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FORT LAUDERDALE CITY COMMISSION
FEBRUARY 3, 2004**

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE, FLORIDA
FEBRUARY 3, 2004**

Meeting was called to order at 6:05 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 (arrived at 6:08 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 Dave Lewis

Invocation was offered by Reverend Dick Willis, Christ Church United Methodist of Fort Lauderdale, followed by the recitation of the Pledge of Allegiance.

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

Presentations

OB

1. Expression of Sympathy

Mayor Naugle and the City Commission presented an expression of sympathy to the family of Larry Hayes.

Commissioner Hutchinson stated that Larry Hayes was an activist in her district and a friend, and proceeded to read a statement about Larry Hayes which had been written by an individual in her district. She thanked Larry Hayes for the work he had done for the City.

2. Smoke Detector

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

3. Black History Month

Commissioner Moore presented a proclamation for "Black History Month" to Eula Gandy Johnson. Her son, Greg Johnson, accepted the award. Commissioner Moore stated they were going to make a street name change in honor of the work Ms. Johnson had done for the City. The street being changed was NW 23rd Avenue between 19th Street and Sunrise Boulevard which will be unveiled on February 13, 2004.

Mr. Johnson thanked the City for the renaming of the street and being supportive of his mother. He stated that she felt everyone should get along together and work in the City to make it a great place.

4. Technical Rescue Team

Commissioner Hutchinson presented a Commendation to the Technical Rescue Team of the Fire-Rescue Department for their work on December 26, 2003 in assisting with a trench rescue operation. It was a joint operation involving Lauderdale Lakes Fire-Rescue, Broward County Fire-Rescue, and Fort Lauderdale Fire-Rescue. She explained it had taken them 3 hours to free Ezekial Hunt, a construction worker, who had been stuck in waist-high mud and water while laying a sewage line for the City of Lauderdale Lakes.

Otis Latin, Chief of Fire-Rescue, stated that this team was the "B" shift, and there were also "A" and "C" shifts of technical rescue teams. He explained they did various types of rescue operations and were very educated and talented. He thanked everyone on the teams for the excellent work they were doing.

5. Outstanding Employees

Cecelia Hollar, Director Public Services, stated that they wanted to honor Ray Wood who was a Mechanic I at the GTL facility and had been with Public Services for about 20 years. She explained that part of the operation at that plant was a process done involving high pressure and oxygen to utilize wastewater. Mr. Wood found an area where high pressure oxygen was leaking and developed a cost-effective solution which was a sound insulated cover which could be removed for maintenance.

Bruce Roberts, Chief of the Police Department, stated that they wanted to honor PSA Leslie Fass for December, 2003. He stated that she worked with the CSD unit and also had assisted in the Records Division for the last few months. He stated that previously that division had employed about 15 individuals on a part-time basis, along with the regular staff. In June overtime was cut and hours for part-time employees had been cut to 4 hours per week which drastically affected the division. He stated that Leslie Fass contributed unpaid hours to assist in this division and realized it was an emergency situation.

Commissioner Moore left the meeting at approximately 6:20 p.m.

Commissioner Hutchinson left the meeting at approximately 6:20 p.m. and returned at 6:21 p.m.

Chief Roberts proceeded to honor Traffic Homicide Investigator Jill Hirsch for January, 2004, who had investigated a traffic fatality involving a pedestrian and a vehicle.

Commissioner Moore returned to the meeting at approximately 6:22 p.m.

Chief Roberts stated that Ms. Hirsch had assisted the family in this matter and had met with the attorneys and investigators regarding the case on her own time. Mr. Hancock (victim's father) described Investigator Hirsch as a qualified, competent and professional investigator. Chief Roberts stated that these investigators dealt with horrendous crime scenes and worked 24/7.

Chief Roberts stated that the following presentations had been an oversight on the department, and formal recognition should have been given for their hard work. He proceeded to honor Officers Ken VandeSteeg (Mounted Patrol) and Jerry Williams who had assisted in an arrest. They had responded with courage and proper police tactics in the face of an armed and dangerous individual. He stated they had neutralized a threat to the citizens and themselves, and were to be commended for a job well done.

City Clerk

Mayor Naugle presented a proclamation to the outgoing City Clerk, Lucy Kisela.

Commissioner Hutchinson proceeded to present a plaque from the City to Lucy Kisela.

The City Clerk thanked everyone at the City and stated they were her family and would always be a part of her.

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 – Celebrate Jesus**(M-1)**

A motion authorizing the proper City officials to execute an Event Agreement with **Christ Church United Methodist, Inc.** to indemnify, protect and hold harmless the City from any liability in connection with **Celebrate Jesus**, to be held **Saturday, February 7, 2004 from 9:00 a.m. to 4:00 p.m.** on the Church grounds at Christ Church Park; and further authorizing the closing of N.E. 24 Terrace from N.E. 49 Street (at the parking garage) to N.E. 21 Terrace, from 6:00 p.m. Friday, February 6, 2004 to 6:00 p.m. Saturday, February 7, 2004.

Recommend: Motion to approve.

Exhibit: Memo No. 04-166 from Acting City Manager.

Event Agreement – New River Street Dance**(M-2)**

A motion authorizing the proper City officials to execute an Event Agreement with the **Downtowner Saloon Inc.** to indemnify, protect and hold harmless the City from any liability in connection with the **New River Street Dance**, to be held **Friday, March 26, 2004 from 4:00 p.m. to 11:00 p.m.; Saturday, March 27, 2004 from 3:00 p.m. to 11:00 p.m.; and Sunday, March 28, 2004 from 12:00 noon to 7:00 p.m.**; and further authorizing the closing of South New River Drive from the Andrews Avenue Bridge to the S.E. 3 Avenue Bridge from 8:00 a.m. Friday, March 26, 2004 to 11:00 a.m., Monday, March 29, 2004.

Recommend: Motion to approve.

Exhibit: Memo No. 04-165 from Acting City Manager.

Event Agreement – 16th Annual Las Olas March Art Fair**(M-3)**

A motion authorizing the proper City officials to execute an Event Agreement with the **Las Olas Association**, to indemnify, protect and hold harmless the City from any liability in connection with the **16th Annual Las Olas March Art Fair** to be held **Saturday and Sunday, March 6 and 7, 2004 from 10:00 a.m. to 5:00 p.m.**, in the East Las Olas Shopping District; and further authorizing the closing of East Las Olas Boulevard from S.E. 6 Avenue to S.E. 11 Avenue from 4:30 a.m., Saturday, March 6, 2004 to 10:00 p.m., Sunday, March 7, 2004.

Recommend: Motion to approve.

Exhibit: Memo No. 04-167 from Acting City Manager.

Event Agreement – Rotary Scholarship 5K Run/Walk**(M-4)**

A motion authorizing the proper City officials to execute an Event Agreement with the **Rotary Club of Fort Lauderdale** to indemnify, protect and hold harmless the City from any liability in connection with the **Rotary Scholarship 5K Run/Walk** to be held **Saturday, March 6, 2004 from 6:00 a.m. to 10:30 a.m.**; and further authorizing the closing of the route from 7:00 a.m. to 8:30 a.m. as follows: beginning at Huizenga Plaza and proceeding east on East Las Olas Boulevard to S.E. 3 Avenue; south to S.E. 6 Street; east to East Avenue (runs parallel to the Tunnel) to North Rio Vista Boulevard; east and south around the curve to S.E. 9 Street; west to S.E. 9 Avenue, north to North Rio Vista Boulevard, west to East Avenue, south to S.E. 6 Street, west to S.E. 3 Avenue, north to East Las Olas Boulevard, and west to return to the finish line at Huizenga Plaza.

Recommend: Motion to approve.

Exhibit: Memo No. 04-168 from Acting City Manager.

Event Agreement – Riverwalk Run**(M-5)**

A motion authorizing the proper City officials to execute an Event Agreement with the **Junior League of Fort Lauderdale** to indemnify, protect and hold harmless the City from any liability in connection with the **Riverwalk Run** to be held **Saturday, March 20, 2004 from 7:00 a.m. to 10:00 a.m.**; and further authorizing the closing of the route from 7:00 a.m. to 8:30 a.m. as follows: beginning at Huizenga Plaza and proceeding east on East Las Olas Boulevard to S.E. 3 Avenue; south to S.E. 6 Street; east to East Avenue (runs parallel to the Tunnel) to North Rio Vista Boulevard; south to S.E. 9 Street; east to Ponce De Leon, north to the turn-around and return south to S.E. 7 Street, east to Cordova Road, south to S.E. 11 Street, west to S.E. 9 Avenue, north to Rio Vista Boulevard, west to S.E. 10 Street; east to Rio Vista Boulevard; north to East Avenue; south to S.E. 6 Street; west to S.E. 3 Avenue; north to S.E. 4 Street; east to S.E. 5 Avenue; south to North New River Drive; and west to finish on the Riverwalk at Huizenga Plaza.

Recommend: Motion to approve.

Exhibit: Memo No. 04-169 from Acting City Manager.

Fiscal Year 2003/2004 Budget Amendment**(M-6)**

A motion approving an amendment to the FY 2003/2004 budget.

Recommend: Motion to approve.

Exhibit: Memo NO. 04-171 from Acting City Manager.

**First Amendment to Agreement – First United
Methodist Church of Fort Lauderdale, Inc. –
Meter Revenue**

(M-7)

A motion authorizing the proper City officials to execute the First Amendment to the Agreement with the First United Methodist Church of Fort Lauderdale, Inc. in order to amend the current meter revenue split.

Recommend: Motion to approve.
Exhibit: memo No. 04-125 from Acting City Manager.

**Contract Award – Frank Hill Construction, Inc. -
Project 15200 – B – Holiday Park Saber Jet Pedestal**

(M-8)

A motion authorizing the proper City officials to execute an agreement with Frank Hill Construction, Inc. in the amount of \$26,370 for the Holiday Park Saber Jet Pedestal project.

Funds: See Bid Tab
Recommend: Motion to approve.
Exhibit: Memo No. 04-65 from Acting City Manager.

**Task Order No. 38 – Camp, Dresser, and McKee, Inc. (CDM) -
Project 10764 – G.T. Lohmeyer (GTL) Regional Wastewater
Treatment Plant Deep Injection Well Mechanical Integrity Testing**

(M-9)

A motion authorizing the proper City officials to execute Task Order No. 38 with CDM in the amount of \$351,879 for professional services associated with the GTL Regional Wastewater Treatment Plant Deep Injection Well Mechanical Integrity Testing project.

Funds: See Memo
Recommend: Motion to approve.
Exhibit: memo No. 04-66 from Acting City Manager.

Task Order No. 39 – Camp, Dresser, and McKee, Inc. (CDM) - (M-10)
Project 10759 – Wastewater Transmission System Model and Master Plan Flows Update

A motion authorizing the proper City officials to execute Task Order No. 39 with CDM in an amount not to exceed \$91,491 for professional services associated with the Wastewater Transmission System Model and Master Plan Flows Update project.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 04-67 from Acting City Manager.

Task Order No. 49 – Camp, Dresser, and McKee, Inc. (CDM) (M-11)
Project 10761 – G.T. Lohmeyer (GTL) Regional Wastewater Treatment Plant - Operating Permit Renewal

A motion authorizing the proper City officials to execute Task Order No. 49 with CDM in an amount not to exceed \$99,000 for submission of the GTL Regional Wastewater Treatment Plant application for renewal of the operating permit.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 04-68 from Acting City Manager.

Task Order No. 34 – Camp, Dresser, and McKee, Inc. (CDM) - (M-12)
Project 10767 – Equipment Replacement and Immediate Needs At G.T. Lohmeyer (GTL) Regional Wastewater Treatment Plant

A motion authorizing the proper City officials to execute Task Order No. 43 with CDM in an amount not to exceed \$850,000 for engineering services required to develop bid documents of the planned equipment replacement and needs at the GTL Regional Wastewater Treatment Plant.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 04-69 from Acting City Manager.

**Change Order No. 1 – F & L Construction, Inc. -
Project 10612 – 2003 Annual Contract for Concrete
And Paving Stone Repair**

(M-13)

A motion authorizing the proper City officials to execute Change Order No. 1 with F & L Construction, Inc. in the amount of \$66,600 for additional costs associated with sidewalk repairs under the 2003 annual contract for concrete and paving stone repair.

Funds: See Change Order

Recommend: Motion to approve.

Exhibit: Memo No. 04-178 from Acting City Manager.

**Change Order No. 2 – 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-14)

A motion authorizing the proper City officials to execute Change Order No. 2 with Danella Companies, Inc. in the amount of \$45,046 for additional costs associated with the force main directional drill under West Broward Boulevard and 27 Avenue, and the North Fork of New River and Sistrunk Boulevard project.

Funds: See Change Order

Recommend: Motion to approve.

Exhibit: Memo No. 04-70 from Acting City Manager.

