

COMMISSION CONFERENCE**DECEMBER 16, 2003**

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Present: Mayor Naugle
Commissioners Hutchinson, Teel, Moore and Trantalis

Also Present: Acting City Manager
City Attorney
City Clerk
Sergeant At Arms – Sergeant Martin

The City Commission meeting began late due to the School Board Meeting held regarding the South Side School issue.

Mayor Naugle proceeded to apologize for the delay of today's meeting and stated that a report regarding that meeting would be given later today.

OB – CRA Property – Konover

Charlie Ladd stated that the actual closing regarding the purchase of the Konover property had taken place yesterday, and the monies had been transferred to the City. He thanked everyone for their patience and foresight, and stated this was the beginning in making this project happen. He proceeded to present a check in the amount of \$6,450,000 to the Mayor. Photographs were taken.

OB – South Side School Board Property

Commissioner Hutchinson stated that the School Board had voted 7-2 in favor of the City purchasing the South Side School property. She stated that there were some caveats which would have to be approved by the City Commission in a resolution this evening. One of those caveats was that they would commit to the restoration in a two-year time frame. She stated that Commissioner Rodstrom's \$350,000 was contingent on the fact that the restoration be done in a two-year time period, and that restrictive covenants would be placed on the property. She announced that it would have to stay for public purpose and would not ever be sold to a private developer. She reiterated that staff was comfortable with this. She announced that the design process would take between 8-12 months.

Greg Kisela, Assistant City Manager, stated that it would probably take 9-12 months for the design and permitting processes, and then one year for actual construction.

Commissioner Moore asked how much money was involved regarding the construction.

Commissioner Hutchinson continued stating that everyone was concerned about the cost for the renovation, but once they owned it they could use the purchase price for matching funds to seek restoration dollars from the parks and building aspects. She stated that she had spoken with the Parks Department, along with Christopher Eck of the Broward County Historical Commission. She stated that monies had been slated in the CIP Fund to begin the design process.

Commissioner Moore clarified that \$350,000 would be received from the County. Commissioner Hutchinson confirmed, and stated they would get \$2 Million from Land

Preservation, and \$2.25 Million from the Florida Community Trust. She stated that no monies from the City's funds were going towards the purchase of the property. She further stated there had been some discussion among the public that they wanted to do a "Friends of the School," where people could donate monies for restoration of the park and school.

Mr. Kisela stated that the County had estimated that the renovation would cost \$2.2 Million, but about 8 months ago the City went through the building and structurally it was in excellent shape. He did not think the renovation would cost \$2.2 Million and felt it could be done for less, but they would not know for sure until the work began. He stated that they had \$1 Million programmed in the CIP for 2003/2004 and 2004/2005 to start the design and permitting work. He explained the adaptive re-use would have to be worked out in the next 6-9 months. He stated the School Board had used the building for their administrative offices, and therefore, ceilings and partitions would have to be removed. Then, depending on what the adaptive re-use was to be, they would have to get into the historical aspects of the building.

Commissioner Hutchinson stated it could not have been done without everyone's help. She stated that Christopher Eck had stated that historical schools were becoming vital parts of communities.

Mayor Naugle stated that Mary Fertig had discussed how the property had been donated by Ivy Stranahan.

Commissioner Hutchinson stated that Pinnacle Housing had bid at \$5.5 Million, and she did not want to bid with a developer because they were only interested in financial gain. She stated they wanted this property for the betterment of the community, and not for financial gain. If the First Right of Refusal had been done which had been on the floor for the City to match the developer's money, it would not have happened.

Action: Resolution to be presented to the Commission at the Regular Meeting.

I-A – Harbour Isles Neighborhood Pedestrian Beach Access

Bruce Roberts, Chief of Police, stated that this item had been discussed in May, and it was to be brought back to the Commission regarding the public safety impact in leaving the gate opened for public access. He stated that a memorandum had been provided regarding the activity of the Police Department since the gate was opened. He proceeded to read the report into the record. He reported there had been no increase in criminal activity while leaving the gate opened.

Eckart Clee, 1956 S. Ocean Lane, stated that he wanted to provide the Commission with a detailed report from the police officers. He stated that he wanted to complain because this issue had first arisen due to the fact that an individual had complained about not having access to the beach at night. He asked if the affected property owners should not have been notified before such decisions were made. He stated that they had found out by accident that a meeting was to be held last night. He stated further that the property owners in the condominiums had sent letters to the City Commission which had been acknowledged, but they had not been officially notified of such meetings.

