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FORT LAUDERDALE CITY COMMISSION
JANUARY 21, 2004**

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE, FLORIDA
JANUARY 21, 2004**

Meeting was called to order at 6:12 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 Mike DiMaggio

Invocation was offered by Father Happy Hoyer, Our Lady Queen of Martyrs Church, followed by the recitation of the Pledge of Allegiance.

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

Presentations

OB

1. Expressions of Sympathy

The Mayor and City Commission expressed sympathy to the families of Genevieve Veltri, Ruth Goebel, Ruth Owen and John Coleman. Mayor Naugle stated that John Coleman had been a former City Commissioner for the City of Hollywood, and had been an advocate for South Florida and its beaches. A moment of silence was taken.

Brenda Lee Shalifur, life partner of John Coleman, thanked everyone for their kindness and compassion. She announced that services would be held on Saturday at 10:30 a.m. at St. Theresa's Church of the Little Flower in Hollywood. She proceeded to read a writing from Mother Theresa that she believed John Coleman lived by entitled "Anyway."

Mayor Naugle left the meeting at approximately 6:15 p.m. and returned at 6:18 p.m.

2. "WOW" Award

Commissioner Hutchinson presented the Community Appearance Board's "WOW" Award for District IV to Mr. Lee Wood of 726 SW 13th Avenue, Riverside Park.

This home enhances the community with its outstanding design and captures the wonderful flavor of “Old Downtown.” The home’s renovations were planned around a large oak tree to maintain its beautiful and natural surroundings.

3. Annual Recycling Incentive Awards

Commissioner Trantalis, along with Casey Eckles, presented the annual recycle awards as follows:

Poinciana Park	\$3,328
Tarpon River	2,496
South Middle River Civic Association	1,612
Victoria Park	1,560
River Oaks	1,508
Coral Ridge Isles	1,456
Sunset	1,404
Croissant Park	1,248
The Landings	1,144
Poinsettia Heights	832
Coral Ridge	728

TOTAL AWARDS \$17,316

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 – Habitat for Humanity Fish Fry

(M-1)

A motion authorizing the proper City officials to execute an Event Agreement with **Habitat for Humanity, Inc.** to indemnify, protect and hold harmless the City from any liability in connection with the **Habitat for Humanity Fish Fry**, to be held **Saturday, March 27, 2004 from 2:00 p.m. to 8:00 p.m.** at Esplanade Park; and further authorizing the closing of S.W. 4 Avenue from the entrance to the parking lot in back of the old Post Office site to the cul-de-sac at Riverwalk from 9:00 a.m. to 11:00 p.m. on the event date.

Recommend: Motion to approve.

Exhibit: Memo No. 04-94 from Acting City Manager.

Event Agreement – Walk for Animals 2004**(M-2)**

A motion authorizing the proper City officials to execute an Event Agreement with the **Humane Society of Broward County** to indemnify, protect and hold harmless the City from any liability in connection with the **Walk for Animals 2004**, to be held **Saturday February 21, 2004 from 8:00 a.m. to 12:00 noon**; and further authorizing the closing of the following: S.W. 4 Avenue from S.W. 2 Street to the cul-de-sac at Riverwalk from 5:00 p.m. Friday, February 20, 2004 to 3:00 p.m. and Saturday, February 21, 2004; S.W. 2 Street from S.W. 4 Avenue to S.W. 5 Avenue from 4:00 a.m. to 3:00 p.m. Saturday, February 21, 2004 and two lanes along the walk route, in the form of a procession, from 10:00 a.m. to 11:30 a.m. beginning at Esplanade, S.W. 2 Street east to S.E. 3 Avenue, south to the Riverwalk, where participants will continue west along the walkway to end at Esplanade.

Recommend: Motion to approve.

Exhibit: Memo No. 04-114 from Acting City Manager.

Event Agreement – Our Lady Queen of Martyrs Church for the Spring Carnival**(M-3)**

A motion authorizing the proper City officials to execute an Event Agreement with **Our Lady Queen of Martyrs Church** to indemnify, protect and hold harmless the City from any liability in connection with the **Spring Carnival** to be held **Thursday, March 18, 2004 from 6:00 p.m. to 10:00 p.m.; Friday, March 19, 2004 from 5:00 p.m. to 11:00 p.m.; Saturday, March 20, 2004 from 12:00 noon to 11:00 p.m.; and Sunday, March 21, 2004 from 12:00 noon to 10:00 p.m.**; and further authorizing the closing of S.W. 11 Court (Happy Hoyer Street) from S.W. 27 Avenue to S.W. 28 Avenue from 9:00 a.m. Monday, March 15, 2004 to 5:00 p.m. Monday, March 22, 2004.

Recommend: Motion to approve.

Exhibit: Memo No. 04-90 from Acting City Manager.

Event Agreement – Super Bowl Party (North Beach Square Neighborhood Association)**(M-4)**

A motion authorizing the proper City officials to execute an Event Agreement with the **North Beach Square Neighborhood Association** to indemnify, protect and hold harmless the City from any liability in connection with the **Super Bowl Party** to be held **Sunday, February 1, 2004 from 2:00 p.m. to 12:00 midnight**; and further authorizing the closing of Sunrise Lane from N.E. 9 Street to the north end of the Parrot Lounge from 12:00 noon on Sunday, February 1, 2004 to 1:00 a.m. on Monday, February 2, 2004.

Recommend: Motion to approve.

Exhibit: Memo No. 04-93 from Acting City Manager.

Event Agreement – Riverfront Super Bowl Party**(M-5)**

A motion authorizing the proper City officials to execute an Event Agreement with **Las Olas Riverfront Associates Limited Partnership** to indemnify, protect and hold harmless the City from any liability in connection with the **Riverfront Super Bowl Party** to be held **Sunday, February 1, 2004 from 4:00 p.m. to 11:00 p.m.** ; and further authorizing the closing of S.W. 1 Avenue from S.W. 2 Street south to the alley between Las Olas Riverfront and Las Olas Park Place; one lane from 11:00 a.m. and both lanes from 5:00 p.m. on Sunday, February 1, 2004 to 2:00 a.m. on Monday, February 2, 2004.

Recommend: Motion to approve.

Exhibit: Memo No. 04-124 from Acting City Manager.

Agreement - Lorraine Maxwell, Art Instructor – Broward County Cultural Affairs Division, 2004 Artwork Grant Program**(M-6)**

A motion authorizing the proper City officials to execute an agreement with Lorraine Maxwell, professional art instructor for the 2004 Artwork Grant Program.

Recommend: Motion to approve.

Exhibit: Memo No. 04-92 from Acting City Manager.

Grant Acceptance – Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant Program for 2004**(M-7)**

A motion authorizing the proper City officials to accept a grant in the amount of \$293,930 from FEMA for the Assistance to Firefighters Grant Program, and further authorizing the proper City officials to execute all documents necessary to receive and expend such grant funds.

Funds: Total project cost is \$419,900 to be funded by \$293,930 in FEMA funds and a cash match of \$125,970 to be provided by the Fire-Rescue Department General Fund budget, with a separate account to be established in Fund 129, Miscellaneous Grants (GAFFG04)

Recommend: Motion to approve.

Exhibit: Memo No. 04-107 from City Attorney.

Five Year Capital Improvement Plan (CIP)**(M-8)**

A motion approving the five-year Capital Improvement Plan

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 04-96 from Acting City Manager.

**Appropriate and Transfer Funds – Position for
Coordination of the Public Safety Bond Referendum –
Engineering Bureau, Public Services Department**

(M-9)

A motion appropriating \$96,000 to fund position number C009 in the Engineering Bureau of the Public Services Department (PBS040101/1101 Permanent Salaries) to coordinate the proposed Public Safety Bond Referendum.

Funds: Transfer \$48,000 from the Law Enforcement Trust Fund (LETf) Justice Department Forfeitures to FD001/Q107; and transfer \$48,000 from Fire Station No. 29 Project P10587.328 to FD001/Q331.

Recommend: Motion to approve.

Exhibit: Memo No. 04-9 from Acting City Manager.

**Consultants Competitive Negotiation Act (CCNA)-
Authorization to Negotiate with Top-Ranked Consultant
Team – Project 10699 – Davie Boulevard Corridor Master Plan**

(M-10)

A motion authorizing the proper City officials to accept the Selection Committee's recommendation of ranking short-listed consultant teams for the Davie Boulevard Corridor Master Plan; and further authorizing the proper City officials to commence negotiations with the top-ranked consultant firm of EDAW or successively ranked firms if such negotiations become necessary.

Recommend: Motion to approve.

Exhibit: Memo No. 04-100 from Acting City Manager.

**Disbursement of Funds – Joint Investigation -
O.R. No. 99-112111 - \$7,652.88 U.S. Currency**

(M-11)

A motion authorizing the equitable disbursement of funds in the amount of \$7,652.88, with each of the 17 participating law enforcement agencies to receive \$450.16.

Recommend: Motion to approve.

Exhibit: Memo No. 03-12-12 from City Attorney.

**Disbursement of Funds – Joint Investigation – O.R. No.
02-4202 - \$1,113,227.94 U.S. Currency**

(M-12)

A motion authorizing the equitable disbursement of funds in the amount of \$1,113,227.94, with each of the 12 participating law enforcement agencies to receive \$92,768.99.

Recommend: Motion to approve.

Exhibit: Memo No. 04-1-1 from City Attorney.

Settlement Offer – O.R. No. 03-50180 - \$31,940 U.S. Currency (M-13)

A motion authorizing the proper City officials to accept the forfeiture settlement with the defendant, with the City to receive title to \$30,000 and defendant to receive remaining sum of \$1,940.

Recommend: Motion to approve.
Exhibit: Memo No. 03-12-6 from City Attorney.

Contract Award – Florida Blacktop, Inc. – Project 10757 - 2004 Annual Speed Hump Installation (M-14)

A motion authorizing proper City officials to execute an agreement with Florida Blacktop, Inc. in the amount of \$63,530.50 for the 2004 Annual Speed Hump Installation contract.

Funds: See Bid Tab
Recommend: Motion to approve.
Exhibit: Memo No. 04-60 from Acting City Manager.

Contract Award – International Sign and Design Corporation Project 10106 – Business Capital Improvement Program (BCIP) Entrance Marker – Uptown Business Merchants (M-15)

A motion authorizing the proper City officials to execute an agreement with International Sign and Design Corporation in the amount of \$7,500 for the BCIP entrance marker for the Uptown Business Merchants.

Funds: See Bid Tab
Recommend: Motion to approve.
Exhibit: Memo No. 04-56 from Acting City Manager.

Event Agreement – Super Bowl Live (Old Town at Riverwalk Merchants Association, Inc.) (M-16)

A motion authorizing the proper City officials to execute an Event Agreement with the **Old Town at Riverwalk Merchants Association, Inc.** to indemnify, protect and hold harmless the City from any liability in connection with **Super Bowl Live** to be held **Sunday, February 1, 2004 from 3:00 p.m. to 11:00 p.m.**; and further authorizing the closing of the following from 3:00 p.m. Sunday, February 1, 2004 to 6:00 a.m., Monday, February 2, 2004: S.W. 2 Street from S.W. 2 Avenue to the alley east of the old Post Office, leaving S.W. 3 Avenue open.

Recommend: Motion to approve.
Exhibit: Memo No. 04-148 from Acting City Manager.

Letter of Understanding (LOU) – Florida Power and Light Company (FPL) – Project 10568 – Wastewater Force Main And Electrical Duck Bank Construction (M-17)

A motion authorizing the proper City officials to execute an LOU with FPL associated with the State Road A-1-A and Seabreeze Boulevard wastewater force main and electrical duck bank construction project.

