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COMMISSION CONFERENCE

1:34 P.M.

OCTOBER 19, 2004

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

Also Present: City Manager – George Gretsas
City Attorney - Harry A. Stewart
City Clerk - Jonda K. Joseph
Sergeant At Arms – Sergeant Rick Schultz

I-E – November 2, 2004 Commission Conference and Regular Meeting

Mayor Naugle said that the next Commission meeting is scheduled for Election Day, November 2, 2004, and discussion ensued regarding changing that date. He said further that November 3, 2004 is suggested for the meeting date, but he could not attend on that date because he has an unavoidable conflict. The Commission set the next meeting date for November 1, 2004.

Action: November 1, 2004 to be the next Commission Meeting.

I-A – Street Naming Policy

Peter Partington, Acting City Engineer, said there is a request from Kaplan Inc. to add the name of Kaplan University Avenue to the length of NW 15th Avenue from NW 62nd Street to NE 64th Street. The street naming policy does not exclusively address adding commercial organizations to street names. There is one precedent, Blockbuster Plaza on 72nd Street. There is only one affected property owner, and he has a verbal agreement from that property owner. He added that a letter is sent by the Fort Lauderdale Crown Center in support of the name change. Staff is recommending that the Commission consider this request, which is scheduled as a resolution at tonight's meeting.

Commissioner Moore said that he did not think this matter should be considered at all.

Commissioner Teel said that she had attended some of the meetings when Kaplan had met with Broward County and the Broward Alliance. They are bringing over 700 jobs to the area in the first phase with another 700 shortly thereafter. She said the second group of jobs would be dependent on the cooperation received from the City. This organization is an online university system that is quite large, and they are moving people from Boca Raton to Fort Lauderdale to a building at the airport. In addition, they are building an accessory building, along with a parking garage. She said that their "boutique" mailing address is important to them in an attempt to identify their commitment to the City of Fort Lauderdale. She said this is a short two-block area, and the only affected property owner is in support of this request. She said they would not be taking away the name of NW 15th Avenue, adding the name underneath. She felt the jobs being brought to the community are good jobs. She urged the Commission to support this request.

Mayor Naugle believed this is done previously for a doctor's office on NW 6th Street.

Commissioner Moore said it is done because the neighborhood wanted it since the doctor delivered more African-American babies in the county than anyone else. He added that the doctor is no longer practicing. This is a different situation. Commissioner Moore said he would concede on this issue since it involves the Airport property, but he is concerned about naming the street after a business. The Enrons of the world showed that such groups could be problematic.

Lisa Gethins, Vice President for Human Resources and Legal, Kaplan University, said they are thankful for everyone's help in this matter. She said they are not Enron, but a regional highly accredited university based in Davenport, Iowa. She said that online they have over 12,000 students registered, and employ 1,200 people in Boca Raton who are being relocated to Cypress Creek. It is conditioned on the fact that they work in partnership with the City of Fort Lauderdale and Broward County. She indicated that it is their commitment to be a great partner. She said that the road would be recognized as a symbol of the partnership throughout the country.

Commissioner Teel said that the Airport is a distinct area, and the road in question is a small portion.

Vice Mayor Trantalis said that he wanted to approve this request, but he also wanted to make sure that every business in the area does not begin making similar requests. He said the adopt-a-road program is not an official renaming, and asked how this would occur and what criteria is to be used to sift through future applications. He wanted the main street number to remain dominant.

Commissioner Hutchinson indicated that they are not renaming the street, but only adding an additional name.

Mr. Partington indicated that as to which name appears first is dependent on how the resolution is worded.

Commissioner Teel continued stating that this is a unique situation and discussion regarding criteria could be held at a future time.

Mayor Naugle said that the City has a policy that no street naming would be done in honor of living individuals. He felt that a significant number of jobs are going to be provided, and the group is a university, not actually a corporation selling products or services. The City could review each request on a case-by-case basis.

Commissioner Moore continued, stating that he thought this issue was in regard to setting a policy for the future. He suggested that they not consider a property unless it is one the City has courted to bring into the community, such as this case. He felt it would not be unfair to other present business owners because they are well established in the community. He continued, stating that the Commission would be showing that they are attempting to induce businesses to come into the community for economic benefit. In other name changes for streets, he felt they should be strict in their criteria.

Commissioner Hutchinson said that everyone needs to understand that the name of the street is not being changed, and that they are only adding a name.

Action: Request approved.

I-B –Swimming Instructional Programs at Aquatic Complex

The City Manager said there has been a lot of communication back and forth regarding this issue, and he felt it is important to understand that there are two pieces to this controversy. The first involves the swim team, and the second portion involves private swimming lessons. In the past one entity has involved itself with both sections of the complex. Jack Nelson Swim School deals with the competitive swim team, and also gives private swimming lessons.

The City Manager said that in regard to the private swimming lessons, there are two components. One component involves one-on-one lessons, and the other is group lessons that are handled through Jack Nelson. On tonight's agenda, there is a contract for the swim team component of the complex, and he believed there is an agreement from Mr. Nelson and the City that he agrees to relinquish the swim team component. The issue is whether the City should handle private lessons or continue with the Nelson organization. The City has agreed that Mr. Nelson should handle the one-on-one lessons. In regard to the group lessons, there is an agreement with Mr. Nelson but the decision for the Commission is whether it is worth the \$30,000 or \$40,000 the City could raise in providing the lessons. He continued, stating that he did not know what value the Nelson name has to the program, and what amount of business would be lost. He said that Bruce Larkin, Director of Business Enterprises, would explain the deal that is on the table for consideration by the Commission.

Commissioner Moore asked if the Nelson organization pays the City for the time spent in training at the pool.

Bruce Larkin said that a pool fee, per se, is not paid, but there is a provision in the contract regarding the summer swim camp, and each participant is required to pay a fee.

Commissioner Teel said that she had received a letter on October 6 signed by Mary Jackson, Director, and Dan Walter, Coach, and she felt it is misleading to the public. She asked if erroneous information had been supplied.

Mr. Larkin said that he had gone back and attempted to review the history. He continued stating that a 30-year relationship has developed, and by all accounts, Mr. Nelson and his staff have provided excellent service. The contract that is to expire on October 31, 2004, was entered into in 2002, and at that time a letter received from Mr. Nelson announced that in 2004 he was going to retire from the competitive swim team portion of the contract. There is a two-part contractual arrangement. One part involves the competitive swim program where Mr. Nelson is paid a salary, along with expense monies. There is some revenue sharing regarding jointly sponsored swim teams. Mr. Nelson indicated that he wants to retire from that component of the program. Therefore, a new contract was prepared so the swim team could transition to a new program beginning November 1, 2004.

The City Manager said that what is causing confusion is a letter sent to the parents, explaining that the swim team would no longer be in effect, and those individuals should go elsewhere for such activities.

Mr. Larkin confirmed that the letter has caused some confusion. He continued stating that if the Commission approves the contract, then a letter would be sent to the swim team, explaining that a program would be in effect and they could continue at the Aquatic Complex. Regarding the instructional portion of the program, the letter from Mr. Nelson, dated in 2002, said that he wanted to continue a role regarding that part of the program. The City had not given a written response but verbal conversations had been held with recreational personnel. The agreement is hard to piece together, but it is his understanding that the City thought that Mr. Nelson would continue with private swimming lessons. Mr. Nelson is under a different impression and thought that he would continue with private and group lessons.

The City Manager felt that the word "private" is causing confusion. He continued stating that the City thought private referred to one-on-one lessons, and Mr. Nelson thought that it referred to the private programs that he ran.