Mr. Clee stated that a lot of the neighbors' complaints were handled by the security detail, and therefore, would not show up on the police reports. He further stated that it was private beach except for the 10' to 15' strip that went to the beach. He explained that anyone going down to the beach had to trespass over adjoining property owners' properties. He stated they had never complained about that and took care of the beach area. He asked why they should not then have some control over access to the beach. He explained they were complaining about groups of people, especially in the summer time, coming to the beach and parking on private property. He stated trash would be left behind and the property owners would have to then clean up the beach area.

Mr. Clee continued stating that they should provide access past the security guard to the beach. He stated that an individual had threatened to cut the lock on the gate in order to gain access to the beach. He explained that the City ordinance prohibited dogs from the beach, and they wanted to keep individuals like the homeless off their private property. He stated they wanted the Commission's approval to relock the gate.

Steve Lipton, Point of Americas, stated that he wanted the Commission to consider this issue from another approach. He stated that meetings had been held regarding how the rights of the public to have access to the beach could be accommodated, while still providing safety and security to those individuals living along the beach. He stated there was a difference in what they were speaking about and a public beach. He explained that the public beach started in the area north of Sunrise and went to South Beach. He further stated that from A1A to the ocean's high water mark was City-owned property. He stated that south from that point behind the Yankee Clipper and the Marriot Harbor Beach, it was private property and organizations provided their security and there was no public access to the beach through those areas. He explained that south from that point, one would reach the area being discussed. He stated there were single-family homes in that area along the beach. He stated that an easement had been granted to the City which was 10' wide and extended to the high water line as it existed on a date in April, 1967. He thought that was unusual and stated that the beach since then had eroded and the City's easement now ended about 100' from the high water mark. He stated that no one had asked individuals to stop trespassing on their property. In 1993 there were problems which existed from the '80's, and the City allowed a gate to be installed through administrative action whereby it would be locked during night hours. For 10 years the problems stopped, and they stated that they now had security cameras and they offered to put up spotlights, one way access with a buzzer so access could be gained to the area. He reiterated they wanted to have a fair balance of public access and public safety for their properties.

Harry Benedict, Point of Americas, stated that this was not simply a matter of Point of Americas versus the locking of the gate. He stated that letters had been written by other organizations to the Commission in the past supporting the locked gate. He stated they were not attempting to stop use of the public beach.

Glenn Mondani, 2612 Barbara Drive, stated that he had cut off the lock off the gate and he had not done it so he could take his dog down to the beach. He stated his reason for doing it was that when he had purchased his house, he had a deeded right to go to the beach at any time and showing respect to the residents of the area. He apologized for cutting off the lock, but stated that he wanted to enjoy the beach at any time he desired.

Genia Ellis, President of the Fort Lauderdale Civic Association, stated that they represented 40 neighborhoods within the City who had voted unanimously that the public access remain unlocked.

Dave Marshall, 1223 SW 5th Court, stated that he supported the public access and public right-of-way.

Bunney Brenneman stated that the access was a deeded right, and she believed it was inherent to protect public access.

Bill Johnson, Lago Kena, stated that he had been coming to Florida since 1970 and there had been times when individuals had been found in the subject area sleeping on benches, and about 8-9 years ago individuals were afraid to go to the beach after daylight hours. He added there had been some documented incidents recently in the area. He felt individuals coming to the beach should be monitored in some way, and there be a control point regarding the access. He stated that many units were unoccupied in the summer months, and that provided opportunities for individuals to do inappropriate housecleaning.

Irving Baker, Point of Americas, stated that he had a letter from the President of the Everglades House documenting an incident involving 3 men being discovered by the security detail in the area, but had fled before being caught. He stated the people in the area had an uneasiness because of such incidents. He stated further they were discussing safety for the people living there, and for the individuals frequenting the beach.

Commissioner Hutchinson asked if there was a curfew on any other sections of the beach stating that individuals could not gain access after 10:00 p.m.

The City Attorney stated the only regulation involved a prohibition regarding fishing during certain hours. He explained there was no regulation in connection with access to the beach. Mayor Naugle added that sleeping was not permitted on the beach, nor parking.

Commissioner Hutchinson asked if further detail could be provided regarding the high water mark. The City Attorney stated he was not certain where the high water mark was today because it was an 18-year moving average. He further stated that the deed did set out a specific spot, as opposed to a moving average.

Robert Dunckel, Assistant City Attorney, stated that he had reviewed this with the surveyor and their determination had been that it ran to the main high water mark, and for it to stop short of that mark would serve little purpose in taking one to the ocean without giving them the ability to get to "state sovereignty" lands which was held in trust for all people of the State. He explained that in the '60's, the City was involved in a case where there was accretion by the public right-of-way which accrued to the easement rights the public had so they could travel over those lands to the waters of the Intracoastal Waterway. He stated that he had a different opinion regarding that issue.

