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FORT LAUDERDALE CITY COMMISSION
MAY 4, 2004**

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE, FLORIDA
MAY 4, 2004**

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

Roll call showed:

Present: Commissioner Christine Teel
Commissioner Dean J. Trantalis
Commissioner Cindi Hutchinson
Commissioner Carlton B. Moore (arrived 6:05 p.m.)
Mayor Jim Naugle

Absent: None

Also Present: Acting City Manager Alan Silva
City Attorney Harry A. Stewart
City Clerk Jonda K. Joseph
Sergeant At Arms Sergeant David Lewis

Invocation was offered by Chaplain Rick Braswell, Broward Sheriff's Department, followed by the recitation of the Pledge of Allegiance.

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

Motion made by Commissioner Hutchinson and seconded by Commissioner Teel that the agenda and minutes for the March 3, 2004 meeting be approved. Roll call showed: YEAS: Vice Mayor Trantalis, Commissioners Hutchinson, Teel and Mayor Naugle. NAYS: None.

Presentations

OB

1. Florida Engineering Society's 2004 Government Engineer of the Year

The Mayor and City Commissioners recognized Hector Castro, City Engineer, as the winner of Florida Engineering Society's 2004 Government Engineer of the Year.

Peter Partington, Assistant City Engineer, stated that on behalf of everyone they wanted to thank Hector Castro for everything he had done for the City over the years. He stated that Tim O'Neil, President of the Broward Chapter of the Florida Engineering Society, would present the award to Mr. Castro.

Tim O'Neil stated that he lived in Coconut Creek and worked in the City of Fort Lauderdale, and explained there were 20 chapters of the Florida Engineering Society consisting of about 4,000 members. Each year an engineer in the government sector

was nominated for this award. He stated that Hector Castro was chosen due to his involvement in the WaterWorks 2011 Program, including his involvement in Parks and Recreation, neighborhood improvements, and especially for his involvement with the Honduras communities after Hurricane Mitch. He helped restore water to over 4,000 individuals. He then proceeded to present Hector Castro with the award.

Hector Castro, City Engineer, thanked everyone for the honor and stated that this was a great organization.

Commissioner Moore entered the meeting at approximately 6:05 p.m.

Mr. Castro continued stating that engineering in government was not so much about science, but an art of applied science. In government, he explained such art had to be applied in the community. He felt the award was for all the wonderful employees he had the opportunity to work with over the years. He thanked everyone for the honor and recognition.

2. Smoke Detector

Commissioner Moore proceeded to demonstrate the proper way to test a smoke detector.

3. Silver Knight Award Winners

Commissioner Hutchinson proceeded to present a commendation to two Fort Lauderdale High School seniors who had won the Miami Herald's Silver Knight Award. She explained this program had been instituted in 1959 by John Knight, Publisher of the Miami Herald to honor the finest high school seniors, who had demonstrated a commitment to serve their school and community. The winners were Ashleigh Pfriem (Fort Lauderdale High School) and John Kurien (Stranahan High School).

4. Outstanding Employees

Mayor Naugle and the City Commission proceeded to thank Jeff Modarelli for his hard work and efforts during the time that there was no City Clerk on staff.

Jeff Modarelli, Assistant City Clerk, presented Donna Varisco, Lynn Morris and Sharon Coryell of the Clerk's staff with plaques of appreciation for their hard work, efforts and professionalism, especially during the interim of the hiring of a new City Clerk.

Cecelia Hollar, Acting Manager Public Works, stated that she wanted to recognize Willis Eugenis, Carlos Pereira, and Jacqueline Chapdelaine for their team efforts and cooperation with co-workers. She stated that Willis Eugenis had been with the City over 19 years and worked in the Maintenance Division repairing equipment even doing repairs in the field. She further stated that Carlos Pereira was always seen around City Hall with a paint brush in hand and a large smile on his face. She stated they received many compliments about Mr. Pereira from all the departments that he serviced. She then proceeded to recognize Jacqueline Chapdelaine who worked in the Building Services section of Construction Services. She advised that a co-worker had been in an automobile accident and a drunk driver had demolished her car, and Ms. Chapdelaine

donated her old car to the co-worker with the stipulation that no money would exchange hands.

Otis Latin, Chief Fire-Rescue, introduced Lt. Sherry Richter as Employee of the Month who assisted an individual who was choking in Bennigan's Restaurant.

Chief Latin then recognized Firefighter/Paramedics Karen Komarek, Aaron Larsen, Lt. Jo-Ann Lorber, Captain William Medlin, Firefighter/Paramedics Donnie Alexander, James Carroll, Jason Morss, and Stephen Woods for their work in continuing to train other employees even though the assignment pay was discontinued due to City budget cuts.

Ernest Burkeen, Director, Parks and Recreation, stated that he wanted to recognize Shay Roundtree Jones as Employee of the Month for March, 2004, for her work in the Parks and Recreation Department, along with her work as part-time pool manager and summer camp director for the last 10 years. Her present work title was Recreation Programmer II. She supervises the after-school intramural athletics and other team programs. He explained that she had helped to coordinate the Bass Park Swim Team trip to Washington, D.C.

Mr. Burkeen introduced David Heaney as Employee of the Month for April, 2004, for his work as ball field groundskeeper who had assisted an individual at Holiday Park who had their backpack stolen.

Chief Ortenzo, Police Department, proceeded to recognize Detectives Charles Morrow and John Curry as Police Officers of the Month for March, 2004. He stated they were in the Fugitive Unit of the City's Police Department who demonstrated their expertise in apprehending many fugitives.

Chief Ortenzo continued to recognize Officer Steve Bellerose as Police Officer of the Month for April, 2004 for his work in arresting a prowler, and locating victims of vehicle burglaries and documented physical evidence. Therefore, the prowler who had been arrested, was charged with 5 counts of burglary and 3 counts of possession of stolen property. He also assisted in arresting individuals in Harbor Beach leading to a vehicle that had been burglarized.

Commissioner Moore left the meeting at approximately 6:28 p.m. and returned at 6:31 p.m.

Chief Ortenzo stated he wanted to honor Officers Joseph Hannold, Kimberly Hancock and Allen Diamond with Life Saving Awards for the months of March and April, 2004, in connection with their efforts in assisting at a potential suicide at the overpass on Sunrise Boulevard and I-95.

Chief Ortenzo proceeded to honor Civilian Employee for April, 2004, Peter Noah Cameron for his work in aiding an evicted woman and her daughter to a privately run homeless assistance facility in Hollywood. Due to the location and condition of the facility when they arrived, he was concerned and therefore, escorted them to a more suitable environment with a relative.

