the buildings was parking. Mayor Naugle reiterated that the number of units could be reduced in the buildings or the size of the commercial area. Mr. Scherer remarked there were a limited number of units in the buildings already, and there were enough economics to drive this deal which were part of the negotiation process. He stated it was their belief that it was the City's desire that the project be built in this fashion. He remarked that they had attempted to show that in the record.

Commissioner Trantalis stated that in an attempt to bring closure to this discussion, he wanted to make the following motion.

Motion made by Commissioner Trantalis and seconded by Commissioner Hutchinson that the site plan application be denied. He stated if the parties could return with a

modified plan that conformed to the ULDR that would be their prerogative, and possibly the City Attorney could inquire in the meantime with the State as to their interest in any income derived from this project.

Mayor Naugle stated that this had been discussed and noted in the Planning and Zoning minutes of March 19th meeting on page 34, where Board Member Curtis talked about the 200' limit of the buildings, and the Board had also discussed the setbacks.

Mr. Scherer stated that the point was that staff had never brought the matter up, nor the issue of the "canyon affect" until brought up by Barbara Curtis, and then in the last few days it had been added as a justification to deny the site plan. He stated he had previously expressed what he felt the law was in regard to their review.

Commissioner Hutchinson asked why they were still at this juncture with the State, and before the City signed their name to anything why had they not gone to the State to find out their position on this. She felt someone had faulted in their job and she wanted to know why the Commission did not have that information this evening.

The City Attorney stated that in conversations with the developer when this first began in 2001, according to the developer they believed it was the City's risk and not their concern. He stated he arrived in 2002, and the first question he asked was about the deed restrictions and the release from the State. He stated they could either wait until the end when the documents were all put together and ask for it and make the documents conditioned on it, or not sign the documents until such time as the release or acknowledgement was given. Since it had not been done, the developer clearly expressed their desire to wait until the end of the process.

Commissioner Hutchinson stated it was no offense to the developer, but as a City and as elected officials, they needed to know the State's position now.

Commissioner Moore stated he was attempting to deal with the denial of the site plan, and stated if some information had been delivered in a short time frame in reference to staff's concerns and the site, rather than deny the plan would it not be better for them to work towards a meeting of the minds regarding these matters. He reiterated that he looked at this as a partnership, and not going after each other. Due to the RFP process, the response to that RFP, and due to monies spent, he felt it would be best to look at how they could deal with the reasons.

Commissioner Trantalis stated that could be one approach that could be taken, but as done in the past, site plans had been denied and if the proponent wanted to return with modifications that option was available. He felt for purposes of tonight's meeting, he wanted to stay with his motion to deny the site plan as proposed, and for the City Attorney to inquire with the State as to their position. He felt until that condition was fulfilled to the satisfaction of the City and this Commission, there was no point in trying to approve any type of site plan or development plan, or even a lease.

Commissioner Moore stated he agreed that this had been done regarding other development issues, but he reiterated those had been private development deals and were issues that had not been solicited for a developer to develop a site. They had not gone through a process suggesting there was a partnership. He felt that was the only difference he was proposing and the fact that they should not tie the two together. He

stated the if City should have done its due diligence in regard to matters with the State, then it should have been done and should not be mixed together. He stated he wanted to leave here this evening with an understanding that they were trying to build consensus in regard to a project that started 16 years ago in connection with redevelopment. He hope they would go out in the manner, rather than with a denial and then pointing their fingers at the developer at a later date, if he attempted to meet the ULDR issues.

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

Mayor Naugle asked if the Commission wanted to instruct the City Attorney to develop a strategy with the State. Commissioner Hutchinson reiterated that she wanted some type of document from the State regarding this matter.

Mayor Naugle stated it was pointed out to him that the resolution had to be read, and if the Commission wanted to vote down the matter, they would have to vote "no" on the resolution.

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 03 -

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, GRANTING A DEVELOPMENT PERMIT FOR THE CONSTRUCTION OF A MIXED USE DEVELOPMENT ON PROPERTY LOCATED AT LAS OLAS BOULEVARD AND BIRCH ROAD IN FORT LAUDERDALE, FLORIDA, IN A PRD ZONING DISTRICT AS A SITE PLAN LEVEL IV DEVELOPMENT.

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

The City Attorney remarked that the matter with the State would be taken care of.

Commissioner Moore asked by making a motion in the matter of a denial, what was actually done. He stated he wanted a clarification because he would rather reconsider the matter before they walked out the door, if necessary.

The City Attorney explained that historically the City had approved these things and had placed them on the agenda as an affirmative motion to approve, and a denial of the motion to approve was a denial of the application.

Commissioner Moore asked if the prevailing side wanted to reconsider the issue. Commissioner Trantalis stated they had the opportunity to reconsider the issue, if not tonight than at some later time, depending on the outcome of the City Attorney's investigation in regard to the State. Commissioner Moore remarked the two were being tied together, and he did not feel that should be done.

The City Attorney added that the investigation with the State would entail a request of the Governor and the Cabinet for an acknowledgement and a recordable document that could be placed in the record that stated the deal they made, along with the contract, was in conformance with the deed restrictions the State had placed on the property.

Advisory Board/Committee Appointments (OB)

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

Aviation Advisory Board	Bunney Brenneman
Code Advisory Committee	Alexander P. Heckler
Utility Advisory Committee	Dr. David Benjamin
Citizens Board of Recognition	E. Birch Willey Council of Civic Association Representative (Genia Ellis, Acting President)

Commissioner Hutchinson introduced a written resolution entitled:

RESOLUTION NO. 03-167

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

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

City Manager Recruitment Ad Hoc Committee (OB)

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

- Dr. Ron Wright
- Leola McCoy
- Edward Curtis
- Ed Barranco
- Helen Surovek
- Bill Howard
- George L. Hanbury II
- Pamela Adams
- Genia Ellis
- Larry Hayes

Commissioner Hutchinson introduced a written resolution entitled:

RESOLUTION NO. 03-168

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, ESTABLISHING THE CITY MANAGER RECRUITMENT AND AD HOC COMMITTEE; AND PROVIDING FOR THE CITY MANAGER RECRUITMENT AD HOC COMMITTEE'S FUNCTIONS, MEMBERSHIP, MEETINGS AND PROCEDURES, AND DURATION.

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

At 2:07 a.m. Mayor Naugle adjourned the meeting.

JIM NAUGLE
MAYOR

ATTEST:

LUCY KISELA
CITY CLERK