Commissioner Hutchinson stated that there was public access throughout the City and to set a precedent by closing off this area would have a ripple effect. She did not think this Commission intended to do that, nor had that been the intent of previous

Commissions. She reiterated that she supported the recommendation of Chief Roberts. She stated that in reviewing the police statistics, she was not convinced they were all attributed to the beach access.

Mayor Naugle stated that they would continue to monitor the situation and if things changed, then the matter would be revisited.

Commissioner Trantalis stated that in passing through the right-of-way, there was private property on either side of the access, and it became public property closer to the water. He clarified they were talking about 10' from the high water mark which continued to creep as the sand shifted. Commissioner Trantalis reiterated that individuals felt there was trespassing occurring on their private properties.

Mr. Lipton stated there was a 10' slice into private properties, and went to a spot where the shoreline existed in April, 1967. He reiterated they were objecting to night time access of the beach and having to clean up the trash. He stated they were not trying to block off the public beach, but were trying to keep people out of their private yards during the night hours. He stated they wanted to work with the City in an effort to protect their rights, and allow access to the beach. He reiterated that once individuals stepped off the 10' easement, they were trespassing.

Mayor Naugle stated that individuals had the impression the City was treating this area differently from other parts of the City. Mr. Lipton stated they were and that the area south of Oakland Park was gated off. Mayor Naugle reiterated that many streets were not gated and access could be gained to the beach, especially in the north area. He stated the City was treating everyone the same, and parking was limited in areas.

Commissioner Teel stated there were many other access points in that area which permitted access to the beach between private homes. She added that was included in the deed restrictions.

Mayor Naugle reiterated that the Commission's action 6 months ago was that they needed to be cautious, and the police would continue monitoring the situation and providing reports to the Commission.

Mr. Lipton added that if the City did not help them keep individuals off their private property, they would have to seek action on their own.

Action: None taken.

I-B – Fort Lauderdale/Hollywood International Airport- Expansion of Runway

Commissioner Moore left the meeting at approximately 2:55 p.m.

The City Attorney stated that he had sent a memo to the Commission last Wednesday when the Board of County Commissioners had rejected the expansion of the airport, and had modified the runway extension to about 8,000 feet. He stated he had the precise motion made and on December 15th had sent to the Commission the action which he had taken. He stated they had suspended the effectiveness of the Development Order, and they were still at a "wait and see mode" to see what the County would do.

Commissioner Trantalis stated it was his understanding that when they stopped the action, they had postured themselves in the position to file suit. Now, they had violated the original development order by limiting the scope of the size of the runway, and asked if they were still in breach.

The City Attorney explained that the City's position previously had been that nothing had been done, and had been required under the development order to do something. He explained that the 8,000 foot runway was the "something."

Commissioner Moore returned to the meeting at approximately 2:57 p.m.

The City Attorney further explained that the City's position was that the application for development approval had been incorporated into the development approval itself, and it required that construction begin in 2003.

Commissioner Hutchinson asked if it was up to the City to decide whether building an 8,500 foot runway would be a deviation from the original order. The City Attorney replied that they had suspended the effectiveness of the development order, and he envisioned that the County would request that a determination be made that this was a non-substantial deviation. He stated that would be the next step, and he felt that some time in the near future the City would receive a request for a determination that it was not a substantial deviation.

Commissioner Trantalis asked if the City was required to take some sort of initiative due to the suspension of the operation. Commissioner Hutchinson remarked that they had asked for it to be rescinded, and they had not technically suspended the operation. The City Attorney explained they had suspended the effectiveness of the development order, but the work had not ceased. Commissioner Trantalis stated the City was continuing to taunt the other party and did the City want to maintain such a position.

The City Attorney stated that he did not think the City was taunting them at all. He explained they had suspended the effectiveness of the development order, and they did nothing. Commissioner Trantalis stated they had ignored the City. The City Attorney confirmed.

Commissioner Moore left the meeting at approximately 3:00 p.m.

The City Attorney continued stating that they had suggested at the meeting that they were going to make a decision in December, and suggested the City wait until then. He stated the City went ahead and took action, and have been waiting to see what was going to be done and would it be a substantial deviation from the original order. He stated they had adopted the position that might be a non-substantial deviation. He explained if they moved forward with what they had approved, then based upon the information provided in the studies where instead of a 9,000 foot runway which would handle 93% of the traffic, or an 8,000 foot runway which could handle 91% of the traffic, and anything below 8,000 feet would get to 80%. He explained that the difference between 93% and 91% was non-substantial.