Recommend: Motion to approve.
Exhibit: Memo No. 04-61 from Acting City Manager.

Change Order No. 1 – Danella Companies, Inc. - Project 10561 – Force Main Directional Drill – West Broward Boulevard and 27 Avenue and Under North Fork of New River on Sistrunk Boulevard (M-18)

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

Funds: See Memo
Recommend: Motion to approve.
Exhibit: Memo No. 04-57 from Acting City Manager.

Change Order No. 3 – Merkury Development – Project 10307 - Police Department Gun Range Renovation (M-19)

A motion authorizing the proper City officials to execute Change Order No. 3 with Merkury Development in the amount of \$26,386.23 for additional work associated with the Police Department Gun Range renovation project.

Funds: See Memo
Recommend: Motion to approve.
Exhibit: Memo No. 04-59 from Acting City Manager.

Contract Award – Widell, Inc. – Project 10541-C – G.T. Lohmeyer (GTL) Wastewater Treatment Plant Improvements Bid Package C – Screening System and Conveyor (M-20)

A motion authorizing the proper City officials to execute an agreement with Widell, Inc. in the amount of \$987,000 for the GTL Wastewater Treatment Plant Improvements Bid Package C. Screenings System and Conveyor project.

Funds: See Bid Tab
Recommend: Motion to approve.
Exhibit: Memo No. 04-55 from Acting City Manager.

PURCHASING AGENDA

732-8911 – Beach Equipment Rental Franchise Contract**(Pur-1)**

A three-year franchise contract pursuant to City Code Section 8-55.2 for beach equipment rental is being presented for approval by the Parks and Recreation Department.

Recommended Award:	Beached Management, Inc. Fort Lauderdale, FL
Amount:	\$ 1,302,979.50 (revenue)
Bids Solicited/Rec'd:	40/2
Exhibits:	Memorandum No. 04-091 from Acting City Manager

The Procurement and Materials Management Division reviewed this item and recommends awarding to the first-ranked proposer.

Proprietary – Three Flow Meters**(Pur-2)**

An agreement to purchase three flow meters is being presented for approval by the Public Services Department.

Vendor:	Alpha Valve & Control, Inc. Tampa, FL
Amount:	\$ 19,175.00
Bids Solicited/Rec'd:	N/A
Exhibits:	Memorandum No. 04-076 from Acting City Manager

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

**Cancel and Re-Award Contract/Concrete Sidewalks
And Curbs****(Pur-3)**

The cancellation and re-award of a one-year contract for the repair of concrete sidewalks and curbs is being presented for approval by the Public Services Department.

Recommended Award:	Three-H Learning Center, Inc. d/b/a FYCC Dade City, FL
Amount:	\$ 220,000.00 (estimated)
Bids Solicited/Rec'd:	N/A
Exhibits:	Memorandum No. 04-041 from Acting City Manager

The Procurement and Materials Management Division reviewed this item and recommends canceling contract with L.D. Krezmien Builders and re-award to Three-H Learning Center d/b/a FYCC

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that Consent Agenda Item Nos. M-1, M-3, M-10, M-16, M-17, M-18, Pur-1, and Pur-3 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda items be approved as recommended.

Commissioner Moore stated that he had been pulled out of the meeting due to a telephone conversation in regard to Item R-2. He explained that the general contractor was in a conference of Mayors in Washington, D.C. and requested that the item be pulled and placed on the next Commission agenda. He added that this was in regard to the self-storage building that was being proposed within the CRA boundary.

Mayor Naugle stated that the Commission first needed to proceed with the vote on tonight's Consent Agenda, and then the Commission could discuss the matter.

Commissioner Trantalis added that many people were present this evening to speak on that matter.

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

Expression of Sympathy

Commissioner Moore stated that he had not had the opportunity to forward to the Commission for consideration an expression of sympathy for Arthur Williams who had been very active in the community, and had been a founding member of the Fort Lauderdale Community Development Corporation, and Board of Trustee to the Mount Olive Church in Fort Lauderdale.

Mayor Naugle extended an expression of sympathy to the family of Arthur Williams.

**Event Agreement – Super Bowl Party (North Beach Square_ (M-4)
Neighborhood Association)**

Mayor Naugle announced that this item had been deleted from tonight's agenda.

Event Agreement – Habitat for Humanity Fish Fry (M-1)

**Event Agreement – Our Lady Queen of Martyrs Church (M-3)
For the Spring Carnival**

The City Attorney stated that he had requested that the Acting City Manager pull this item, along with M-3 because they had not yet received the contracts back for review. He stated that he would like the Commission to approve these items subject to final legal review of the contract.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to approve this Item M-1 subject to City Attorney approval. Roll call showed: YEAS: Commissioners Trantalis, Moore, Hutchinson, Teel and Mayor Naugle. NAYS: None.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to approve this Item M-3 subject to City Attorney approval. Roll call showed: YEAS: Commissioners Trantalis, Moore, Hutchinson, Teel and Mayor Naugle. NAYS: None.

Consultants Competitive Negotiation Act (CCNA) - (M-10)
Authorization to Negotiate with Top-Ranked Consultant Team –
Project 10699 – Davie Boulevard Corridor Master Plan

Commissioner Hutchinson stated that she had pulled this item and stated that some questions arose regarding this matter at her pre-agenda meeting. She reiterated that they were under the impression that there was \$300,000 for the Master Plan, but emphasized that they did not have to spend the entire amount. She encouraged staff to negotiate the best they could and not to over-extend themselves in the contract.

Commissioner Hutchinson asked when they anticipated that the Steering Committee or the community would come together, and how long would it be before they presented a contract to the City Commission.

Bruce Chatterton, Planning and Zoning Services Manager, stated that James Cromar was the Project Manager for this.

James Cromar, Project Manager, stated that they were working to get this done as quickly as possible and gave an estimated time of 60-90 days.

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

Event Agreement – Super Bowl Live (Old Town at Riverwalk (M-16)
Merchants Association, Inc.)

The City Attorney stated that he had requested that this item be pulled, and stated that this corporation had been administratively dissolved. He stated that the Commission could approve this subject to their reinstatement, and pursuant to final review of the contract by the Legal Department.

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

Letter of Understanding (LOU) – Florida Power and Light Company (M-17)
(FPL) – Project 10568 – Wastewater Force Main and Electrical
Duck Bank Construction

Commissioner Hutchinson stated that she had pulled this item, and asked when they were going to start this project.

Paul Bohlander, Assistant Utility Services Director, stated that as soon as they received the Letter of Understanding, they would proceed with the bidding process, and it was their hope to start as soon as the off-season began.

Mr. Bohlander stated that in respect to the events that would occur during construction, there would be a provision in the contract that would provide for 4 demobilization and remobilization events. He reiterated that it would come back before the Commission.

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

Change Order NO. 1 – Danella Companies, Inc. (M-18)
Project 10561 – Force Main Directional Drill – West
Broward Boulevard and 27 Avenue and Under North
Fork of New River on Sistrunk Boulevard

Commissioner Hutchinson stated that she had pulled this item, and stated that she would not support this due to the fact that the MOT which the contractor had submitted to the City would have proven in the beginning that the businesses in the area would be severely impacted by this project.

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

732-8911 – Beach Equipment Rental Franchise (Pur-1)
Contract

Commissioner Moore stated that he had pulled this item, and asked when had they accepted the last and final offer in response to the RFP. He announced that he had received documentation from the highest-ranked individual that stated there were changes in the compensation that were to be given to the City for a revenue stream.

Kirk Buffington, Administrative Services, stated that nothing was accepted until approved by the Commission.

Commissioner Moore asked if an individual came forward tonight and offered \$1.00 more would they still have the opportunity to consider that offer. Mr. Buffington replied that staff had gone through the RFP process as defined in the City Code, and had brought forward their recommendation to the Commission for action. He explained the action was for the Commission to either accept or refuse staff's recommendation, and therefore, not award the contract. To subsequently continue negotiations at this point would not be fair to any bidder involved in the process or even to those who had not submitted a bid.

Commissioner Moore asked which information had staff based their decision on. Mr. Buffington explained that the recommendation was based on the best and final offers submitted to the Office of Procurement. Commissioner Moore asked when had they

received the last dollar amount. Mr. Buffington replied it was on January 2, 2004, and the original RFP submittals were September 30, 2003. Commissioner Moore asked why they had accepted a different number on January 2, 2004. Mr. Buffington explained that they had gone through an evaluation process, a ranking was done, and the rankings had been based in part on a 5-year contract, as opposed to a 3-year contract, due to the contract stating that it would be for a 3-year term, with 2 one-year extension options to be executed by the Commission and the awarded party at the time of the options. He further stated that it was determined that 5 years was not the most appropriate dollar amount to look at, and due to other parts of the Code which required that a 3-year concession only be awarded on the Fort Lauderdale Beach, they had gone back to the 2 parties submitting the RFP's and requested best and finals in accordance with the Code. He explained those were then submitted on January 4, 2004, and those were the numbers before the City Commission.

Commissioner Moore asked if there had been a different ranking prior to the change made regarding the time period for evaluating the revenue stream. Mr. Buffington replied they had not used a different ranking system, and stated that the same person first ranked for the 5-year number was the same individual ranked for the 3-year number. Commissioner Moore reiterated that this provider had been on the beach for 66 years. Mr. Buffington confirmed. Commissioner Moore clarified that the competitive process used during those years had allowed this individual to offer a different revenue stream every 3 years based upon the ordinance. Mr. Buffington stated that the Commission had elected to extend the contracts on a year-to-year basis. He explained that about 1 ½ years ago, they had brought forward a recommendation to re-solicit RFPs and the Commission's decision was to extend the then current existing contract for one year.

Commissioner Moore clarified that this was the first RFP that had ever been put out for this equipment. Mr. Buffington stated that was not true, and explained that the original RFP went back to 1995.

Commissioner Trantalis stated that he was in support of this recommendation, and further stated that in 1982 when he had first come to this City, his first encounter was with this individual's father. He felt that he had been a great ambassador for the City, and this individual was following in his father's footsteps. He stated that he was aware that there had been a tug-of-war regarding the dollar amount, and he was happy that this person's bid had measured up to the task.

Commissioner Moore stated that in the year prior to this bid going out, what had been the revenue amount received by the City from this contract. Mr. Buffington replied they had received \$155,000. Commissioner Moore asked how had the auditing been done in regard to finding out what revenue the City would share in with regard to the contract. Mr. Buffington explained that an audit had been done and a report issued by the City Auditor's office during July, 2003. He stated that he did not have such report with him at this time. Commissioner Moore asked how much revenue had the City received from the concessionaire. Mr. Buffington stated that the City had received \$155,000 in 2003. He advised that what was being proposed in this contract was as follows:

Year 1	-	\$403,800.00
Year 2	-	\$423,990.00
Year 3	-	\$475,189.50

Commissioner Moore stated that in one year the City had received \$155,000, and after opening this to a competitive bid process, there was now a bid with a substantial increase in revenue for the City. He stated he was concerned about this and felt there might have been opportunities for a revenue-sharing stream at a higher rate, and possibly it might have been inappropriate for the Commission to continue renewing that contract.