Consent Agenda**(CA)**

The following items were listed on the agenda for approval as recommended. The Acting 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 – Leon Russell Performance**(M-1)**

A motion authorizing and approving the execution of an Event Agreement with the **Downtowner Saloon Inc.** to indemnify, protect, and hold harmless the City from any liability in connection with the **Leon Russell Performance to be held Friday, June 18 from 4:00 PM to 11:00 PM;** and further authorizing the closing of South New River Drive from the Andrews Avenue Bridge to the SEW 1 Avenue traffic circle from 9:00 AM Friday, June 18 to 9:00 AM Saturday, June 19, 2004.

Recommend: Motion to approve.

Exhibit: Memo No. 04-638 from Acting City Manager.

Event Agreement – Fort Lauderdale Soap Box Derby**(M-2)**

A motion authorizing and approving the execution of an Event Agreement with the **Soap Box Derby, Inc.** to indemnify, protect and hold harmless the City from any liability in connection with the **Fort Lauderdale Soap Box Derby to be held at Huizenga Plaza and the Andrews Avenue Bridge on Friday, June 11 from 3:00 PM to 10:00 PM and Saturday, June 12 from 9:00 AM to 3:00 PM;** and further authorizing the closing of South Andrews Avenue from SE 2 Street to SE 6 Street; and East Las Olas Blvd. from the Alley between Las Olas Riverfront and Las Olas Park Place east to SE 1 Avenue from 5:00 AM to 5:00 PM on Saturday, June 12, 2004 only.

Recommend: Motion to approve.

Exhibit: Memo No. 04-637 from Acting City Manager.

**Contract Award – VIP Painting Inc. Project 10591A -
Police Station Central Wing, Concrete Repairs****(M-3)**

A motion authorizing the proper City officials to execute an agreement with VIP Painting Inc., in the amount of \$18,050.00 for the Police Station Central Wing Concrete Repairs project.

Funds: See Bid Tab

Recommend: Motion to approve.

Exhibit: Memo No. 04-601 from Acting City Manager.

**Change Order No. 1 – American Water Services, Inc. Project 10711 -
Wastewater Conveyance System – Long Term Remediation Program –
Rehabilitation Sub-Basin A27.3****(M-4)**

A motion authorizing the proper City officials to execute Change Order No. 1 with American Water Services, Inc., in the amount of \$54,445.95 for work on the Wastewater Conveyance System Long-Term Remediation Program – Rehabilitation Sub-Basin A27.3 project.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 04-610 from Acting City Manager.

**Change Order No. 4 – Astaldi Construction Corporation
Project 9766B – Progresso Sanitary Sewer Improvements****(M-5)**

A motion authorizing the proper City officials to execute a change order with Astaldi Construction Company in the amount of \$43,213.96, and including the additional 214 calendar days to the period of construction for the Progresso Sanitary Sewer Improvements project.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 04-607 from Acting City Manager.

**Change Order No. 2 – Engineer Control Systems
Corp. – Project 9980 – Bridge Repairs, Phase I****(M-6)**

A motion authorizing the proper City officials to execute Change Order No. 2 with Engineer Control Systems, Corp., in the amount of \$390,384.40 under the Bridge Repairs, Phase I Project.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 04-604 from Acting City Manager.

**Change Order No. 2 – John Rohrer Contracting Company,
Inc. Project 10707 – City Park Garage Phase IB – Planter/Barrier
Wall Rehabilitation****(M-7)**

A motion authorizing the proper City officials to execute Change Order No. 2 with John Rohrer Contracting Company, Inc. in the amount of \$128,475.68 for additional work related to the City Park Garage Phase IB, Planter/Barrier Wall Rehabilitation project.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 04-661 from Acting City Manager.

Task Order – Keith and Schnars Project 10815.482
Tarpon River Area – Consulting Engineering
And Surveying Services

(M-8)

A motion authorizing the proper City officials to execute a task order with Keith and Schnars in the amount of \$107,582 for the provision of consulting engineering and surveying services associated with Tarpon River (7th Street and Andrews Avenue) Water Main Improvements.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 04-605 from Acting City Manager.

Consultants' Competitive Negotiation Act (CCNA) -
Authorization to Negotiate with Top-Ranked Firms of
Stoner & Associates, Keith & Schnars, P.A., and Calvin,
Giordano & Associates for Project 10712 – Survey and
Mapping Services

(M-9)

A motion authorizing the proper City officials to accept the Consultant Selection and Negotiation Committee's recommendation of ranking short-listed firms for survey and mapping services; and further authorizing the proper City officials to commence negotiations with the top-ranked firms of Stoner & Associates, Keith & Schnars, P.A., and Calvin, Giordano & Associates or successively ranked firms if such negotiations become necessary.

Recommend: Motion to approve.

Exhibit: Memo No. 04-595 from Acting City Manager.

PURCHASING AGENDA

349-9041 – Confiscated/Surplus Vehicle and Equipment Auction

(Pur-1)

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

Exhibits: List of confiscated and surplus vehicles

The Procurement and Materials Management Division recommends approving public auction sale to be held on May 19, 2004.

582-8175 – Cancel Purchase Order, Reallocate for Parking Consultant Services**(Pur-2)**

Cancel purchase order for remaining services to Kimley-Horn and reallocate remaining funds to Walker Parking Consultants is being presented for approval by the Administrative Services, Parking Services Division.

Vendor: Walker Parking Consultants
Tampa, FL
Amount: \$ 23,682.07
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 04-628 from Acting City Manager

The Procurement and Materials Management Division reviewed this item and recommends canceling the purchase order and reallocating the remaining funds to recommended contractor.

392-8194 – Contract for EMS Billing Services**(Pur-3)**

A cost reduction and one-year contract for EMS billing services is being presented for approval by the Fire-Rescue Department.

Vendor: Advanced Data Processing, Inc.
Miami, FL
Amount: \$ 11,400.00
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 04-403 from Acting City Manager

The Procurement and Materials Management Division reviewed this item and recommends approving the cost reduction and one-year contract.

Additional Grounds Keeping Equipment**(Pur-4)**

An agreement to purchase additional grounds keeping equipment is being presented for approval by the Administrative Services, Fleet Services Division.

Vendor: Burkhard's Tractor and Equipment, Inc.
Davie, FL
Hector Turf
Deerfield Beach, FL
Florida Outdoor Equipment
Orlando, FL
Amount: \$ 159,840.00 (estimated)
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 04-615 Acting City Manager

The Procurement and Materials Management Division recommends awarding purchases from Florida State contracts and the lowest responsive and responsible bidders.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that Consent Agenda Item Nos. M-6, M-7, and Pur-2 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda items be approved as recommended.