Commissioner Trantalis asked if they were going to build an 8,000 foot runway. The City Attorney stated that the information attached in his memo was the exact motion which had been approved, along with the action taken.

Commissioner Hutchinson stated that they had approved a modified south runway expansion which stayed within the confines of NE 7th Avenue.

Commissioner Moore returned to the meeting at approximately 3:02 p.m.

Mayor Naugle remarked they needed to refine it further because it was not just the length, but the slope. He stated it was his understanding that the maker of the motion had addressed the engineered runway so that if the slope was reduced, it would be effectively longer than the 8,000 foot runway. The City Attorney stated that he believed they would wind up with an 8,300 foot runway. He stated there might be a slight slope, but they had added as a condition that value engineering was used to arrive at an effective runway length.

Mayor Naugle stated they were discussing elevating the entire runway to reduce the slope making it longer. The City Attorney stated it appeared that the consultants believed they could get an effective 8,000 foot runway and still stay west of NE 7th Avenue.

Commissioner Teel stated she believed there was some discussion regarding the permitting process with the shorter runway, and it might be more difficult to get it through the Army Corps. She felt they needed to be aware that if the City did not go along with them, they could end up with no runway.

Commissioner Hutchinson stated she was not comfortable releasing anything until they knew what they were going to do. She stated that this City had negotiated in good faith with the County to get the vote in '97, the vote was confirmed for the south runway expansion even though they did not state how long it would be or what they envisioned it to be, but yet there were discussions regarding the north side. She stated she was not willing to lift anything until she received in writing what they intended to do. She asked what the expiration date was for the development order. The City Attorney replied that it was 2/20/15. Commissioner Hutchinson stated that she was more concerned about not only the runway, but the mitigation they had done as it related to traffic with the use of the Port roads which were now closed and would never be opened to the public again. Commissioner Hutchinson stated the City needed to go back to the County and get them to do whatever was necessary to find out how traffic would be mitigated on the closed roads. She reiterated that was part of the DRI, the development order, and part of the interlocal agreement.

Commissioner Trantalis asked if the closing of the Port had to do with the expansion of the Airport or was it because of 9/11. Commissioner Hutchinson stated it was part of 9/11, but the openness of the Port was part of the deal that the City signed as it related to traffic mitigation for the expansion of the south runway. She reiterated that there were going to be 58 new gates.

The City Attorney stated that progress of sorts had been made, and they had shown preference for the south runway. He felt when they completed their EIS and word was received from the FAA, they would be in a better position to decide what should be done.

Action: None taken.

I-C – Sunrise Boulevard and I-95 Interchange Landscaping Improvements

Mike Fayyaz, Engineering, proceeded to show a drawing of the project. He explained they were talking with the County and FDOT. He explained further that Peter Strelko had designed the project and would proceed to describe the landscaping. He stated then Broward Beautiful Representatives would give more detail.

Peter Strelko stated that this was a small piece of the project and explained that it was a partnership between the City, County and FDOT. He stated that FDOT would maintain the project and they were basically bringing in a lot of native plants. He explained they would be creating an eco system with flowering trees along the roadways. He stated the project would take place in the Spring. He introduced Sean McSweeney of Broward Beautiful; Marsha Levy; and Elisabeth Hassett of FDOT and landscape architect.

Commissioner Trantalis asked if there had been a landscaping plan when I-95 had been expanded originally. Elisabeth Hassett stated it was in accordance with the mandate of 1.5% of the landscaping.

Sean McSweeney, Broward County Department of Planning and Environmental Protection, stated that this was the first of a number of projects that they wanted to do. He guaranteed the Commission that they were going to use live flowering trees.

Marsha Levy stated this was an exciting project and stated they wanted to revitalize the gateway. She stated this was the beginning of gateway improvements throughout the area, and the key was to have everyone working together.

Mr. Fayyaz stated that the funding was limited, and therefore, they would do as much as possible.

Commissioner Moore left the meeting at approximately 3:10 p.m.

Action: Approved as presented.

I-D – Public Safety Bond Referendum

Horace McHugh, Assistant to the City Manager, stated they wanted to provide an update and have some discussion regarding the bond initiative which was ambitious. He stated they wanted to talk about the concept of relocating the facilities and rebuilding the lease facilities, along with the funding of the rebuilding of the fire stations. He stated that the process being proposed would involve an aggressive and intense process.

Commissioner Moore returned to the meeting at approximately 3:13 p.m.