Mr. Larkin said the genesis of the letter is that at the time of the expiration of the contract, discussions were held between the Complex, staff and the Nelson organization regarding the relationship. They felt that the relationship is changing in a way they had not agreed to, and therefore, the letter was sent out. They are attempting to reduce the City's costs for such services, and to increase the revenue. On the competitive side, the contract reduces the City's outflow of cash by \$66,600 per year, which is a significant reduction. They also built-in a pool use fee of \$10,000 per year. On the instructional side of the contract, there are several options. One is for the City to run their own instructional swimming lessons during the summer, and the City could expand such programs into year-round lessons. He proceeded to explain that in Exhibit 1, staff attempted to explain the revenue potential for such programs. It would net about \$64,000 in revenue for the City.

Mr. Larkin said that the other scenario is that they could negotiate a better deal from the City's perspective with the Nelson group in order to allow them to continue providing group-swimming instruction, but with a greater return to the City. Discussions were held and a better revenue sharing arrangement had been agreed to regarding the instructional portion of the contract. Presently, the contract reads, regarding one-on-one instructions, that the City would receive 10% of the revenue that totals about \$10,600 per year. The new agreement is that for the first \$100,000 of gross revenue from private lessons, the City would receive 20%, and for the lessons generated over \$100,000, the City would receive another 5%.

Mr. Larkin continued, stating that regarding the group lessons, if the City continues the relationship with the Nelson group, they would put a formula in place giving the City 20% of the first \$100,000 and an additional 5% thereafter. Based on the numbers of what is presently being generated and what the City feels could be generated using the new formula, the City would receive about \$41,322. He said the question is whether the City wants to go into business themselves and generate \$64,000 of revenue, and have the responsibility of also marketing and staffing the facility, or should the City cut a better deal with the Nelson organization and generate about \$30,000 of revenue for the City.

The City Manager said that the contract expires at the end of October. The City needs to be up and running by November.

Mr. Larkin said that Staff needs further direction. He announced there is a provision for 7-day pool use agreements also. If there is consensus to work with the Nelson group, then they would negotiate further. Interim use agreements could be prepared until the new contract would be presented in November to the Commission.

Vice Mayor Trantalis asked when Mr. Nelson conducts lessons is the public excluded from using the pool. Mr. Larkin said that the pool is never closed to the public.

Stu Marvin, **add his title, he is a city employee Aquatic Manager or something that recently retired - Hall of Fame Pool Manager**, said that multiple programs are going on at the same time. The public is never excluded.

Vice Mayor Trantalis asked for further clarification as to how this situation arose after a 30-year relationship.

Mayor Naugle said that the letter from Mr. Nelson two years ago announcing his retirement from coaching had triggered the situation. The City has not formally answered the letter, but they accepted his resignation from coaching. A misunderstanding occurred.

The City Manager said that last year an estimation had been made regarding \$30,000, and he felt that is relevant to today's decision.

Mr. Marvin said there were two departments asked to use the zero based budgeting process, they were Parks and Recreation and Finance. Their budget had been presented to the former Acting City Manager who was not pleased with the revenue projections, and he asked the department to come up with a certain amount of additional revenue. Staff had to cover a 17% increase in fees in order to cover that request for additional revenue. Additional revenues had also been put on arbitrarily for different sections, including the pool, consisting of \$30,750.

Mr. Larkin said that the Acting City Manager had gone into certain line items and increased numbers to the tune of \$30,750 without discussion. Aquatic Complex staff is trying to meet a revenue number.

The City Manager said the problem is that no one was aware of this, and the policy decisions being made by staff. As a consequence, they are facing the present situation.

Mayor Naugle clarified that the choice is to either continue with the Nelson organization or have the City take over lessons.

Commissioner Moore said that what he read in the material provided is the fallacy that the City constantly continued, and in this case they gave the pool to a private operator and it has not been competitive for 30 years. He remarked that the same thing happened for 60 years regarding the beach concession. He added that the City has not made their assets competitive.

Commissioner Hutchinson left the meeting at approximately 2:14 p.m.

Commissioner Moore continued stating that there is value in a name. But by not using a competitive process, he felt the City continually allows the taxpayers to subsidize such

programs. He said it is time to re-evaluate this matter. He felt the item should be put out for bid so the public would have accessibility to a public process regarding their asset. He indicated that the City had made a mistake.

Commissioner Hutchinson returned to the meeting at approximately 2:16 p.m.

Commissioner Moore further said that Mr. Nelson is a force in any swimming pool, but asked why this had never been put out for bid.

Mr. Marvin said this is a 30-year agreement, which had been in place before he appeared on the scene.

Commissioner Moore said it is a policy of government that when they utilize a public property, the item should be put out for bid.

Vice Mayor Trantalis said that there might be certain things unique to the talents and qualities of the Nelson group.

Commissioner Moore asked what other contracts in the City had not been put out in a competitive process.

The City Attorney said that this issue arose a couple of years ago. The contract was extended for two additional years. In the meantime, other contracts held by Parks and Recreation had been reviewed and similar circumstances had occurred. Therefore, the ordinance was amended and contracts had been awarded to big names in the industry that are a draw.

Mayor Naugle asked the City Clerk to obtain a copy of the minutes of the Commission meeting when the ordinance had been amended, along with a copy of the amended ordinance.

The City Attorney proceeded to explain that the ordinance was changed to allow for the present contract, and the relationships the City had with individuals working in Parks and Recreation who provided specific programs, which had an unusual claim to fame in their particular industry.

Commissioner Moore left the meeting at approximately 2:19 p.m.

Kev Cavanaugh asked if there are two entities giving lessons at the complex would they share office space and would income be generated.

Mr. Larkin said that the current contract provided the Nelsons with 990 square feet of office space at the complex, which is not space that could be rented out.

Commissioner Moore returned to the meeting at approximately 2:21 p.m.

Mr. Larkin continued, stating that if they are to continue the relationship with the Nelson group, then staff's view is to reduce the amount of office space in half, giving both the instructional portion and the swim team portion about 500 square feet of space for their utilization. It would be hard to market that amount of space to another entity not related to the complex.

Debbie Cavanaugh said that she felt there is a conflict of interest in both entities using the same office space.

Mr. Marvin said that swimming is instructional in nature, and he realized there might be some inherent conflict, but they do their best to explain to everyone that several options exist at the facility. He continued, stating that they worked through the problems and everyone received some of the business, but he emphasized that a problem does exist.

Commissioner Moore asked if Mr. Nelson is paying the City any revenue for use of public property as his office space. Mr. Larkin said that the office space is part of a larger agreement. He said there are various pieces to the agreement. Commissioner Moore said that it is his impression that the reason the City did the single source relationship with Mr. Nelson is because he is advertising, but now it is confusing. Mr. Larkin said that it depends on the person's interest as to who would provide the service. He further said that the City's summer programs are more affordable.

Julie Berry said that she watched the growth of the Hall of Fame, but competitive swimming is a different type of program than the other ones offered by the City. She further said that the Nelson group is very qualified and the name makes a difference to individuals who are seeking specific types of programs and training. She also said that it is a healthy program and inspires the children to work hard. She wanted her child to continue in such an atmosphere. She indicated that City staff also does an excellent job, but there is a difference between regular lessons and competitive training.

Dan Lauder, representative of the Nelson Swim School, said that he has some informational packets to distribute describing the school. He said they need to be competitive and they are all about competition. They have a quality program with quality students. They are doing more than teaching infants; they are building a stepping-stone within life for children. They want to compliment the continued growth of competitive swimming in the City. He remarked that he had come to the City from Indiana specifically to train under Coach Nelson. He developed an understanding regarding the legend that the Coach had made within the swimming world. The City offered a great compliment to their program, and they have enjoyed working with the City for the last 30 years. Recently there has been some miscommunication and rumors. He further said that they had been informed that they were being mandated by the City Manager's office to discontinue group lessons. As of November 1, 2004, Coach Nelson is to retire and the organization would begin providing the City with additional revenue. He indicated that they want to have a good relationship with the City.