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

Change Order No. 2 – Engineer Control Systems Corp. - (M-6)
Project 9980 – Bridge Repairs, Phase I

Commissioner Hutchinson stated that she had pulled this item, and stated that it appeared to be a lot of money. She reiterated that the bridges needed to be done, but it seemed like a lot of money.

Hector Castro, City Engineer, explained that these were additions to a previously bid contract item. He stated that once they got into the rehabilitation projects, they found there appeared to be additional work needed than what the initial reviews showed. He stated that the actual investigations of the bridges and condition reports were done by the State of Florida.

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

Change Order No. 2 – John Rohrer Contracting Company, Inc. (M-7)
Project 10707 – City Park Garage Phase IB – Planter/Barrier Wall Rehabilitation

Vice Mayor Trantalis stated that he had pulled this item, and asked if this was the parking garage in which the woman had crashed through the wall.

Hector Castro, City Engineer, confirmed.

Vice Mayor Trantalis asked if this Change Order was to complete all the work that needed to be done to re-strengthen the walls or would there be additional future funding requests. Mr. Castro stated they hoped this would complete the work. He explained that the bulk of the change order, \$160,000, were increases in the price of steel that occurred since the bid. He remarked that the steel had doubled in price. He explained further that the majority of the components they were using to strengthen the walls were steel railings, and the contractor requested the increase without any mark-up. He reiterated that this was a straight material increase. He stated he could not guarantee that there would not be additional change orders.

Vice Mayor Trantalis asked if this would finish the work on the garage. Mr. Castro replied it would finish the work on the garage with the exception of the pressure cleaning and painting. He stated there was a desire of the DDA and the City Commission to have some façade improvements done in the tunnel area, which would come before the Commission under a separate contract.

Commissioner Moore asked if this was the same project he had been told over and over again that appropriate monies were not available for planters on the buildings. Mr. Castro confirmed. Commissioner Moore stated that due to the fact that there was a bid including specifications, and in that bid process it had not stated the possibility of this particular contractor passing on increases in steel to the City. Therefore, he asked why this was being done. Mr. Castro replied that the actual cost for the materials which had been verified by the City's project engineer had increased in price between the time they were ordered and the time they had been delivered. He explained the City was not in the business to make contractors lose money. He felt the \$160,000 was pretty close to the profit margin on this job. Staff felt it would have been unreasonable not to present this for the Commission's consideration. Commissioner Moore reiterated that the person had bid on the contract, and it was to come in at bid price, based upon the market at the time of the bid. Mr. Castro confirmed that the person had bid on the contract. He added that the alternative was to turn this down and leave it up to the contractor and see what he wanted to do.

Commissioner Moore stated it was the contractor's responsibility to complete a project according to his bid. Mr. Castro stated that under contract, he was to honor his bid. Commissioner Moore asked where the money was coming from for this project. Mr. Castro replied it was coming from the parking fund.

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

**582-8175 – Cancel Purchase Order, Reallocate for Parking
Consultant Services**

(Pur-2)

Commissioner Moore stated that he had pulled this item. He did not know why they were making this change. He thought both companies were capable of doing the work included in the RFP.

Doug Gottshall, Parking Manager, stated that Walker Parking Consultants have worked with the City extensively over the years. Studies had been done of services within the Department, and they had been part of about every project, including the garage. He stated they were confident in their ability to work with the City, if necessary, in order to privatize some or all of the Parking Division.

Commissioner Moore asked if Mr. Gottshall was saying that staff does not feel the same way about Kimley-Horn. Mr. Gottshall confirmed.

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

MOTIONS

Settlement of General Liability File No. GL 01-500B (William Turner) (M-10)

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

Lien Settlements (M-11)

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

Vice Mayor Trantalis asked if they really had a choice in regard to this matter.

The City Attorney replied they did not. He explained their choice was to accept the settlement or get way back in line at the bankruptcy court. Vice Mayor Trantalis hoped there would be enough assets that would increase the City's return. The City Attorney replied they had looked at the filings, and there appeared not to be.

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

Envirocycle (OB)

Mayor Naugle asked Commissioner Moore if it was his intention to make a motion for reconsideration at this time.

Motion made by Commissioner Moore to reconsider the vote taken last month regarding entering into a contract with Envirocycle for the next 5 years for a settlement of \$500,000 of a \$990,000 issue of credit.

Motion died for lack of a second.

PUBLIC HEARINGS

Kevin Green d/b/a Clean Air Taxi**(PH-1)**

A public hearing to consider a motion to approve an application from Kevin Green d/b/a Clean Air Taxi to operate ten (10) Pedi cabs and ten (10) rickshaws over specific routes within the City. On March 16, 2004, the City Commission tabled this item by a vote of 5-0. Notice of Public Hearing was published on April 22, 2004 and April 29, 2004.

Lori Milano, Director, Community Inspections, stated that this item had been presented to the Commission at the Regular Meeting on March 16, 2004, at which time the item had been tabled and direction given to staff to present the item to the Community Services Board for their consideration of the application, together with their recommendation. Staff presented the item to that Board at their April 12, 2004 meeting. She explained that the minutes of that meeting had been forwarded to the City Commission for their review. In summary, after discussion by the applicant, the Board had recommended that the application be denied. She explained the information was now being brought before the City Commission for their approval or disapproval of the application. She added that Mr. Green was present this evening and wanted to speak.

Kevin Green, applicant, stated that he had applied for permits on October 20, 2003, and had been in this business for 5 years. He advised that he had worked in South Carolina, North Carolina, and Canada. He asked for the Commission to grant the permits. He proceeded to introduce his manager and announced that he had been working in West Palm Beach while waiting for the City to approve his license. He stated that he was born in Tampa, Florida.

Shayne Wiener stated that he lived in Boca Raton, Florida, and would be running the business in the City. He stated that he had been running a similar business in West Palm Beach for the last 8 months, known as 4-Tires for Hire, and had been in existence for 7 years. He stated that Kevin Green had been working with them and there had been no problems.

Commissioner Moore stated that in the back-up material the Commission received, there were comments and references made regarding tickets that had been given to Mr. Green. He asked if they had gone to court and what had been the outcome. Mr. Wiener stated there had been 13 citations, which had all been waived, dismissed or dropped. Commissioner Moore asked if the Community Services Advisory Board had been made aware of the fact that the citations had been waived, dismissed or dropped.