PURCHASING AGENDA

**Proprietary/Contract – Purchase Plan, Radio, Parts
And Services**

(Pur-1)

Annual purchase plan for various Motorola and EF Johnson radios, parts and services for city-wide use is being presented for approval by the Administrative Services, Information Technology Division.

Recommended Award: Motorola Communications & Electronics, Inc.
Fort Lauderdale, FL
EF Johnson
Cumming, GA
Amount: \$ 93,610.00 (estimated)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 04-163 from Acting City Manager

The Procurement and Materials Management Division reviewed this item and recommends approving annual radio purchase plan.

242-8960 – Security Guard Services

(Pur-2)

Three-year contract for security guard services is being presented for approval by the Community and Economic Development, Executive Airport Division.

Vendor: Navarro Group (MBE)
Fort Lauderdale, FL
Amount: \$ 211,178.00 (estimated annual total)
Bids Solicited/Rec'd: 55/9 with 1 no bid and 1 late bid
Exhibits: Memorandum No. 04-004 from Acting City Manager

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

**02-106-SS – Additional Costs, Third Party
Administrator Services****(Pur-3)**

Additional contract costs for third party administrator services is being presented for approval by the Finance, Risk Management Division.

Recommended Award: Gallagher Bassett Services
Sunrise, FL
Amount: \$ 70,846.00 (estimated)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 04-003 from Acting City Manager

The Procurement and Materials Management Division reviewed this item and recommends approving additional contract costs.

**502-8315 – Software Support and Maintenance,
Parking System****(Pur-4)**

An annual software support and equipment maintenance agreement for the City's automated municipal parking services system is being presented for approval by the Administrative Services, Parking Services Division.

Vendor: Enforcement Technology, Inc.
Irvine, CA
Amount: \$ 17,933.34
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 04-162 from Acting City Manager

The Procurement and Materials Management Division reviewed this item and recommends awarding the annual maintenance and support agreement.

Proprietary – Software/Hardware Maintenance and Support**(Pur-5)**

A nine-month renewal agreement for software/hardware maintenance and support is being presented for approval by the Police Department.

Vendor: Intergraph Public Safety
Huntsville, AL
Amount: \$ 119,114.63
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 04-133 from Acting City Manager

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

712-8459 – Increase Expenditure, Recycling Collection Services**(Pur-6)**

An increased contract expenditure for recycling collection services is being presented for approval by the Public Services, Sanitation Division.

Vendor: EarthCare Resources Management of Florida, Inc.
Boca Raton, FL
Amount: \$ 61,920.00 (estimated)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 04-064 from Acting City Manager

The Procurement and Materials Management Division has reviewed this item and recommends approving increased expenditure.

92-00151 – 2003/04 PC Plan**(Pur-7)**

An agreement to purchase computers, upgrades and supplies, city-wide, for fiscal year 2003-04 is being presented for approval by the Administrative Services, Information Technology Division.

Recommended Award: Dell Marketing L.P.
Round Rock, TX
Amount: \$ 555,250.00 (estimated)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 04-160 Acting City Manager

The Procurement and Materials Management Division reviewed this item and recommends approving annual computer purchase plan and purchases from the Western States Contracting Alliance (WSCA) contract.

542-8984 – Three-Year Contract – Minutes Secretary Services**(Pur-8)**

A three-year contract for minutes secretary services for the City Commission and various advisory boards is being presented for approval by the City Clerk's Office.

Vendor: Margaret A. D'Alessio (WBE)
Hallandale, FL
Prototype, Inc. (WBE)
Davie, FL
Amount: \$ 55,000.00 (estimated)
Bids Solicited/Rec'd: 68/2 with 7 no bids
Exhibits: Memorandum No. 04-227 from City Clerk

The Procurement and Materials Management Division has reviewed this item and recommends approving contract awards.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that Consent Agenda Item Nos. M-3, M-7, M-13, Pur-6, and Pur-8 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda items be approved as recommended. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

Event Agreement – 16th Annual Las Olas March Art Fair

(M-3)

Commissioner Hutchinson stated that she had pulled this item and remarked that in the past they had a hard time getting individuals to help with parking in the neighborhood. She stated she wanted to offer two venues to assist which were the Citizens on Patrol Program that Chief Roberts could help with, and the Explorer Program in Fire-Rescue. She stated the Explorers were very willing to help out with this fair.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to approve this item.

Sue Molnar, Outdoor Event Coordinator, stated that the President of the Las Olas Association was present this evening, Chris Gaus. She stated that he was asking for a change to their application.

Chris Gaus stated they wanted to request a liquor permit so they could make some extra money for the Association in order to offset the costs of their recent multi-space meters for the H lot.

Commissioner Moore asked what amount of monies they thought such a change would bring in for the Association. Mr. Gaus stated they thought they could make about \$4500. Commissioner Moore asked if they were going to state that there would be outdoor consumption of alcohol on the sidewalks during the event. Mr. Gaus replied that he had wanted to get this on the agenda before going to the City Attorney's office, but he had been late in submitting the information.

Mayor Naugle asked if this was something that was normally done, and were the normal precautions taken regarding off-duty police officers and waste receptacles. He stated that a lot of the events had alcohol being sold. Ms. Molnar stated the only difference was that they had not requested this on their application. She added that normally the bars and restaurants did the sales themselves, but this time the Association wanted to set up a bar outside in order to raise some additional funds.

Mayor Naugle asked if the motion was as amended. Commissioner Hutchinson confirmed, but Commissioner Moore withdrew his second.

The City Attorney stated that there were additional requirements involved in this matter. He stated that normally they allowed outdoor liquor sales under specific circumstances, and on such occasions normally limited the sales to not-for-profit corporations. He stated if such outdoor sales were permitted, there were higher insurance requirements for the permit.

Commissioner Hutchinson added there was an additional \$500,000 required for liability for the liquor sales.

Mr. Gaus further stated that the Las Olas Association was a not-for-profit corporation with the State of Florida, otherwise they would not grant them the license in the first place.

The City Attorney explained that under the City's Code, they would need \$500,000 additional liquor liability for such sales. He stated that he had not yet seen such a policy. He suggested if the Commission approved this item, they made it subject to acquisition of such a policy.

Commissioner Hutchinson amended her motion as follows:

Motion made by Commissioner Hutchinson and seconded by Commissioner Trantalis to approve this item, with the inclusion of a liquor permit and that an insurance policy in the amount of \$500,000 also be submitted by the Association. Roll call showed: YEAS: Commissioners Hutchinson, Trantalis, and Mayor Naugle. NAYS: Commissioners Moore and Teel.

**Change Order No. 1 – F & L Construction, Inc. -
Project 10612 – 2003 Annual Contract for Concrete and
Paving Stone Repair**

(M-13)

Commissioner Moore stated that he had pulled this item and asked if he was to assume from reading the documents that \$41,000 of the \$66,000 had been collected by the department from the users of the Change Order.

Hector Castro, City Engineer, confirmed and stated that this was a compilation of how much they had collected from private citizens for taking advantage of the contract-to-repair for sidewalks they had been cited on.

Commissioner Moore stated that reference made to Change Orders for the Dorsey Riverbend community regarding the water main crews were due to the WaterWorks Program. Mr. Castro explained it used to be called the Mass Contract for Water Main Replacement where they had been systematically replacing the 2" and 4" lines throughout the City, but it was now being incorporated into WaterWorks 2011.

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

**712-8459 – Increase Expenditure, Recycling
Collection Services****(Pur-6)**

Commissioner Moore stated that he was not in support of this item.

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

92-00151 – 2003/04 PC Plan**(Pur-7)**

Commissioner Trantalis stated that he had pulled this item, and several people at his neighborhood meeting had questioned some of the pricing that was identified in the back-up material, such as PC's costing \$10,000 each. He asked for some further clarification.

Commissioner Hutchinson left the meeting at approximately 6:39 p.m. and returned at 6:41 p.m.

Kirk Buffington, Administrative Services, stated that the \$10,000 was for servers, and not for what people might perceive as a desk-top PC. He stated the servers ran the networks.

Commissioner Trantalis remarked that there were concerns that the amounts were high, but if it was consistent with the market, then they would have to accept such information. Mr. Buffington stated that without a side-by-side comparison of the technical specifications to pull out the number and state it was high might be unfounded. He stated that the contract used was a nationwide cooperative PC plan purchasing contract which allowed for a couple hundred million dollars worth of volume in purchasing, but also allowed for price decreases in ordering.

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

542-8984 – Three-Year Contract – Minutes Secretary Services**(Pur-8)**

Commissioner Moore stated that he had pulled this item in error. He stated that he had meant to pull Pur-3.

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

ORDINANCES

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

(O-1)

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; on January 6, 2004, first reading was approved by a vote of 4-1 (Moore); and on January 21, 2004, second reading was deferred to February 3, 2004 by a vote of 5-0.

Applicant: City of Fort Lauderdale
Request: Amend the following ULDR Sections: 47-353.1 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.

Commissioner Hutchinson introduced the following ordinance on second reading:

ORDINANCE NO. C-04-3

AN ORDINANCE AMENDING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING SECTION 47-2.2, MEASUREMENTS, SECTION 47-19.1, GENERAL REQUIREMENTS, SECTION 47-19.5, FENCES, WALLS AND HEDGES, SECTION 47-20.5, GENERAL DESIGN OF PARKING FACILITIES, 47-20.22, TEMPORARY PARKING LOTS, SECTION 47-21.8, MAINTENANCE, SECTION 47-22.3, GENERAL REGULATIONS, CREATING A NEW SECTION 47-23.15, LOCATION OF A BUILDING OR STRUCTURE IN A SIGHT TRIANGLE, AND SECTION 47-35.1, DEFINITIONS, TO REFORMAT AND CLARIFY THE REGULATIONS REGARDING SIGHT TRIANGLES.

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

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

An ordinance amending Chapter 28 entitled “Water, Wastewater and Stormwater,” of the Code of Ordinances, providing an exception for owners of property within the Riverland Annexed Area from the requirement to pay the connection fee for connection to new sewer facilities under WaterWorks 2011; specifying that owner-occupants of residential properties may finance that portion of the connection fee that represents the dwelling unit occupied by the owner; including the connection fee for two family homes; and amending such other sections of Chapter 28 necessary to make all sections consistent. Ordinance No. C-03-36 was published October 9 and 16, 2003, passed on first reading October 21, 2003 by a vote of 5-0; and on November 4, 2003, second reading was deferred to February 3, 2004 by a vote of 5-0.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to defer first reading to **Tuesday, March 16, 2004 at 6:00 p.m.** Roll call showed: YEAS: Commissioners Hutchinson, Teel, Trantalis, Moore and Mayor Naugle. NAYS: None.

Amendment to Chapter 27 – Vehicles for Hire – Rental Cars (O-3)
With Chauffeurs and Sightseeing Vehicles

An ordinance amending Chapter 27, “Vehicles for Hire,” Article V, “Rental Cars with Chauffeurs and Sightseeing Vehicles,” Division 2, “Certificate of Public Convenience and Necessity,” Section 27-192, “Application; Information to be Shown; Fee,” of the Code of Ordinances of the City, providing a limit on the number of certificates issued, providing a mechanism to increase that limit when necessary, providing an application process by which certificates shall be required, providing minimum requirements for applicants, providing a process for staff review of each application received, providing for review of applications by the Community Services Board, providing a schedule for review by the Community Services Board, deleting moot provisions, and providing for severability, repeal of conflicting ordinance provisions, and an effective date. Notice of proposed ordinance was published January 24, 2004.

Commissioner Moore left the meeting at approximately 6:44 p.m.

Lori Milano, Director Community Inspections, stated that this item had been a point of discussion for the last few months. She advised that at the last Community Services Board meeting, they had formally approved and recommended the criteria they wanted the Commission to consider adopting. She further stated that if this ordinance passed, staff would then process the applications they had by presenting them to the Community Services Board who would apply the criteria and rank them. Then, the ranking, together with the requests for Certificates of Public Convenience and Necessity, would be brought back before the Commission.

Jessie Gaddis, Yellow Cab, stated that the Yellow Cab had nothing to do with this particular ordinance. He stated this was well meaning, but the magnitude of what they were trying to do with this would be impossible. He further stated they had allowed this ordinance not to be enforced for about 20 years. He felt the terminology used in the ordinance was obsolete, such as "rental car with chauffeur." He stated he did not think that term had been used in a long time. He stated there were 90 companies listed in the yellow pages which would fall under this ordinance, and they had been operating in the City without permits. He reiterated that they did have County permits because two years ago the County felt this matter was out of control, and had passed an ordinance to address the issue. He stated if this ordinance was passed only a few permits were to be issued, and he felt that would generate lawsuits.

Commissioner Moore returned to the meeting at approximately 6:47 p.m.

