

**INDEX OF A REGULAR MEETING  
FORT LAUDERDALE CITY COMMISSION  
NOVEMBER 16, 2004**

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**MINUTES OF A REGULAR MEETING  
CITY COMMISSION  
FORT LAUDERDALE, FLORIDA  
NOVEMBER 16, 2004**

Meeting is called to order at 6:05 p.m. by Mayor Naugle on the above date, City Commission Meeting Room.

Roll call showed:

Present: Commissioner Christine Teel  
Vice Mayor Dean J. Trantalis  
Commissioner Cindi Hutchinson  
Commissioner Carlton Moore  
Mayor Jim Naugle

Absent: None

Also Present: City Manager George Gretsas  
City Attorney Harry A. Stewart  
City Clerk Jonda K. Joseph  
Sergeant At Arms Sergeant Quintin Waters

Invocation offered by Dr. Diane Mann, Fourth Avenue Church of God, followed by the recitation of the Pledge of Allegiance.

**NOTE: All items are presented by Mayor Naugle unless otherwise shown, and all those desiring to be heard are hard. 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 Moore that the minutes and agenda for the October 19, 2004 Conference Meeting and October 19, 2004 Regular Meeting be approved. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Vice Mayor Trantalis and Mayor Naugle. NAYS: None.

**Presentations**

**OB**

1. Fort Lauderdale Bridge Club

Ms. Rhoda Schrieder of the Fort Lauderdale Bridge Club presented a plaque to the City Commission for their support in providing programs to the senior citizens of the community, along with a check in the amount of \$1,000 for the kids programs at Holiday Park.

Vice Mayor Trantalis thanked the Fort Lauderdale Bridge Club for the check and the plaque.

2. World AIDS Day

Commissioner Hutchinson read a proclamation recognizing World AIDS Day on December 1, 2004 and presented it to Naomi Parker, Chair of the Worlds AIDS Day Committee.

Naomi Parker said this year 3 activities would take place. One would be at the African-American Cultural Center, Riverwalk Memorial Brick Unveiling, and Broward County Main Library - "A Day Without Art." She thanked the City for their support of individuals affected with AIDS.

3. "WOW" Award

Commissioner Teel presented the "WOW" Award to Julio Quintero and Kerry Eck of 4101 Bayview Drive in the Coral Ridge Country Club Estates.

Messrs. Quintero and Eck purchased this house in Coral Ridge Country Club Estates and rehabilitated it preserving the Old Florida design. The house has a new dramatic entry with a portico over the front door. Landscaping is done to harmonize with the neighborhood incorporating a secret garden for quiet contemplation.

4. City Manager's Office

The City Manager honored Yvonne Buck who is retiring from the City Manager's Office. He said he is the 4<sup>th</sup> City Manager Ms. Buck served. He further said that it is a pleasure working with her and that she would be well-remembered for a long long time.

Ms. Buck said it was an honor to work for the City for the last 12 years, and she shared the award with other City employees because without their professionalism and dedication her success would not have been possible.

**Site Plan - First Baptist Church of Fort Lauderdale Expansion (PH-7)**  
**415 East Broward Boulevard – Case 34-R-04**

Mayor Naugle said there is a request for deferral of this item which would be voted on later in the meeting.

**Right of Way Administration/Conversion of Landscaped (O-3)**  
**Medians to Parking Areas or Travel Lanes**

Mayor Naugle said that this item is going to be deferred later on in tonight's meeting.

**Site Plan for Strand Towers 1 & 2, Las Olas Riverfront - (R-5)**  
**300 SW 1<sup>st</sup> Avenue; Las Olas Riverfront Associates Limited**  
**Partnership; Case 88-R-04 & 11-P-04**

Mayor Naugle said that this item was withdrawn from tonight's meeting.

**Consent Agenda****(CA)**

The following items are listed on the agenda for approval as recommended. The City Manager reviewed each item and observations were made as shown. The following statement was read:

Those matters included under the Consent Agenda are self-explanatory and are not expected to require review or discussion. Items will be enacted by one motion; if discussion on an item is desired by any City Commissioner or member of the public, however, that item may be removed from the Consent Agenda and considered separately.

**Event Agreement – Twenty Fourth Annual Feast Plenty****(M-1)**

A motion authorizing and approving the execution of an Event Agreement with First Baptist Church of Fort Lauderdale, Inc. to indemnify, protect and hold harmless the City from any liability in connection with the Twenty Fourth Annual Feast of Plenty to be held Saturday, February 5, 2005, 9 a.m. to 2 p.m. in the 300 block of East Broward Boulevard.