Dagmar Bassett said that her children take lessons from the Nelson organization and she would follow them wherever they would go. She felt they do a great job.

Mr. Cavanaugh said that Mr. Lauder is speaking about competitive swimming, but they are not going to be involved in that portion of the program any longer, and therefore, the comments made do not carry much weight.

Peggy Nolan said that her daughter is on the competitive swim team, and they had received a letter explaining that there would no longer be any competition swimming in the City. She realized the City had a lot on their plate at this time, but as a Commissioner

in another city, she felt they need to table this item until further research could be done. She added that she is from Deerfield Beach.

Mary Jackson, Director of Jack Nelson Swim School and daughter of Mr. Nelson, said that the difference is that they create stepping-stones onto the competitive team. She further said that during the last 30 years this program has been developed.

Jack Nelson said that he has lived here for the last 54 years. He proceeded to offer some history as to how he arrived in this City. He said that this City deserved to have the best. He further said that Bruce Larkin is great to work with and delivered quickly and efficiently. Each year, he said that between 20-40 countries visit the pool and train in this City. He said they are not asking for any money, but want the opportunity to work with families. He further said that the mandate had been a surprise when it was presented to him on October 4, 2004. He realized the City is in financial straits and he is willing to give things up to help, but he still needs to make an income. He proceeded to apologize to the City for the letter he had sent, but stressed that he had been surprised.

Commissioner Moore said that this is a public asset and if it is being given to anyone in order to generate revenue, then it should be done on a competitive basis. The present contract is to be with the school, and the old contract had been with the Nelsons themselves. He did not feel the appropriate action is to hand down the contract to the school without a competitive process. He stressed that this is public property, and the public deserves the opportunity to compete.

Mayor Naugle said if something like that is to be done, the time would have to be extended on the contract.

Commissioner Teel said that this whole experience points out the importance and necessity that as contracts begin to expire; they should not wait until the last minute to address the issues. She felt they need to handle this issue correctly.

Commissioner Hutchinson thanked Mr. Nelson for his public apology. She indicated that everyone had been placed in a bad position. She said that Mr. Nelson brought a tremendous amount of respect and professionalism to the Aquatic Complex, along with his name bringing a talent the City is fortunate to have. Likewise, their contract is expiring after 30 years, and she agreed that it is public property and normally governmental actions have a process to follow. She felt more information is needed, and the City is a process-oriented entity. She believed it might be time to see what is out there, and they might find out that the City already has the best and no changes should be made.

Vice Mayor Trantalis said that he felt the issue needs to be revisited.

Mayor Naugle said that a selection committee would be appointed and recommendations accepted, along with an implementation period. He further said that in the interim, the contract would be extended for about 6 months.

Commissioner Teel suggested that the extension be monthly in case things could be brought together more quickly.

Mr. Larkin suggested they follow a month-to-month process. He said they could do a series of 7-day pool agreements, but the contract is interlaced with provisions that relate to the Fort Lauderdale Swim Team, including competitive and instructional components. The contract could be extended on a month-to-month basis, absent any provisions for compensation.

Mayor Naugle said that he is not considering extending the existing contract, but to use the framework of the proposed contract on a temporary basis. He asked if they use a 7-day notice process, how could someone plan ahead.

The City Attorney said if there is an agreement with specific terms, then they could use whatever period of time the Commission desires. The Code gives authorization to the City Manager to grant use of the pool to everyone for a period of 7 days.

Commissioner Moore suggested that if there is to be an entity on City property that is not City connected, then the office should be separate and apart with a dollar amount per square foot. The Nelson Swim Team does not have to operate at the pool, but he believed a lease should be drawn separately for the office area. If consideration is to be given what should be included in the product provided, then an RFP should be written. They have already agreed to the reduction in services. He suggested that the limited agreement be for no more than six months, and the RFP be out on the street and be responded to in that time period. Therefore, it would give the City the opportunity to work things out.

Mr. Larkin suggested that the RFP contain a provision, listing a specific amount of office space available and bids could be submitted regarding that space.

Mayor Naugle said that tonight there is an agreement being brought forward regarding the competitive programs, and Jack Nelson would continue to provide the lessons outlined, not to exceed six months.

Action: RFP to be prepared. Contract with Jack Nelson for swimming instruction, camps and related, to be expire October 31, 2004, to be extended for a period not to exceed six months.

Commissioner Moore asked if they could skip ahead on the agenda and address the affordable housing issue. He added that many individuals are present to discuss the matter.

Marc LaFerrier, Planning and Zoning Services Director, announced that Jaimie Ross would be present until about 6:00 p.m.

I-C – Northwest Commercial Redevelopment Project – Milton Jones Development Corporation

Mr. LaFerrier said that this item is in regard to the redevelopment of City-owned property at Sistrunk Boulevard and the Avenue of the Arts. He announced that a presentation would be given today regarding a proposed revision to the original development plan that had been previously submitted to the Commission. He added that part of today's discussion would involve the proposed supermarket for the site. About a year ago, the Commission gave the development company until November 18, 2004 to secure an

acceptable letter of intent for a supermarket to be part of this project. If the Commission decides today that the proposed supermarket is acceptable, then staff could proceed with additional review of the project. If the Commission decides the supermarket is not acceptable, then the developer could modify the proposal or bring forth another type of grocery store before November 18, 2004.

Shawn Jones, Milton Jones Development Corporation, said that his father, Milton Jones, is also present at today's meeting. He said that their agreement required them to obtain a letter of intent from a food store within a 12-month period. He said they have done that. The agreement specifically asks for documents executed by the developer and a food store, for example, Publix, Winn Dixie, Whole Foods, Wild Oats, or a food store of a similar nature, whereby the food store indicates their intent to locate within the project. He said that Neighbors Food Market, Inc. provided them with a Letter of Intent, which was submitted, to the City. This food store owns and operates stores in the cities of Perrine and Sunrise. He proceeded to show photographs of the Neighbors Food Market, Inc. from another location. He added that no one is present at today's meeting from the store.

Mr. Jones further said that they are requesting to proceed with other aspects of the development prior to the construction and opening of the grocery store because they do not want to impact the store with the construction of the other buildings, since there could be a negative impact on their revenue. Residents living in the community would have a positive impact on the store by patronizing it, and would help make it successful. He added that they have also requested to add the Church's Chicken site, which is located on the corner. They are willing to relocate their operation to another site along the Sistrunk Corridor, which would then allow them to have a more superior development. He proceeded to show the site plan that is presently part of their agreement.

Mr. Jones continued, stating that if they acquired the Church's Chicken site, it would enable them to open the corner of NW 7th Avenue and Sistrunk Boulevard for further development. The food store could be located in that area. He felt this development would set the tone for the corridor for the type of development everyone wants in the CRA.

Commissioner Moore said the agreement is that by November 18, 2004 there is to be a letter of intent from a grocery store for the development. He said what is important is that it should be a grocer that has the ability to pay their debts on Dun & Bradstreet. He asked if an evaluation was done with Neighbors. He suggested that residents in the area visit the grocery store. He wanted the Dun & Bradstreet report to see the viability of this particular store. He further said that he is glad such store is part of the IGA Association, which is very strong. He said this particular neighborhood is an ethnic community, and the grocery store needs to provide services for such a unique group of people. He further said the community always wanted a grocery store, and this developer committed to deal with a grocery store. Once again, the City did not put these five acres of property out for bid. If this developer could not produce the grocery store first, then the Commission should consider putting the project out for bid.