Mr. Gaddis further stated that in looking at the descriptions of the vehicles they were addressing, he felt more input was needed. He stated that if all the individuals in this type of business knew this was being considered, they would have attended the meeting.

Nancy Beatrice, Silver Parks Van Service, asked if the restrictions would be removed from the permits. She stated it was almost impossible to operate a business with any type of restrictions, such as picking up in one place, but not being able to deliver individuals to another place. She stated that she agreed with Mr. Gaddis and felt this would be ridiculous.

Emanuel Mescadin, John John Airport Shuttle, stated that since July, 2003 he had requested permits for his company, but had not been contacted by the City.

Victor Pelez, Board-On Time, Inc., Tours and Shuttle Service, stated that last year he had attempted to apply for a City license, but had been informed that he was 5 days late to do so, but then had been told he was a month late. He had recently lost a contract with what had been the Ramada Hotel, and was in danger of losing his contract with the Howard Johnson's Hotel. He stated this was a serious matter and this was the tourist season. He felt the matter needed to be investigated more thoroughly. He stated that B.C. Express operated 3 vehicles, but had been issued 7 licenses, and recently had been suspended from Port Everglades due to illegal activities inside the Port. He felt the matter needed to be acted upon as quickly as possible.

Mayor Naugle asked if staff felt more information was needed, and if any of the parties appearing before the Commission this evening had been invited to the Community Services Board meeting.

Ms. Milano stated that this item had been a point of discussion since spring of last year when the Commission had placed a moratorium on this issue. After this issue had been presented to the Community Services Board many times for discussion, they had proposed the recommendations presented to the City Commission. She further stated that the Community Services Board had been very adamant about the criteria being established, along with the setting of the limit. She stated they understood that there were a certain number of applications which were in excess of the number of permits they were proposing to recommend. She advised the cap had been placed at 100 permits. She stated they wanted to use a ranking system and then present such ranking

to the Commission. She felt they were fully aware of the concerns which had been raised during tonight's meeting. She stated that some of the applications had been recently received. She stated further they had attempted to be up front with all the applicants regarding this matter, and had advised them that the Commission was reviewing this. She reiterated that staff supported the recommendations of the Community Services Board who had thoroughly justified the rationale in terms of setting the cap at 100 permits.

Ms. Milano stated that the Community Services Board was facilitated out of the Economic Development Division, but she was aware that an advertisement, along with an agenda, had been put out regarding the public meeting.

Mayor Naugle asked if they had notified any of the companies about the ordinance. Ms. Milano stated that they had only followed the requirements of the ordinance.

Lorraine Wilde, owner and operator of Tri-County Airport Express, stated that she had a contract with the Broward County Aviation Department to operate a shared-ride and private car service at the Fort Lauderdale Airport. She advised that for the last 17 years they had offered economical rates to the residents of the City, along with tourists. She stated she was not aware of the proposed ordinance, nor had she been aware of this meeting until about 5:00 p.m. tonight. She asked if this ordinance was enacted, where would she stand. She stated that when she had attempted to get van permits, she was informed there were so many it was ridiculous to try.

Commissioner Trantalis asked if this was passed tonight would they be increasing the number of certificates of public convenience and necessity, but if it was not passed was there an existing cap which would remain the status quo.

Ms. Milano explained there was no present cap on the certificates of public convenience and necessity for vehicles for hire. She stated that in terms of this ordinance as recommended by the Community Services Board, the Commission would be setting the limit at 100. She advised they had 42 applications in their office, and encouraged anyone who was interested to file such an application. She reiterated they would all then be processed with the Community Services Board for their review and ranking.

Commissioner Trantalis asked if only 11 of the 42 would be approved. Ms. Milano confirmed. Commissioner Trantalis asked why the applications had been held up. Ms. Milano replied that it was her understanding that none could be processed until the Commission adopted the ordinance. Commissioner Trantalis asked if this measure would encompass all the categories in existence. Ms. Milano confirmed and reiterated that it did not involve taxicabs which had a separate section of the ordinance which set that limit at 200.

Commissioner Moore introduced the following ordinance on first reading:

ORDINANCE No. C-6

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA,
AMENDING CHAPTER 27, VEHICLES FOR HIRE, ARTICLE V, RENTAL
CARS WITH CHAUFFEURS AND SIGHTSEEING VEHICLES, DIVISION
2, CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY,

SECTION 27-192, APPLICATION; INFORMATION TO BE SHOWN; FEE, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING A LIMIT ON THE NUMBER OF CERTIFICATES ISSUED, PROVIDING A MECHANISM TO INCREASE THAT LIMIT WHEN NECESSARY, PROVIDING AN APPLICATION PROCESS BY WHICH CERTIFICATES SHALL BE REQUESTED, PROVIDING MINIMUM REQUIREMENTS FOR APPLICANTS, PROVIDING A PROCESS FOR STAFF REVIEW OF EACH APPLICATION RECEIVED, PROVIDING FOR REVIEW OF APPLICATIONS BY THE COMMUNITY SERVICE BOARD, PROVIDING A SCHEDULE FOR REVIEW BY THE COMMUNITY SERVICES BOARD, DELETING MOOT PROVISIONS, AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

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

Mayor Naugle stated that he felt this needed more work, and the industry needed to provide input. He did not think there was a good understanding between the parties. He stated that no measure of satisfaction appeared to have been supplied by the hotel industry stating whether they felt there was such a shortage of vehicles. Unfortunately, he reiterated that the licenses would not be approved and distributed.

Commissioner Moore stated that this had gone through months of dialogue. Meetings had been properly advertised and individuals impacted by such ordinance had the opportunities to attend the meetings. He stated they were attempting to provide a service which was warranted, but the City did not have a process to deal with such a necessity. The Community Services Board had done an evaluation regarding necessity, and arrived at a ranking process and methodology they felt would be fair. He felt it would have been more competitive than the way they were now operating. He stated that the action of tonight's vote concerned him because he did not know if they were making the recommendation that the matter once again be returned to the Community Services Board for further input, or were they stating to the public that no additional licenses would be offered. He asked for some further clarification.

Commissioner Trantalis stated that he had voted no not to put a prohibition on further applications, but wanted to direct the departments to continue reviewing the applicants and begin granting the additional licenses. He stated there were also the rick-shaw vehicles on the streets and asked if they were included in this category.

Ms. Milano explained there was a separate provision in the Code for such vehicles, and it did not trigger a certificate of public convenience and necessity. Commissioner Trantalis asked if they were regulated in any way in terms of standards. Ms. Milano stated there was a review process outlined in the criteria, and specific departments were asked to review the applications and provide their input, such as engineering and the police department. She stated that in terms of specific criteria there were none.

Commissioner Hutchinson asked why pedicabs and rick-shaws did not apply to rentals with chauffeurs and sight-seeing vehicles because they too were sight-seeing vehicles per se. She felt if everyone was going to be regulated, then those types of vehicles

should be regulated also under the same type of ordinance. She stated that she also felt this needed more work.

Mayor Naugle stated that he assumed from the comments being made that the majority of the Commission felt that this needed more work, and more input from everyone involved.

The Acting City Manager stated it was his understanding that the Commission had indicated there was to be a moratorium until a final determination was made regarding the ordinance. Ms. Milano confirmed. The Acting City Manager stated that in the absence of a new ordinance, they would not be able to issue any licenses until this matter came back before the Commission, after the Community Services Board re-reviewed the matter and received more input from the individuals involved, including hoteliers and people from the industry. He asked if the Commission wanted the licenses to be issued at this time.

Commissioner Hutchinson stated they should not issue any licenses at this time.

Commissioner Moore stated that the comments made regarding the other types of vehicles were the reason this matter was being discussed. There had been no parameters in which the individuals could receive a license. He stated that taxicabs were based on necessity and had standards to follow. He further stated that a certain number of vehicles were to be approved so there would not be a saturation of vehicles running throughout the community where there was no established need. He stated that was the purpose of this ordinance, and if the Commission wanted to deal with other types of transportation, then the same process should be involved. He stated that the individuals using the transportation had to be kept safe and quality service was to be offered.

Commissioner Moore stated that people had been kept at bay for several months now waiting on the outcome of this ordinance. People had lost contracts, and still after an advisory board reviewed the matter and recommendations were made, the procedure was suddenly halted and no permits would be offered once again. He felt this was a devastating move on the part of the Commission, and he hoped they would reconsider passing the ordinance as formed. If other transportation vehicles were to be reviewed, then they should be put through the same procedure. He asked how many months of discussion had taken place regarding this ordinance.

Ms. Milano replied that discussions on this topic began in front of the Community Services Board in June and probably appeared on their agenda at least 4 times, along with several conference discussions held at the Commission level.

Mayor Naugle asked how the industry had been notified and what input had been received from the hotel owners. He stated that he had not been given any evidence of such information. Ms. Milano stated that the advertisement requirements were followed in accordance with the ordinance, but no personal contact had been made. Mayor Naugle asked for detailed information as to how notice would be provided to the public regarding this subject being discussed before the Community Services Board. Ms. Milano replied they would be aware of the meeting through the regular public hearing notification.

Faye Outlaw, Acting Community and Economic Development Director, stated that they did a standard newspaper notice which did not include an indication of when this item would be heard by this Board. She stated they typically ran this through the same process used for the Block Grant.

Commissioner Moore recommended that this matter be scheduled for discussion at the Community Service Board's next meeting. He asked when their next meeting was scheduled. Ms. Outlaw stated their next meeting was scheduled for February 9, 2004, and the notification for such meeting had been sent out. She stated she would re-check on that. Commissioner Moore reiterated that a number of people were impacted by this because they wanted to be law abiding operators of a business. He felt the people who want to do the right thing should be given such an opportunity. If the majority of the Commission felt this matter needed to go through a more thorough process providing more assurances, then he urged the Commission to do that. He also felt if the Commission wanted the other instruments of transportation discussed, then it should be discussed later on and not at the meeting scheduled for February 9, 2004.

Mayor Naugle reiterated that non-motorized vehicles would be a different issue, and he felt by combining the two would make things more complicated. He felt that most of the traffic was to a specific destination. Commissioner Moore reiterated that the reason this matter came up was due to the fact that individuals were operating such services illegally, and there was an unfair competitive process. He stated they were only attempting to make it a level playing field for everyone involved.

Ms. Outlaw clarified that one of the points the Board was adamant about was placing a limitation on the number of certificates that were being recommended to the Commission. She asked if the consensus of the Commission was that they wanted the Board to revisit the number to be issued, or did they want the industry to be provided an opportunity to be heard.

Mayor Naugle stated that it was his feeling that they hear input from the industry before making any decision.

Commissioner Teel stated that she would consider passing this on first reading with the understanding that more individuals would be notified. She stated she was not sure if the numbers had to be reworked since the matter had been reviewed over and over again. She stated she would consider her vote so that this matter could move forward. She stated that she agreed with Commissioner Moore in that this matter had been going on for too long a time. She felt there was some confusion on the matter.

Commissioner Hutchinson stated that she would support a reconsideration to pass it on first reading knowing that it would come back, but she wanted the Community Services Board to address the non-motorized vehicles.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to reconsider Item O-3.

Commissioner Trantalis stated he had voted no because he was not convinced that putting a cap on the number of licenses was necessarily an assurance of quality of service. He stated his "no" vote was not to put a moratorium on the number of licenses issued, but the opposite so there would be no cap. He believed the market place should

determine the number and quality would be assured through the market, and not by the dictates of this Commission. He stated until some evidence was provided to the contrary, he would not vote in favor of a cap. He felt they could tighten up the standards and discuss other categories to be included, but the market should determine this.

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

The City Clerk re-read the ordinance as stated above. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, and Mayor Naugle. NAYS: Commissioner Trantalis.

Mayor Naugle stated that the ordinance had passed on first reading, and the second reading would take place after input was received from the Community Services Board. He proceeded to ask staff to contact the Hospitality Association informing them it would be on the agenda. He further stated that he felt members of the industry would notify each other.

Ms. Outlaw reiterated that the next meeting of the Community Services Board would be held on February 9, 2004, at 7:00 p.m. in the 1st Floor Commission Chambers and notifications would be sent out.

**Federal Transit Administration (FTA) – Federal
Grant Funding for Beach Shuttles**

(R-1)

A resolution expressing support for federal funding from the FTA for beach shuttles and expressing support for the Letter of No Prejudice from the FTA and commitment in principle of City parking revenues.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-22

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PREPARATION AND SUBMITTAL OF A GRANT REQUEST IN THE AMOUNT OF \$1,875,000 TO THE FEDERAL TRANSPORTATION AUTHORITY TO SUPPORT THE DOWNTOWN BEACH SHUTTLE ACCESS PROGRAM TO REQUEST THE FTA TO APPROVE A LETTER OF NO PREJUDICE AND TO COMMIT UTILIZATION OF AVAILABLE PARKING REVENUES TO SUPPORT COMMUNITY BASED TRANSIT SERVICES.