Commissioner Moore stated that he understood that one of the individual's who had responded to the RFP had offered a different type of instrument. Mr. Buffington explained that alternate services had been proposed by the bidder and reviewed by operational staff, along with the review committee. He stated that the RFP was for historical levels of service and types of equipment that had been permitted on the beach. He stated it was up to the Beach Advisory Board and the City Commission to make significant changes in what was to be used on the Beach. He further stated that the committee and the operational department chose not to want to put other types of enhanced equipment on the Beach. Commissioner Moore further asked if they were using the same type of apparatus for the last 60 years. Mr. Buffington stated that the operator and operating department would be better qualified to speak to that issue, but he felt there had been changes over the years and upgrades in equipment.

George Platt, attorney for Beach Management, stated that Charlie Perry was President of Beach Management and also present at tonight's meeting, who would be able to address any questions regarding the equipment. Mr. Platt stated there had never been a percentage contract and was a guaranteed minimum to the City. It was not a percentage of the gross, but it was still audited. He reiterated that the City was going to have \$896,000 of new money from this contract.

Charlie Perry, Beach Management owner/operator and President, stated that the lounges which they presently used had been used for the last 5-6 years, and were top-of-the-line and used by major resorts. He stated they had used numerous types of equipment during the last 30 years. He reiterated that this equipment stayed sanitary and clean at all times.

Commissioner Moore asked why the committee was not encouraged to evaluate the opportunity of possibly upgrading the equipment and offering various price ranges.

Stu Marvin, Parks and Recreation, stated that he had chaired this committee. He stated that traditionally the Beach at Fort Lauderdale took a more low-key approach towards patrons and services, and had taken their direction from the traditions set forth by the Department and the Beach Advisory Board. They had considered the RFPs on traditional and historical service available, and did not feel they had direction from either the Commission or other advisory boards, and therefore, based their decision on the traditional level of service they had seen for numerous years.

Commissioner Moore stated that he felt they had blown the opportunity of getting revenue from this concessionaire who had a sole bid on this contract for the last 66 years. He stated they had not received any increase in revenue until the issue became competitive. He felt they would be doing themselves a favor to change and deal with someone who would offer a better contract to the City.

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

Cancel and Re-Award Contract/Concrete Sidewalks and Curbs

(Pur-3)

Commissioner Moore stated that he had pulled this item, and wanted to understand some issues regarding contracting under this term. He reiterated that they were basically stating that since this was a non-profit entity that it was not a competitive process. He stated that they would be able to end the contract they were dissatisfied with and continue the process with a non-profit entity.

Kirk Buffington, Administrative Services, stated that the current contractor had requested that he be allowed to walk away from his contract. He added there had been some performance issues with that contractor, and historically this had not been a bid that many people responded to. He stated that Mr. Bailey's department had a lot of contract administration in regard to this contract. Since the contractor had essentially stated that he could not perform under the standards the City expected him to perform under, the Florida Youth Conservation Corps had approached the City and research had been done regarding that group. The agreement is in the City Attorney's office to make sure it applied with State Statutes. He stated that according to such Statutes, municipalities were permitted to non-competitively contract with a 5013C up to a maximum of \$250,000 per year, specifically for youth conservation type organizations.

Commissioner Moore thanked the responder for offering this at a cost resembling the present contract. He stated that it was his understanding that they were going to pay \$7 per hour to the trainees that were to be participants in this program, and asked if those individuals would come from within the City of Fort Lauderdale's boundaries.

Jay Lasita, Legislative and Public Affairs Consultant for the Florida Youth Conservation Corps, stated the individuals would come from within the City's boundaries.

Commissioner Moore asked how they would obtain the individuals. Mr. Lasita explained that they would be employing youth between the ages of 17 and 25. He stated that typically they were not individuals who had been adjudicated, and found that had been a disruptive force in the program. The actual referrals they had traditionally received had come from disparate sources, such as Judges, police officers, ministers, and guidance counselors. He explained that the bulk of the youth who performed the work were high school dropouts. He further stated that they had a program whereby they were required to obtain at the minimum a GED with a \$500 bonus at the filing of completion of such course, and scholarship monies would be available after one year with the organization. He added that they also provided a placement service. He explained that in regard to this project, they would be hiring 1 supervisor and 3-4 CITs (Crew in Training).

Commissioner Moore asked where they would obtain the supervisor. Mr. Lasita stated it was their intent and commitment to hire the supervisor locally because they wanted the individual to have a pride in their community. He stated they were presently in the process of hiring such an individual and had followed up on Commissioner Moore's suggestions regarding this matter. He added they also had a contingency plan to bring in temporarily a supervisor from Palm Beach who was working on a DOT program who

had a strong background in concrete. He stated that since they were picking up a contract in mid-stream, there was apt to be work flowing in very short order, and they wanted to be in the position to provide a qualitative product.

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

MOTIONS

Settlement of Police Professional Liability File No. (M-21)
PPL 98-887B (James Tyler)

A motion authorizing the proper City officials to settle Police Professional Liability File No. GL 98-887B (James Tyler).

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

City Commission Request for Review – Lakehart, Inc. (R-2)
Self-Storage Facility at 217-219 N.W. 1 Avenue
(DRC Case No. 85-R-03)

A resolution to consider an application for the following proposed self-storage facility, which received Preliminary Development Review approval on December 17, 2003:

Applicant:	Lakehart, Inc.
Request:	Site plan review for self-storage facility
Location:	217-219 N.W. 1 Avenue

Commissioner Moore stated that during the break between the Conference and Regular Commission Meetings, he was requested to accept a phone call from Mayor Celestine from N. Miami who was presently in Washington, D.C. He stated that Mayor Celestine was the general contractor that was doing the development of this project. Therefore, he was not able to be present this evening to hear the concerns of the Commission and the community in reference to this site. He was requesting that this item be tabled until the next Commission meeting when he would be available to address any concerns being raised.

Commissioner Trantalis stated that he was concerned and wanted everyone to have the opportunity to speak on this matter. He felt the item should move forward this evening because many people were present in regard to this issue. He stated that he had never met with the contractor, but felt it was a property owner issue, opposed to a contractor's point of view regarding this matter. He stated it was his understanding that there was a proponent seeking to build a self-storage facility on the site, and there were area property owners looking to have such a facility not be built in their community. He felt

there was a philosophical and legal argument involved in this matter in connection with property rights and property ownership. He asked how the contractor's position was relevant in this debate, and then the matter could be considered.

Commissioner Moore stated it was explained to him that this contractor was also a part of the development team and owner of the development. He felt it was important to raise the issue since he had accepted the phone call and placed the matter on the table at the Mayor's request.

Individuals wishing to speak on this item were sworn in.

Alan Gabriel, attorney, stated that he was representing the developer. He explained that this individual was part of the development team. He stated if the Commission decided to move forward on this matter, they would be in agreement to do so, but felt if the contractor was present it would add to their ability to address concerns that might be raised.

PUBLIC HEARINGS

**Proposal to Convert from Temporary to Permanent -
Street Closure at Intersection of N.E. 26 Terrace and
N.E. 30 Place**

(PH-1)

A public hearing to consider a proposal to convert from temporary to permanent a street closure at the intersection of N.E. 26 Terrace and N.E. 30 Place. Notice of public hearing was published January 9 and 16, 2004.

Dennis Girisgen, Engineer, stated that this public hearing was for the purpose of receiving public input in regard to a proposal to convert a trial closure to a permanent closure. The closure was located at the intersection of N.E. 26th Terrace and N.E. 30th Place. He explained that the closure had initially been done as a partial closure in 1998, and in 1999 had become a full road closure which existed across the south leg of the intersection.

Commissioner Moore left the meeting at approximately 7:00 p.m.

Mr. Girisgen stated that since that time there had been no adverse affects on traffic operations or emergency vehicle response times to the best of his knowledge. He stated that the Coral Ridge Association had expressed their support for this permanent closure and wanted it in a more permanent form. He proceeded to show a sketch of a concept prepared by the Association.

Mr. Girisgen further stated that in the past the Commission had awarded \$3,500 towards the construction of permanent closures. He explained that the Association had indicated that they would be responsible for the implementation, along with the funding for the balance of such closure. He stated staff was recommending that the Commission approve the permanent closure, and approve funding out of the road closures fund in the amount of \$3,500 towards the construction.

Commissioner Hutchinson asked how much money was in the road closure fund at this time. Mr. Girisgen stated there was about \$10,000.

Brian Leary, President of the Coral Ridge Association, stated that they had voted to approve this closure several times. He explained that the plans they submitted had been drawn up by a member of their Association who was a landscaping contractor. He realized they would have to hire an engineering contractor to pull the necessary permits. He stated they had experience in regard to street closures and entryways, and felt confident that they could put together a nice closure. He stated that he was present this evening to state that the neighborhood association approved this project and was ready to proceed forward.

Commissioner Teel asked what the Association's long term plans were in regard to maintenance of the closure. Mr. Leary replied that they had to improve the maintenance procedure they had been using on their entryways because the company had not been maintaining them according to the standards they expected. He explained that they were going to have a water meter installed, along with a sprinkler system. He reiterated that they would not be relying on City personnel for maintenance.

Commissioner Hutchinson asked if a maintenance agreement would be entered into. Mr. Girisgen confirmed.

Robert White stated that they were in favor of the closure, and it had made a big difference in the neighborhood.

Ken Williams stated that he was opposed to the permanent closure. He stated this roadway was one of the only north/south streets which traversed between Oakland Park Boulevard and 26th Street in-between Middle River and Bayview. He felt it was an inconvenience to be asked to move through other side streets and other neighbors' rights-of-ways in order to get to a destination when it was already available to him at this time. He added that now he had to deal with speed bumps on Middle River. He stated that he travels the path of least resistance. Consequently, he stated that N.E. 29th Street, 29th Court, and N.E. 30th Street were streets he now cut across going north in an attempt to get to Middle River Drive. He further stated that he was concerned about possible assessments for the construction of this closure and its maintenance. He added that he had been the architect for the entryway features for this neighborhood, and it had been his understanding that they would be maintained.

Peggy Keiser stated that she had been one of the neighborhood leaders who worked to close this street due to quality of life issues. She stated that many accidents had occurred on the street. She urged the Commission to approve this permanent closure.

Gale Butler stated that recently 7 new families had moved onto the street with children under 12, and remarked that would not have happened if the temporary closures had not been done.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to close the public hearing.

Mr. Leary stated that the monument on 26th Street was going to be replaced by the City in February, and an insurance settlement was paying for the replacement.

Commissioner Teel stated that she hoped the Commission would join her in support of this closure. She added that normally she was not an advocate for speed humps or road closures, but she felt this was an unusual situation and was very close to Oakland Park Boulevard. She added that she felt more comfortable since the Association committed to maintaining the property, and she felt if there were more improvements throughout the City which the neighbors bought into, it would help the City during their financial bind. She reiterated that she was in support of this item.

Commissioner Trantalis stated that normally he also was against street closures since they interrupted the flow of the commerce of the City. He felt if everyone in the City had their way, all streets would be closed. He stated that in deference to Commissioner Teel, he would vote in support of this closure.

Commissioner Moore asked if there was a form of methodology they were going to use to make sure that the Association followed through with the maintenance. Mr. Girisgen stated that they were taking a more pro-active position regarding the maintenance of permanent closures. He explained that they did notify the Associations promptly if maintenance was not done, and a maintenance contract would be signed by the Association. He added that this would be included in the NCIP improvement inspections.