Mr. McHugh stated they anticipated that they would have to conduct an initial survey of the community in order to discover the level of support they had for the bond. Then, the information would be forwarded to the Supervisor of Elections Office and that information needed to be adopted at the Commission's next meeting. He recommended that a Blue Ribbon Committee be created made up of citizens and residents of the area.

Commissioner Hutchinson suggested that before the community surveys were done that they find out what support would be given from the Unions. She felt they needed to be

on board so they would not work against it. She believed her group was in favor of this bond, but likewise they were concerned due to the City's financial situation, and hoped that the Unions would do whatever they could to support this. She stated that without the Unions' support, the bond would not fly.

Mr. McHugh stated that the response they had received informally was in support of the bond since the citizens would be affected directly. Some of the concerns raised by the community they had heard was whether the timing was appropriate. He hoped that the survey would help them to gauge that.

Commissioner Hutchinson stated that she realized the start and end date for the survey could change, but she assumed that before they adopted the resolution, they would know the outcome of the surveys. Mr. McHugh replied that since it was a compressed time frame, there would probably have to be a special Commission meeting. He stated they would probably ask if they would be in support of a public safety bond for \$125 Million for fire stations. If the survey determined they were not in support, then they would come back and ask the Commission to rescind the resolution.

Commissioner Hutchinson asked if they knew that the compost plant was going to cost \$8 Million, and had appraisals been done.

Greg Kisela, Assistant City Manager, stated that in 1997 the property had been appraised at \$5 Million.

Commissioner Hutchinson asked if the appraisals were going to be updated before they reached a total number. Mr. McHugh stated that before they began purchasing or implementing, they would have to obtain updated appraisals and negotiate a price. Commissioner Hutchinson stated that she did not want to go out for more than what was needed. Mr. Kisela agreed, but stated they could not seek less either.

Commissioner Hutchinson stated that inflation adjustments and contingencies were listed at \$10 Million, and asked for some further clarification. Mr. Kisela explained that if this was approved in March, 2004, it would take 3-5 years for construction and with 2% to 2.5% inflation per year, they would be at about \$10 Million. He reiterated that this project would not be awarded until probably early 2006. Mr. McHugh stated that the fire stations were presented over a 10-year period.

Commissioner Teel stated she was concerned that once it was built that the monies were programmed for maintenance so it would not go into disrepair. Mr. Kisela stated that they needed to set aside \$2 Million per year for maintenance that would be needed after year 5. Commissioner Teel stated they needed to have a firm commitment regarding maintenance.

The Acting City Manager explained that in order to have a sustainable budget over the long term, they had to plug in amounts for maintenance, depreciation costs, and replacements. He stated a commitment could be made now by this Commission, but down the road Commissions could look at the accelerated CIP Plan and change their minds saying funds were not available. He stated that future budgets had to be fully financed.

Commissioner Teel stated that once the facilities were built, monies would be needed for their upkeep, and asked if something could be established making it a more firm commitment. Mr. Kisela stated they could set up a "sinking fund" so monies would be set aside for maintenance as needed. He reiterated that the first 3-5 years such monies would not be needed. He felt that amortization schedules could be run and funds set aside into the CIP that would not be touched. Commissioner Teel stated the whole key was having funds that could not be utilized for other things.

The Acting City Manager stated there was no "silver bullet" for this because such a "sinking fund" could be established, but the problem was that it had to be financed yearly.

Commissioner Teel suggested that such monies be invested into something they could not have readily available. The Acting City Manager stated he was concerned about the yearly contributions to be placed into the fund. He stated once the monies were in the fund, there would be no problem and it could be locked in and invested. Mr. Kisela reiterated that they were setting aside about \$500,000 for fire and about \$250,000 to \$300,000 for police, and therefore, new monies which would be needed would be less than \$1 Million.

Commissioner Trantalis stated that when the subject of building new facilities for fire and police came up this year, he had been in favor of such projects. He stated the tenure of the City's budgetary problems had changed, and he was questioning the wisdom of discussing raising taxes in order to pay for such improvements when they could not retain adequate staff in such departments. He asked if this was the right time to discuss a bond issue.

Mayor Naugle stated that he was not willing to commit to a bond issue at this meeting for March, 2004 until he saw what was going to happen at tonight's meeting regarding the correction of the City's financials. He stated that he also wanted an indication from personnel that they were going to back this, and he had not yet seen such a commitment. He felt they could conceptually approve this for March, but he felt another meeting would be needed in January to firm up the commitment and adopt the resolution. He felt that some other issues needed to be settled before they committed to this.

Commissioner Teel stated it was clear that more information was needed before making such a commitment.