**Recommend:** Motion to approve.  
**Exhibit:** Memo No. 04-1556 from City Manager.

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**Event Agreement – Chanukah Fair****(M-2)**

A motion authorizing and approving the execution of an Event Agreement with Chabad Lubavitch of Fort Lauderdale, Inc. in connection with the Chanukah Fair to be held Sunday, December 123, 2004, 12 noon to 5 p.m. at Huizenga Plaza

**Recommend:** Motion to approve.  
**Exhibit:** Memo No. 04-1490 from City Manager.

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**Event Agreement – 4<sup>th</sup> Annual Animal Swim and Beach Trot****(M-3)**

A motion authorizing and approving the execution of an Event Agreement with the Society for the Prevention of Cruelty to Animals of Broward County, Inc. d/b/a Wildlife Care Center to indemnify, protect, and hold harmless the City from any liability in connection with the 4<sup>th</sup> Annual Animal Swim and Beach Trot at Fort Lauderdale Beach and D.C. Alexander Park, on Sunday, November 21, 2004, 8 a.m. to 1 p.m.

**Recommend:** Motion to approve.  
**Exhibit:** Memo No. 04-1489 from City Manager.

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**Event Agreement – Annual Inlet Challenge Bicycle Ride****(M-4)**

A motion authorizing and approving the execution of an Event Agreement with the Kids in Distress, Inc. to indemnify, protect and hold harmless the City from any liability in connection with the Annual Inlet challenge Bicycle Ride at Fort Lauderdale's South Beach and on A-1-A north to the City limit on Sunday, December 5, 2004, 6:30 a.m. to 2 p.m.

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1555 from City Manager.

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**Event Agreement – Victoria Park Holiday Home Tour****(M-5)**

A motion authorizing the execution of an Event Agreement with the Victoria Park Civic Association, Inc. to indemnify, protect and hold harmless the City from any liability in connection with the Victoria Park Holiday Home Tour on Saturday, December 4, 2004, 1-6 p.m. and Sunday, December 5, 2004, 1-10 p.m.; and further requesting to close NE 17 Avenue from NE 3 Court to NE 4 Court, from 8 a.m. on Saturday, December 4, 2004, to 12 noon on Monday, December 6, 2004.

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1491 from City Manager.

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**Rejection of Bid – The Landings Entranceway Wall Reconstruction Project****(M-6)**

A motion authorizing the proper City Officials to reject the single bid received on October 5, 2004, from Paramount Engineering Inc. for Project 10873, The Landings Entranceway Wall Reconstruction project.

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1529 from City Manager.

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**Disbursement of Funds – Investigation – O.R. No. 04-42181****(M-7)**

A motion authorizing the equitable disbursement of funds in the amount of \$1,289.46, with each of the participating law enforcement agencies to receive \$99.18.

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04/10/02 from Police Legal Advisor.

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**Disbursement of Funds – Investigation – O.R. No. 03-135197****(M-8)**

A motion authorizing the equitable disbursement of funds in the amount of \$119,954.89, with each of the participating law enforcement agencies to receive \$9,996.24.

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04/10/03 from Police Legal Advisor.

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**Budget Amendment No. 1 – Reorganization of City Departments****(M-9)**

A motion approving Budget Amendment No. 1 to the Fiscal Year 2004-2005 Budget relating to the reorganization of City departments.

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1493 from City Manager.

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**Extension of Grant Agreement – Joseph C. Carter Park Facilities  
Florida Recreation Development Assistance Program****(M-10)**

A motion authorizing the proper City Officials to execute a three-month grant extension agreement with Florida Department of Environmental Protection relating to the Joseph C. Carter Park renovations.

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1547 from City Manager.

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**Fire & Medical Supplies/Maintenance & Repair Services for Fire/Rescue  
Equipment - Sheriff of Broward County – Release & Waiver of Liability****(M-11)**

A motion authorizing the proper City Officials to execute a release and waiver of liability with the Sheriff of Broward County concerning purchase of fire and medical supplies and/or maintenance and repair services for fire and rescue equipment.

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1452 from City Manager.

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**Work Order No. 10507F – River Run Flamingo Park, Oak River - (M-12)**  
**\$2,602,726.75 – Danella Companies, Inc. – Sanitary Sewer & Water**  
**Main Improvements**

A motion authorizing the proper City Officials to execute Work Order No. 10507F first in a series to Danella Companies, Inc., in the amount of \$2,602,726.75 for the construction of sanitary sewer and water main improvements in the River Run, Flamingo Park and Oak River areas – Project 10859C.

**Funds:** See Memo

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1460 from City Manager.

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**Work Order No. 10553A – Davie Boulevard Water Main - \$3,306,681.75 (M-13)**  
**Foster Marine Contractors, Inc.**

A motion authorizing the proper City Officials to execute Work Order No. 10553A first in a series to Foster Marine Contractors, Inc., in the amount of \$3,306,681.75 for the construction of water main improvements in the Davie Boulevard corridor – Project 10859D.

**Funds:** See Memo

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1461 from City Manager.

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**Work Order No. 10543B – Shady Banks - \$2,582,761.72 (M-14)**  
**Lanzo Construction Co. – Sanitary Sewer & Water Main Improvements**

A motion authorizing the proper City Officials to execute Work Order No. 10543B first in a series to Lanzo Construction Co., in the amount of \$2,582,761.72 for the construction of sanitary sewer and water main improvements in the Shady Banks area – Project 10859A.