Mr. Green replied they had been informed and afterwards there had been no further discussion. He advised that he was surprised the citations had even been mentioned since there had been no outcome from those tickets. Mr. Wiener replied that he was not sure the Board had been made aware of those facts.

Vice Mayor Trantalis stated that the words "waived, dropped or dismissed" were not used in regard to traffic citations. He stated the only word normally used was "dismissed." He stated the tickets were either dismissed, adjudication was withheld, or

there was a conviction. He asked if any court costs had been involved. Mr. Green replied that in the year 2000 he had, but he thought they had been waived. Vice Mayor Trantalis reiterated that nothing could have been waived. He explained that adjudication withheld was a guilty plea.

Mr. Wiener stated that no court costs had been paid. Commissioner Moore clarified they had then been dismissed. Mr. Wiener confirmed.

Commissioner Moore asked how many operators there were presently in the City for such vehicles. Ms. Milano explained there were two other vendors operating in the City, known as American Rickshaw who had 10 Pedi cabs and 10 rickshaws, and Oceanview Rickshaw with the same number of vehicles. Commissioner Moore asked if both operators were utilizing their certificates. Ms. Milano stated that staff had not been advised otherwise.

Commissioner Moore asked if Mr. Green knew if those operators were utilizing their certificates. Mr. Green stated that this type of service was new to the City and he had been only the 4th applicant for such vehicles. He replied that American Rickshaw had obtained their licenses in 2000 and still were not on the streets. He stated they were paying their insurance, but not on the streets. He advised that Oceanview Rickshaw had 10 bikes but only 4 running rickshaws.

Vice Mayor Trantalis asked if Ms. Milano was aware of any details regarding the citations. Ms. Milano stated that she had not been present at the Community Services Board meeting, and therefore, could not speak regarding the issue. Vice Mayor Trantalis asked what was the overriding concern about the application for permitting so they could run their vehicles on the City streets. Ms. Milano stated that she felt the concerns were outlined by the Police Department in connection with the character and past performance of this applicant. She added that initial comments had come forward from the Police Department and had been part of the initial memorandum.

Vice Mayor Trantalis asked if the applications had been denied because the City did not want such additional vehicles on the streets, or were they denying the application due to the Police Department's past experience with this particular applicant. Ms. Milano stated that she believed it was a combination of both. She stated that the ordinance required that each department review the different criteria outlined, and items, which came forward, dealt with past performance and the character of the applicant, together with impacts regarding safety for the community. She stated that comments had been brought forward by the Police Department, including the Fire Department's comments regarding ingress and egress.

Ms. Milano stated that some of the comments made by the Police Department included statements as follows: "Due to Mr. Green's obvious disregard of traffic laws and City ordinances while operating a Pedi cab, they strongly recommended against the granting of the permits." She further stated that the Fire Department had concerns regarding stopping in the middle of the street to allow customers to get on and off.

Vice Mayor Trantalis stated there appeared to be a market for such vehicles and asked if it was "shame on the violators" for not respecting the laws, or shame on the City for not giving them opportunities to accommodate their type of business. He asked if possibly the City should not consider accommodating such a form of transportation, rather than

penalizing the individuals. He agreed if they impeded traffic or caused safety problems, then such things had to be taken into consideration. He reiterated that the City was a tourist destination, and he felt it would be beneficial for the City to accommodate such a market. He had hoped that something could be worked out in order to avail the tourists and residents of the City such form of transportation. Ms. Milano stated that the ordinance specifically talked about things to consider such as the size and intensity of the proposed operation, and its effect upon vehicular and pedestrian traffic flow over the proposed routes, along with their effect on neighborhoods and commercial areas. She stated that it also addressed the different routes and the adverse affect on traffic. She stated that it dealt with the ordinance. She agreed the market would drive any need for such a business. She felt they were bringing forth the concerns of the departments who had considered the matter.

Vice Mayor Trantalis asked if they were advocating denying the application because the City was not set up for such transportation. Ms. Milano stated she did not believe that was the case, and the information was contained in the Community Services Board minutes, along with the Police and Fire departmental comments, which tied into the criteria of the ordinance, that indicated there was no support from the departments.

Commissioner Moore stated if there were no places for loading or unloading passengers, then such places would not exist for the other businesses either. He felt that issue should not be on the table. He stated there was also the question about the credibility of this individual. He asked if Mr. Green was operating his business when he received the citations, or had he been working for another operator within the City. Mr. Wiener replied he was working for another company at the time. Commissioner Moore stated it appeared there were other issues, which had not been addressed in connection with this matter. He stated that he wanted to a compromise. He suggested that this individual be granted one year of permits for 5, and not the 10 being requested. During that trial period, the City could then see how he would operate the business.

Commissioner Teel asked if they could hear more information from the Police Department.

Assistant Chief Ortenzo stated that he did not have the back-up documentation regarding the exact disposition on this matter. He explained their input recommendation had been based on their opinion regarding safety of the operation. They did not feel it went to the heart of a conviction per se, but based on the fact that the citation had been written, plus input of the supervisors on the beach who were familiar with Mr. Green and his operation. It was their opinion that it did not meet the standard that they wanted for the City and the beach area. He stated they had no objection to such type of operation and they wanted individuals to be able to make an honest living. He stated it was a nice touch for the City, but there should be a standard of safety and the input received had not reached such standards. He explained that had been the basis of their recommendation.

Commissioner Moore stated it appeared that would reflect back onto the operator and not the employee. He reiterated that he was attempting to offer a compromise.

Motion made by Commissioner Moore and seconded by Vice Mayor Trantalis that this applicant be given permits for 5 Pedi cabs and 5 rickshaws on a one-year trial basis. Roll

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

ORDINANCES

Public Purpose Use/Site Plan Approval – City of Fort Lauderdale – Peele-Dixie Water Treatment Plant Case No. 4-R-04 (O-1)

An ordinance approving public purpose use. Notice of Ordinance No. C-04-22 was published April 8 and April 15, 2004, first reading was approved on April 2, 2004 by a vote of 5-0.

Commissioner Moore introduced the following ordinance:

ORDINANCE C-04-22

AN ORDINANCE APPROVING A FENCE AT A CITY PUBLIC FACILITY THAT DOES NOT MEET THE FENCE AND LANDSCAPING REQUIREMENTS IN A UTILITIES (U) ZONING DISTRICT, WHICH PUBLIC FACILITY IS MORE FULLY DESCRIBED AS THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 50 SOUTH, RANGE 42 EAST, SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, LOCATED ON THE EAST SIDE OF STATE ROAD 7, SOUTH OF DAVIE BOULEVARD AND NORTH OF SOUTHWEST 16TH STREET; AND GRANTING RELIEF FROM THE REQUIREMENTS OF THE UNIFIED LAND DEVELOPMENT REGULATIONS (ULDR) PURSUANT TO SECTION 47-18.26 OF THE ULDR REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA.