Mr. McHugh stated they were stating that this would require a lot of planning and time, but at some point they would be timed out. He stated they wanted to have this discussion now because a lot of community outreach was required.

Mayor Naugle stated they had done a lot of planning regarding the fire facilities, and he had been under the impression that they were ready to proceed. He felt they were just beginning to discuss the police facility. He reiterated that he could not move forward on this until other issues were resolved.

Commissioner Moore stated that he did not agree with the March, 2004 date because it was too soon. He stated he was concerned about the contaminated sites owned by the City which were going to be involved in the bond, and personally wanted to see if they

could find a way to reuse such sites, especially the Wingate site. He stated they had never come up with a methodology as to how they were going to do that. He further asked if it could be considered with the bond issue in order to address public safety. He stated that the citizens had stated over and over again that they had no distrust to provide for a budget that would adequately provide for services for the future, as well as deal with the necessary infrastructure to provide such services. He felt they needed to deal with the concept of contracting the services with another entity. He stated that suggestions had been made that services should be contracted out to the Sheriff's Department. He stated he was not interested in doing that because the citizens were duly taxed, and they could not even sustain a booking operation in the jail. He stated that he preferred dealing with the issues in a November ballot because greater participation would be received and sounder numbers would be obtained. He wanted to deal with public safety under one heading.

Action: Re-agenda for January meeting and discuss Wingate re-use.

I-E – City Clerk Recruitment

Commissioner Hutchinson stated she had read the in-basket exercise, and she suggested that Theresa Soroka, President of the Florida Association of City Clerks, be on the panel. She stated she was concerned because one of them had worked for the City, and felt there could be a conflict of interest. She asked if there was a need to have all these individuals involved. She believed that the President had the capability of getting the word out and felt they could proceed in that manner.

The City Clerk suggested that alternates be named. Mayor Naugle suggested that the Hollywood City Clerk be used as an alternate.

Action: Approved as recommended.

II-A – Las Olas Courts Limited, Ltd. – Status of Properties at 700 and 712 SW 2 Court

The City Attorney stated that this item had been before the Commission previously. He further stated that on December 5, 2003, he had sent the Commission a memorandum giving an outline regarding an offer of settlement. He explained that between 1979 and 1983, the City's Unsafe Structure Board had declared 700 SW 2 Court to be unsafe and ordered it for demolition. In 1987, the City again ordered the owner to demolish the property, but the owner refused. In 1992, the City adopted the Sailboat Bend Historic District and this was where the problem began. He stated there were two pieces of property similarly situated, and one had been condemned before the district had been created. He stated there had been some concern that there was demolition by neglect. He stated there were fines over \$300,000 and the owner had offered \$325,000 with the condition that he be permitted to demolish the buildings so he could rebuild. He further stated that the new structures would have to be built in accordance with the rules and regulations of the historic preservation district.

The City Attorney stated that he had provided available options to the Commission regarding this matter. He proposed that the City accept the \$325,000 and earmark the money towards the creation of the Historic Preservation Department which the Historic Preservation Board had requested numerous times.

Commissioner Hutchinson left the meeting at approximately 3:40 p.m. and returned at 3:41 p.m.

Commissioner Moore stated he had made such a recommendation previously. He stated he now had a different opinion and that was that they should accept the \$325,000, but if the building was demolished then the amount should be raised in order to assist the City in the creation of the Historic Department. He suggested that another \$175,000 be added to the fine. He felt they were at a disadvantage since two demolition orders had been given in the past. He reiterated the site was an eyesore, and the new structure would contribute tax dollars.

Mayor Naugle asked the City Clerk to check as to when the Sailboat Bend Historic District had been created.

Commissioner Hutchinson asked if they foreclosed on the property would they still be able to obtain the \$425,000 which was owed to the City, instead of the \$325,000. The City Attorney replied that they could not necessarily foreclose on the property and a counter-claim could be made for damages, and then there would be litigation. He stated they would not allow the City to just foreclose and walk away with the money. He felt that the best claim the City could make would be \$300,000 to \$400,000 based upon the facts reviewed. Commissioner Hutchinson stated she felt the City was at fault in dragging their heels in this matter, and she would only support foreclosure in this matter. She stated that there were individuals who were interested in purchasing the property and doing the renovation and restoration of it.

Commissioner Moore reiterated that the owner had come before the Commission after purchasing the property in order to move forward with plans for the site. He stated that the sites should never have gotten to this point, but since they did and since there was the need for a functioning Historic Department, he felt they should proceed.