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

**Appeal of Planning and Zoning Board's Decision to Deny Rezoning (PH-2)
From CR to B-1 – De Novo Hearing – Lauderdale Marine Center
(PZ Case No. 5-Z-03)**

At the July 16, 2003 Planning and Zoning Board regular meeting, the following application was **denied** by a vote of 8-0; on October 7, 2003, the City Commission deferred first reading to October 21, 2003 by a vote of 5-0; and on October 21, 2003, the City Commission deferred first reading to November 18, 2003 by a vote of 5-0; on November 18, 2003 the City Commission deferred first reading to December 16, 2003 by a vote of 5-0; and on December 16, 2003, the City Commission deferred first reading to January 21, 2004 by a vote of 5-0.

Applicant: Lauderdale Marine Center
Request: Appeal Planning and Zoning Board's decision to deny rezoning from CR (Commercial Recreation) to B-1 (Boulevard Business)

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to defer first reading to **Tuesday, March 2, 2004 at 6:00 p.m.** Roll call showed: YEAS: Commissioners Trantalis, Moore, Hutchinson, Teel and Mayor Naugle. NAYS: None.

ORDINANCES

**Site Plan Approval and Rezoning from RS-8 to XP -
Boywic Farms, Ltd. (PZ Case No. 4-ZR-03)****(O-1)**

At the November 19, 2003 Planning and Zoning Board regular meeting, the following application was approved by a vote of 5-3. Ordinance No. C-04-1 was published December 25, 2003 and January 1, 2004, and passed on first reading on January 6, 2004 by a vote of 4-1 (Moore).

Applicant: Boywic Farms, Ltd.
Request: Rezone property from RS-8 to XP
Location: 1441 S.W. 33 Place

Commissioner Hutchinson introduced the following ordinance on second reading:

ORDINANCE NO. C-04-1

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE FROM RS-8 TO XP, INCLUDING THE ALLOCATION OF FLEXIBILITY UNITS AND SITE PLAN APPROVAL, LOTS 4, 5 AND 6, "PICKET LANE," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 22, PAGE 12, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED ON THE SOUTH SIDE OF SOUTHWEST 32ND COURT, EAST OF SOUTHWEST 15TH AVENUE, WEST OF SOUTHWEST 13TH AVENUE AND NORTH OF INTERSTATE 595, 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 Trantalis, Moore, Hutchinson, Teel and Mayor Naugle. NAYS: None.

It was announced that a person wanted to speak regarding O-1. Mayor Naugle stated that if the Commission did not object, the person could speak on the matter, and then if anyone wanted to make a Motion to Reconsider after hearing this person's testimony that could be done.

Individuals wishing to speak were sworn in.

Kay Web stated they were concerned about the change of their cul-de-sac into a parking lot. She announced that they had not been present for the previous meetings, and asked if some information could be given to them regarding this matter.

Mayor Naugle stated that evidence was given that there was not going to be any access into the cul-de-sac preventing traffic from penetrating into the neighborhood.

Commissioner Hutchinson stated that it was going to be walled in with landscaping on the outside. She stated there would be no entrance into the parking lot via 15th Avenue, 32nd Street, or 33rd Street. She stated that all traffic would be off Perimeter Road. She reiterated that it was strictly for parking and no storage would be permitted. She explained this would be an exclusive use zoning which meant that it could only be used for a parking lot. If the use was to be changed, it would have to be presented to the Commission once again. She stated that the Commission had just approved this item and construction would begin.

Nick Nabibi stated if it was to be walled in, then they had no objection.

**Amend ULDR – Section 47-2 Measurements, Section 47-35 Definitions (O-2)
And Section 47-19 Accessory Uses – Building Structures
(PZ Case No. 2-T-03)**

At the May 28, 2003 Planning and Zoning Board special meeting and November 19, 2003 Planning and Zoning Board regular meeting, the following application was recommended by a vote of 7-1. Ordinance No. C-04-2 was published December 6, 2003; on December 16, 2003, first reading was deferred to January 6, 2004 by a vote of 5-0, and on January 6, 2004, first reading was approved by a vote of 5-0.

Applicant: City of Fort Lauderdale
Request: Amend ULDR Section 47-2 Measurements, Section 7-35 Definitions, to revise the definition of front, side, and rear yards and add a definition for corner yard and Section 47-19 Accessory Uses – Building and Structures to make accessory structures provisions consistent with the definition.

Commissioner Moore introduced the following ordinance on second reading.

ORDINANCE NO. C-03-2

AN ORDINANCE AMENDING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING SECTION 47-2.2 MEASUREMENTS AND SECTION 47-35 DEFINITIONS TO REVISE THE DEFINITION OF FRONT, SIDE AND REAR YARDS AND TO CREATE A NEW DEFINITION OF CORNER YARD AND CORNER LOT; AMENDING SECTION 47-19 ACCESSORY USES, BUILDINGS AND STRUCTURES, AND AMENDING SECTION 9-314, CLOTHESLINE REQUIREMENTS, OF THE CODE OF ORDINANCES, TO CONFORM CERTAIN PROVISIONS PERMITTING ACCESSORY STRUCTURES IN YARDS TO THE REVISED DEFINITIONS OF YARDS; TO DELETE A FIRE ESCAPE AS AN ACCESSORY USE, TO REVISE PROVISIONS FOR DRIVEWAYS AND GARAGES; ADDING CROSS REFERENCES AND CLARIFYING CERTAIN PROVISIONS.

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

**Amend ULDR Sections 47-35.1, 47-2.2, 47-19.5, 47-20.5, (O-3)
47-21.8, 47-19.1, 47-20.22, 47-22.3 and 47-23 – Reformat and
Clarify Regulations Governing Sight Triangles –
(PZ Case No. 5-T-03)**

At the May 28, 2003 Planning and Zoning Board special meeting and November 19, 2003 Planning and Zoning Board regular meeting, the following application was recommended by a vote of 8-0. Ordinance No. C-04-3 was published December 6, 2003; on December 16, 2003, first reading was deferred to January 6, 2004 by a vote of 5-0, and on January 6, 2004, first reading was approved by a vote of 4-1 (Moore.)

Applicant: City of Fort Lauderdale
Request: Amend the following ULDR Sections: 47-35.1 Definitions, to revise the definition of a sight triangle and place the definition in the appropriate ULDR section; 47-2.2 Measurements, to place the method of measuring sight triangles into the appropriate ULDR Section; 47-19.5 Fences, walls and hedges, 47-20.5 General design of parking facilities site circulation, 47-21.8 Landscape and tree preservation maintenance, and Section 47-22.3 Sign requirements general regulations to delete obsolete references and move site triangle definitions and requirements to the appropriate sections, and to provide technical clarification for the regulation relating to fences, wall and hedges; 47-19.1 Accessory uses, Buildings and structures general requirements, 47-20.22, Temporary parking lot standards, references to sight triangles in a particular section; and 47-23, Specific Location Requirements to consolidate sight triangle regulations as they apply to building in all zoning districts, and such other sections required to make the ULDR consistent.

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

**Amend ULDR – Section 47-2 Measurements, Section 47-35 (O-4)
Definitions and Section 47-19 Accessory Uses – Building
Structures – Height and Width of Awnings in Public
Right-of-Way – (PZ Case No. 4-T-03)**

At the May 28, 2003 Planning and Zoning Board special meeting, the following application was recommended by a vote of 4-3. Ordinance No. C-04-4 was published December 6, 2003; on December 16, 2003, first reading was deferred to January 6, 2004 by a vote of 5-0, and on January 6, 2004, first reading was approved by a vote of 5-0.

Applicant: City of Fort Lauderdale
 Request: Amend Code of Ordinances, Volume I, Section 25-22, Height and width of awnings in the public right-of-way; sections 47-13.20, Height of awnings on RAC Pedestrian Streets, and 47-19.2, Height of Awnings on private property adjacent to streets, to bring these regulations into consistency with the Florida Building Code.

Commissioner Moore introduced the following ordinance on second reading:

ORDINANCE NO. C-03-4

AN ORDINANCE AMENDING SECTION 25-22, AWNINGS; PERMIT REQUIRED, OF CHAPTER 25 OF THE CODE OF ORDINANCES AND AMENDING SECTION 47-012.4, CENTRAL BEACH DISTRICT REQUIREMENTS; SECTION 47-13.20, DOWNTOWN RAC REVIEW PROCESS AND SPECIAL REGULATIONS, AND SECTION 47-19.2, ACCESSORY BUILDINGS AND STRUCTURES, GENERAL, OF THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO REVISE THE HEIGHT AND LOCATION REQUIREMENTS FOR AWNINGS.

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

Amendment to Chapter 20 – General Employees Retirement System (GERS) – Allow Rollover of 457 and 401(a) Accounts Under Certain Conditions and Define Community Redevelopment Agency (CRA) as an Affiliated Agency (O-5)

An ordinance amending the GERS by amending Code Section 20-108 by modifying definitions and adding the CRA as an affiliated agency under the plan; amending Code Section 20-108 regarding eligibility for membership for certain employees; amending Section 20-109 entitled “Retirement Dates” by requiring a minimum of five (5) years of service as a condition of normal retirement for certain employees; establishing procedures for acquiring prior service credit for certain previously ineligible employees in the City’s employ establishing procedures for acquiring prior service credit for certain non-classified employees in the City’s employ, including withholding of vested normal retirement benefits. Ordinance No. C-04-5 was published January 11, 2004 and approved on first reading January 6, 2004 by a vote of 4-1 (Moore).

Commissioner Moore introduced the following ordinance on second reading:

ORDINANCE NO. C-04-5

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE AMENDING THE GENERAL EMPLOYEES’ RETIREMENT SYSTEM BY AMENDING CODE SECTION 20-108 BY MODIFYING DEFINITIONS AND ADDING THE FORT LAUDERDALE

COMMUNITY REDEVELOPMENT AGENCY AS AN AFFILIATED AGENCY UNDER THE PLAN; AMENDING CODE SECTION 20-108 REGARDING ELIGIBILITY FOR MEMBERSHIP FOR CERTAIN EMPLOYEES; AMENDING SECTION 20-109 ENTITLED "RETIREMENT DATES" BY REQUIRING A MINIMUM OF FIVE (5) YEARS OF SERVICE AS A CONDITION OF NORMAL RETIREMENT FOR CERTAIN EMPLOYEES; ESTABLISHING PROCEDURES FOR ACQUIRING PRIOR SERVICE CREDIT FOR CERTAIN PREVIOUSLY INELIGIBLE EMPLOYEES IN THE CITY'S EMPLOY; ESTABLISHING PROCEDURES FOR ACQUIRING PRIOR SERVICE CREDIT FOR CERTAIN NONCLASSIFIED EMPLOYEES IN THE CITY'S EMPLOY, INCLUDING WITHHOLDING OF VESTED NORMAL RETIREMENT BENEFITS.

Which ordinance was read by title only.

Commissioner Hutchinson stated that in reading the actuarial report, it appeared the impact of the proposal would increase their contribution by short of \$700,000. She asked what type of impact that would have on the City money wise.

Bud Bentley, Assistant City Manager, stated that it would be offset by payments they would not be making of \$622,000. Therefore, the net cost would be around \$50,000 which was the amount they had previously discussed and was the result of litigation with the over 55 group. He explained there was now a 5-year minimum service requirement before anyone could draw benefits.

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

RESOLUTIONS

Florida League of Cities (FLC) – State Legislative Priorities - (R-1)
Lauderdale Community Redevelopment Agency (CRA),
and Palazzo Las Olas Group, LLC – Palazzo Las Olas
(PZ Case No. 101-R-02)

A resolution expressing support of the FLC's legislative priority issues for the 2004 State Legislative Session. (Requested by Mayor Naugle)

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-15

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, URGING MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT THE FOLLOWING MUNICIPAL ISSUES DURING THE 2004 LEGISLATIVE SESSION.