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

**Broward County Local Mitigation Strategy – Compliance
With Community Rating System for Flood Insurance Coverage**

(R-2)

A resolution adopting the Broward County Local Mitigation Strategy for the purpose of complying with the Community Rating System for flood insurance coverage for proper owners within the City’s corporate limits.

Commissioner Hutchinson introduced the following resolution:

RESOLUTION 04-23

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, ADOPTING BROWARD COUNTY’S REVISED LOCAL MITIGATION STRATEGY FOR THE PURPOSE OF COMPLYING WITH THE COMMUNITY RATING SYSTEM FOR FLOOD INSURANCE COVERAGE FOR PROPERTY OWNERS WITHIN THE FORT LAUDERDALE CORPORATE LIMITS.

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

**Vacation of Portion of Access Easement – Hibiscus, LLC
(DRC Case No. 6-M-03)**

(R-3)

A resolution authorizing the vacation of a portion of an access easement for the following application (Tract D, Beta Plat, Plat Book 172, Pages 98 and 99):

Applicant: Hibiscus, LLC
Request: Vacation of portion of an access easement
Location: 1351 State Road 84

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-24

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, VACATING A PORTION OF THE EASTERLY 25 FEET OF THE INGRESS-EGRESS EASEMENT ADJACENT TO STATE ROAD 84 AND LYING OVER AND ACROSS A PORTION OF TRACT “D”, “BETA PLAT”, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 172, PAGES 98 AND 99, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED NORTH OF STATE ROAD 84, SOUTH OF SOUTHWEST 24TH COURT, BETWEEN SOUTHWEST 15TH AVENUE AND SOUTHWEST 12TH AVENUE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

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

**Intent to Sell City-Owned Lands to Public Body – former
Housing Opportunities for Persons With Aids (HOPWA)
Properties – Lauderdale Lakes Community Redevelopment
Agency (CRA) (R-4)**

A resolution, pursuant to Section 8.02 of the City Charter, declaring the City's intent to sell City-owned property (which was formerly used for HOPWA purposes) to Lauderdale Lakes CRA upon certain terms and conditions, and calling for a public hearing thereon.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-25

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA , DETERMINING AND DECLARING ITS INTENTION TO SELL AND CONVEY CERTAIN PUBLIC LANDS, MORE PARTICULARLY DESCRIBED BELOW, TO THE LAUDERDALE LAKES COMMUNITY REDEVELOPMENT AGENCY UPON CERTAIN TERMS AND CONDITIONS; DESCRIBING THE PUBLIC PURPOSE FOR WHICH THE PUBLIC LANDS WILL BE USED BY THE GRANTEE; DESIGNATING A DATE FOR A PUBLIC HEARING AND ADOPTION OF A RESOLUTION IN ACCORDANCE WITH CITY CHARTER SECTION 8.02; AND REQUIRING PUBLICATION OF THIS RESOLUTION IN FULL.

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

Commissioner Trantalis asked if they had decided what was going to be done with this money.

Faye Outlaw, Acting Director of Economic and Community Development, stated that the monies went back to HUD and they would credit the City's Line of Credit for re-use in the HOPWA Program.

Commissioner Trantalis asked if there had been any discussion as to where they might reinvest the money after establishing the credit. Ms. Outlaw explained they had to use it for additional units to replace the ones coming out of service, and it would be County-wide. Commissioner Trantalis asked if any new housing had been targeted for the money. Ms. Outlaw stated no money was to be targeted for new housing.

Demolition of Building – 1214 N.W. 4 Avenue

(R-5)

At its meeting of November 20, 2003, the Unsafe Structures and Housing Appeals Board recommended the City demolish the property at 1214 N.W. 4 Avenue and assess it with all appropriate costs.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-26

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

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

Easement – Florida Department of Transportation (FDOT) - Intersection of Commercial Boulevard and N.E. 18 Terrace – Installation of Traffic Signal

(R-6)

A resolution approving the granting of an easement to FDOT for the installation of a traffic signal at the Fire Station at the intersection of Commercial Boulevard and N.E. 18 Terrace.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-27

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING EXECUTION AND DELIVERY OF AN EASEMENT DEED IN FAVOR OF THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION FOR A FIRE STATION TRAFFIC SIGNAL MAST ARM NECESSITATED BY THE LOCATION OF A CITY FIRE STATION AT THE INTERSECTION OF EASTS COMMERCIAL BOULEVARD AND N.E. 18TH TERRACE, SUBJECT TO TERMS AND CONDITIONS.

Which resolution was read by title only.

Commissioner Moore stated that a request had been made for the same type of device for 9th Avenue, and asked if an update could be provided in the near future.

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

Appointment of Acting City Clerk**(R-7)**

A resolution appointing an Acting City Clerk effective February 7, 2004 until a permanent City Clerk is appointed.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-28

A RESOLUTION OF THE CITY COMMISSION OF THE CITY
OF FORT LAUDERDALE, FLORIDA, APPOINTING AN ACTING
CITY CLERK.

Which resolution was read by title only.

Commissioner Moore asked who was going to be the Acting City Clerk.

The City Clerk stated that her recommendation was Paul Bengal of the City Attorney's Office. She stated that she had approached the City Attorney about this matter. She stated another option was to leave the office status quo, with Jeff Modarelli in charge of the 7th Floor Clerk Operations, and Pam Brown would continue to supervise the 8th Floor staff.

Commissioner Moore stated he preferred the latter suggestion and felt the City Attorney's office had a number of tasks they had been unable to complete due to the strain of the staff at this point in time. He felt the experience that Pam Brown and Jeff Modarelli had would get them through the interim period. He stated he did not see how the City Attorney's office could lend any of their staff due to the tasks they had at hand.

Commissioner Hutchinson stated that she agreed, and felt that Jeff Modarelli did a fine job on the 7th Floor, and Pam Brown did a good job on the 8th Floor. She felt they should leave it status quo. She reiterated that at the next Commission meeting they would be making a consideration regarding the City Clerk.

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

**Appeal of Planning and Zoning Board's Decision to Deny Site
Plan Approval/Six (6) Cluster Home Development/RD-15 -
De Novo Hearing – The New Fort Lauderdale Group, Inc.
(PZ Case No. 94-R-03)**

(R-8)

At the December 17, 2003 Planning and Zoning Board regular meeting, the following application was **denied** by a vote of 2-6.

Applicant: The New Fort Lauderdale Group, Inc.
Request: Appeal Planning and Zoning Board's decision to deny site
Plan approval for six unit cluster home development/RD-15
District
Location: 2512-2520 N.E. 32 Avenue and 3210 N.E. 26 Street

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that this matter be deferred until Tuesday, March 2, 2004 at 6:00 p.m. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis, and Mayor Naugle. NAYS: None.

Commissioner Moore stated that he wanted to recognize some individuals who were studying public administration at tonight's meeting.

Lien Settlements For Special Master Cases

(M-15)

A motion authorizing proposed settlements for the following Special Master cases:

1. 1729 N.W. 18 Street (CE03011005) – Sammy Brown and Stuart Pester - \$8,200

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

Sammy Brown requested that the entire lien be dismissed on this property on the basis of 3 items. He stated there was improper notification of the violations to the property owners, the violations were subjective, and there was a fictitious violation which consisted of an illegal land use. He stated it had taken a lot of time to clear that matter up. He felt his right to due process had been ignored. He proceeded to quote the following:

“Due process means that a citizen who would be affected by a government decision must be given notice of what the government planned to do and have a chance to comment on such action.”

Mr. Brown further stated that he wanted to improve the properties he owned and large amounts of money in excess of this lien would be put back into those properties. He stated it would increase the quality of life for the neighborhood. He proceeded to show photographs of the property.

Commissioner Moore stated that Mr. Brown had mentioned the issue of due process so he could take care of properties that other people lived in. He stated that this neighborhood had 2400 single family homes, and Mr. Brown had to be brought into a code violation in order for him to maintain his properties which were investment properties. He stated that he was not at fault, but his tenants were the lawbreakers. Commissioner Moore asked how the tenants paid their rents. Mr. Brown replied that he collected the rents at the properties. Commissioner Moore recommended that the Commission accept staff's recommendation regarding this property.

Commissioner Hutchinson asked if this person could participate in the amnesty program. The City Attorney stated that the Commission had decided that anyone that had come before the Commission previously could not participate in the Amnesty Program. He stated this had been scheduled previously, and the gentleman had asked for a continuance, but the Commission had proceeded anyway. He stated they had decided to place this back on the agenda and give the owner a second chance. He further stated the Commission could decide to allow this person to participate in the Amnesty Program.

Commissioner Trantalis stated he was concerned about some statements made regarding there not having been proper notification. The City Attorney stated they believed that proper notification had been given, and the owner was required by law to keep the current address of the owner of the property on record. He stated they were required by Statute to find out at the tax collector's office, the address of the owner of the property. The notice was sent to that address, and the owner had even commented that the City knew of his address due to another piece of property. Therefore, the other piece of property must have been registered with the tax collector and had the exact address.

Commissioner Moore stated that this person owned a number of properties in the Lauderdale Manors area as an investment, and he had hoped that the Commission would do what he was requesting for his district and the community which had been impacted by his negligence. He wanted the owner to understand that he had to maintain his other properties. He stated the Commission should not allow such an individual to take his time regarding the maintenance of his property which devalued other properties in the area, and then request a waiver of his liens so he could improve the property that he had long neglected.

Commissioner Trantalis asked if the address on the property appraiser's list was correct. Mr. Brown stated the first few notifications had gone to the correct address, but the notification regarding the Special Master Hearing had not been received at any address. Commissioner Trantalis asked if there was a history of the Code Department contacting this individual at his correct address, but then such notifications had stopped coming. Mr. Brown stated that originally they had been sent to the address on the appraiser's list which had been his partner's address. His partner had then moved and the new address was not received. Mr. Brown stated that after he had gotten involved, he got to know the inspectors and had given them his cell number so they could communicate. He stated that his goal was to not only maintain the properties, but to improve upon them.

John Simmons, Assistant Director of Community Inspections, stated that he had a print-out showing that on April 14, 2003 they had the address of the owner as living at 9100 N.W. 7th Court, Pembroke Pines and they had a return receipt showing that someone had signed for the notification. Another notice had been sent to 7889 N.W. 17th Place, Pembroke Pines, which had also been signed for on March 25, 2003 for the Special Master Hearing of April 3, 2003. He stated that there had been proper service to the property.

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

2. 1324 N.W. 5 Avenue (CE03021925) – Anthony Evans - \$7,875

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

**Appeal of Planning and Zoning Board Decision – Site Plan
Level III/Use on a Waterway and Yard Modification for Multi-Family
Structure – Coastal Investment Properties, Ltd. (PZ Case No. 62-R-03)**

(R-9)

At the November 19, 2003 Planning and Zoning Board regular meeting, the following application was **denied** by a vote of 4-4.

Applicant: Coastal Investment Properties, Ltd.
Request: Appeal Planning and Zoning Board's decision to deny site plan
Approval/waterway use/yard modifications/RMM-25
Location: 2729-2735 N.E. 14 Street

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

Commissioner Moore left the meeting at approximately 7:40 p.m.

Kevin Erwin, Construction Services, stated that this was a request of an appeal of a denial by the Planning and Zoning Board for a Site Plan Level III approval, waterway use approval, and modification of required yards. He stated the applicant was proposing to demolish 3 existing apartment buildings with 20 units on a site zoned RMM-25 which could accommodate up to 21 units of permitted density. He stated the proposed 19 dwelling units equaled a density of 22.1 unit per acre which was under the 25 units permitted by the zoning district. He further stated that the applicant had met all the height and setback regulations, except for the pool which was to be located in the required 20' landscaped yard.

Commissioner Hutchinson left the meeting at approximately 7:42 p.m.

Mr. Erwin further stated that the structure met or exceeded the required setbacks for yards, and the distance between the buildings was to be 23', excluding bay windows. He stated that staff felt the applicant had met the minimum code requirements, but the Planning and Zoning Board had found that the application did not meet the requirements for neighborhood compatibility. He explained that some of the things to be considered for neighborhood compatibility were height, bulk, mass of the building, and location on the lot.

Robert Lochrie, attorney, stated that this was a request for the review of a site plan for a 19-unit residential condominium to be located off 14th Street, east of Bayview Drive and west of the Intracoastal in the general Coral Ridge area. He stated that this property was located within the RMM-25 zoning district, and specifically was located in the middle of the district. He proceeded to show a map of the site. He further stated that there were about 50 zoning categories in the City and explained those categories. He felt it was important to note that they were not in the high-rise zoning district, but were in the mid-rise zoning district. He stated that often they heard concerns about zoning districts abutting other zoning districts, and the effect a more intense zoning district would have on a less intense zoning district.