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

Public Purpose Use for Security Fencing – City of Fort Lauderdale – G.T. Lohmeyer Water Treatment Plant (Case No. 3-R-04) (O-2)

An ordinance approving public purpose use. Notice of Ordinance No. C-04-23 was published April 8 and April 15, 2004, first reading was approved on April 20, 2004, by a vote of 5-0.

Commissioner Moore introduced the following ordinance:

ORDINANCE NO. C-04-23

AN ORDINANCE APPROVING A FENCE AT A CITY PUBLIC FACILITY THAT DOES NOT MEET THE FENCE AND LANDSCAPING REQUIREMENTS IN A UTILITIES (U) ZONING DISTRICT, WHICH PUBLIC FACILITY IS MORE FULLY DESCRIBED AS THE EAST 247.39 FEET OF THE NORTH 194.22 FEET OF THE SOUTH 881.72 FEET OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 50 SOUTH, RANGE 42 EAST; TOGETHER WITH THE NORTH 194.22 FEET OF THE SOUTH 881.72 FEET OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 14, LESS THE EAST 1103.84 FEET THEREOF; TOGETHER WITH THE NORTH 282.5 FEET OF THE WEST 337.67 FEET OF THE EAST 1103.84 FEET AND THE NORTH 300 FEET OF THE EAST 766.17 FEET OF THE SOUTH 970 FEET OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 14, SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, LOCATED IN PORT EVERGLADES, SOUTH OF NORTHEAST 17TH STREET AND WEST OF EISENHOWER BOULEVARD; AND GRANTING RELIEF FROM THE REQUIREMENTS OF THE UNIFIED LAND DEVELOPMENT REGULATIONS (ULDR) PURSUANT TO SECTION 47-18.26 OF THE ULDR REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA.

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

**Public Purpose Use for Security Fencing – City of Fort
Lauderdale – Fiveash Water Treatment Plant (Case No. 2-R-04)**

(O-3)

An ordinance approving public purpose use. Notice of Ordinance No. C-04-24 was published April 8 and April 15, 2004, first reading was approved on April 20, 2004, by a vote of 5-0.

Commissioner Moore introduced the following ordinance:

ORDINANCE NO. C-04-24

AN ORDINANCE APPROVING A FENCE AT A CITY PUBLIC FACILITY THAT DOES NOT MEET THE FENCE AND LANDSCAPING REQUIREMENTS IN A UTILITIES (U) ZONING DISTRICT, WHICH PUBLIC FACILITY IS MORE FULLY DESCRIBED AS THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 49 SOUTH, RANGE 42 EAST, BOUNDED ON THE NORTH BY PROSPECT ROAD, ON THE EAST BY NORTHWEST 9TH AVENUE (POWERLINE

ROAD), ON THE SOUTHEAST BY THE WEST RIGHT-OF-WAY LINE OF INTERSTATE 95 (I-95), ON THE SOUTH BY NORTHWEST 38TH STREET AND ON THE NORTHWEST BY THE CSX RAILROAD, SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE AND THE CITY OF OAKLAND PARK, BROWARD COUNTY, FLORIDA; AND GRANTING RELIEF FROM THE REQUIREMENTS OF THE UNIFIED LAND DEVELOPMENT REGULATIONS (ULDR) PURSUANT TO SECTION 47-18.26 OF THE ULDR REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA.

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

Public Purpose Use for Security Fencing – City of Fort Lauderdale – Central Maintenance Shop (Case No. 1-R-04) (O-4)

An ordinance approving public purpose use. Notice of Ordinance No. C-04-25 was published April 8 and April 15, 2004, first reading was approved on April 20, 2004 by a vote of 5-0.

Commissioner Moore introduced the following ordinance:

ORDINANCE NO. C-04-25

AN ORDINANCE APPROVING A FENCE AT A CITY PUBLIC FACILITY THAT DOES NOT MEET THE FENCE AND LANDSCAPING REQUIREMENTS IN A UTILITIES (U) ZONING DISTRICT, WHICH PUBLIC FACILITY IS MORE FULLY DESCRIBED AS ALL OF BLOCKS 27 AND 27 A, "TWIN LAKES SECTION 2," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 30, PAGE 1 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED ON THE EAST SIDE OF NORTHWEST 10TH AVENUE, BETWEEN PROSPECT FIELD ROAD (NORTHWEST 44TH STREET) AND NORTHWEST 38TH STREET; AND GRANTING RELIEF FROM THE REQUIREMENTS OF THE UNIFIED LAND DEVELOPMENT REGULATIONS (ULDR) PURSUANT TO SECTION 47-18.26 OF THE ULDR REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA.

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

Amendment to Pay Plan (O-5)

An ordinance containing recommendations for amendment to Schedule I (Supervisory, Professional, and Managerial employees) and Schedule II (Confidential employees) of the Pay Plan as a result of our routine, ongoing reviews. The recommendations include the deletion of two (2) classes, the creation of two (2) new classes, the title change and

pay range adjustment of two (2) classes, and the adjustment of the pay range of one (1) class, all in Schedule I. In Schedule II, the recommendations include the creation of one (1) new class. Notice of Ordinance No. C-04-27 was published April 10, 2004, first reading was approved on April 20, 2004 by a vote of 5-0.

Commissioner Moore introduced the following ordinance:

ORDINANCE NO. C-04-27

AN ORDINANCE AMENDING THE PAY PLAN OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING FOR THE DELETION OF TWO CLASSES, THE CREATION OF TWO CLASSES, THE TITLE CHANGE AND PAY RANGE ADJUSTMENT OF TWO CLASSES, AND THE ADJUSTMENT OF THE PAY RANGE OF ONE CLASS, ALL IN SCHEDULE I; AND PROVIDING FOR THE CREATION OF ONE NEW CLASS IN SCHEDULE II.

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

Amend ULDR Section 47-1.12 – Effect of Annexation on Property (O-6)
(PZ Case No. 4-T-03)

At the Planning and Zoning Board regular meeting on March 17, 2004, it was recommended by a vote of 7-0 that the following application be approved. Notice of Ordinance No. C-04-26 was published on April 10, 2004, first reading was approved on April 20, 2004, by a vote of 5-0.