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

2004 Northwest-Progresso-Flagler Heights Community Redevelopment Bonds, Series A and B - \$18,000,000 Total – Covenant to Budget and Appropriate (R-3)

A resolution covenanting to budget and appropriate from the City's legally available non-ad valorem revenues for the payment of principal of and interest on the Fort Lauderdale Community Redevelopment Agency (CRA) Tax Increment Revenue Bonds, Series 2004A (Non-AMT) (Northwest-Progresso-Flagler Heights Community Redevelopment Area Project) to be issued in the aggregate principal amount not exceeding \$13,500,000, and the CRA Tax Increment Revenue Bonds, Series 2004B (AMT) (Northwest-Progresso-Flagler Heights Community Redevelopment Area Project) to be issued in the aggregate principal amount not exceeding \$5,500,000. (Also see the CRA Item on the Conference Agenda)

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-16

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, COVENANTING TO BUDGET AND APPROPRIATE FROM THE CITY'S LEGALLY AVAILABLE NON-AD VALOREM REVENUES FOR THE PAYMENT OF PRINCIPAL OF AND INTEREST ON THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY TAX INCREMENT REVENUE BONDS, SERIES 2004A (NON-AMT) (NORTHWEST-PROGRESSO-FLAGLER HEIGHTS COMMUNITY REDEVELOPMENT AREA PROJECT), TO BE ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$12,500,000 AND THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY TAX INCREMENT REVENUE BONDS SERIES 2004B (AMT) (NORTHWEST-PROGRESSO-FLAGLER HEIGHTS COMMUNITY REDEVELOPMENT AREA PROJECT), TO BE ISSUED IN THE AGGREGATE PRINCIPAL AMOUNT OF \$5,500,000; PROVIDING THE TERMS AND CONDITIONS UPON WHICH SUCH COVENANT SHALL BE RELEASED AND EXTINGUISHED; AND AUTHORIZING THE ISSUANCE BY THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY OF SAID TAX INCREMENT REVENUE BONDS, SERIES 2004A AND SERIES 2004B (NORTHWEST-PROGRESSO-FLAGLER HEIGHTS COMMUNITY REDEVELOPMENT AREA PROJECT), IN ACCORDANCE WITH THE REQUIREMENTS OF CHAPTER 163, PART III, FLORIDA STATUTES, AS AMENDED.

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

**Collective Bargaining Agreement – Fraternal Order of Police
(FOP), Lodge 31****(R-4)**

A resolution authorizing the proper City officials to execute a collective bargaining agreement with FOP, Lodge 31, to represent the Police bargaining unit members upon ratification through September 30, 2004.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-17

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING AND RATIFYING A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF FORT LAUDERDALE AND FORT LAUDERDALE FRATERNAL ORDER OF POLICE LODGE NO. 31, INC.

Which resolution was read by title only.

Commissioner Hutchinson asked if the FOP had voted and approved this matter.

Bruce Roberts, Chief of Police, stated that they were currently in the voting process and stated that it took 3 days. He added that the FOP leadership was supporting this. He stated it had been delayed because they had been working on the wording regarding the DROP Agreement.

Commissioner Moore asked what happened if the Commission acted on this tonight, but the body did not agree on it.

Scott Milinski, Employee Relations Director, stated that he had just talked to the FOP President, and the vote would not be over until tomorrow. If they voted to ratify this now, and the Union membership turned it down, the contract would not exist.

Commissioner Moore asked what would happen if this item was delayed until the next Commission meeting. Mr. Milinski stated that would delay the adoption of the agreement if they ratified it tomorrow at 4:00 p.m. He stated that the Union President had advised him that the exit poles looked very good, and the Union had recommended ratification of the vote. He recommended that the Commission proceed and vote on this matter knowing that if the Union did not ratify this, the contract would not be in effect.

The Acting City Manager stated that he preferred the Commission ratify this tonight based on the fact that the Union would then ratify it.

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

New River Village Assignment of Units from New River Associates, Ltd. to Las Olas Condominium Developer, LLC

(R-5)

A resolution approving the assignment of units from New River Associates, Ltd. to Las Olas Condominium, LLC within the Downtown Regional Activity Center (RAC).

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-18

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, CONSENTING TO THE TRANSFER, ASSIGNMENT AND CONVEYANCE FROM NEW RIVER ASSOCIATES, LTD., A FLORIDA LIMITED PARTNERSHIP TO LAS OLAS CONDOMINIUM DEVELOPERS, L.L.C., A FLORIDA LIMITED LIABILITY COMPANY OF TWO HUNDRED FIFTY THREE (253) RESIDENTIAL DWELLING UNITS WITHIN THE DOWNTOWN REGIONAL ACTIVITY CENTER, UPON CERTAIN TERMS AND CONDITIONS, AND AUTHORIZING EXECUTION OF A JOINDER AND CONSENT TO SUCH ASSIGNMENT BY THE CITY MANAGER UPON CERTAIN TERMS AND CONDITIONS.

Which resolution was read by title only.

Mayor Naugle stated that they were under obligation to assign the units, but this would not bind them to approving something in the future if it came before the Commission for approval regarding shape, location, size or height for a future development where these units would be located.

The City Attorney stated that it only gave them the right to build a certain number, but then it had to meet all the conditions of the ULDR, and then receive site plan approval from the City Commission.

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

City Commission Request for Review – Lakehart, Inc. – Self - Storage Facility at 217-219 N.W. 1 Avenue (DRC Case No. 85-R-03)

(R-2)

A resolution to consider an application for the following proposed self-storage facility, which received Preliminary Development Review approval on December 17, 2003:

Applicant: Lakehart, Inc.
Request: Site plan review for self-storage facility
Location: 217-219 N.W. 1 Avenue

All individuals wishing to speak on this matter were sworn in.

Commissioner Moore left the meeting at approximately 7:27 p.m.

Michael Ciesielski, Planning and Zoning, stated that pursuant to Section 47-26.8.2 A and B, along with Section 47-13.20.M, the City Commission at its January 6, 2004 meeting approved a motion to schedule a public hearing regarding the subject proposal. He stated that the property was located in the RAC-CC zoning district between N.W. 1st Avenue, Flagler Avenue, and N.W. 2nd and N.W. 4th Streets. He stated that surrounding land uses included a one-story print shop and restaurant to the south, one and two-story warehouses to the north, the FEC Railway to the west, and the City's One-Stop Shop building to the east. He proceeded to show photographs of the site.

Mr. Ciesielski stated that the proposal requested the construction of a 115,800 sq. ft. self-storage facility, along with a caretaker's apartment.

Commissioner Moore returned to the meeting at approximately 7:31 p.m.

Mr. Ciesielski stated that the proposed structure would consist of 6 levels and be 71'1" in height, and 85'3" to the top of the roof structure. He stated there appeared to be 3 issues relating to this proposal. Those issues were: (1) whether this was a permitted use; (2) whether the proposal met the criteria listed in the ULDR, as well as the Special Design Regulations for developments in the RAC; and (3) whether this proposal was consistent with the future Land Use of the Comprehensive Plan.

Mr. Ciesielski advised that the Zoning Administrator had determined that a self-storage facility at this location was a permitted and not a conditional use. Pursuant to Section 47-13.10.A.12.b, a self-storage facility was a permitted use when the property was contiguous to or separated by no more than a 60' public right-of-way from a railroad right-of-way. He stated that the interpretation further asserted that Section 47-18.29.B, Limitations on Self-Storage, located within the RAC-CC did not apply because the proposed location of the site (its proximity to the railroad right-of-way) was permitted by right. He stated that the Zoning Administrator's interpretation was appealed to the Board of Adjustment on November 12, 2003, who upheld the interpretation after reviewing it, along with other background information.

Mr. Ciesielski stated that in regard to ULDR regulations and RAC design regulations, the proposed site plan was reviewed by the DRC on August 26, 2003. The site plan had been revised in order to comply with the DRC comments, and on December 17, 2003, preliminary site plan approval, subject to City Commission review, was granted. He stated that staff believed the proposed site plan met all applicable sections of the ULDR, including but not limited to, the permitted use section, parking and loading requirements, landscape requirements, self-storage adequacy requirements, dimensional requirements for developments in the RAC-CC, and Section 47-13.20, Downtown RAC Special Regulation.

Mr. Ciesielski stated that in regard to the dimensional regulations, the proposed structure provided a 106' setback and a 26' rear setback. He stated that the side setback on the south side of the building was 5'10", while the side setback on the north side of the building was 16'8". He stated that the proposed setbacks, along with the proposed

height of the building at 71'1" to the roof level, and 85'3" to the top of the roof structure, complied with the RAC-CC dimensional requirements.

Commissioner Hutchinson left the meeting at approximately 7:35 p.m.

Mr. Ciesielski stated that in regard to the design criteria for developments in the RAC, the applicant had revised their original drawing to ensure that no first floor exterior walls parallel to the rights-of-way would extend more than 20' without containing windows, doors, recesses or other transparent or decorative elements. He stated that the applicant had redesigned the roofline that reduced the overall height of the building, and provided a variation in rooflines. He further stated that in addition to the variation, the proposed development included such architectural features as cantilevering, cornices, balconies, architectural ornamentation, and colored material banding. He advised that such features were acceptable examples as to what should be included in the RAC design.

Mr. Ciesielski continued stating that the applicant had also made the following revisions after consulting with staff. In an effort to enhance the appearance of the north elevation, the applicant had expanded the eyebrows, provided window elements, and proposed spandrel glass panels. In an effort to lessen the appearance of a traditional storage building, the applicant altered the floor plan to have a hallway around the perimeter of the upper floor areas, thereby having portions of the interior hallways visible from the outside increasing the likelihood that people movement within the building would be visible from the street. He added that lighting of the hallways would improve the night time appearance of the building.

Mr. Ciesielski stated that in an effort to further enhance the pedestrian experience along N.W. 1st Avenue, the applicant included a 7' sidewalk with a bulb-out area that would be landscaped. He proceeded to show photographs of the proposed site.

Mr. Ciesielski continued stating that in an effort to comply with the proposed future greenways plan, the applicant would be required to record in the Public Records of Broward County a condition requiring the applicant to close its vehicular ingress/egress drive out to Flagler Avenue, replace the driveway with landscaping in accordance with the City's landscape Plans Examiner, and install a turn-around area as approved by the City's Engineering Design Manager. He advised that the closure and subsequent modification would be done within 60 days after the City notified the property owner that the portion of Flagler Avenue immediately adjacent to the subject site would cease to be a vehicular right-of-way, and would be converted to a pedestrian/bicycle right-of-way path in compliance with the greenways plan.

Commissioner Hutchinson returned to the meeting at approximately 7:39 p.m.

Mr. Ciesielski stated that in regard to consistency with the future Land Use Element of the Comprehensive Plan, a self-storage facility was considered an industrial use as categorized in the standard industrial classification. The Comprehensive Plan included industrial as a permitted use in the Downtown RAC. Staff requested in their DRC comments that the applicants provide a narrative explaining how the proposed self-storage facility was consistent with the City's Community Redevelopment Plan for the Flagler Heights RAC. He stated that the narrative stated that the proposed facility met the purpose of the Downtown RAC Land Use Designation because it helped to foster an active downtown in which all life activities could be accomplished within the area. It

further contended that a self-storage facility was a service contributing to the urban area. It further identified that the goal under the Comprehensive Plan Land Element was to “meet the social and economic needs and to provide for adequate services and facilities.”