Commissioner Moore said it is clear that it is good to have a greater density of housing at the site, but the grocery store needs to come first. This developer had the property for a number of years and negotiations could have taken place with Church's Chicken and

other property owners that would help to develop the site. Due to the housing market in Broward County and downtown Fort Lauderdale, the greatest asset of this site is the viability of housing units. If the housing units are built first, then the grocery store might not ever be built. If the store has the Dun & Bradstreet rating and the community desires such a store, then he would be willing to move forward. He said if the property is not purchased for the store to be located at the corner, then swapping would have to take place for its location.

Mayor Naugle asked if the buildings could be constructed simultaneously because he was concerned about the store being impacted by the continual construction that would be taking place in the area. Commissioner Moore agreed that construction does impact the quality of life for the community, but it does not stop it. A grocery store is to be located at this site, and the developer is to spend their money developing it. He did not have a problem with simultaneous construction. He stressed that he is not going to wait around on the Church's Chicken site. If the developer wants it, then he should move forward and purchase it for his development.

Commissioner Moore said that the City had five acres of property that they are not receiving any revenue from, and if they are not generating any money from the developer buying it from the City, then stipulations should be placed so as to get the community what they want. He was concerned because this is a CRA area. The Regal Trace development is a good start for the CRA. If the commercial development had moved forward as proposed, there would be an even bigger jump for the area. He continued stating that for 14 years the City has maintained this public property. They need to close the door on the letter of intent so it is a viable one. If the grocer is not willing to sign a commitment to be located in this development, then he suggested that an RFP be issued.

Commissioner Moore said that he liked the layout of the development and felt the concept is viable, but he believed the grocery store could work at either corner. He also felt the housing is a viable opportunity, but he said the housing could not be given without the commercial store. He said that any developer should feel that a gift of public property is something to jump hoops for. He had spoken with various developers and two of them told him that such a development would be viable for them even if the store was not part of it, since they would be getting the number of housing units for the site. He said that one developer even stated that he would let them be at the site rent free, if he could acquire the five acres of land being offered. He commended the Milton Jones Development Corporation for securing the letter of intent, but asked for the Economic Development Department to obtain the Dun & Bradstreet evaluation and coordinate an opportunity for the community to view the Neighbors grocery store so they could proceed forward.

Mayor Naugle said that the project had been put out for bid and Mr. Jones had been the successful bidder, but there was a provision that Regal Trace had to be successful before the City would take a chance on another development. He said that Mr. Jones had consistently asked for a developer's agreement.

Mr. Jones said that the agreement was to obtain a letter of intent so they could move forward and obtain a development agreement for the project. He said that the Dun & Bradstreet report had been done and the grocery store had excelled. He believed this project should move forward.

Vice Mayor Trantalis said that in their discussions last year certain grocery stores had been suggested due to their known quality and appeal to a diversity of individuals. He said that the developer had indicated to him that Neighbors Food Market was the only store that had stepped up to the plate. He asked why other stores had not responded positively. He said that they had concluded that one of the reasons is that the market had not yet been established in the area to support the type of store that the other companies expected to exist before placing their store at the site. His concern is if there is enough of a market in the area for a grocery store to exist profitably before this housing development is constructed. He did not want to force a situation forward, and then find an empty store in the area. He further said that the backup regarding Church's Chicken states that "...the acquisition and relocation of Church's Fried Chicken is something that the CRA is going to assist in." He asked what that means and asked if they are going to "shell out" millions of dollars to buy the land and then give it to the developer to build the grocery store. He said that he would not support such a proposition. He asked if there is a present deal with Church's Chicken. He said they need to have everything lined up before they commit substantial amounts of City assets to the project. He felt the project looks good, but the economics have to work. If there is not a sufficient demographic base to support a grocery store that needs to appeal to a diverse clientele, then he felt they are not understanding marketing forces, and they would be defeating the purpose of redevelopment for an area that sorely needs it. He believed such issues should be considered before the next step is taken.

Commissioner Moore said they did not know whether the density of the housing would dictate whether a grocery store would be successful in the area. There is also some redlining of major corporations in certain neighborhoods no matter what the density might be. He said that the northwest quadrant did not have a bank until he began dealing with SunTrust Bank to place one at the northern side of Broward Boulevard, and that had taken ten years of prodding a community-based bank to do so. He further said that other banks are now talking of coming into the community. He wanted the public to understand that this development corporation had met the letter of intent requirement. He urged the community to visit the store. The intent also is that the grocery store is to be built first. He asked how many housing units could be built on five acres.

Mr. LaFerrier replied it would be up to the CRA. Mr. Jones said they are anticipating 140 to 150 units per building.

Commissioner Moore said that in talking about simultaneous construction, they are missing an important point, which is that no Neighbors' representatives are present today, and the deadline is November 18, 2004. He wanted the Dun & Bradstreet report distributed to the community, and a concept from the Planning and Zoning Department as to what has to be done regarding the present proposal of whether it is a PUD, and what timeline is required. He asked if an ordinance would be in place to make sure that a portion of this project would provide affordable housing.

Commissioner Moore said there is nothing about Church's Chicken in the RFP, and he felt it has nothing to do with this project. If the developer wants the site, then he should purchase it, but moving the restaurant further down the corridor is not part of the design for the area. There are to be no drive-thrus in the area.

Mayor Naugle thought it was to be a sit-down restaurant. Commissioner Moore said that the existing product is deplorable, and he wanted to know how many Code violations are against the property at this time.

Vice Mayor Trantalis said that is why it had to be part of the equation because if a development is built around an unsightly commercial spot, then they are shooting themselves in their foot.

Commissioner Moore disagreed and said that in Regal Trace they should have assembled the apartments on the 28 acres and made it part of one product, but they had not done so. The project still works because it blocks it out which is no different in this case. He said further that if the housing development and the grocery store take place, then someone would buy Church's Chicken.

Mayor Naugle liked the idea of relocating the restaurant and eliminating the drive-thru.

Commissioner Teel said that the new restaurant also showed a drive-thru.

Mr. Jones said that the prototype provided does have a drive-thru, but there is also seating being provided. He indicated that they had satisfied the Letter of Intent, and other conditions being discussed are not included in the present agreement.

The City Attorney said that the question is whether or not the developer has satisfied the requirement regarding the letter of intent. He said that the developer argued they have met the criteria, but the City has not yet determined that because they have not decided if the proposed store is of the same quality as the other types previously mentioned, such as Publix, Winn Dixie, or Whole Foods. He said the Commission needs to make such a determination today.

Commissioner Moore wanted to give the developer the opportunity to bring forth Neighbors to them in order to let the Commission and the CRA understand who are the operators, and if there is really a deal. Mr. Jones indicated that they have met the criteria regarding the letter of intent. Commissioner Moore agreed that has been done, but other grocery stores had been mentioned as examples. He added that he does not want to debate the issue, and he understood the hard work they have done. He said that he wants representatives from the store to come and say they are going to come to the proposed site, and he wants to know about the time line and whether they desire housing in the area before they come. If such things are not done by November 18, 2004, then he wanted this to go out in an RFP.

Vice Mayor Trantalis asked if it is determined by the Commission that the proposed grocery store does not measure up to the caliber of the store they have in mind, and therefore, the developer has not lived up to the agreement, could they still build the housing units and the shell of a store on the site. Commissioner Moore said he would not be content with such an approach. He said that he would then be interested in having this project go back out for bid. He said the developer has made a valiant effort in the last eleven months and has produced a letter of intent, but he wanted to know if this grocer is of a quality desired by the neighborhood and the Commission in order to grant them the five acres of land.