Commissioner Moore introduced the following ordinance:

ORDINANCE NO. C-04-26

AN ORDINANCE AMENDING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING SECTION 47-1.12, EFFECT OF ANNEXATION ON PROPERTY, TO PROVIDE ZONING REGULATIONS FOR EXISTING USES AND STRUCTURES ON PROPERTY ANNEXED INTO THE CITY OF FORT LAUDERDALE.

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

Georgian Oaks, LLC (1-ZPUD-03) (O-7)

- (a) At the Property and Right-of-Way Committee meeting of July 17, 2003, it was recommended that the exchange of property be approved.
- (b) At the Planning and Zoning Board meeting on January 22, 2004, it was recommended that the Georgian Oaks Plat be approved.
- (c) At the Planning and Zoning Board on January 22, 2004, it was recommended by a (5-3) vote, that the following application be approved. Notice of a public hearing was published on March 26, 2004 and April 2, 2004.
- (d) At the City Commission Meeting on April 7, 2004, Ordinance C-04-21 was approved by a vote of 5-0.

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

Angela Csinsi, Planning and Zoning Services, stated that she wanted to make a clarification regarding staff's Condition No. 4. It should read: "The eastern surplus land parcel shall be maintained by the development as a 10' landscape buffer yard."

Courtney Crush, attorney, stated that they agreed with staff's conditions, but the ordinance would expire within two years if the final plat was not recorded. She added that Broward County was not accepting plat applications at this time. She asked if possibly 3 years could be granted to them giving the City and County time to resolve this issue.

Mr. Csinsi stated that staff would have no objection to the extension.

Commissioner Hutchinson asked when that opinion would become available.

The City Attorney replied that it should be done some time next week. He stated they had to write the memorandum of law in support of the question, and reiterated they could not just ask the question.

Mayor Naugle asked if staff objected to the extension being requested. Ms. Csinsi replied that she did not object to the extension of time.

Commissioner Moore commented that if there were other individuals in the pool during the time this deliberation was taking place with the County, it might be in the City's best interests.

Mayor Naugle stated this ordinance would be introduced with the suggested change giving the applicant 3 years.

ORDINANCE NO. C-04-21

AN ORDINANCE CHANGING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, SO AS TO REZONE FROM RD-15 TO PLANNED UNIT DEVELOPMENT (PUD); A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 50 SOUTH, RANGE 42 EAST, BEING ALSO KNOWN AS ALL OF THE UNRECORDED PLAT OF "GEORGIAN OAKS," AS FILED WITH THE CITY OF FORT LAUDERDALE WITH THE ASSIGNED CASE NUMBER OF 9-P-03; LESS AND EXCEPT PARCEL 2 OF SAID UNRECORDED

PLAT, INCLUDING THE APPROVAL OF A DEVELOPMENT PLAN; ESTABLISHING THE DEVELOPMENT STANDARDS FOR THE PROPERTY INCLUDING BUT NOT LIMITED TO USES, HEIGHT, YARD, SETBACK, PARKING, OPEN SPACE AND LANDSCAPING; LOCATED SOUTH OF SOUTHWEST 20TH STREET, NORTH OF SOUTHWEST 24TH STREET, BETWEEN SOUTHWEST 17TH AVENUE AND SOUTHWEST 15TH AVENUE, IN FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, AND AMENDING THE OFFICIAL ZONING MAP AND SCHEDULE "A" ATTACHED THERETO TO INCLUDE SUCH LANDS.

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

Adult Uses

(O-8)

An ordinance amending Section 47-18.2, Adult Uses, to include a definition of sexually oriented material and sexually oriented retail establishment as an adult use and to prohibit the display of such material. Notice of Ordinance No. C-04-28 was published April 24, 2004, first reading was approved on April 20, 2004, by a vote of 5-0.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to defer this matter until June 2, 2004 at 6:00 p.m.

Vice Mayor Trantalis stated that this item first arose on April 7, 2004, when the City Commission had unanimously agreed that zoning in progress should be enacted in order to modify the Zoning Code that would restate the definitions for the type of retail establishment this particular business was to undertake. He stated that at the next Commission meeting of April 20, 2004, a first reading took place, which passed 5-0. He stated there had been significant discussion regarding the impact of the passing of such an ordinance. It was his understanding that once the zoning took place prior to the business having received their occupational license, then the establishment would be subject to the new ordinance, and therefore, they would affect the type of business, which would take place at the premises. He stated the name of the new establishment was to be "Hustler Hollywood." He asked if the City Attorney could provide some further clarification and asked what impact there would be on a business owner planning to do business in connection with adult materials at the site if the business opened after the change in the ordinance.

The City Attorney replied that the existing ordinance includes adult book and video stores, and if the store sold more than 51% of sexually explicit materials, it is an adult video store. He explained it was not a prohibited use, but there were separation requirements from residential and parks. He further explained that the language for adult bookstores was a substantial portion of the sales or inventory space. He stated that in regard to the video stores, they had suggested the wording be amended to change the 51% to substantial, and in the meantime, they discovered the City was involved in litigation in 1994 which had defined substantial regarding the adult book stores as 51%.

The City Attorney further stated that on April 20, 2004, there had been a first reading of an ordinance, which had made that change. He stated they were now proposing a totally

different approach which would define an adult oriented business that would have a substantial portion defined in percentages, based on studies that had been included in the Commission's backup, including case law and the experience the City's law enforcement officers had in the past. He stated the only place this could be placed was in the Zoning Code, which requires it to go before the Local Planning Agency (LPA). He explained that on April 21, 2004, the LPA met, but there was not the opportunity to present this matter to them. Therefore, they were asking that this matter be deferred until June 2, 2004, at 6:00 p.m. so it could be presented to the LPA and adopted through the normal process.

The City Attorney stated that the best shot they had in applying this to the proposed business was to get it done prior to their request for an occupational license. He stated this ordinance would not prohibit the establishment from opening, nor would the old ordinance. He stated the ordinance would have to be evaluated once it was adopted as to whether the establishment met the criteria based upon the operation of the business, and then they would determine if the business could be shut down.

Vice Mayor Trantalis stated that he did not think the intent was to shut down any business, but to what extent the business would be permitted to sell sexually explicit materials. He stated it was his understanding that on April 7, 2004, there had been a remedy by which the City could restrict the amount of adult themed materials at the location, and such remedy recommended was to include adult video store under the definition of an adult book store. Therefore, through the change of definition, they would allow such definition to approach the desired goal they were seeking. He asked if they had discovered case law that would accomplish what they thought they were going to accomplish with the enactment of the ordinance as presented on April 20, 2004.