Mr. Ciesielski explained that in respect to the City’s Community Redevelopment Plan for the Flagler Heights area, the narrative contended there was no clear language that specifically prohibited a self-storage facility, nor that a self-storage use would be inconsistent with the redevelopment plan. It also stated that the urban village concept proposed for the Flagler Heights RAC would permit “a mix of uses providing commercial retail and service uses” to serve the neighborhood.

Mr. Ciesielski advised that tonight the Commission shall by a De Novo hearing, and supplemented by the record and same standards and criteria applicable to the development permit, shall hold the hearing. At the conclusion of the hearing, the Commission shall take action by approving, approving with conditions, or denying the application.

Mr. Ciesielski announced that staff had met with the architects for the applicant and had viewed animated sketches of the proposed development depicting several site features designed to further enhance the pedestrian experience along N.W. 1st Avenue and Flagler Avenue. He stated that the Commission should note that some of the features found in the animation were new and had not been included in the preliminary DRC site plan or the plans before the Commission, and had not been reviewed by the DRC. He stated that such features included the shade pavilion and fountain along N.W. 1st Avenue, relocation of the walk into the site from N.W. 1st Avenue, a landscape island in the driveway entrance, and a planter with trees along the north side of the parking area, and awnings along the west elevation with a projecting sign with additional landscaping.

Alan Gabriel, attorney for the property owner and prospective purchaser of the property who would be developing the storage facility, stated that he would accept the memorandum and exhibits attached as part of the official record identified as Item R-2. He stated they accepted all the findings of staff and the planning department.

Mr. Gabriel proceeded to show the layout of the proposed development, along with the existing uses surrounding the project. He stated their access point was along N.W. 1st Avenue. He proceeded to show an artist’s rendering of the structure at the site with the features that was commented on by the Zoning Department. He stated that it would be a 6-story structure. He then showed an elevation of the structure from Flagler Drive. He stated that the structure had been designed to look like an office building. He stated that when Flagler became a pedestrian walkway, they would change out the first floor area and open it for retail purposes.

Charlie Siemon, Consultant, stated they had been involved in downtown and community redevelopment for the last 20 years. He stated he was asked to review this proposal and address 3 topics. The first and foremost was the consistency with the existing plan, to speak to the appropriateness of self-storage facilities in mixed-use urban/residential neighborhoods, and comment on staff’s interpretation.

Mr. Siemon stated that he believed a self-storage free-standing facility was consistent with the City’s adopted plan, along with the Downtown Master Plan and the Northwest-

Progresso-Flagler Heights Redevelopment Plan, CRA Plan, and the City's Comprehensive Plan. He stated it was important to understand that all those plans spoke to creating an active, vibrant, mixed-use, near urban or urban/residential neighborhood. It was his opinion that self-storage was an appropriate and desirable use subject to 3 important qualifications. One, notwithstanding the character of the free-standing use the street needed to be activated either with use or other improvements that would make it more pedestrian friendly. The second was that access ways were essential and should be designed so as not to be a barrier to pedestrians. Finally, the mass, character and design of the building needs to be compatible. He explained that one of the traditional problems with such facilities was that they had not been designed to be compatible with the design objectives of a particular development.

Mr. Siemon stated that he was concerned about the interpretation, and concluded that he had been persuaded by 2 singular facts. The first was that it was true that the plan permitted general storage, including outside storage, on the properties fronting the FEC right-of-way. He felt the legislative history was clear. He stated this service was logical for this neighborhood because the design of most of the units did not make provision for storage on-site.

Mr. Siemon further stated that context was everything, and that this block was an improvement over existing conditions. He stated that if they responded to the suggestions he had made, he had no doubt it would be a contribution to the active pedestrian environment.

Mr. Siemon continued stating that in regard to the roadway, the trip generation in regard to these types of uses was very low. He stated that there would be no conflict between pedestrian and vehicular movement. He stated further if they were going to accommodate self-storage and the economics favored a free-standing building, he felt this was a good block for such a facility.

Jiro Yates, architect, stated that he was going to go through the additional site amenities which were incorporated into the project. He proceeded to show those images.

Commissioner Moore asked about the signage and where it would be located.

Mr. Yates proceeded to show the locations for the signage. He stated that the sign was to be under a separate permit to be approved by the City.

Commissioner Moore stated that due to the elevation that was being proposed, it appeared distinctly different from what one would find at a storage or warehouse. He felt if they were attempting to market the use of the facility, it would have to have something identifying the type of facility. Mr. Gabriel stated they were not prepared this evening to secure sign approval, but only wanted to show what the signage might look like and then get actual permits at a later date.

Anthony Abatte, Flagler Village Improvement Association, stated that the presentations shown were beautiful and informative, but it was all beside the point. He stated they were simply looking at paragraph structure and the simple language of the Code as it was written. He proceeded to explain how he, as an architect, read the Code. He quoted Section 47-1.14.A.2 stating: "Where a listed use was followed by a reference to other sections of the ULDR which apply to the use, then the use was permitted subject to

compliance with such additional provisions and requirements as set forth in the ULDR.” He stated the section further stated: “A permitted use may become a conditional use as otherwise required by the ULDR.” He reiterated that they needed to look at the Code as a whole, as they are instructed by attorneys to do. He stated the storage facility was allowed within 60’ of a public right-of-way, but further down it stated: “See Section 47-18.29.” In reviewing that section, it stated: “That self-storage facilities located within the RAC-CC are permitted with 4 conditions. This reference clearly applies only to facilities within the subject district and allowed only when contiguous to or separated by 60’”, as indicated in the table they started with originally. He stated there were no other ways to apply the 4 conditions, and nowhere else where these facilities were permitted.

Mr. Abatte stated that the storage facilities were allowed as a secondary use to a permitted use, and shall not exceed 30% of the gross floor area of the principal use, and shall not front an image or pedestrian priority street, and shall require a conditional use approval.

Kim Jackson, CRA Director, stated that the CRA needed to make a few statements regarding the CRA and its redevelopment plan. She stated that she was referring to page 4 of staff’s memorandum where they referred to the narrative supplied by the developers. She stated that one of the statements made was that the narrative contended that there was no clear language that specifically prohibited a self-storage unit. She explained the CRA Plan had been written in 1995 and revised in 2001, and stated that CRA Plans would not refer to any types of specific use. She stated they would refer to a vision or general direction where an area was to be taken.

Ms. Jackson stated that there had been a reference to self-storage, but no reference that it was inconsistent in the Redevelopment Plan. She stated where a CRA Redevelopment Plan might not specifically address a use, it would address intent. Finally, the question of it being a primary use and how it would fit in with the overall redevelopment vision, the CRA Advisory Board discussed this to see if this was a use consistent with the overall direction of the agency. The Board through their minutes of the October 15, 2003 meeting contended that as a primary use they were concerned about its compatibility and the overall direction of where they were attempting to take the redevelopment pattern. She stated that as development changed and since they attracted 2 major redevelopment partners, those types of developments would change the pattern and direction. She stated it was somewhat clear from the beginning that when they were trying to write a vision, even though they might not specifically identify a use, they would have an overall understanding of the types of uses and how they would interact and be compatible.

Ms. Jackson stated that staff and the CRA Advisory Board were concerned about this particular use, its design, its location, how it would interact, and as to whether it would be compatible with the vision and the plan.

Commissioner Trantalis asked how this use fit within the vision for the area. Ms. Jackson replied that nothing could be defined specifically in the CRA Plan, and as far as it being a service and storage use in its broadest sense and being needed in the area, there was room for such a use. She stated they did not feel as a primary use it was compatible.

Brenda Kelley, CRA Design Manager, stated there were actually 4 issues in front of the Commission relating to the CRA. She stated that the first issue was a zoning issue, and

stated that CRA staff still questioned City staff's interpretation as to whether this was a permitted use in the RAC-CC district. She stated the second issue was in regard to the Comprehensive Plan and how it complied. She further stated there were a couple policies in the Comprehensive Plan, and one of the directed and encouraged compliance with the CRA Plan. She continued stating there were other issues and policies in the Comprehensive Plan that addressed the continual use of design guidelines and land development standards, improving pedestrian environments in the Downtown, and incorporating streetscape guidelines. She stated this was one of the first projects since the adoption of the Downtown Master Plan, and one of the premier items in that plan was building to a setback line. She reiterated that this proposal had a 106' setback and encouraged the transition of trucks into the site with a wider driveway, and it encouraged truck turn-around that crossed a pedestrian sidewalk. She stated these were some of the objectives and policies in the Comprehensive Plan that the CRA staff believed were not being complied with in this project.

Ms. Kelley stated the next item was compliance in connection with the Redevelopment Plan, and more specifically the Redevelopment Plan addressed encouraging mass transit, reducing the need for automobile traffic, and this clearly did not apply with those two items. She stated the next item was the intent of the district. She reminded the Commission about the County's Downtown Campus which would come in one block south of this project consisting of high intensity, government offices, residential uses, hotel uses, and retail uses. She explained when a self-storage business came into such a community, it would not promote pedestrian activities. Once the urban form was broken along the street, they would break the pedestrian activity at street level.

One of the last items Ms. Kelley wanted to address was that the applicant asserted that this was a service use. She stated that generally service uses in an urban district were banks, barbershops, and other daily uses. Self-storage was not a daily use, but a destination point. She stated further this was an industrial use in an urban area adjacent to residential.

Mayor Naugle asked if Ms. Kelley could supply some information regarding her qualifications.

Ms. Kelley stated she had a planning and design background. She further stated that she was formerly Community Development Director with the City of Aventura, a Planner with the City of N. Miami Beach, and had over 12 years of experience in the planning profession.

Alan Hooper, area developer, stated that he was about 300' to 400' away from the proposed project. He stated he came into the area when no one else was there, and their team assembled two acres, and they began redeveloping a blighted area. He stated that aside from the fact that this was not allowed by Code, and aside from the fact that if one looked at Section 47-18.29.B, it required that in the RAC-CC a self-storage project was not to exceed 30% of the gross floor area. He stated the proposed site was across the street from the One-Stop Shop that was a perfect location for pedestrian activity. He stated that it surprised him that a consultant who had worked on Meizner Park would state that self-storage was perfect for this site and did not need to be up to the street. He contended that the Meizner Park project would never have allowed a self-storage facility on their site. He stated further as they continued building residential, there would be a demand for retail. He explained it could consist of offices and

townhouses. He stated they spent the money and stepped up to the plate, and were investing \$30 Million on a site. He felt self-storage was a use needed in the area, but stipulated they could build 70% residential on the other 2 lots, connect it to the self-storage and they would get their use. He pointed out that in staff's backup on page 3 under "Consistency with Future Land Use Element of the Comprehensive Plan," it stipulated that a self-storage facility was considered to be an industrial use as categorized in the standard industrial classification. He further stated that if one read Section 47-7, Industrial Zoning Districts, it stated: "that any industrial use within 300' of residential property shall be subject to requirements of a conditional use permit." He reiterated that City View was 300' away from this site. He asked how that had gotten past staff.

Commissioner Moore left the meeting at approximately 8:19 p.m. and returned at 8:20 p.m.

Mr. Hooper stated that the Commission had a choice to make, and that was to either side with one of their partners who was investing over \$30 Million and with Code, or to side against Code or bend it in favor of a sterile use that would not promote pedestrian uses. If the other 70% was added to their project and they stepped up to the plate, then there could be a project to embrace.