Vice Mayor Trantalis further said that if there are no other grocers wanting to commit to this project, what would the Commission then require. Commissioner Moore said that on November 18, 2004 when the final evaluation is done, if the Commission feels the developer has not made an effort to comply with their request, and another RFP is put out for the use of the five acres, then the developer has the choice whether to buy the site of the Church's Chicken and develop the entire site, including the grocery store or the shell of one. He said further that the evaluation of the RFP could be done in 3 different ways. One way is to develop the five acres in the manner originally proposed, including the grocery store, or the developer could construct the development, including the additional acreage of Church's Fried Chicken and the grocery store, or they could build the shell of a grocery store and the housing units. He said the housing units are the important part of this project.

Vice Mayor Trantalis asked, to encourage a better quality store to come into this project, would Commissioner Moore be opposed to having housing built on this site alone with the anticipation that a better store could be enticed to come into the community.

Commissioner Moore said that redlining of black communities by some grocers takes place and the only way to stimulate them to the area is by the developer enticing them. He said there is racism in the placement of operated corporations in the community, and therefore, there has to be a stimulus to entice a grocer. Previously he has attempted to entice grocers to come to the area to no avail.

Louise Dowdy, community worker, said that she works with senior citizens and wanted to invite the Commission to take a bus tour along Sistrunk Boulevard and visit various grocery stores that exist. She said they are dirty and have high prices. She said that she has been to the Neighbors store that has good prices. She said that Publix and Winn Dixie would not commit to this site because they both have stores nearby. She proceeded to show the Commission an advertisement put out by the Neighbors store. She stressed that the area needs a good grocery store.

Commissioner Moore said they need to make sure that competition is provided for the community.

Mayor Naugle did not feel they should invite representatives from the store here because there would be a situation where a tenant could question the lease, and he felt that would be unprofessional and it would be a big mistake.

Laranda Ware said a store is needed in the community and the ones that exist are not adequate or of top quality. She added that they need to visit the existing stores

Edwina Lewis said that she is waiting for this project, which had constantly been postponed. She said that City View was built about 40 years ago and the entire area was to be developed. Going out for another bid is a bunch of "malarkey" and she said that soon she would be looking over the "portals of glory" by the time something would be done. She said the Neighbors store is all right for the area. She said they would not get a Winn Dixie or Publix for the proposed site due to all the procrastination for this project; Publix built a store at another location on Andrews Avenue with Winn Dixie constructing a store off Sistrunk Boulevard on Federal Highway. She indicated that the demographics changed. She said they are still procrastinating and meantime prices are rising, and

quality is being questioned. She urged the Commission to take some positive action and move forward.

Nathaniel Wilkerson, Jr. said he knew Milton Jones and what he has accomplished for the community. He said that Publix is not a market where the inner City shops due to their prices. He remarked that the ideal store would be a Winn Dixie. He urged the Commission to visit the Neighbors store in Sunrise, and then they could make a more informed decision. He said if the Commission then felt the store met their expectations and what the residents wanted for their community, and then they could move forward. He said the existing stores in the area should be demolished and the senior citizens should be considered because they are the foundation of the community.

Pamela Adams said that she is a resident of River Gardens and she travels to the east side of Sunrise to grocery shop. She supported the need for a high quality grocery store. She added that she had visited the Neighbors grocery store, but she does not shop there. She suggested that the Commission visit the store unofficially.

Commissioner Moore said that he respected Mrs. Lewis's opinion regarding the delay, but he is not suggesting any further delays. He said the Commission needs to review the reports and visit the store. Then, they could make a final determination. He said that he did not see any other avenue they have to attract a quality grocery store, other than the land offer. If Milton Jones could not offer the desired product, then another RFP should be put out.

Mayor Naugle said that it was his understanding that the CRA is interested in cleaning up that corner. He would be open to such a recommendation if the cost is not too extreme. He indicated that the restaurant needs to be a sit-down establishment. He felt having another restaurant along the corridor would be a positive for the community.

Mr. Milton Jones said that Commissioner Moore has a strong desire to be a developer. The subject is convoluted. They have presented something that is clear and concise, but the waters have been muddied. He said they have a letter of intent from a grocer for a brand new store.

Mayor Naugle asked if Milton Jones Development Corporation would continue as the landlord for the store. Mr. Jones confirmed yes and said they would run the operation the same as Regal Trace. Mayor Naugle remarked that they have been responsible landlords. Mr. Jones said they always have taken care of their properties. He further said that they held a workshop with FAU and other leading professionals regarding providing residential retail buildings to the project before building the grocery store. He emphasized there would not be any negative impacts. He added that he is also a licensed realtor, and he understands the process. He remarked that this project has been delayed enough. For some reason when projects are in the northwest, everyone becomes confused and delays occur over and over again. He indicated that they need a positive recommendation to move forward and begin working out the details of this project. Shawn Jones remarked that their agreement requires it.

Mayor Naugle asked if the development could be done simultaneously with the grocery store. Milton Jones confirmed yes, and indicated that they do not want any more delays because they do not help the City or the community.

Commissioner Moore indicated that he is not advocating any further delays. He said delays would occur with the buying of the Church's Chicken property. He further said that if the residents want the Neighbors store, then he is ready to move forward. He said the restaurant is not part of his caveat because he does not want any more delays. If the developer feels Church's was necessary for the development of this site, then he would have already had a contract on the property.

Commissioner Hutchinson said they have been "beating this dead horse" for four years now. A grocery store was promised, but Publix and Winn Dixie did not want to be part of the development. She said that Neighbors is willing to come to the table and asked if they are willing to make a commitment to build immediately.

The City Attorney said that today the Commission is to decide if the letter of intent is valid and acceptable in accordance with the current contract. He said if such determination is made today, then they could go back and negotiate a developer's agreement. He said the developer's agreement is to negotiate the development of the property that the City has given them. It does not address the Church's Chicken site. If the plan is to be amended to include the restaurant site, then they would have to go back to the drawing board and begin over.

Commissioner Moore reminded everyone that the agreement runs until November 18, 2004, and then negotiations would begin. He requested that this Commission provide the Dun & Bradstreet report to the public, and that they visit the grocery store that is being proposed for the site. He believed that such a grocery store could work at the site because if it is a good operation in a new facility, then it would probably work. He felt he has a responsibility to the community to provide all the necessary data. He reminded everyone that if they are giving something to someone, then they need to receive something back in return. He indicated that he is not going to give up the housing in order to obtain the grocery store first.

Commissioner Teel was satisfied with the Neighbors grocery store, and asked if the store would be located by the post office. The City Attorney confirmed yes. Mr. Jones said that he could have done that previously, but they did not feel it is in the best interest of the City or the community because Church's would still be located at the same site. He said that Church's needs to be relocated, and they are willing to negotiate with the developer to work out an agreement. He indicated that does not mean that the development would be delayed any further.

Mayor Naugle suggested that could be an amendment. The City Attorney said that in regard to going back to the drawing board, he meant if they have to amend the existing approval to include property that is not presently included. Mayor Naugle said that he does not have a problem with the Neighbors store being a part of the proposed development.

Commissioner Moore said he would never be a developer and he thought Mr. Jones was a friend, but that is not the case. He said he is a believer in what he has sacrificed his time over the years for which is to deliver a product to the community that they want.

Mr. Jones said that they would purchase the restaurant if the Commission desired them to do so, but that could not be accomplished by November 18, 2004.

Commissioner Moore indicated that the contract had an expiration date of November 18, 2004, and if the developer wanted to purchase Church's Chicken and then move forward, he did not object. If it is not done by November 18, 2004, then he wanted a new RFP put out. He indicated that anyone could respond to it. He remarked that Regal Trace had been accomplished with 13 extensions. He felt the CRA should not be the entity making the acquisition of the restaurant.