Mayor Naugle asked what the neighborhood's position was in this matter. Commissioner Hutchinson stated they wanted the property foreclosed. Mayor Naugle further stated that if the matter was settled for financial payment, could the front building be moved to another location and have it restored.

The City Attorney stated that he did not think the owner would object if it was part of the settlement agreement. Mayor Naugle suggested that possibly some interested individual would be willing to do that and have it restored.

Commissioner Hutchinson stated that when Mr. Frank Avella came before the Commission, it was because she had placed the item on the agenda in order to see where the City stood on the matter. She reiterated that the owner had not come to the Commission of his own free will. She did not think he was forthcoming as he should have been as a property owner.

Commissioner Trantalis stated that after the previous discussions, it had been his impression that they wanted to proceed with the foreclosure, and the owner had given the indication that he was being placed in a hardship situation. He felt that the owner bought the problem and had probably been given a reduced price. He did not think the owner entered into his agreement blindly and now there was some risk involved. He stated there was a lot of interest in the community to continue with the furtherance of

historic preservation. He felt there was a need for an in-house program for such work, but he did not feel that the funding of such a department should be placed on the back of these two properties because it would be running contrary to the spirit of what historic preservation was really about. He felt they would be sending out the wrong signals. He believed the purpose of historic preservation was to preserve historic or architecturally significant properties. If such properties were demolished, then possibly other individuals would let their structures fall into disrepair so they could eventually be demolished. He did not think that was the proper way to run things. He reiterated that they needed to keep such properties in place and not set a precedent.

Commissioner Moore stated he disagreed and a precedent was not going to be set.

Commissioner Trantalis stated that he did not know what it would take for the City to establish the necessary office to begin foreclosures on properties that have accrued huge fines. He stated that he had been informed that the City had over \$200 Million in outstanding code enforcement liens. He stated they were neglecting the process and the City knew they could recover a large amount of money. He explained that other cities had established amnesty programs. He stated there were opportunities available to retrieve such monies that could benefit the City's financial situation, while still funding the new department.

Commissioner Moore left the meeting at approximately 4:04 p.m. and returned at 4:05 p.m.

Commissioner Trantalis continued stating that he felt the situation needed to stop "floundering," and a standard now needed to be set.

Commissioner Moore stated that the amnesty situation would be no different than what they were telling this owner. He stated the issue was simple. He further explained that when he spoke of the City's Historic Department, he was not talking about staffing but wanted a trust fund established so monies could be contributed. He stated that foreclosure in this instance might not be the proper way to go. He felt they needed to set a precedent for the future. He further stated that once they entered the legal battle, liens could be released for a first mortgage holder, and if the City did not have the funds to purchase nothing would be gained.

Commissioner Moore stated that the amnesty issues in other cities did not deal with foreclosures. He stated homesteaded properties were another issue.

The City Attorney explained that they had a number of monies on the books which were shown as liens on properties that go back for many years. Earlier this year the case of Massey vs. Charlotte County basically stated that in order to have a lien on a property, there had to be two hearings. The first hearing was to tell the owner the problem, and the second hearing was to give the owner the opportunity to state their case, and then decide if a fine should be levied against the property. Historically, he stated this City had normally held only one hearing where two were required. Therefore, they would have to have the second hearing for these properties. The reason why many of the fines on the books were uncollectable was due to the fact that such hearings were not held, and could not be rehabilitated because the properties had changed hands. He explained there had been an accepted rule which stated that properties changed hands every 5-7

years. Historically, he stated there could be over \$200 Million in fines, but the amount that would be collectable would be significantly lower in number.

Mayor Naugle stated that sometimes the lien amounts were higher than the value of the property. He stated that people spreading rumors in the community that the City had large funds really knew the answer and were attempting to provide a "smoke screen" to have individuals recalled who were being removed from office for other reasons, and not due to public safety but due to votes on development. He further stated there was a lot of misinformation being spread.

Commissioner Trantalis stated if they were going to do anything with these two properties, they needed to follow through with a plan. A decision had to be made that would affect all such properties throughout the City.

The City Attorney stated they had to rehabilitate these liens through a Massey Hearing. Commissioner Trantalis asked if they had sufficient legal basis upon which to assert a claim for \$300,000 since they had failed to provide proper notice. The City Attorney emphasized they could not collect on these liens until proper notice would be given which could be done through the Massey Hearing. He felt there was a good chance it could be done, and they had to do that if they wanted to proceed with foreclosure. Then, he explained they had to wait 90 days before foreclosing. He stated they would argue that the fines had continued to accrue, and the Massey Hearing would establish the fine amount which would probably be more than the \$300,000.