Doug McCraw, adjacent landowner, stated that he wanted to make two points in regard to this project. One was that Mr. Siemon was a great land use attorney and had been hired by himself originally to master plan that block, and it had been a far different plan than the one being presented tonight. He stated the use of that block was one of the most important in the City due to its connectivity and potential uses. He stated the second point he wanted to make was that he was an adjacent landowner to this site, and he was opposed to this project. He stated his building would be obsolete if this project was approved. He had originally purchased the property with the intent of assembling more properties on the block, which had not occurred.

Mr. McCraw stated that everything said this evening was rhetoric, and the clear issue was that if there was going to be self-storage it needed to meet Code.

Mr. Gabriel stated that he wanted to address a few points. First, he was distressed by the concept that the City would be a partner to those who were objecting. The Commission was to look at a zoning question, and a plan had been submitted not as a partner requesting the Commission to vote with them. He stated the issue of the interpretation of the zoning code had already been made and discussed. He felt it was inappropriate to re-evaluate that because the Code provided for the process in which the interpretation had been made. The matter was presently in the Courts and being appealed. He stated it was not before the Commission tonight.

Mr. Gabriel stated that in regard to the CRA Plan, it was speculative in nature. He stated that one year ago the same people were saying that the One-Stop Shop would be put to bid for those who were looking for commercial construction for large office use. He stated further that it was the City's product dated Winter, 2003, Vol. 1, No. 1, which stated: "The City of Fort Lauderdale owns 5.07 acres of prime real estate one block north of Broward Boulevard in the heart of Downtown Fort Lauderdale currently occupied by the One-Stop Shop. The vision for this parcel was to transfer it to the private sector for development. Once the existing One-Stop Shop has been relocated, the City and the

CRA anticipate issuance of a Request for Proposal. The RAC zoning allows for high density, mixed-use development at this prime site.” He stated that today they were hearing that it was to be used for some other type of use. He felt it was speculative.

Mr. Gabriel stated he was concerned that the CRA was sitting here versus the Zoning Department. He reiterated that he did not know if the CRA had the authority to over rule the Zoning Department. He felt the Code was particular as to how they reviewed zoning codes. He felt they could not disregard zoning because it was in place, this was a permitted use, and was a permitted structure as presented. He stated they had a right to be at this location and have their plans approved. He further stated there were particular property owners now coming forward who had bid on the property and were unsuccessful in acquiring the property, but was now attempting to get the property at a lower price.

Curtis Bell stated that he did not think this project was right for the area, and did not meet Code. He felt that it should not be allowed to change the Code. He stated he did not understand what benefits there would be for the City and did not provide any significant job growth. He added that there was no added benefit to the nightlife. He reiterated that the CRA had plans for the area, and this project did not fit such plans. He felt this project would not be a contribution to the area.

Emerson Allsworth, attorney for one of the owners, stated that the applicant had met all the concerns of staff. He stated the Board of Adjustment had upheld the Zoning Administrator’s interpretation. He reiterated that the Commission was listening to irrelevant testimony in regard to this matter. He suggested that they support proper development that met the Code, if there was no legal basis on which to turn it down.

Richard Zaden, attorney, proceeded to distribute 4 excerpts from the Code. He stated that he did not want what he was going to say to be misconstrued or be an attack on City staff because they were human and made mistakes, which is what they did in this case. It was not a malicious mistake, but just a mistake. He felt what they had heard this evening from the applicant was a lot about diverting their attention from the real issue that was the fact that this project did not meet Code. He further stated that he was almost speechless when he heard individuals telling the Commission that they did not have the authority or the right to determine what the Code meant. He stated that such authority was exclusively the Commission’s. If the Code was changed, it had to come before this body of policymakers.

Mr. Zaden proceeded to quote from Section 47-13.10.12 stated: “*Permitted only when contiguous to, or separated by no more than a 60’ public right-of-way from a railroad right-of-way.” He reiterated if one was in the RAC-CC district, than they had to be next to a railroad. He stated there were 3 subsections under Storage Facility in the Code, and they were automotive, self-storage and warehouse. He stated that automotive referred to Section 47-19.9. Under self-storage facility it referred one to Section 47-18.29. It did not say see Section 47-18.29.A, and did not say to disregard Section 47-18.29.B, and for a staff member to say it should not say one thing but another was to change the Code. He stated that they only needed to interpret the Code when there was an inconsistency, a contradiction or ambiguity that was not present in this case. He stated if an interpretation was needed, then the Code itself stated what to do in that case.

John Shamus, attorney, stated that he represented the developer, and was not going to attempt to argue the ins and outs of the Code section, and the Circuit Court of Broward County was going to do that. He stated that the Zoning Administrator had made his interpretation, and an election of remedies had been made by the opponents to go before the Board of Adjustment for an interpretation. He reiterated that the Code stated that an appeal then would go to the Circuit Court, and there was nothing in the Court that stated an appeal from interpretation would come before this Commission. He reiterated that they were not saying the Commission did not have the power to have an opinion about the Code, but there were processes in place. He stated if the Commission believed what was being said, then the 60' from the railroad right-of-way exception contained in Section 13-10 would be rendered meaningless. He stated they were not saying that it was inconsistent with Section B of 18-29 because there could not be a permitted use by a railroad and at the same time has it conditional and accessory.

Commissioner Moore stated that in regard to the Board of Adjustment and whether this Commission should render a position on this matter, and since it was presently being considered in Court, could this be removed from the Court if this Commission took action this evening.

The City Attorney stated that the Land Development Regulations provided that interpretations were made by the Zoning Director. It also provided that if it was challenged it would then go before the Board of Adjustment. The Board of Adjustment appeal would then go on to Circuit Court. He stated this was the procedure that had been followed. He added there was also a provision in the Code that stated that when there was a challenge to the ULDR, the Commission could call it up. He stated that Mr. Gabriel had stated that it was inappropriate for the Commission to make such a determination, he stated he did not know if it was inappropriate, but it certainly was unprecedented. He stated that once the procedure was followed to make a determination regarding the interpretation and once in litigation, if the Commission decided to reverse the interpretation, they would only be exchanging one lawsuit for another. He stated the existing lawsuit was questioning whether the use was appropriate, and they also asked that the Court interpret and make such determination. All arguments heard were raised in the lawsuit. He stated that he could not say other than that it was unprecedented for the Commission to take an action on a use once they had begun the process, and gone through the first level of appeal since it was in Court on an interpretation. He stated he could not tell them that they could not do it.

The City Attorney further stated that the present lawsuit was one on how to interpret the City's regulations. The lawsuit they would substitute it for would be one for property damage or the taking of property rights.

Commissioner Moore stated he had spoken to many individuals regarding the impact of this project on the area, including members of staff. He reiterated that he looked to staff to make many judgment calls since he had been Commissioner, and felt everyone was professional. He felt in this case, both were correct, but conditions were referenced. He stated many people felt that the 30% requirement had to be met. He stated that was his interpretation of the information being supplied. He felt what was more important was the City's legal standing of whether it was appropriate to take action on beliefs. He stated that he believed that zoning permitted storage, and he also believed if it was going to be done based upon the CRA's vision and the zoning requirements with the adjustments mentioned in the backup information, it would be appropriate that it only be 30%.

Commissioner Moore complimented the developer in regard to the design of the building, and stated that he felt it showed compassion to the redevelopment area. He also commended them on the methodology they used to present the project to the Commission, and wished every proposal was brought forth in such a manner. He stated he was concerned about the fact of the 30%, along with the pedestrian capability of the site. He was also concerned about the desire for a mixed-use development. He stated that a comment had been made regarding the City's vision being blurry regarding the CRA proposal and the One-Stop Shop, but he felt there was nothing blurry on those issues.

Commissioner Hutchinson stated that when she had read the backup and spoke with the City Attorney, she felt it was clear how the Code read. She believed that it flowed quite well from section to section. She stated that self-storage facilities were permitted in the area, but the Code had to be followed. She felt the legislative intent was that all the conditions in Section 47-18.29 both A and B needed to be applied whether 60' from the railroad or not. She stated further that everyone was referring to the Board of Adjustment, but in looking at the vote which was 4-3 that would have been against the interpretation in most worlds, but because it was an interpretation a super majority was needed so a vote of 5-3 was needed. She stated that the Code was simple regarding this matter, and she believed the intent was that both conditions A and B had to be followed.

Commissioner Trantalis stated he was not sure of the posture of this case, and he realized they were involved in a quasi-judicial process, and a current proceeding was in Circuit Court that was going to review a decision by the Board of Adjustment. He clarified that such review was based on the Ordinance that stated that was the next level of appeal, but now it was before the Commission on a different track. The City Attorney confirmed. Commissioner Trantalis stated the "track" came from the Zoning Administrator, to the Board of Adjustment, to the Appellate Court, but also went from the Zoning Administrator directly to the Commission. The City Attorney explained that this matter was before the Commission due to a call-up of a site plan review by the Development Review Committee.

Mayor Naugle explained that there was nothing in the Code that prohibited the call-up if someone appealed to the Board of Adjustment. He reiterated that the Code was silent in that regard.

Commissioner Trantalis stated if the Court matter pending ruled contrary to how the Commission might vote tonight, which decision would prevail. The City Attorney stated if he could prognosticate, then if the Commission voted to reverse the determination made by the Zoning Administrator, that lawsuit would go away because the developer who had sued the City would withdraw it. He further stated that the developer who was asking that the determination be upheld would sue the City. Commissioner Trantalis stated they did not know if that would happen, but in considering the current circumstances would the Appellate Court's decision, if ruled in favor of the developer, overrule the Commission if they voted against the developer. The City Attorney stated he believed the interpretation made by the Zoning Administrator was the appropriate interpretation. If one looked at the record, which was done because it was not a model of clarity, there was a specific question asked as to whether the 30% requirement applied if within 60' of the railroad, and the answer by Mr. Wren, who had drafted the ordinance, had stated

that it did not apply. He asked if Commissioner Trantalis was asking which was the better interpretation. Commissioner Trantalis stated he had not asked that question, but wanted to know if a decision rendered by this Commission would become moot if the Appellate Court in the current appeal rendered a decision in favor of the developer. He stated they might continue this matter if the Commission ruled against the developer this evening. He clarified that he was referring to the property owner.

The City Attorney replied they were not involved in the lawsuit. Commissioner Trantalis stated they might seek to intervene. The City Attorney stated that if it continued, they would seek to intervene, but if the Commission's determination was to uphold the determination of the Zoning Administrator and approve the site plan, the developer would intervene and the lawsuit would continue. If the Commission decided to deny the site plan and not uphold the Zoning Administrator's decision, the lawsuit would go away because the applicant was not a party to it.

Commissioner Trantalis stated this was important and they were wasting their time if the Circuit Court superseded any decision made tonight. If the applicant filed suit in the Circuit Court and if the Commission decided against the applicant, they could intervene to continue the case. If that happened, would that decision supersede anything the Commission might do tonight. The City Attorney replied it could. He stated it was unprecedented because the function of his office was to represent the staff and the Commission, which he was presently doing in the lawsuit. The decision tonight could be telling him that he was to be on the other side of the lawsuit. Commissioner Trantalis stated that he did not think they should make a decision until that process was complete. The City Attorney stated his preference on what should be done was that a determination of what this Commission believed would be the appropriate interpretation, or what they believed to be legislative intent, and then vote on that, and advise the Court and move forward and defend the lawsuit.

Commissioner Trantalis stated he was not begging for another lawsuit and felt this Commission had made enough decisions in the last year to employ half the attorneys in the City. He continued stating that the sections regarding storage facilities had provisos attached to them, and a clear reading of the black and white ordinance suggested that storage facilities had a subsection for self-storage facilities. Under such subsection, reference was made to Section 47-18.29 that provided for storage facilities giving parameters for which those facilities could be permitted. He stated further that he agreed with Commissioners Moore and Hutchinson and their interpretations.