Commissioner Hutchinson returned to the meeting at approximately 7:46 p.m.

Mr. Lochrie continued stating that they were located in the center of the RMM-25 district. He stated that one of the primary discussions held while going through the process was the issue of height. He explained the district permitted a height of 55' and generally setbacks were about 25' in the front, 20' in the rear, and 10' on the side yards. He stated that the zoning district did take into consideration the effect that taller buildings had on neighboring properties, and therefore, provided that unless a special waiver was asked for a building could be constructed up to 55', but a greater setback was required which was half the height of the building. He reiterated they were not asking for any waivers for the building itself, but they were asking for a waiver for the pool in the rear yard.

Commissioner Moore returned to the meeting at approximately 7:47 p.m.

Mr. Lochrie further stated that this project was comprised of two buildings and the height would be 47'. He stated that one thing which had changed since this project was reviewed by the Planning and Zoning Board was the overall height of the building which exceeded the 55', but was now lower. The separation between the two buildings according to Code was to be 10% of the height or 10' whichever was greater. He stated there were going to provide 23' between the buildings. He proceeded to show a rendering of the project.

Mr. Lochrie stated that they were exceeding the requirements for the side yard. He proceeded to show a photograph of the site. He stated there would be a level of parking under ground and 4 residential levels above it. By placing the parking underground, the eye was drawn to the 4 upper floors. He proceeded to show a graphic comparing this project to the Bellagio. He stated they had a letter of support from the Coral Ridge Homeowners Association.

Mr. Lochrie further stated they were also proposing changes to the end of the street which would have a positive impact on the neighborhood. He proceeded to show photographs of the intersection of Bayview and 14th Street. He stated they wanted to incorporate a paver structure with a decorative feature which would create a nice entrance to the street. He stated that other improvements would also be done to the area.

Mr. Lochrie proceeded to introduce Marvin Sanders, expert witness, who would testify specifically regarding the neighborhood compatibility elements.

Marvin Sanders stated that the reason they were here tonight was because this was a multiple family project on a waterway. He proceeded to show the site plan. He stated the pool only encompassed 27% of the width of the waterway. He stated the only modification they were requesting was the pool and the pool deck which would provide access to the docks. He stated there was no real continuity of the yards in the rear, but continuity had been provided in the front with about 263' between the two access drives. He stated all front doors would face the street making it more pedestrian friendly. He stated that the architectural detailing on the waterway side was significant.

Mr. Sanders further stated that in regard to the comparison shown, the elevation comprised only 73% of the building which had been approved down the street. He stated the pool was at grade. He stated further they met the adequacy requirements, and added that all parking would be underground.

Mayor Naugle asked if anyone from the neighborhood was against this project and wanted to express their concerns.

Brian Leary, President of Coral Ridge Homeowners Association, stated that their initial concern had been with the overall mass of the building. He remarked that modifications had been made which they found acceptable. He stated that this project was attractive and they approved of the underground parking. He stated when they had first opposed this project, it had been a borderline opposition, but they felt a message had to be sent regarding the bulk of the projects in the area.

Commissioner Teel asked if any neighbors from 14th Street or 15th Street present when the presentation was made to the Board of Governors meeting. Mr. Leary replied they were not present, but had not been invited. He explained they did not publish an agenda in advance listing the items to be discussed. Commissioner Teel remarked that the former President had a list of individuals from 14th and 15th Streets who were interested in projects being neighborhood compatible, and asked if he had been given that list. Mr. Leary replied he had not been given such a list. He stated that the people he was most concerned about were the individuals across the waterway to the north, but they had not attended the Planning and Zoning Board meeting. Commissioner Teel stated that the people had expressed an opinion at the meetings that they would be satisfied if the buildings were 4 stories. Mr. Leary stated he was not aware of such a statement and reiterated that essentially this building was 4 stories. He stated the problem they had with some of the projects in the area was the 55' height limit which was not 55', but 55' above grade which started at the seawall with 4' above sea level, which could also be 9' above sea level as measured under the Code.

Commissioner Teel proceeded to read a statement from the Planning and Zoning Board meeting held on November 19, 2003, and asked for Mr. Leary to then tell her what had changed that made the Association support this project.

“He stated their Association was generally against projects where the developer aggregated a large number of lots and built a massive project. He stated they felt that detracted from the character of the neighborhood. He reiterated that they did not think this project was compatible with their future vision of the area.”

Commissioner Teel asked what was the Association's vision for the area. Mr. Leary replied their vision was a 4-story scenario which they felt would be appropriate. He stated their focus was more on buildings that would be across the waterway from single-family residences. He stated they wanted the Planning and Zoning Board to understand that they would be back whenever compatibility issues were raised, and they did not feel that compliance with the Code, in conjunction with any property across the waterway from any single family houses, would be near adequate to address compatibility issues on such properties. He stated they intended to make an effort to assert neighborhood compatibility and limit the height of buildings to the equivalent of 4 stories.

Commissioner Teel stated that Mr. Lochrie had done an interesting overlay in comparing it to the Bellagio, but the problem with such a demonstration was that they had to look at it and times it by 2 because there were 2 buildings. She stated that the neighborhood had concerns regarding parking, and she felt they had done a clever job of putting the parking underground. She stated that she had been assured that there would be no flooding during inclement weather. She asked what the Association felt was a challenge

for the neighborhood regarding parking. Mr. Leary stated when a project was in such good taste, the life styles of people buying such luxury condominiums would require additional parking in excess of what was required by Code. He felt that possibly in the future the Code might have to be amended.

Commissioner Moore left the meeting at approximately 8:08 p.m.

Commissioner Teel further asked if the Association planned on making recommendations to the City as to how the problem could be addressed. Mr. Leary stated they had done extensive title searches for all the adjoining properties from Sunrise to Oakland Park Boulevard, and from the Intracoastal to the Middle River and US 1, unearthing the deed restrictions and the development patterns which had occurred in the area. He stated they wanted to determine what vision there had been for the development when it had first been conceived so they could continue that vision into the future. He stated the work was massive.

Commissioner Moore returned to the meeting at approximately 8:09 p.m.

Mr. Lochrie stated there were some graphics that the Commission had not seen which might be advantageous, and reiterated they had not been available to the Planning and Zoning Board. He felt this information better emphasized the nature of the building. He stated they kept hearing that a 4-story building would be more acceptable. He stated that modifications made to the building made it appear softer on the sides and appear as a 3-story building.

Commissioner Teel asked if the garage structures were two separate independent units, but were connected. Mr. Lochrie explained that one would cross between the buildings through a drive-thru.

Commissioner Teel stated this was a difficult decision to make because she kept hearing from the residents that the buildings were too bulky, and she agreed but felt the City was going to have to deal with these issues in the future. She felt this was a demonstration of the cumulative effect on a neighborhood. However, after looking at the project and looking at the condition of the existing street, there was no doubt in her mind that this project would improve the ambiance of the neighborhood. She stated that it still was a massive building, but it would help the area, and therefore, she would support this project tonight.

Commissioner Trantalis stated that the purpose of the Commission holding a public hearing tonight on this matter was to determine if there was a departure from the essential requirements of law in the proceedings during the Planning and Zoning meeting. He asked if those were the standards the Commission was seeking to establish. The City Attorney confirmed. Commissioner Trantalis stated that it was a subjective response as to the appropriateness of the two buildings to the street. He stated that he agreed with Commissioner Teel in that when they were compared to the Bellagio, they had to do it times 2, and therefore, established a different sense of place. He reiterated that next to the Bellagio were smaller structures. He felt when they began to overwhelm a street with tall structures, at the least they should ask the investor to help mitigate the impact and bring down the scale of the buildings to make it more appealing to the adjacent neighbors.

Commissioner Trantalis stated that in looking at the graphics which were shown, the sides of the buildings appeared to have some blank windows, and he felt if they were trying to hide the massiveness of the buildings, they should have attempted to distract the viewer with some more attractive elements. Secondly, he felt the street amenity should be improved upon. He hoped if this project was approved tonight, there would be more of a commitment on the part of the developer to do something more to the sides of the building, along with the street entry.

Mr. Lochrie stated that the architect had said that additional materials could be added to the side of the building, such as adding additional balcony type structures and material around the windows. He reiterated they did not want to encroach into the yard, but certain detailing could be added which would make the side walls appear less office like. He stated they had no objections to adding such materials to the building.

Mr. Lochrie further stated that in regard to the street, they would work with the City's engineering staff to arrive at a more significant design.

Commissioner Trantalis asked if they would commit to a certain dollar minimum because he felt the pavers with the shiny star being shown were not enough. Mr. Lochrie stated that the element designed cost about \$10,000 to \$15,000 and they would be willing to commit doubling that amount. Commissioner Trantalis asked if it was true that the units were going to sell for about \$1.3 Million. Mr. Lochrie stated they very well could sell for that and would begin at about \$600,000. Commissioner Trantalis suggested they add on about \$5,000 to each unit, the money could be added to create a nice entryway feature.

Mr. Leary stated that on 14th Street at the end of the waterway canal, the Association had plans for a treatment similar to this one except that it was to go across Bayview Drive and would tie into the park at 14th Street. He stated the cost would be around what the developer was willing to spend. He stated it would tie in with their master plan.

Mr. Lochrie stated they would commit to \$30,000 being spent on the design plan Mr. Leary spoke about regarding the overall intersection.

Mayor Naugle stated that they needed a motion and a second in order to hear the appeal of the Planning and Zoning Board decision.

Motion made by Commissioner Trantalis and seconded by Commissioner Teel to hear the appeal of the Planning and Zoning Board's decision regarding this matter. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Trantalis and Mayor Naugle. NAYS: None.

Commissioner Moore asked for some further details regarding the undergrounding of the electrical wiring. Mr. Lochrie explained that it would be for the length of their property. He stated it would have to go up to serve the properties to the east because they were presently served by overhead lines. Commissioner Moore felt it was personal opinions regarding the design of the project, but he wanted to ask if the star could be changed. Mr. Lochrie replied it could be changed, and based on some of the reactions they had received, he felt they would not be using the star.

Commissioner Moore asked if there was some method that would be used to remove water if it went into the garage and how it would be discharged. Mr. Lochrie stated that

the engineers reviewed the project and stated it would work, and the drainage would be exfiltration trenches onto the property which was essentially a French drain system.

Commissioner Moore asked for some additional information regarding the issue of service parking. Mr. Lochrie stated they had exceeded the requirements of the Code, and they felt the individuals buying these units would know exactly what they were getting. He stated the market in the Downtown completely dictated parking, and less parking than required by Code was provided. He stated that the City's parking requirements for new projects were often excessive. He felt they met all requirements, but it was something that should be discussed in the future. He also stated that they estimated that only 60% of the residents would live there year-round because they felt a lot of international people would be buying the units.

Commissioner Teel stated that when they looked at some of these projects, they had a tendency to "nit-pick" on design, and it was in the eye of the beholder. In looking at the side elevation, she felt there was quite a bit of detail and embellishments provided, and she preferred to see the money go into a more embellished common area. She stated she did not see a need for adding more detail onto the building itself. She encouraged them to work with the Homeowners Association regarding the streetscape plan since they had a master plan they had worked on for years. Also, during the demolition she asked for the developer to be careful and to erect the proper screening.

Commissioner Teel introduced the following resolution:

RESOLUTION NO. 04-29

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, REGARDING THE APPEAL OF THE PLANNING AND ZONING BOARD'S ACTION DENYING A SITE PLAN TO CONSTRUCT TWO MULTI-FAMILY STRUCTURES ON A WATERWAY LOCATED AT 2729-2735 N.E. 14TH STREET, IN AN RMM-25 ZONING DISTRICT, MAKING CERTAIN FINDINGS AND HOLDING A HEARING TO CONSIDER THE APPEAL AND APPROVING THE SITE PLAN SUBJECT TO CERTAIN CONDITIONS.

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

Code Amnesty Program

(OB)

Commissioner Trantalis stated that he wanted to announce that the Community Inspections Department had advised that the amnesty program had been in effect for 2 days, and they had already collected about 20% of their goal which was \$103,251. He felt this was a great response.

**Site Plan Level IV Approval/Reduction of Yards/IOA
District/Premier Developers III Associates – Aquatania
(PZ Case No. 78-R-03)**

(R-10)

At the November 19, 2003 Planning and Zoning Board regular meeting, the following application was **denied** by a vote of 1-6.

Applicant: Premier Developers III Associates
Request: Site plan level IV approval/reduction of yards
Location: 545 Bayshore Drive

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

Courtney Crush, attorney for Premier Developers, stated that Gordon and Brad Deckelbaum were present this evening, along with Don Hall, Bill Spencer, Nectaria Chakas, Heidi Davis Napik. She stated that also with them this evening was Eddie Alvarado, Project Architect, and a professional planner, Michelle Mellgren.