The City Attorney explained that what had been presented on April 20, 2004, and what had been stated on April 7, 2004, had been consistent. He did not think they had ever stated that the business would be shut down or prohibited from opening, based on the ordinance and how it was written and based upon the definition. He further explained they did not know if the establishment was an adult video or bookstore until the business was operating due to the fact that their sales had to be 51% of a certain type of product.

Vice Mayor Trantalis further stated that tonight they were being told that whatever had been proposed on April 7, 2004 and what had been passed on April 20, 2004, regardless of the language, would still not have the effect they were attempting to achieve because of a case law dating back to 1994. He clarified that now an actual zoning change was needed.

Mayor Naugle stated that the matter had to appear before the LPA, and it was not really a zoning change. He explained if the matter did not go through the normal channels, then someone could ask for the matter to be thrown out due to the fact that it had not been adopted properly. He stated it was his understanding that staff had made the determination that an occupational license could not be issued until the building was remodeled and completed.

The City Attorney clarified that an occupational license could not be issued until a certificate of occupancy was issued.

Vice Mayor Trantalis stated he was not sure that it would not happen sooner than later. He asked if it was known that the City had to go through the Planning & Zoning Board at the April 7th or April 20th meeting, or was it discovered after the fact and the City has to comply.

The City Attorney explained that this matter arose and advice had been given "on the fly." He stated it had not been placed on the agenda and was an item that had been raised during the meeting. In an attempt to accommodate the Commission as best as possible, they came up with a theory, which if zoning in progress had been attempted, then perhaps it could assist in keeping this type of business away from parks, churches and residential dwellings. At the time they put the ordinance together, they had no studies or other information to back it up. He stated they then went out and attempted to collect such studies, met with staff, and proceeded to prepare a draft ordinance. In the meantime, they continued their research and discovered that the City had litigation, which defined substantial as 51%. In fact, the litigation was on this very ordinance. Therefore, they began to look at the studies with staff to see whether there was another approach that could be taken. He explained the store being proposed, along with their discussions with the owner, was not an adult book or video store. It was an adult video/book/toy/clothing store, and none of such items were more than 30% to 40% of the total sales of the store. It, therefore, fell within no definition that the City had previously contemplated. Now, they were proposing that a new definition be provided of an adult oriented sales retail store, where if a total combination of all sales amounted to more than 40%, it would meet the definition of an adult use and would have to be located 500' from churches, parks, schools and residential dwellings.

Vice Mayor Trantalis stated that in the back-up material, it stated that an emergency meeting could be scheduled for the Planning and Zoning Board providing 10 days notice. He asked if such a meeting was requested would that allow them to take action regarding this item at the Commission's next meeting. The City Attorney confirmed and stated that had been included in the back-up material. Vice Mayor Trantalis reiterated that they were now "racing against the clock," and knowing the owner was doing their build-out as fast as possible would it make more sense that the Commission request such an emergency meeting be held.

Commissioner Moore stated he was concerned because if a special meeting was to be called, there still had to be a majority of the board members available for such meeting. He asked if that was done and they were challenged regarding the ordinance, would there not be a legal argument for the entity they were attempting to stop to "hang their hat on." He stated their actions would show that they were targeting such an individual.

The City Attorney explained that based upon the applicant and the litigation history of such applicant, there was little doubt that no matter what steps were taken by the City in the process that might be unusual or out of the ordinary, it would be challenged.

Commissioner Moore further stated that due to the fact that the occupational license would be the issue, along with the certificate of occupancy, he asked if they could proceed by June 2, 2004.

Vice Mayor Trantalis believed this Commission should show their commitment to make every possible effort to impede the progress of the opening of this establishment under the old law, which would allow them to sell more than the 30% to 51% of sexually explicit

material. He proceeded to show a photograph of the proposed establishment. He felt it was not a polite, reserved, suburban retail establishment, and reiterated that it was an "in your face" place within 500' of a church, and would not be a good neighbor. He stated it was unfortunate that this Commission did not feel that this was important enough to show the residents of the City that they cared not to violate due process, but to exercise it with the means that were afforded to them even if a special meeting was necessary.

Commissioner Moore stated there were other ways to deal with this matter, including the sign ordinance that would address such an issue. He stated that he did not mind going to a fight for a cause one believed was genuine, and reiterated that he had consistently asked the Commission to support inspections for housing units so individuals could live in quality housing. He stated he could not obtain such support, but yet he felt adamant that it was the appropriate thing to do. He stated he did not want to find the City in court on the losing side utilizing something that would give the opposing individual solid ground to win. He recommended that they use June 2, 2004 as recommended by the City Attorney's office.

Mayor Naugle remarked that he had no objection to a special meeting, but would defer to the City Attorney. He added that to have a special meeting, advertising requirements had to be met, and asked if the City Attorney had a recommendation as to how fast this could be resolved. He asked if they felt the June 2nd date was as quick as the matter could be resolved.

The City Attorney explained that he felt the June 2, 2004 date was when they could have this taken care of through the normal course of business. He stated if the Commission wanted to attempt to have the Planning and Zoning Board schedule a special meeting, all meetings and hearings would have to be noticed.

Mayor Naugle asked if there would be any harm in deferring this item until the May 18, 2004 Commission meeting with the idea that if Planning and Zoning could not complete the matter, then it could be deferred if necessary. The City Attorney stated it was hard to tell what would jeopardize the City's efforts in this case because anything out of the ordinary would be challenged as an attempt to put obstacles in the owner's way. He further stated if the Commission wanted to defer this matter to their next regular meeting, they would attempt to have the LPA meet in the interim and have all appropriate advertising done by that time. If for some reason they were not able to meet during that time, then the item could be deferred until June 2, 2004.

Vice Mayor Trantalis asked, depending on the outcome of the Planning and Zoning meeting, would this Commission consider holding a special meeting of their own regarding this matter.

Commissioner Moore stated that anything done out of the normal would lessen their opportunity of obtaining what they wanted in the end, but he would go along with whatever was being recommended. He stated they all had the same desires, but he did not want the City to lose in the end.

Motion made by Commissioner Hutchinson and seconded by Commissioner Moore to defer this item until May 18, 2004 at 6:00 p.m.

Commissioner Teel asked how far the owners were from completing their project and obtaining their certificate of occupancy.

Cecelia Hollar, Director, Construction Services, stated she had checked on their building permit activity, and it did not appear they were close to getting their certificate of occupancy. She further stated that whatever plans had been shown to the Commission, none had yet been reviewed by their office and it did not appear they would meet the conditions of the existing sign ordinance.