Mayor Naugle asked if the City Manager could obtain an instrument that would tie up a business plan, which might include Church's. The City Manager said if the Commission wanted to move forward, he needed to know what the deal consists of. He also asked how the construction is to take place regarding the grocery store and the housing component. Mayor Naugle remarked that the construction should proceed simultaneously, and the plan should be configured with and without the Church's restaurant.

Mayor Naugle said it would be nice to clean up the corner where Church's is located, as long as it does not slow down the process. Commissioner Hutchinson agreed. Commissioner Moore indicated that the community does not want any drive-thrus in the area. He did not want any developer to take a negative from a development site they want, and make it a negative to someone else who is attempting to develop something in the area. If Church's Chicken is to be acquired and located at 9th and 6th Avenue, then that would make the deal more difficult.

Shawn Jones said that issues are now being confused. He explained that the agreement was for them to produce a letter of intent.

Regarding the development agreement, the City Manager indicated that staff needs direction regarding certain pieces. The first item is Neighbors, which was approved, and the second item is with or without Church's, and the third item is who would pay for Church's so it could be incorporated into the project. The fourth item is whether the supermarket could be built simultaneously with the residential units.

Action: Development Agreement to be negotiated for the project.

The City Manager said that the speaker on affordable housing has to leave by 5:00 p.m. and the Commission has to decide whether they want to move today's agenda forward.

Commissioner Hutchinson said that today's agenda is full and the presentation would be long, therefore, she asked what is the desire of the Commission regarding Item I-F - Right of Way Permit Policy, First Christian Church – SE 13 Street Median.

Mayor Naugle said that the presentation on affordable housing was scheduled later in today's agenda, and he suggested that it be rescheduled for another day.

Commissioner Hutchinson said that a decision has to be made of which item is to be discussed next. She indicated that she wanted the median item concluded. But, she added that the other individuals have flown in to make a presentation and she did not want to incur additional expense for them.

Mayor Naugle suggested that they proceed with Item I-F on the agenda.

I-D –Parking Enforcement and Parking Revenues on Sunday

Mayor Naugle suggested that Item I-D, Parking Enforcement and Parking Revenues on Sunday be done at another time.

I-F – Right-of-Way Permit Policy First Christian Church – SW 13 Street Median

The City Manager said that this involves a median, which had a permit, but a question arose as to whether it is proper for the City Engineer to make the decision without taking it before the Right-of-Way Committee. He said further that the law permits the City Engineer to exercise such discretion. There are two issues before the Commission today. One is whether to restore the median back to its original state, or to pass legislation that would eliminate discretion on the part of the City Engineer to make such decisions. The Church is using the area as a parking lot, and the neighbors believe it should be restored to its original state due to the aesthetics of the neighborhood.

Pictures of the site were shown.

Collins Forman, Chairman of the Board for the First Christian Church, said the Church has been at this site since 1927 and traditionally they had been parking at the site from 4th Avenue on the east to west of Andrews Avenue. He added that the Church maintained the site and contributed toward the landscaping. During the last few years some opposition has arisen about the parking. Signs began appearing saying “No Parking” and “Keep Off the Median,” and tickets were given and threats of towing were being made. In May, he contacted the City about special dispensation for a speech and debate conference that had been held for children from 7-18, but he had been refused. He said this is a crisis situation because they do a lot of outreach done to the community. They are also a Red Cross and hurricane shelter. He added that they have a 300-student school, and a Latino Church also meets in their facility. They are a polling site and they also work with a group called the Shepherd’s Way. A homeless group also meets at the site twice a week, along with meetings held by Boy and Girl Scout troops, along with being the meeting site for a homeowner’s association. He said that his father began parking on the site 75 years ago. He wanted to reach a solution regarding this matter with staff. He felt staff is not at fault. He said they want some recognition that extra parking is needed at certain times, and they want the right to do that. He said that the site was given to the Church by Frank Croissant. He asked the Commission not to “beat up” on staff, and to establish the right that the Church could park there, and then set up how things should be done. He said they do not want to continue fighting this battle every 25 years.

Ray Dettman said that he is President of Harbordale and owns several properties in this area. He said this is an unfortunate situation and everyone should sit down and attempt to work this out. He said further that a permit was issued, and he was amazed that City staff did not see this situation coming. Personally he felt let down. Individuals have worked hard to make Poinciana Park a better place to live. He said the City either has a vision on open space, park space and quality of life issues or they do not. The City needs to stay focused or he did not want to put any more effort into things.

Cal Deal said that he represents the residents in the area, and the main reason this is brought forward is due to the safety of the children attending the charter school. He proceeded to show a videotape of the school situation, including traffic in the area. The videotape was shown and explained. Mr. Deal said that Thomas Hoskins is the investor who bought Croissant Park in the '20's and installed wide streets in the area. He said the street is 100' in width with a 40' median, which benefits the public. It has been a longstanding position of the City that this is an aesthetic asset to the neighborhood.

Mr. Deal continued, stating that the Parks and Recreation Department opposes parking on the median due to its beauty. He said the South Andrews Master Plan called the medians a neighborhood asset and called for additional green space. He said that the charter school has changed the area and brought increased parking problems. Cars have ruined the median. The City installed bollards to stop the parking. He said that Mr. Forman had removed the bollards and created the present crisis. He proceeded to show a recent photograph of the median. He felt this is setting a bad precedent for the City. He felt it is not right to use such areas for parking. They are giving away 8,800 square feet and not receiving anything back. He said the City is maintaining the site, and the area is only benefiting the church and school, and the general public is losing. He said that Tom Tapp objected to this proposal. This is wrong. The deal slipped in under the radar.

Carl Fleckner, President of Poinciana Park Civic Association, said that he helped to maintain the median, and explained that they are a transient neighborhood. The hospital is the largest employer in the area, and they are a unique community. They are willing to work with other people and things are not being written in granite, but on the same token a little dialogue would be nice. He further said that this is a surprise to him, and he added if this is approved it would be setting a precedent. He felt they should recognize that this City is growing dynamically, but he did not want them to be the benchmark.

Commissioner Teel asked if he is in favor of how things exist or would prefer the area be restored.

Mr. Fleckner said that they have worked hard to obtain grant monies for the medians. He believed in "live and let live," but is neutral in this matter. As President of the Association, he said that he would prefer to see more green, but if there is a legitimate need for parking and it could be done constructively, then it would be good. He felt this matter came in under the radar, and he wished it had been brought to the Association.

Commissioner Hutchinson said that they met with some other individuals and there was discussion with Chuck Ritchie in regard to the irrigation system. She said that there appears to be an opportunity to "green up" what is asphalted. She asked if there is an opportunity to remove the asphalt and "green it up", would the Poinciana Park Civic Association agree to a compromise.

Mr. Fleckner replied yes and said that with all the development going on, there have been some big changes.

Commissioner Hutchinson further said that the legislation needs to be changed, but right now she is just listening to comments. She further asked if Mr. Fleckner is a member of the Poinciana Park Civic Association. Mr. Fleckner confirmed yes.

Hamilton Forman said that he is responsible for the present problem. He has parked in the area for the last 70 years. He continued, stating that when he began getting tickets for parking in the median, he decided to do something about the situation. He added that he is a great believer in channels. He had spoken with Commissioner Hutchinson and they had met to discuss the situation. The engineer had surveyed the area and offered some suggestions. A sketch was submitted to him by the City showing where they believed parking could be situated. He had gone through the proper channels, obtained a building permit, and hired a contractor.

Mr. Forman further said that Mr. Hoskins did not make the green space because it is a right-of-way. The City could not declare this right-of-way for parking. The City tried in the past and he had sued them. He said that 50% to 60% of the green space was not touched. About 20 years ago, he said they had a well put in so the area could be sprinkled. They have maintained that area because the City had not done anything.