Ms. Crush explained that the project was located on the Barrier Island and was comprised of 3 platted lots along Bayshore Drive. The project being proposed would consist of 55 units and comprise 12 stories of luxury condominiums. She stated this project was not asking for any special exceptions, conditional use, or variances from the ULDR. She remarked that they had never intended this to be a controversial project. She felt it was in part because the ULDR provisions in the Code, as being applied by staff, were problematic. She felt they did not provide sufficient guidance to staff, the Board, or the Commission so they could be applied consistently or to get definitive answers as to what may or may not be the law. Therefore, they did not feel they supplied this application with sufficient due process. She stated that the Central Beach district requirements that did apply were the IOA zoning regulations contained in Section 47-12.5, the Central Beach permitting regulations contained in Section 47-12.6, and the neighborhood compatibility adequacy requirements contained in Section 47-25.2 and Section 47-25.3.

Ms. Crush continued stating that the IOA regulations for this district provided that this project and zoning district permitted a maximum density of 60 units per acre, a height of 150', setbacks for a building in excess of 115' with a minimum of 40', and required that this project be reviewed by the Commission against the private sector design guidelines. She felt they were originally adopted to gentrify the people streets and ensure that A-1-A had active uses. She stated these types of projects were to provide active uses on the ground floors, lush landscaping, and other requirements.

Ms. Crush proceeded to show the site plan for this project. She stated this site plan could achieve what other projects could not in terms of setbacks and preservations of views, light and air. She stated that they had taken trouble and care in planning this and were proud of the project. She felt this project embraced what they had heard from the Central Beach residents. She stated that the distance from the northern portion of the building to the property line was 40'. She stated the building separation was about 87'. She explained there was a pie-shaped lot on the one side. She stated that the minimum setback at Bayshore was 40' and it actually went to 89.5' as it reached the waterway. She stated it preserved view corridors of 80' to 135' along the waterway. She explained they had positioned the footprint of the building, along with a smaller amenity building to

the south, so lot coverage and building covered area versus acreage of lot was approximately 50%. She proceeded to show an elevation from the water.

Ms. Crush stated the architectural style of the building was a clean, contemporary, and classic structure with curved balconies with recessions. She stated that there was a desire to have the Intracoastal uses at the ground floor be more active. Therefore, they had positioned the amenity building and the pool to the south. She remarked that the amenity building would be freestanding. She stated there were two lanai units on the first floor of the building which would have private terraces, private docks, and have a front yard feeling along the Intracoastal. She stated they had recessed about 40% of the parking making it subterranean. She stated there would be two levels of parking above the lanai units, and then one moved back to the luxury condominium units. She stated the information being submitted to the Commission tonight would contain the Code sections referred to, transcript and staff reports and approvals on projects in the Central Beach area, and other charts they had prepared.

Ms. Crush proceeded to introduce Michelle Mellgren.

Michelle Mellgren stated she was here to provide expert witness testimony to establish a record and to enter what she felt was compelling evidence to demonstrate why this project should be approved this evening. She stated since she was here as an expert witness she was required to qualify herself on the record. She further stated that she was a professional urban planner, and held a Master's Degree in Urban and Regional Planning from the George Washington University. She stated she was certified by the American Institute of Certified Planners, and had 20 years of experience in planning, zoning and land use, including writing plans and writing and implementing land development regulations. She stated she had written entire new codes and portions of codes for inclusion in existing regulations for the City of Wilton Manors, City of Boynton Beach, City of Lauderdale-by-the-Sea, City of Dania Beach, the Town of Davie where she served as the Director of Development Services for more than 4 years, and the Town of Southwest Ranches where she serves as the Town Planner and Zoning official. She stated her office was the Planning and Zoning Department for that municipality. She further stated that she had applied codes as an expert witness in roughly 500 public hearings in a quasi-judicial setting, and was qualified as an expert witness in the Circuit Court. As a result, she was qualified to testify as an expert witness regarding this matter tonight.

Ms. Mellgren stated that she had formed a professional opinion based on the evidence provided. She stated that her professional opinion was that they met the provisions contained in Section 47-25.2 adequacy requirements, along with Section 47-25.3 neighborhood compatibility. She stated that the requirements in Section 47-25.2 were the technical requirements and she had reviewed them all and found that the proposed development satisfied all of such requirements. She stated that the City's professional staff had reached the same conclusion, and the item would not be before the Commission if they had not already addressed such technical matters. She felt this was not an issue.

Ms. Mellgren stated that the real issue was neighborhood compatibility. She stated she had reviewed all the standards of Section 47-25.3 and found that the proposed development met everyone of the criteria listed to the extent that they could be determined objectively and without bias. She found that in her professional experience

and opinion, portions of the Code in this section had some serious flaws. She stated there were 4 specific subsections of this provision that she wanted to address because they were the focus of staff's report, along with their findings. She continued to state that Section 47-25.3.A.3.e.1. addressed neighborhood compatibility and preservation and stated that the proposed development was to address adverse impacts. She further stated that staff's report stated that the parking garage portion of the building was not compatible with the scale of the adjacent neighborhood because of the "massive wall and the openings." She stated the negative impact had not been articulated or defined, and therefore, could not state what it was. She stated that the opinion failed to recognize that the adjacent neighborhood was part of the beach revitalization area and subject of the revitalization plan which had been adopted by the Commission, and which envisioned and encouraged development at a density and intensity greater than what was being proposed by this project.

Ms. Mellgren pointed out that the Code did not identify or define what was adjacent, but it did define abutting and contiguous. It was her professional opinion that the community which was 300' across the Intracoastal would not be considered adjacent because the waterway was an intervening use and was for commercial and recreational use. In talking about adjacent she was referring to the immediate surrounding area of the property in the IOA and MBRA zoning districts.

Ms. Mellgren stated that the rationale for the opinion in staff's report was not stated or explained in the context of any objective criteria in which this opinion had been formulated. She stated the reason for that was that there was no criterion in the Code by which to make such an evaluation. As a result, the opinion set forth was merely a subjective viewpoint and did not establish a valid finding of fact upon which to justify a decision.

Ms. Mellgren further stated that Section 47-25.3.A.e.iv.e which addressed massing guidelines and overall height, staff's report stated the following:

"Variation in building height is encouraged to mitigate the impact of the mass of the building."

Ms. Mellgren continued stating that the setback of the building "did not appear sufficient to mitigate the appearance of mass." She stated that the proposed building at 120' in height and the density fewer than 48 units per acre was inherently compatible and did not create an adverse impact with the redevelopment envisioned by the revitalization plan, or the neighborhood which was an eclectic mix of buildings. She stated that the proposed residential building, in conjunction with the ancillary recreation building, provided a total variation in height on the site. She asked that the Commission consider that the primary use was stepped back at the 3rd floor, and contained architectural features at the roof line providing visual variation of height. She stated further there was no identification of the negative impact which the building caused, and therefore, was not clear what issues were to be mitigated. She stated the Code did not require variation in building height, but merely encouraged it. She further stated there was no objective criterion contained in the Code to determine at what point sufficient variation had been achieved to merit favorable review. She added that even staff's wording appeared to reach such a conclusion. Ms. Mellgren further stated that it was her professional opinion that such a Code provision could likely be considered void.

Ms. Mellgren stated that staff found that the proposal failed to sufficiently address massing guidelines as outlined in Section 47-25.3.A.3.e.iv.b. and c. She advised that “b” addressed bulk controls through height, and “c” addressed massing through height and vertical plane moderation. She stated this was the actual criterion by which the Commission must assess this request for alternative setbacks. She further stated that “b” did not require height consistency, but merely suggested that it should be consistent. She stated it was consistent due to the revitalization plan. She further stated that “c” stated that building height variation should be encouraged, but it was not a requirement according to Code. She stated once again that height had been addressed with the variation of buildings on the site, architecture, and setbacks. She stated this subsection also addressed the moderation of the vertical plane was not a requirement, but merely a suggestion. She stated that requirement was met due to their stepping back at the 3rd floor, along with architectural variations, vertical planes, and balconies.

Ms. Mellgren continued stating that it was her professional opinion that they met or exceeded the standards, criteria and suggestions of Sections 47-25.2 and 47-25.3 of the ULDR. She stated these provisions did not require the criteria, but merely suggested or encouraged them. She further stated that the proposed design met the general intent of the code provisions. She stated that 66% of the building met the one-half the height setback, and they were asking for the modification for the top 1/3 of the building. She stated the Commission needed to consider a bigger issue which was that the provisions of the Code were lacking objective standards or criteria, and that a property owner, staff or the Commission would not know when the Code had been satisfied making some of the provisions arbitrary and vague. She encouraged the Commission to approve this project, and then address Code issues.

Commissioner Moore left the meeting at approximately 8:52 p.m.

Ms. Crush stated they wanted to get an independent planner’s view of the Code for a purely text standpoint. She stated that in the backup it was interesting to note how staff, the Planning and Zoning Board, the DRC committee, and Commissions had applied Section 47-25.3 to projects in the IOA and the Central Beach. She stated that setbacks on other projects had been approved at 10’ and 20’. She proceeded to show a photographs of other projects in the area. She stated this project had 40’ which created unprecedented view corridors. She stated they were dumbfounded and amazed that staff would review the project, and then find a garage, which did not approach the setback, somehow massive. She felt staff had been put in a political position which led to a discussion of neighborhoods and residents.

Ms. Crush continued stating that the Deckelbaum’s were responsible and responsive developers to liked to do things right, and had done some other projects in the City. She stated they had found there was a minority of residents who did not want any type of development on the Beach. She stated there a lot of people who found this project to be responsible development. She remarked that this site had not been brought to full capacity. She added that Bayshore Towers was in favor of this project. She stated the neighbor to the north was a bed and breakfast consisting of 2 stories, and the Bayshore Embassy had residents in favor of this project. She advised they had gone to a Central Beach Alliance meeting in November and to a meeting of Sunrise Intracoastal, and a straw poll was taken that did not want development on the site. She reiterated that this building met the Code.

Commissioner Moore returned to the meeting at approximately 8:55 p.m.

Ms. Crush further stated that in meeting with the neighbors and in doing research with the City's streetscape master plan, part of the design guidelines did ask if there were adverse impacts associated with development. None had been associated with this development by staff. She stated they felt this was a good opportunity to improve Bayshore Drive with 4 streetscape improvements at the intersections located on the map in red.

Fred Taylor, owner of the "Wish You Were Here Inn," stated that he had owned his place of business for 23 years. He added that he had been to 2 presentations of this project. He felt the project was attractive and was what the Beach had wanted. He stated this building was small, neat, compact and attractive, and he felt it was the future of the Beach. He stated that he understood people's views would be blocked, but some individuals did not want vacant lots. Therefore, there would be people unhappy either way. He felt these concepts would not bring proper development to the Beach. He urged the Commission to approve this project.

David McNulty stated that comments were made that the majority of the people supported this project, but he wondered where they were this evening. He stated that in the meetings he had attended, the majorities were against the project. Subjective opinions had been given regarding massing by professionals. He stated the marketing tool for this building was attractive, but it missed one distinct item which was the building next door which was 350' long and 110' in height. He stated this project was 120' in height, with an additional 20' on top. He stated their attorney advised that no special exceptions were being requested, but yet Section iv went away from the standard setbacks for such buildings. He stated further that the professional who spoke admitted that the top 1/3 of the building would need a modification. He felt such contradictions should be clarified.

Mr. McNulty advised that the main problem in the Sunrise Intracoastal Homeowners Association was the massive effect of this building, along with the building next to it. There were essentially two large matchboxes next to one another. He stated before one saw the space between the buildings, there was an effect of one long building. He stated there were other developments by this developer in the area which was the LaRieve. He reminded the Commission that the Board of Adjustment had turned down a request for a sales trailer, and Planning and Zoning had turned down the project. He stated they had one meeting with the developer and he had never returned with any modifications to address their concerns. He stated that also happened in the past when he had built his other projects. Only when the Commission had turned down the application were they forced to meet once again to address the neighborhood's concerns. He urged the Commission to reject this project so the developer would return and address the neighborhood's concerns. He reiterated that the neighborhood was not in favor of this project.

Judy Scher, President of Birch Crest Condominiums and also Vice-President of the Central Beach Alliance, stated that back on October 8, 2003 an overwhelming CBA membership voted against this project. She stated that only 3 people were in favor of the project. She stated that she would be looking at an additional row of concrete. She urged the Commission not to let happen to the Intracoastal, what had happened to A-1-A.

Joanne Smith, Secretary of Board of Directors at Birch Crest, stated that she had been a snowbird in the past, but for the last 3 years she had been a permanent resident and was very concerned about the large buildings being erected. She stated that during peak traffic times, the congestion was horrendous already. She felt some of the space should be left opened so they could build something to assist the residents to get off and on the island. She reiterated that once the buildings were erected, it would be too late.