Commissioner Trantalis felt there was a constant and running debate occurring in the redevelopment district and that was there were zoning laws which sought to preserve the status quo, and they had the CRA and a future vision for areas that had been blighted for a long period of time wanting change. He felt they had to resolve the seemingly "polar" approach to the redevelopment of the City. He hoped they could find a happy medium to resolve the issues without violating the property rights of the individual property owners. He felt the vision for the area was not for a storage facility, even though the architectural structure did not resemble a normal storage facility. He felt it was a beautifully designed structure. He stated that sometimes it was the right type of building, but in the wrong place. He reiterated they did need a storage facility within that area, but felt they could all meet and reach a compromise in regard to this matter. He reiterated further that he did not want to "pit one investor against the other" because they all had a common interest, which was to benefit from the use of their property.

Mayor Naugle stated if they disagreed with the interpretation of the Zoning Administrator, did the Zoning Administrator misapply the Code, and the Commission agreed with the evidence presented that the storage facility had met the 4 requirements listed in the exhibit presented to the City Commission.

Motion made by Commissioner Trantalis that the Commission disagreed with the interpretation of the Zoning Administrator who had misapplied the Code, and the legislative intent of the Code was to require the 4 requirements for any storage facility if located the appropriate distance from the railroad tracks.

Commissioner Moore stated that he felt the motion could be worded differently. He added that he was concerned about a comment made by the City Attorney which was that it was his opinion that zoning and their position was correct. He stated everyone had a different opinion on this, and he was concerned to have had such a statement made. He stated further that Commissioner Hutchinson had raised the issue of a super majority by the Board of Adjustment, and asked for some further clarification on that matter.

Mayor Naugle stated that did not relate to the motion presently on the floor.

Commissioner Hutchinson proceeded to second the motion for discussion purposes.

Mayor Naugle stated that he felt the evidence presented showed the Code had been misapplied, and he felt it was clear by the evidence presented that if storage was to be placed in the RAC, that it meets the 4 requirements listed in the Code. He stated one alternative would be to approve the project subject to the plans meeting the requirements of the 30% rule, along with the other conditions. He felt it was a beautiful project, but it needed to come into compliance with the Code. He stated many comments had been made regarding property rights, and stated that property owners in the areas had purchased properties based on the City's laws, and if developers were permitted to step outside the laws, then how would it affect everyone's property rights, and would their properties be devalued. He felt when there was such a question, they needed to side on the side of the law. He reiterated the Code did not get misapplied every day, but according to evidence it had happened. He supported the motion because the project should comply with the Code.

Commissioner Teel disclosed that she had met with Alan Gabriel and Alan Hooper in regard to this matter. She further stated that after reading the Code, it went back to the fact that after an appeal was made, the next step was Court. She stated she was, therefore, uneasy with the situation presented this evening. She stated that she had a transcript of a City Commission meeting from 1997 when Mr. Wren was the Planning Director, and a question was asked by Mayor Naugle regarding this exact matter.

“Mayor Naugle: Can't have it unless it's an accessory use.
Mr. Wren: Limited to 25%.
Mayor Naugle: Along the railroad tracks?
Mr. Wren: Absolutely right, Mr. Mayor, those uses are allowed if you're along the railroad tracks and not regulated by a percentage.”

Commissioner Teel remarked that there appeared to be conflicts all around. She felt the Zoning Administrator had made the correct ruling, and felt it would play out appropriately

in Court. She felt she was alone in this type of thinking. She felt there was more history involved making it appear that the intent was a permitted use.

Commissioner Hutchinson stated she was going to withdraw her second to the motion until she finished her comments, with the possibility she might second it once again. She continued stating that it would have been nice for the Commission to have the information Commissioner Teel had just read out loud. She stated it was not part of her back-up, and therefore, she could not consider it this evening. She added that what the Mayor alluded to in regard to conditions, she looked to the City Attorney if they could tie them to this proposal.

The City Attorney stated that there were a number of conditions that could be placed on this. He stated if conditions needed to be met in order to meet the goals and visions of the CRA or the Downtown Master Plan, the Commission could apply them to their approval.

Commissioner Hutchinson clarified that one of the conditions could be that this had to be a secondary use, and could not be more than 30% of the gross floor area of the principal use. The City Attorney stated he was not sure the Commission could go that far. Commissioner Moore stated he felt that could be done. The City Attorney stated that the question before the Commission was whether it was a permitted use or not. If a permitted use, conditions could be placed on it in order to meet certain compatibility issues.

Commissioner Hutchinson reiterated that it was a permitted use in the area, and in relation to some of the conditions which existed in the Code, as to what she felt was a permitted use, there were other sections of the Code it had to adhere to, since it fronted a pedestrian street. She added the setback could be brought to the street, it could be a secondary use, and assed if it could be 30% of the permitted gross floor area.

The City Attorney stated that he could not state that a limitation could be placed on the project, and instead of putting such conditions that implemented the conditional use, they would be better off to define the conditional use. He stated it was either a permitted use or a conditional use. He stated this was a simple question, and it was a matter of law for the Judge to decide.

Mayor Naugle stated that the City Clerk had prepared two resolutions, one that approved the site plan, and the other denied the site plan. He stated the action they were looking for was to either approve or deny the site plan based on the testimony given.

The City Attorney stated that two resolutions had been prepared in order to give the Commission two options. He stated that he had previously pointed out that his preference was for the Commission to interpret the Code, and indicate legislative intent, rather than take any action on the site plan. He stated the site plan was not going anywhere, and they had already gotten an Order to Show Cause, and in that Order was included a prohibition against approving any development plans or site plans until the pending litigation was completed. He stated the Commission actually had 3 options, and whichever the Commission chose, they would defend. He reiterated that the 3 options were: (1) no action taken on the site plan; (2) make a legislative determination as to intent; (3) approve it; or (4) deny it.

Commissioner Trantalis stated that he felt Commissioner Hutchinson was wondering whether or not they could still grant the request by the applicant, but tack on conditions that would track the same conditional requirements already in the Code. He asked if the Commission had that much authority to do it. He felt the City Attorney had stated they had some measure of subjectivity in terms of neighborhood compatibility and other less broad powers to require the applicant to attach to their site plan. He stated it was his understanding that they would be more limited and an attempt to change the site plan accordingly would not be successful, and it could only be done by indicating that the Zoning Administrator had misinterpreted the zoning code, and they must find that it required a conditional use.

The City Attorney replied it would be easier to defend such action.

Commissioner Trantalis requested Commissioner Hutchinson to maintain her second to his motion.

Commissioner Hutchinson seconded the motion previously made.

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

Mayor Naugle stated he was hopeful that the applicant would come back with a plan that would meet the Code because he felt this could be a quality project.

Advisory Board/Committee Appointments

(OB)

Mayor Naugle stated that in regard to the DDA, the Commission had been supplied documentation in regard to attendance for Mr. Stallworth at the meetings. He stated that he did not have the worst, but was not as good as other member's attendance. He added that if everyone attended every meeting, sometimes they needed to look at why individuals were doing so. One other applicant had been present at a meeting because he was requesting \$1 Million to subsidize a development project. He reiterated that Mr. Stallworth wanted to serve on the committee and he felt he represented an interest of the education community, along with representing a minority group. He hoped they would reappoint Mr. Stallworth, and appoint one of the other applicants to the next vacancy when it occurred.

Commissioner Moore nominated Peter Feldman to the Downtown Development Authority, and seconded by Commissioner Trantalis.

Commissioner Teel asked if there was a requirement in regard to attendance for the DDA meetings. Commissioner Hutchinson stated she was not aware of any. Mayor Naugle stated that for City Boards, if an individual missed 3 consecutive meetings they were taken off the Boards. The City Clerk stated an individual was removed due to missing 3 consecutive meetings or 4 in one calendar year. Commissioner Trantalis stated that Mr. Stallworth exceeded that amount in 2003, and had been absent about half of the meetings.

Commissioner Trantalis stated that Mr. Stallworth had probably made a measurable contribution to the DDA, and had been on the Board for about 4 years. He noticed that

most of the absences had been during the last year, and possibly that reflected his interest in the DDA and its purpose. He recommended that possibly someone else be given the chance to serve.

Commissioner Hutchinson encouraged the Commission to find out what the rules were for the DDA because there was to be another appointment. She remarked that she attended those meetings regularly and that was not reflected. She felt if there were rules regarding attendance, those rules needed to be known. Therefore, if a member could not serve, then the person should be replaced.

Mayor Naugle stated that such rules were probably reflected in the legislation that created the group in 1966.

Commissioner Hutchinson stated that she would support the recommendation being made, and it was nothing against Mr. Stallworth.

The following is vote on the motion regarding the DDA appointment:

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

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

Audit Advisory Board	Mark Burnam Tom Jordan
Aviation Advisory Board	Chris Pollock
Board of Commissioners, Fort Lauderdale Housing Authority	Robert Kelley
Code Enforcement Board	Bob Young Larry Hayes
Community Appearance Board	Drew Pickens George Henderson Dan Remy Ayisha Gordon
Community Services Board	Marie Conroy Robert H. Smith
Downtown Development Authority	Peter Feldman
Parks, Recreation and Beaches Advisory Board	Shirley Small Rosalind Osgood Andrew DeGraffenreidt
Beach Redevelopment Advisory	

Board

Steve Glassman (Vacancy created by
Resignation of Michael Grimme)

Recommend that Commissioner Hutchinson be considered as a Broward League of
Cities Representative on the Broward County Land Preservation Board.

Commissioner Hutchinson introduced a written resolution entitled:

RESOLUTION NO. 04-19

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

Resolution 04-20

(OB)

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-20

A RESOLUTION OF THE CITY COMMISSION OF THE CITY
OF FORT LAUDERDALE, FLORIDA, RESCINDING RESOLUTION
NO. 04-4 ADOPTED BY THE CITY COMMISSION ON JANUARY 6,
2004 WHICH AGREED NOT TO ISSUE BUILDING PERMITS FOR
CONSTRUCTION, EXPANSION OR CONVERSION OF A BUILDING
WITHIN A PLAT UNTIL A DEVELOPER PROVIDES THE CITY WITH
WRITTEN CONFIRMATION FROM BROWARD COUNTY THAT
APPLICABLE IMPACT FEES HAVE BEEN PAID.

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

Broward County Planning Council

(OB)

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, REQUESTING THAT THE BROWARD COUNTY PLANNING COUNCIL DEFER THE ITEMS ON ITS JANUARY 22, 2004 AGENDA RELATING TO COMPATIBILITY REVIEW ON THE BARRIER ISLAND AND THE EVALUATION AND APPRAISAL REPORT REGARDING REGIONAL ACTIVITY CENTERS AND OTHER MIXED USE FUTURE LAND USE DESIGNATIONS.

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

Swimming Hall of Fame

(OB)

Commissioner Hutchinson stated that she had received many e-mails regarding the change in hours at the Swimming Hall of Fame. She asked this to be on the next Commission Conference Agenda so the matter could be discussed, and the hours not be changed until such discussion was held.

Commissioner Hutchinson asked what kind of cost savings would they have if people quit buying yearly passes. She stated that some individuals wanted to give their input on the matter also. Commissioner Moore agreed.

At 9:27 p.m., Mayor Naugle adjourned the meeting.

Jim Naugle
Mayor

ATTEST:

City Clerk