Mr. Forman continued, stating that he would be glad to discuss a better solution with the City, but emphasized that parking is needed in the area. He believed that it is his right to park there.

Doug Brown said that they should go to Andrews Avenue and look west because that is a precedent, which has existed for a long time. He said that was done by the City and no one else. He asked why the City placed double barriers in front of the Church, where there are only single barriers elsewhere in the City. He said the City had installed sewers and tore up the grass. He is not saying whether Mr. Forman is right or wrong, but is saying that what he did is in good taste. He suggested that the City address all the islands "in good taste."

Kathleen Ireland said that she has lived in the area for the last 25 years, across from the Church. She continued, stating that they need to address the legislation so this could not happen elsewhere in the City, along with restoring it to the way it was before. She said that the Church did not maintain the median. The City mows the grass. Mr. Forman said that he pays to have the area mowed. Ms. Ireland said the entire area was mud before. This is a very unique 4-block stretch of land. She said the residents have been there for over 20 years. The school has 300 students who are transported by their parents. She added that Federal Highway is known for more than its road, and the women previously had used the hospital parking lot for their escapades. She said that she is concerned if this is turned into legal parking.

Ms. Ireland further said that there could be angled parking and the median could then be restored. She was concerned about water retention in the area. She said nothing illegal had been done, but the residents had not been considered. She added that the photograph shown is not a true depiction of the situation and that there are cars constantly parked in the area. She requested that the City consider restoring the area.

The City Manager said that the Director of Parks and Recreation informed him that City crews maintain the median every two weeks.

Suzanne Coleman said that she lives in Victoria Park and is present to support additional green space in the City. She thanked the Mayor for letting this issue be addressed at today's meeting because many people are present to discuss the issue and had worked very hard. She was disappointed that Commissioner Hutchinson did

not fight harder to make sure the item was heard. Commissioner Hutchinson said that she attempted to have the issue addressed at the Commission's last meeting. She added that she is also disappointed that the individuals speaking are limited to 3 minutes because other individuals are permitted to speak for longer intervals.

Commissioner Moore left the meeting at approximately 4:45 p.m.

Diane Gaddis said that she is an active member in the community and a member of this Church for over 10 years. She felt the area is more attractive now in its present condition than in the past. The parking is not evident every night, but the Church and school use it during the day. She said that they should have more communication with the Civic Association, but if someone did things in good faith and went through the legal process, then their permits should not be pulled. She did not think this is an infringement on green space. There are 2-3 medians west of this site that are completely green.

Terry Vargas, City employee, said that Mr. Forman did help to maintain the median. She added that the median in its present condition is very attractive.

Mary Fertig said that her family has lived in this area for a long time, and they are 1 of 3 property owners on this block. She said that about 6-7 years ago the median was a topic of conversation. Its appearance had deteriorated because it was not being maintained. She continued, stating that during the last 2-3 years signs had been posted on the site to "Keep Off the Median." She said they did not depend on the median for parking for their building, and they had requested that their clients and employees not park in that area. She said they felt the Church could park on the median, along with anyone else. She said the Church is a good neighbor; it runs various programs that benefit the neighborhood. She added that the video shown is a distorted picture of the school traffic. She said they are not being impacted by the school traffic, and stressed that the road is wide enough not to cause congestion or intrusion into the median. She continued, stating that the charter school has staff out front who manage traffic and the children are very orderly going from building to building.

Ms. Fertig further said that she is surprised the residents in the area had not complained when the heavy road equipment had been present for months, but she felt the results at the site speak for themselves. It looks much better than before. This is an attractive median. She proceeded to show photographs of the site and adjacent areas. She said the community had been left out of the process. She added that information had been distributed on the Internet, which had been misleading about their law firm, and they had contacted them. She felt communications had broken down regarding this matter in every aspect.

Ms. Fertig pointed out the entrance to the hospital and said that she wanted the Commission to consider the impact the hospital would have on the area. She said there appeared to be selective enforcement and she was very concerned about it.

Larry Rollett said this is a simple thing to be decided, and he emphasized that it is not an emotional issue. .

Joanne Cassen said that she belongs to the Seven Isles Homeowners Association, and she is sympathetic to the issues of the adjacent community and Church. She said that her children attend the charter school. They do not arrive by bus, but spend quality time

with their parents being driven to school. She continued, stating that there is a major traffic issue involved, and not having adequate parking affects them adversely. She said this would not set a precedent, but it is an investment in the future of the community and the children. She said that this is an "A" rated school, and they appreciate the support of the Commission in this matter.

Chris Fertig said that he is a property owner and he directly faces the parking lot. He said that his office window overlooks the median; cars do not park there during the day, only after school hours. Cars do park on the median at night, and it is a better solution than trying to find parking in front of someone's house. He said he is not a proponent for the placing of asphalt in certain sections of the median. However, since the project was completed, it has improved the quality and character of the neighborhood. He said it did not affect the green space, but took a neglected median and made it look better.

Commissioner Moore left the meeting at approximately 4:59 p.m.

Mr. Fertig continued to state that the grass is being saved and it is open space. Children play in the median and it is open to the general public. This is issue an issue of community. If Fort Lauderdale wants to be a community there has to be open access for everyone to use the land. The Church has been at the site since 1927. People park there due to events being held. He felt the programs of the Church have provided vitality to the community.

Commissioner Moore returned to the meeting at approximately 5:02 p.m.

Mr. Fertig further said that if the City is to be a "community," then everyone has to unite. Having people in the area is a good thing and barring the Church and people from the area would be bad for the City. Originally he had not been a proponent for it, but it had corrected many of the existing problems, and Mr. Forman is a better steward of the median than the City ever had been. Mr. Forman has done nothing but improve the property and been a good citizen. The Church and School are good citizens.

Commissioner Hutchinson said that this is an interesting time. She met with Mr. Forman in the summer. There was a process to follow. She said if she is to do staff's job, then someone had to direct her to do it. She assumed that everything would go through the proper channels because they were changing use of the median. It is public right-of-way and she had assumed things would go through the proper channels. She said she is not blaming staff, but wanted to stress that the City is broken and it needed to be fixed. She further said that the Association should have been contacted and everyone notified of the process. If nothing is done today, then the most important thing the Commission should do is to fix the legislation as it relates to the Property and Right-of-Way Committee. If they are going to change the use of a public right-of-way, the process should be followed and the appropriate individuals should be notified.

Commissioner Hutchinson further said that individuals met at the site and solutions were discussed to make things better. The biggest issue was that the irrigation had to be repaired, and she is aware that the Church had committed to have the repair work done by the end of October. The City does not pay for the water. There is an opportunity to create a better surface than what existed. She said they received a permit, and if they restored the median, the City would do so at their own expense and possibly end up with damages, plus the cost of what Mr. Forman had incurred to do the work. She wanted the

Commission to come up with a solution today before a lawsuit is incurred. She realized that people are unhappy with the process. The Commission needs to fix it as quickly as possible. She said there are medians across the City being used for such purposes, and she did not want this to set a precedent. She also did not want this to be a blemish on Poinciana Park or elsewhere throughout the City.

The City Manager said that at Commissioner Hutchinson's request, he has been working with the City Attorney on legislation that would be ready for the next Commission meeting.

Mayor Naugle confirmed that the legislation would prevent this from happening again, and provide notification of changes to the Commission. Commissioner Hutchinson said it would not fall into the lap of the City Engineer to sign off on a permit, especially if it changes the use of a public right-of-way.

Mr. Fleckner suggested they install angled back out parking in front of the Church. Commissioner Hutchinson suggested that all options be reviewed, and asked if they could negotiate the issue without creating additional problems. She stressed that she is a firm believer in the process. Mr. Fleckner said that reasonable people should be able to negotiate and reach a solution. Commissioner Hutchinson said they would then bring forward a recommendation to the Commission.