Mayor Naugle reiterated that plans had not even yet been reviewed, yet alone permits being issued.

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

Motion made by Commissioner Moore and seconded by Commissioner Teel to defer this item until June 2, 2004 at 6:00 p.m.

Vice Mayor Trantalis reiterated that he specifically had asked for a special meeting and had been given every reason why one should not be held since it suggested they were violating due process through such action. He asked if a special meeting was still going to be scheduled.

Commissioner Moore stated that staff was to attempt to see if a special meeting could be held, and the matter would be deferred until May 18, 2004.

Vice Mayor Trantalis stated that he misunderstood what had been stated.

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

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to defer this matter until May 18, 2004 at 6:00 p.m. Roll call showed: YEAS: Vice Mayor Trantalis, Commissioners Moore, Hutchinson, Teel and Mayor Naugle. NAYS: None.

**Amend Ordinance NO. C-04-5 Regarding General
Employees' Retirement System**

(O-9)

An ordinance amending the deadline for rollovers from defined contribution plans into General Employees' Retirement System for Previously Ineligible Employees and for Non-classified Employees. Notice of Ordinance shall be published between first and second readings.

Commissioner Moore introduced the following ordinance:

ORDINANCE NO. C-04-29

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE,
FLORIDA RESPECTING THE GENERAL EMPLOYEE'S RETIREMENT

SYSTEM BY AMENDING SECTIONS 4 AND 5 OF ORDINANCE NO. C-04-5 TO PROVIDE MODIFIED DATES FOR COMPLETION OF ELIGIBLE ROLLOVERS TO RECEIVE RETROACTIVE SERVICE CREDITS.

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

CITIZEN PRESENTATION

John J. Greenfield – Code Amnesty Program

John Greenfield stated that he had received a letter from the City Manager's office offering him the opportunity of a one-time amnesty of 25%. He stated that he had sent a check by registered mail, but the check had been returned stating that an error had been made in sending him the letter. Two weeks later, he advised that he had received another letter offering him the same opportunity. He asked why he could not take advantage of this program.

Commissioner Hutchinson stated that this matter had been presented to the Commission at their November 18, 2003 meeting, but a letter had been sent in error.

Commissioner Moore stated that the letter had been sent in error and explained that the Commission had already taken a vote on how they were going to treat this program. He stated a policy had been adopted that if a discussion was held regarding a settlement on any case and a conclusion was made, such determination would remain.

Mr. Greenfield stated that he had received a legal document from the City Manager, and further asked if that office was excluded from this due to an error. He stated there had been an error in the two months he had been fined on the property. He stated he was accountable for the violations.

The Acting City Manager stated there were some cases that had come to his attention that errors had been made. He explained that letters had been sent out in error, and the Commission had not authorized such letters. Specific instructions had been given to the City Manager's office, stating that anything previously determined by the Commission would not be included in the Amnesty Program. He stated the matter had been explained to the resident upon the return of his check.

Mr. Greenfield stated that the law stipulated that an offer of compromise could not be withdrawn once offered.

Commissioner Moore told the individual to seek counsel on this matter.

Vice Mayor Trantalis asked if they were estopped from allowing the individual to make such a claim. The City Attorney replied the answer was no, because an error had been made. He stated that the individuals collating the letters did not have the authority to change the policy of the Commission. Vice Mayor Trantalis asked if a letter from the City Manager served as apparent authority to such a resident. The City Attorney stated he did not believe so.

Mr. Greenfield asked if the Board could re-examine this matter regarding his assessment. He felt some of the facts quoted at the original hearing had been wrong.

Mayor Naugle stated that the Commission did not want to change their policy and the determination was that if a letter had been sent in error, it was not an offer and they were sorry for the inconvenience.

RESOLUTIONS

**Appeal of Planning and Zoning Board’s Grant Application, (R-1)
Florida Inland Navigation District (FIND) - Waterways
Assistance Program Grant – Project 10754 - Riverwalk
South Regional Park Project Phase III – Amended
City Commission Resolution 04-35**

A resolution authorizing the proper City officials to proceed with further execution of all documents necessary to receive such grant funding.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-93

A RESOLUTION OF THE CITY COMMISSION OF THE CITY
OF FORT LAUDERDALE, FLORIDA, AMENDING CITY
COMMISSION RESOLUTION 04-35, REGARDING THE
RIVERWALK SOUTH REGIONAL PARK PROJECT, PHASE III,
INCLUDING ADDITIONAL VERBAGE TO COMPLY WITH
FLORIDA INLAND NAVIGATION DISTRICT’S REQUIREMENTS.

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

Lot Clearing/Cleaning Charges (R-2)

A resolution authorizing the imposition of a lien against the properties for costs associated with lot clearing/cleaning.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-94

A RESOLUTION OF THE CITY COMMISSION OF THE CITY
OF FORT LAUDERDALE, FLORIDA, ASSESSING AGAINST THE
PROPERTIES DESCRIBED IN THE SCHEDULE ATTACHED
HERETO THE COST AND EXPENSE OF CLEARING LOTS

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

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

**NW 7/9 Avenue Connector Project (P-9295) - Funding (R-3)
For Detailed Design – Local Agency Program (LAP)
Agreement with the Florida Department of Transportation (FDOT)**

A resolution authorizing the filing of an application with the Florida Department of Transportation (FDOT) for a Local Agency Program (LAP) funding agreement for costs associated with the detailed design of the NW 7/9 Connector, authorizing the proper City officials to execute said LAP agreement and authorizing the local funding match in the amount of \$200,000.

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-95

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO FILE A LOCAL AGENCY PROGRAM APPLICATION WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), ENTER INTO A LOCAL AGENCY PROGRAM (LAP) AGREEMENT WITH FDOT AND FURTHER AUTHORIZING THE PROPER CITY OFFICIALS TO PROVIDE REQUIRED LOCAL FUNDING PERTAINING TO THE DESIGN OF THE NW 7/9 AVENUE CONNECTOR PROJECT.

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

Advisory Board/Committee Appointments (OB)

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

Community Appearance Board Holly Giertz

Education Advisory Board

Chris W. Carney
Alice Hendrickson
Lincoln Pasteur
Betty Shelley

Planning and Zoning Advisory
Board

Randy Powers

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 04-92

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

There being no other matters to come before the Commission, the meeting was
adjourned at 7:45 PM.

Jim Naugle
Mayor

ATTEST:

City Clerk
Jonda K. Joseph