Commissioner Teel stated that possibly they should explore the idea of finding an individual who would be interested in relocating the house, and if that was done, what could be built at the site.

Michael Ciesielski, Planning and Zoning, stated that both lots were in the RACAS zone which allowed for a wide variety of uses for the site. Mayor Naugle stated they would be limited since they were next to the historic district. Mr. Ciesielski stated that the RACAS zone did not end at 7th Avenue, but ended west of 7th Avenue. Mayor Naugle reiterated that the buildings would still have to be compatible with the historic district. Mr. Ciesielski stated that one of the regulations that the Sailboat Bend Historic District had was that the height of buildings be regulated and compatibility was important. Mayor Naugle explained that the historic district was an overlay over the existing zoning, and was a hard question to answer.

Commissioner Moore stated that there were 2 issues involved. He stated that the Bert Harris issue would also be involved and they would have to deal with the site plan. He felt that one of the reasons the community was making their cry was that they did not want developments which were incompatible with their neighborhood.

Commissioner Teel stated there was a conflict in how to make things compatible, and yet still have height. She stated that she was concerned about the possibility of a lawsuit and what it would entail. She felt if the structure could be moved that would be a better solution. Mayor Naugle stated he did not know if a location was available for the structure, but the Haan house had been relocated. He thought if a sign was posted for 30 days possibly someone would come forward and volunteer to move the structure. He stated that the structure was not as bad as it appeared, and an individual could be obtained to state either way on the issue of moving the building. Commissioner Teel

suggested they explore the possibility of relocating the structure. She felt the problem was how they dealt with properties in such conditions, such as Jacobs Bakery. She felt a code was needed that could be enforced. Mayor Naugle stated that staff had been told "hands off" in regard to that property.

Commissioner Moore suggested that a deadline be set for February 15, 2004 for the structure to be relocated, and that the owner contribute \$50,000 towards the house being moved.

Commissioner Hutchinson suggested that the matter be brought back to the Commission after the deadline of February 15, 2004. Commissioner Moore clarified that someone in the appropriate department accept the offers for relocation.

The City Attorney stated that he would schedule in February, 2004, for the Special Master or Code Enforcement Board to begin the process for restoring the fines.

Commissioner Hutchinson suggested that instead of a sign being placed on the property that possibly a notice could be placed on the City's web site.

Action: Item placed on the Commission's agenda for February 17, 2004.

II-B – Monthly Financial Report

The Acting City Manager stated that he wanted to show some of the overtime accomplishments they had achieved for the first two months. He stated they had reduced overtime by 75%. He announced that they would provide monthly updates to the Commission. He added that administrative services had reduced their overtime by 97%, Economic Community Development reduced overtime by 97%, and Parks and Recreation had reduced overtime by 91%.

Commissioner Trantalis asked if the reductions had an impact on services being supplied and how were they being gauged.

The Acting City Manager stated the Chief of the Fire Department had been reporting daily regarding the reduction of services and equipment. The bottom line was that no impacts were reported as a result of such reductions.

Commissioner Trantalis asked why were the overtime levels so high previously, if services could be provided and yet such reductions were able to be made. Commissioner Moore felt the answer was that different expectations provided different results.

The Acting City Manager stated that the corporate and organization mentality was being changed.

Action: None Taken.

II-C – Fire Administration Complex and Replacement for Station Nos. 2 and 8

Commissioner Hutchinson stated this went back to the bond they were discussing. She stated if it had taken them 3 years to do this which was unconscionable, the City had a

project manager who was not paying attention. What would happen once they had \$40 Million. She asked if they were going to be able to recapture the liquidated damages rate.

Hector Castro, City Engineer, explained that he felt they had a better shot at this than in most contracts because actual damages could be shown that were incurred by the City.

Commissioner Hutchinson stated that the general contractor had requested an extension until April 14, 2004, and asked what would happen if he dragged the work out until that time. Mr. Castro stated that an updated schedule had been provided showing completion for December 28, 2003. He further stated that it could be possible that the work would be done by that time, but in reality probably would not be completed by that date.

Commissioner Hutchinson stated she wanted to be assured that when they moved in, things would be at their best. Mr. Castro reiterated that the station would be under warranty. Commissioner Hutchinson stated that she did not want it to set a precedent, and she was not convinced that they had been "minding the store." She reiterated they needed to get a handle on these things before they went out for \$100 Million for rebuilding of the City's infrastructure.

CLOSED DOOR SESSION AT 4:32 P.M.

COMMISSION MEETING RECONVENED AT 5:50 P.M.

There being no other business to come before the Commission, the meeting was adjourned at 5:51 p.m.