Mayor Naugle suggested that there should be representatives from the neighborhood and the property owners because this is a right-of-way. The property owners on both sides of the street have an interest in the median. Normally, the Commission has always received permission from the property owners.

The City Manager said that his office would direct the City Engineer not to approve any further projects until the legislation is adopted.

Vice Mayor Trantalis wanted to understand all the legalities of this situation. He continued to state that the median is a right-of-way and the adjacent property owners have a proprietary interest. He asked if the property owners, therefore, own the median and the public have the right to pass over it due to the right-of-way prerogative. The City Attorney said that it depends upon the dedication. The adjacent property owners have the latent underlying interest in the property. If it is ever vacated, the property owners would have fee title to the property. He was not sure of the situation in this case, but the City has historically met with the community adjacent to the construction.

Vice Mayor Trantalis said if the Church wants to put parking spaces on top of the right-of-way, would the City be interfering in allowing a private party to obstruct the right-of-way. He asked if permits could be granted for such things. The City Attorney said it would be the determination of the City Engineer as to whether or not it would interfere with the use of the right-of-way. Vice Mayor Trantalis said that, if the right-of-way exists on the grass and the pavement in front of the sidewalk, it had been suggested that the parking spaces be relocated on an angle in front of the sidewalk. The City Attorney said it is possible to do that; they could even remove the existing parking spaces. The problem is that a permit was requested, a review was made, and a permit issued. Monies were then expended in reliance of that permit.

Vice Mayor Trantalis asked if it is a perpetual permit. The City Attorney replied it is not. He said that when a finding is made and it interferes with public access at a later date, then the City may require that it be removed. In this case, the question of taking it out is being raised before it was put in, before it was paved. Vice Mayor Trantalis asked if the City has the right to terminate the permit. The City Attorney confirmed that they do; that it is basically a license. Vice Mayor Trantalis asked if any proprietary interest is granted. The City Attorney said that in order to avoid liability, the City would have to make a finding of a change of circumstances. Vice Mayor Trantalis said he is concerned because the City is growing and parking would continue to be an issue. People are parking all over the City, and he asked how the City is going to deal with those issues.

Mayor Naugle said that traditionally, they have accepted input from the community and then a decision is made.

Vice Mayor Trantalis asked what happens if the neighborhood does not agree. Mayor Naugle said that the Commission would then have to make a decision based on input of the District Commissioner.

Commissioner Hutchinson said that she believes there is middle ground.

Mayor Naugle said that this issue would have to be rescheduled since there are other items requiring the Commission's attention on today's agenda.

Commissioner Hutchinson stressed that Poinciana Park has the best of all worlds because they have a church, school, offices and residents.

Vice Mayor Trantalis said they encourage such development in the core of the City, but they have the obligation to come up with a response to allow for all infrastructure to make it a healthy environment. He said that the Church took the initiative to do this and a permit was granted, but the neighborhood had not been involved. The process has to be refined and followed. There is pressure to construct infrastructure, and answers have to be found.

Commissioner Hutchinson said that by changing the legislation, they would have an opportunity to voice their opinion, but in this case the Commission did not have such opportunity.

Commissioner Moore said to resolve this without a process is a dangerous situation. He further said that when this neighborhood was changed to an office base use instead of residential, parking had never been part of the equation. The rezoning is encouraging future development that would create parking garages. Then, a better parking situation would exist. He agreed with the District Commissioner's recommendation, but he is frightened that the public could say that a private entity and non-profit church is maintaining public property to a standard higher than what the municipality is doing in other areas. He felt they are duplicating services and it is not good government. More importantly, he said that it is wrong how the rights-of-way had been done, and he felt they need to be addressed.

Action: There was consensus for legislation to be presented on November 1, 2004 with respect to the Property & right of Way permit process. Representatives from the neighborhood, property owners on both sides of the median and the Church were

requested to meet and arrive at a solution to be presented to the Commission either via memorandum or at a future meeting.

II-A – Affordable/Workforce Housing

Action: Item to be rescheduled.

CLOSED DOOR SESSION AT 5:20 P.M.

MEETING RECONVENED AT 5:45 P.M.

V – City Manager Reports

Message Center Signs

The City Manager said that the sign at the Convention Center was discussed at the Commission's previous meeting. There is an interest to reconsider the matter. He said further there are two options available. One option is to have a motion to reconsider and the same ordinance would be considered, or new legislation could be drafted with the Commission's recommendations. Then, the first reading of the ordinance would be held at the first Commission meeting in November.

Commissioner Teel said that one of the biggest shortcomings in this City is the sign ordinance. She did not feel they should rush through it. She has worked on this issue for over ten years.

Vice Mayor Trantalis asked if the City permitted a message sign about 12', it would be well within the requirements of the ordinance. The City Manager said that whatever compromised position there is, it could be handled internally and something would be presented at the November Commission meeting. He said they are having the present discussion because a request was made to reconsider the original ordinance.

Commissioner Moore said his concern had nothing to do with the wording of the ordinance, but the fact that the Commission had nothing to say about the sign itself. He said that modifications should be made so the Commission would have some authority.

Mayor Naugle clarified that Commissioner Moore does not object to the proposed the ordinance, but wants final approval to come from the Commission. Commissioner Moore confirmed that is correct, and said that they need to be able to address the sign itself and the wording. He felt the Commission should get the opportunity to debate this issue.

The City Attorney said staff understood that the Commission opposed the original ordinance, and wanted to see it included in the entire sign package. He said they are not going to do it separately, but are going to include it in the package. They could include the recommendations made by Commissioner Moore with the exclusion of content. He stressed that the City could not regulate the content.

The City Manager said that the new legislation could provide a more comfortable approach to the situation. He said the first reading would take place on November 1, 2004.

Commissioner Teel asked for more information to be provided regarding the sign at The Quay, and why it had been approved. Vice Mayor Trantalis said if the sign is legal according to the sign ordinance, then the Convention Center should be able to live with such a sign.

The City Attorney said that the Convention Center wants a larger sign.

Code Advisory Committee

The City Manager said that he had meet with the Code Advisory Committee and they had commented about the legislation on tonight's agenda. One issue is going from 7 to 15 members; they suggested 10 members. Commissioner Teel recommended 9 members. The City Manager said they are hoping to have on the Committee an architect, an engineer and an attorney. Mayor Naugle suggested that someone appointed should have a real estate background. Commissioner Teel said that in the back-up material, she noticed that the Committee is to report to the City Manager. The City Manager said that the Committee's concern is that they had met for one year, and it appeared no progress had been made regarding their recommendations. Collectively, they have agreed to work with staff, a code expert would be brought in, and then hopefully progress would take place.

Commissioner Teel said that this is a change from the normal procedure. Commissioner Hutchinson stressed that this is an ad hoc committee and she said they have been meeting for a long time. The Commission had approved some recommendations, but no further progress was made. By going through the City Manager's office, possibly they would be able to move some of the approved recommendations forward for implementation. She said that is where the Committee's frustration centered.

Florida Victory 2004

Commissioner Moore said that the Florida Victory 2004 wanted to hold an event on October 22, 2004 at 5:00 p.m. at Esplanade Park. He said they filed an application with the DDA but the item could not be walked on. Commissioner Hutchinson suggested that it be approved based on approval by the City Attorney's office. Mayor Naugle concurred.

III-B – Advisory Board and Committee Vacancies

Action: Board appointments to be done at the Regular Meeting.

Police Department – Imperial Point

Mayor Naugle said that in reading the newspaper, he was pleased to notice that an arrest had been made in regard to the murder in the Imperial Point area.

There being no further business to come before the Commission, the meeting was adjourned at 5:55 p.m.