Joe Scherbo stated that he lived northwest of this site, and a statement had been made saying that the Sunrise Intracoastal Development was in favor of no development at this site, but that was not true. He stated they responded to other applications and wanted things to be compatible with the neighborhood. He stated another statement was made that 300' of water did not qualify them as a neighborhood that was contiguous with the site. He stated he took exception to that statement. He further stated that he had reviewed drawings for the previous project for this site, and there had always been a question regarding 25% landscaping. He continued stating that the LaCascade had been built and it was great architecture, and the LaRieve was presently going up, but he defied anyone to see the sunrise by those two buildings when looking north/northeast. He felt as the area developed, there should be buildings of reasonable height so views would not be lost. He stated the overall height was more than what was stated due to the structures on the roof. Therefore, he urged the Commission to reject this project on the basis of it not being neighborhood compatible.

Jack Trout stated that he was against this project because it was a massive building and was across the street from where he lived. He stated the side setback had been reduced by 33%, and the rear setback had been reduced by 66%, and there was a wall where the parking was above the ground and was not becoming to the neighborhood. He urged the Commission to reject this project.

Mike Rosen, Bayshore Embassy Condominium, stated that he lived on the second floor and his view would be totally impacted by this development. He stated that in listening to everyone's comments, he noticed a sense of anger and frustration. He felt the high-rises along the Beach had hurt people's views. He did not think this project was as large as it was being made out to be, and he was comfortable with the architecture. He stated he would rather look at this building, than a vacant lot. He felt the developers would listen to the residents, and he felt the project would improve the neighborhood.

Barbara Scherbo stated that she opposed this project and had been a resident of Sunrise Intracoastal for 23 years. She stated they opposed this project due to its height, bulk and mass. She felt it created a concrete canyon effect along the Intracoastal Waterway, and the proposed building was in violation of the ordinances and codes. She requested that the Commission deny this application as presented. She stated the contemporary look of this project was in direct opposition to the necessary compatibility. She suggested that a project similar to R-9 on the agenda be approved for this site.

Dr. Geraldine Udell, President of the Sunrise Intracoastal Homeowners Association, stated she was slightly confused because according to the expert witness and the developer's attorney, their neighborhood was not an adjacent neighbor. She stated they were adjacent neighbors when the LaRieve was being considered, along with the La Cascade. She stated the DaVinci was the previous project for this site, and they had been considered adjacent neighbors. She further stated that when the two-story

buildings on the site had been demolished, her fish pond had suffered and things died due to the dust. She reiterated that she lived exactly 300' from the project and felt that made her a neighbor. She stated that the developer felt their neighborhood was not a neighbor and had not communicated with them. She stated that last Fall they had presented their plan, and she had attempted to make some comments regarding the project's compatibility with the neighborhood, but they were not interested in hearing such comments.

Dr. Udell further stated that she had called Ms. Crush on January 5, 2004, and asked for a project update. The call was returned on February 2, 2004 at 5:00 p.m. She hoped that in the future there could be better communication. She stated that she represented their neighborhood and advised that their Board of Directors had voted unanimously to oppose this project based on four reasons which were that the building would cause a cumulative effect, it was not compatible with the neighborhood, and the height was 3 times the side yard setback and 6 times the rear yard setback, and the building as planned would complete the concrete canyon along the waterway. She reiterated the building was massive and overpowering and they were concerned about the rear yard setback. She stated the street side had more interesting architecture. She added they were concerned about the portholes on the building for ventilation.

Dr. Udell continued stating that the residents were not against development and were willing to work with the developer and their attorney. She felt with some minor modifications the project could be redesigned to benefit the area.

Karen Turner, Board of Directors for Bayshore Embassy, stated that 12 out of 65 homeowners had attended the meeting when this project had been presented. After speaking to the residents after that meeting and explaining the project more to them, there was an overwhelming vote against this project. She proceeded to show photographs of how big the building would be they were proposing for the site. She stated there were low-rise buildings in the area. She stated that between Sunrise and Las Olas they had the highest density of '50's and '60's architecture in the Country and once that was lost, they would not be able to get that back. She referenced other projects that had been built in the area and were presently being built. She reiterated the traffic situation on the Barrier Island.

Diane Smart, member of the Central Beach Alliance Board of Directors, stated that with all due respect to the expert witness, neighborhood compatibility also dealt with scale, character and integrity of a neighborhood. She stated that in addition to the Surf Club buildings to the south were 2 stories, and the Bayshore Embassy consisting of 5 stories to the east across from the property, and north were 4 2-story early '50's hotels stretching to Vistamar. She reiterated the tallest building on Bayshore Drive consisted of 7 stories. North of Aquatania on the Intracoastal side of Bayshore were 4 2-story condominiums, co-ops, small hotels, and most '40's and '50's architecture some of which were eligible for historic designation. Then, there were 2 3-story mid-century modern buildings leading to the LaRieve. Ms. Smart stated it was important to look at the context of the entire street, and the membership had discussed that at their meeting on October 28, 2003. Since that meeting, the majority of the members voted against this project. On November 19, 2003, the Planning and Zoning Board had voted against this project.

Ms. Smart stated that the CBA had met twice since that time with this development team, and they had received an additional proposal regarding streetscape enhancements. On January 15, 2004, the newly elected CBA Board had discussed this project and had decided to offer the development team the opportunity to defer tonight's meeting so they could meet with the CBA, and present the enhancements to the Board and take another membership vote. The developers turned down that opportunity. At this point in time, the Board would stand by their October 8, 2003 membership vote regarding the plan presented to them. She stated they should remember the "O" in the "IOA," which was for Overlook.

Ann Krupchinski stated that she lived at 632 Intracoastal Drive and they were considered neighbors. She further stated that she wanted to echo the cumulative effect and massiveness of the building. She stated if the codes were being followed, then why have this hearing tonight. She stated they were asking for exceptions and it had been reiterated by the expert witness. She stated further that there was a building within their setback which was the amenity building. She reiterated that she was not permitted to plant a tree in her setback, let alone erect a building. She did not understand why this was being permitted. She further stated that the setback from the water was to be half-the-height of the building, and reiterated they were asking for exceptions and that was the purpose of tonight's meeting. She continued stating that in regard to the landscaping, she did not see lush landscaping being proposed as stated. She remarked that her family had been in the landscape business for years and she had talked to the developer about it. She urged the Commission to ensure the quality of landscaping to be provided as alleged, if the project was approved. She urged the Commission to deny this project so they could meet with the developers and come up with a project that would be more agreeable to everyone involved.

Larry Behar, Chair of Broward Alliance, stated that he was present this evening as a friend of the Deckelbaums who had a history of successful projects that provided an economic boost to the areas. He stated they needed to encourage proper business tactics and ethics into the community, and he felt the Deckelbaums would be willing to listen to everyone's concerns.

Gordon Deckelbaum, developer, stated that when a developer set out to purchase a site, they first researched the applicable zoning codes, and they had done that in this case. Then, they designed a building which met every code criteria. He reiterated they had not exceeded the unit count or the permissible width or height, and additional parking was required. He added that the setbacks met or exceeded the requirements. He stated they had responded to other objectives such as active use on the roof, and had provided a desirable use for the rear yard. Guest parking was contained in a court yard and no street parking would be permissible. He stated that he had heard tonight that their response to their due diligence was not enough. He felt they had met the objective standards of the Code, and asked for the Commission to approve the project.

Mr. Deckelbaum further stated they had additionally offered a streetscape improvement which was consistent with the City's stated objectives, and he hoped they would approve the project.

Ms. Crush stated it appeared clear that the residents of Sunrise Intracoastal wished they did not live across from a multi-family high-rise zoning district. She stated that 300' of active Intracoastal Waterway was something they viewed in terms of a neighborhood.

She felt their first obligation was to the people in the Central Beach and the neighbors being immediately impacted by this project. She explained that the Code required fact based adverse impact in order to find something incompatible, and until that was done a project was considered compatible. There had been no testimony by staff or the public that this project had any adverse impacts to the adjacent neighborhoods. Ms. Crush further stated that she would be happy to meet individually to discuss the concerns raised by the various residents.

Fred Taylor stated that it was unfortunate that many of the people who objected to this project actually lived in some of the newest buildings in the area, and he felt that was unreasonable for such people to move in there and then object to this project. He felt that was unfair and unethical for them to do so.

Commissioner Trantalis asked if staff could address the issues raised this evening in regard to zoning and code compliance.

Don Morris, Planning and Zoning, stated that Greg Brewton, Zoning Administrator, was also available to answer any questions the Commission might have regarding this project.

Commissioner Trantalis stated that the developer had stated that this project complied with all zoning requirements promulgated by the City, and asked for staff's comments.

Mr. Morris stated that this project was before the Commission because it was a Site Plan Level IV request. He advised they were requesting certain reductions in yards and neighborhood compatibility was triggered. He stated it did comply with Code, but the Code also put additional criteria on the project which had to be reviewed.

Commissioner Trantalis clarified that there were now certain subjective standards being applied of which one was neighborhood compatibility.

Greg Brewton, Zoning Administrator, stated that when they discussed whether a project met Code, and whether or not there was a subjective requirement as it related to neighborhood compatibility, he felt it was not subjective but was standards and criteria which had been established and recognized in the field of planning as being appropriate in the relationship in regard to review of the project. He stated that staff would probably disagree on the criteria and how it was met, but they were using the standard which was established in the City, along with the professional standard developed by staff recognizing that a project either met neighborhood compatibility or did not.

Commissioner Trantalis asked Mr. Brewton what was his professional response to the developer's assertion that the project met neighborhood compatibility requirements. Mr. Brewton replied that he was going to address the zoning end of this, and Cecelia Hollar would address the matter from the planning aspect. He felt if there was an objection or disagreement as to whether or not the project was in full compliance with the Code, and staff had adversely affected the project by its determination as to whether the project was approvable or not, would be subject to a Board of Adjustment request to appeal staff's or the department's determination. He did not think that remedy had yet been exhausted.

Commissioner Trantalis asked what was the determination from the zoning perspective. Mr. Brewton replied that the project met the minimum zoning requirements to be reviewed by the City. He reiterated that other factors were involved in the review process, such as neighborhood compatibility. Commissioner Trantalis asked in regard to neighborhood compatibility, how had staff responded to the proposal.

Cecelia Hollar, Acting Public Services Director and Director of Construction Services, stated that staff had provided their determination in the memorandum and had found that the applicant had not sufficiently addressed massing guidelines as they pertained to neighborhood compatibility. Their final determination was that they did not meet neighborhood compatibility, and the subsections had been cited in the memorandum as to why they had not met such guidelines.

Commissioner Trantalis stated that the developer's expert witness had indicated that the criteria used in determining neighborhood compatibility was not clearly defined, and as a result they must necessarily find in favor of the developer because definitions were not available in order for them to comply. He asked how Ms. Hollar would respond to that statement.

Ms. Hollar stated that she absolutely did not agree with that statement. She stated that the provisions for neighborhood compatibility had been in the Code for an extensive period of time, and they were objective. She stated she would not say they were subjective, but needed to be taken on a case-by-case basis based both on location of where a project was being proposed, and its relationship to its surroundings, such as water, neighborhoods, existing property, and also its relationship to both the zoning district it existed in, and the land use designation. She stated that because of all that, it did not make it subjective or not clear, it just meant there were factors that go with where the property was proposed, and how the project intended to meet the neighborhood compatibility provisions. She further stated that in some cases height in a certain area was not a neighborhood compatibility issue when it was put in perspective with its surroundings. She stated it was written intentionally to give them the ability to say whether a project fit at the location with such factors in place. She stated that in staff's report they had looked at all those specifics and details. She stated it was not an exact science, but that was the information they had provided to the Commission. She noted that the reason this was a Site Plan Level IV was because the Commission was to hear testimony from both the Planning and Zoning Board, the staff, and the applicant, and then obviously the public. She stated they were then to make a determination based on all such information as to whether they believed that it met the development review criteria contained in the Central Beach. She stated that was a function of the Commission as a Site Plan Level IV. She further stated that professional opinions, along with the lay person's opinion, were all factors to be considered as part of a public hearing. She stated the Commission had every right to hear all this and then say what they concluded from all the facts and documentation as presented.

Ms. Hollar first stated that she wanted to point out one thing in regard to Commissioner Trantalis's first question as to whether this met the Code. She stated she did not know if it had been pointed out because she had not heard it, but it was her understanding that it was to be pointed out by the applicant, that they were asking for a height which exceeded the zoning in progress. She stated the height was 128' and if they used the portions on the top of the building for cabanas, then it would be habitable space. She stated further that the Zoning Administrator had determined that once they put habitable

space on the top, they would exceed the 120'. She stated that the first issue which should have been dealt with was that there was zoning in progress in place of a maximum height of 120', and in her opinion, the only way the Commission could consider that if they wanted to proceed with the project was to remove the zoning in progress for the entire district to allow them back to "up to 150'." She stated they might want to address that and say if they did not want to do that, we would not use the space for cabanas, but then the question becomes what would the space be used for. She felt this was a clarification that needed to be placed within the record.

Commissioner Trantalis asked about the assertion made earlier that it violated the setback up to a certain height, and that was why they were seeking a yard setback.

Ms. Hollar replied that the way the district was set up, its requirement was to be half-the-height of the building at each height as one went up. It was different in other areas where it was half-the-height of the building all the way up to the maximum height, such as RMH-60. She stated if they wanted to encroach into that half-the-height requirement, they would have to go through a process and ask for a modification of yards. She stated it was a little bit different, and the way the district read was that they could ask for modifications between here and here, whatever the numbers were, and that was what they were requesting.

Commissioner Trantalis clarified that would be at the discretion of the Commission.

Ms. Hollar replied that was a key component to what triggered neighborhood compatibility review. She stated the way she looked at it was that the district was set up to be a box within where everyone should be able to request development. She stated the minute one went outside that box, it was her opinion and the opinion of the department and all reviews had been consistent, that the applicant then had to demonstrate what warranted the modification from half-the-height for setback, or maximum height, or any other provisions they were asking to go within the area. Then, they had to demonstrate how they had mitigated that in certain ways, and what the impact would be versus meeting half-the-height. She stated the burden was on the applicant to demonstrate why if it was not half-the-height and it was less than that, what was the outstanding feature of how this project was designed that warranted them to go into the modified yard.

Commissioner Trantalis asked if the criteria were clear to an applicant or as the expert had stated, they were so vague that they had to necessarily side in favor of the developer.

Ms. Hollar stated that she could only answer that to say that it had been clear in previous cases to the Commission where the Commission had approved projects, and it had not been sufficiently addressed in cases where the Commission had denied it. She stated further if one did A through Z they got an automatic yes, if so, then she would have to question why they had to go through this process. She stated it was meant to be objective in light of both where the project was located and how it was designed. She stated that flexibility had been written intentionally at the time with a lot of input from the development community. She stated they wanted the flexibility in order to demonstrate how they could meet it in some cases and ask for the modifications.

Commissioner Trantalis stated that he had 3 opportunities during the last several months to meet with the developer and Ms. Crush who had presented a professional and complete presentation. He commended them on their integrity and stated that he understood they had a history with the City of producing fine buildings and complying with the laws. Through the dialogue, he felt they understood one another from the beginning and how important it was for them to understand that they were trying not to over develop the Barrier Island. He felt this project was an example of "creeping over development." He felt the building was attractive and had many aesthetic components that would enhance the area, but they did not want to erect a barricade or stockade around the precious part of the City known as Fort Lauderdale Beach, and that is what was being done. He stated the continuous run of buildings along Bayshore Drive continuing to A-1-A did just that. He stated that they had not even seen the results yet, and when everything got built out that had been approved, people were going to say what had they done to the City. He felt this project needed to be revisited, and he implored the developer to rethink this project and bring it down to a scale that was more in line with what was being discussed for the area. He reiterated they did not want to prevent or deny development in the City, but were asking for a partnership between the people and the investors in the community to come together and state their vision. He felt they were driving away the small property owners, and he felt there was more pavement than sand and yet this was to be the Beach.

Commissioner Trantalis stated he was grateful that the developer had agreed to mitigate some of the obnoxious aspects of the building by planting landscape and other streetscape amenities. He felt the scale of the building was too overwhelming for the Beach and what it represented, and he asked the Commissioners to deny this request.

Commissioner Moore asked if the top of the building was to have an exterior use or were they only going to cover the mechanical equipment.

Ms. Crush explained that the answer was both. There had been two site plans in the back-up material. She stated the mechanical equipment was enclosed in the circular enclosures which were not going to change. The proposal had been for the roof to be used as a deck and to cut into a portion of those structures to allow people to get into a shaded area. She stated that on the plan without the cabanas, the area would be closed and would look identical. She reiterated there would still be active roof type use.

Commissioner Moore stated that Ms. Hollar had referenced the fact that this was a Site Plan Level IV, along with compatibility issues, and he asked if the description just given regarding the use of the roof would increase the height of the building to 128'.

Mr. Morris stated if they were using the roof for active use, then it would increase the height to 128'. If the rooftop structures were not used for human habitation, then it would reduce the height to 120' which was the permitted maximum for the district.

Commissioner Moore stated the architectural design was based on an individual's taste, but the compatibility issue was difficult for him, and in listening to Ms. Hollar's explanation as to why this project was before the Commission was to make a determination if it was compatibility or not. He asked about some of the buildings in the area and across the roadway, and asked how far away they were from the proposed site. Mr. Morris stated that the survey supplied with the site plan did not show the building across the way. Commissioner Moore stated that he agreed the individuals on

the other side of the waterway were indeed part of the neighborhood, but in regard to the characteristic of the building, he felt the more adjacent neighbors would be impacted more. He stated he was concerned about the remarks made regarding the canyon effect to the Beach, and it appeared that the building was also quite wide. He stated his problem with this request was with the opportunity to use development rights. He did not think the building looked intrusive and did not feel it was a significant compatibility issue for the individuals on the other side of the waterway. He felt this development should consider not utilizing the rooftop in the manner as suggested in order to meet the height requirements. He stated that in stating that this building was massive due to the fact of the next-door property, he felt that was what compatibility was all about. He asked what was the FAR for this development.

Ms. Hollar stated that in looking at the applicant's information, it appeared that it was 3.2, not counting the garage. She stated it was 4.2 with the garage. She stated they now counted garages for the FAR.

Commissioner Moore stated that when they talked about the impact of this project on the Beach, the project was only going to consist of 55 units. He did not feel this would be a great impact to the area, and asked if the District Commissioner was concerned about the structure and the FAR.

Commissioner Trantalis stated what he found most difficult to accept about this building was the totality of the building, including massing, depth and height, it was an overwhelming structure that took away from the Beach and the feeling of the human scale they were attempting to return to the area. He stated that this building in connection with the adjacent building and those being proposed, collectively detracted from what they were attempting to establish for the Beach which would allow lighter and air to pass through to the inner part of the Barrier Island. He stated they did not want owners to give up on their vintage structures by selling out to developers who were willing to pay any price for the property knowing they could build massive structures and get their dollar return. He felt it was part of an overall program that should be implemented that sent a message to the investment community that they were looking to create a Barrier Island which did not permit a wall to be established around its perimeter, as the pattern was now developing. He stated they needed to find ways to encourage developers to reduce the scale, and that was where his objection stood.

Commissioner Teel asked to see the photographs which had been submitted to the Planning and Zoning Board which had been taken from the west side of the Intracoastal. She stated she was aware of the feeling of closeness there was to the Intracoastal Overlook Area because it was the narrowest part. She stated that she took exception to anyone who suggested that they were not part of neighborhood compatibility. She commented on the photographs shown of the buildings in the area and those being constructed. She stated further that this was an example of a cumulative effect and a concrete canyon.

Commissioner Teel stated that Bayshore Towers was a huge unattractive building and was not attractive from the waterway. She stated it was located at the top of Sunrise Intracoastal, but the Intracoastal was getting wider at that point. She stated that this was not a pleasant experience for boaters. She stated it was clear that this design was too big, too massive, too bulky, and was a block-like structure. She stated that she had serious concerns about the circles on the roof which appeared to have sliding glass

doors on the drawings. She stated the other feature she found troubling regarding neighborhood compatibility was the reduction in the rear yard. She stated the developers came in and stated they basically had the right to have such reductions, but she did not agree. She stated they could be requested, but depending on how neighborhood compatibility had been addressed would determine if the reductions should be granted. She felt telling people across the waterway who were in direct sight were not neighbors was offensive. She did not feel this was appropriate responsible development. She reiterated that Bayshore Towers was exactly the reason why they should not erect another building like it in the area. She felt variation was needed because the building did impact on air circulation, along with the skyline. She stated that she opposed this project, but felt it could be reworked.

Commissioner Teel asked what was planned for the sales trailer or center.

Ms. Crush replied that they had no present plans for a sales trailer. There would be one contemplated. Commissioner Teel stated there was a trailer on LaRieve, and asked if they were going to use that trailer for both projects. Ms. Crush stated that trailer was solely for the LaRieve project. She further stated they had not yet established a sales program for Aquatania. She remarked they were showing pictures but were not selling units. She stated they were only selling LaRieve units.

Commissioner Teel stated she wanted the developer to verify that they were not going to use that as a sales trailer for this project. Ms. Crush stated the picture shown was a construction sales trailer that was moved from the Intracoastal side of the property when construction began. Commissioner Teel stated she believed she had seen signs on the trailer to invite individuals to view pictures of the project. Ms. Crush confirmed but stated it was a sales trailer, but not the first one.

Commissioner Hutchinson stated that in regard to the memo regarding zoning in progress, she asked what precedence they would be setting for the entire district.

Ms. Hollar stated they would have to remove the zoning in progress for the entire district in order to consider for this particular project to be more than 120'. She stated this was the determination of the City Attorney's office as well.

Ms. Crush stated they could agree that the round structures on the roof were not cabanas.

Ms. Hollar reiterated that they would have to confirm that there was not going to be any habitable space, and it would be used for mechanical equipment only.

Mr. Deckelbaum stated they would not have habitable space on the roof, and the structures would be used only for mechanical purposes, including maintenance.

Mayor Naugle stated that regarding the individuals across the waterway, people had attempted to diminish their standing saying that they had always lived across from multi-family zoning, and therefore, should not object to this project. He stated that when some of the individuals bought their houses across the waterway, the requirement was for half-the-height of the building and waivers were not granted. He stated that property rights went both ways, and they were affected by the neighbors also. He found it amusing that an argument was made that the zoning laws were not valid and unclear because the

laws they were operating under had been supervised and created under the direction of a City Attorney that was chosen by a law partner of their firm.

Motion made by Commissioner Trantalis and seconded by Commissioner Teel to deny the application.

RESOLUTION NO. 04-30

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, DENYING A DEVELOPMENT PERMIT FOR THE CONSTRUCTION OF A MULTI-FAMILY RESIDENTIAL BUILDING AND APPROVAL OF SETBACK REDUCTIONS ON PROPERTY LOCATED AT 545 BAYSHORE DRIVE IN FORT LAUDERDALE, FLORIDA IN AN IOA ZONING DISTRICT AS A SITE PLAN LEVEL IV DEVELOPMENT.

Which resolution was read by title only.

Mayor Naugle disclosed that he had met with the applicant and received many e-mails and letters which were part of the public record. Commissioner Hutchinson stated she had met with the applicant also and had received many e-mails and letters. Commissioner Teel also stated that she had met with the applicant and received many e-mails and letters. Commissioner Moore stated that he had met with the applicant and the attorneys for the project.

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

Advisory Board/Committee Appointments

(OB)

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

Audit Advisory Board	Kevin Blair
Beach Redevelopment Advisory Board	Linda Gill Judy Scher Henry Sniezek Brad Fitzgerald Albert Miniaci Eileen G. Helfer
Cemeteries Board of Trustees	Sharon Navarro Sandy Casteel Ann Platt Mark Van Rees
Charter Revision Board	John Milledge
City Manager Ad Hoc Committee	Richard Mancuso

Code Enforcement Board

Myrnabelle Roche

Commissioner Hutchinson introduced a written resolution entitled:

RESOLUTION NO. 04-31

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

Ms. Crush asked about the photographs shown from the Planning and Zoning Board to be included as part of this proceeding.

Carter Park

(OB)

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

Broward County Evaluation and Appraisal Report

(OB)

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 04-32

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE CITY TO JOIN THE COALITION OF CITIES ADDRESSING CONCERNS RELATED TO BROWARD COUNTY'S EVALUATION AND APPRAISAL REPORT ("EAR"), EXPRESSING SUPPORT FOR REVISIONS TO BROWARD COUNTY'S EAR AND SUBSEQUENT CHANGES TO THE BROWARD COUNTY COUNTY-WIDE LAND USE PLAN, AS OUTLINED IN THE ATTACHED EXHIBIT "A", TO PROTECT THE ABILITY TO REDEVELOP AND THE HOME RULE AUTHORITY OF MUNICIPALITIES IN BROWARD COUNTY; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION AND APPROVING THE APPROPRIATION OF CITY FUNDS FOR WORK ASSOCIATED WITH THE COALITION.

Which resolution was read by title only.

Commissioner Trantalis stated it was his understanding that the monetary contribution would not exceed \$2,000.

Bruce Chatterton, Planning and Zoning Services Manager, stated it was included in the resolution.

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

At 10:15 p.m., Mayor Naugle adjourned the meeting.

Jim Naugle
Mayor

ATTEST:

City Clerk