**Funds:** See Memo

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1462 from City Manager.

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**Work Order No. 10542B – Sailboat Bend - \$1,823,149.62 (M-15)**  
**Ric-Man International, Inc. – Sanitary Sewer & Water Main Improvements**

A motion authorizing the proper City Officials to execute Work Order No. 10542B first in a series to Ric-Man International, Inc., in the amount of \$1,823,149.62 for the construction of sanitary sewer and water main improvements in the Sailboat Bend area – project 10859B.

**Funds:** See Memo

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1573 from City Manager.

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**Task Order No. 12, Amendment No. 2 – Camp Dresser and McKee, Inc. (M-16)**  
**Lauderdale Manors Utility Improvements Phase I**  
**Resident Project Representative Second Extension - \$38,024.97**

A motion authorizing the proper City Officials to execute Task Order No. 12, Amendment No. 2 with Camp Dresser and McKee, Inc., in the amount of \$38,024.97 for the provision of resident project representatives services, second extension, associated with Lauderdale Manors Utility Improvements Phase I – Project 10121.

**Funds:** See Memo

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1456 from City Manager.

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**Task Order No. 20, Amendment No. 1 – CH2M Hill, Inc. (M-17)**  
**Capital Expansion and Miscellaneous Fees Study - \$18,715.20**

A motion authorizing the proper City Officials to execute Task Order No. 20, Amendment No. 1 with CH2M Hill, Inc., in the amount of \$18,715.20 for the Capital Expansion and Miscellaneous Fees Study – Project 10365.

**Funds:** See Memo

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1574 from City Manager.

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**Change Order No. 1 – Metro Equipment Service, Inc. - \$19,598 (M-18)**  
**Offset Forcemain – 27<sup>th</sup> Avenue Forcemain Improvements**

A motion authorizing the proper City Officials to execute Change Order No. 1 with Metro Equipment Service, Inc., in the amount of \$19,598 to offset forcemain in the 27<sup>th</sup> Avenue forcemain improvements – Project 10383.

**Funds:** See Memo

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1457 from City Manager.

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**Change Order No. 10 – Joseph C. Carter Park - \$40,578.62 (M-19)**  
**Construction Support Services, Inc.**

A motion authorizing the proper City Officials to execute Change Order No. 10 with Construction Support Services, Inc., in the amount of \$40,578.62 for additional work at Joseph C. Carter Park – Project 15160.

**Funds:** See Memo

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1527 from City Manager.

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**Task Order No. 22 – CH2M Hill, Inc. – Program Management (M-20)**  
**Services - \$8,049,607 – Ten Year Water & Wastewater Plan Capital Improvements Program**

A motion authorizing the proper City Officials to execute Task Order No. 22 with CH2M Hill, Inc., in the amount of \$8,049,607 for 2005 Program Management Services in conjunction with the implementation of the City's Ten Year Water and Wastewater Plan Capital Improvements Program.

**Funds:** See Memo

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1458 from City Manager.

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**Open Space Site 94 – Herman Property – 1760 SW 29 Avenue (M-21)**  
**Development Funding – Five Year Capital Improvement Plan**

A resolution authorizing the proper City Officials to include development funding for Open Space Site 94, located at 1760 SW 29 Avenue in the City's 5-Year Capital Improvement Plan and to execute all necessary documents including an interlocal agreement.

**Recommend:** Motion to approve.

**Exhibit:** Memo No. 04-1541 from City Manager.

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<b>PURCHASING AGENDA</b>
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**552-9100 - Contract, Full Service Banking Services****(Pur-1)**

Five-year contract for full service banking services is being presented for approval by the Finance Department.

Vendor: Wachovia Corporation/Wachovia Bank, N.A.  
Charlotte, NC  
Amount: \$ 15,000.00 (estimated)  
Bids Solicited/Rec'd: 68/4 with 1 no bid  
Exhibit: Memorandum No. 04-1563 from City Manager

The Procurement Services Department reviewed this item and recommends awarding to first ranked proposer.

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**552-9101 – Reject Proposals for Credit Card Processing****(Pur-2)**

Reject all proposals for credit card processing services is being presented for approval by the Finance Department.

Bids Solicited/Rec'd: 26/5 with 1 no bid  
Exhibit: Memorandum No. 04-1562 from City Manager

The Procurement Services Department reviewed this item and recommends rejecting all proposals received.

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**582-7993 – 90-Day Interim Extension for Investment Manager Services****(Pur-3)**

An additional 90-day interim agreement extension for investment manager services is being presented for approval by the Finance Department.

Vendor: Public Financial Management, Inc.  
Orlando, FL  
Amount: \$ 19,800.00 (estimated)  
Bids Solicited/Rec'd: N/A  
Exhibit: Memorandum No. 04-1564 from City Manager

The Procurement Services Department reviewed this item and recommends approving additional interim extension agreement.

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**Proprietary – Parts for Single-Space Parking Meters****(Pur-4)**

An annual purchase of parts and materials for single-space parking meters for City-wide use is being presented for approval by the Parking and Fleet Services Department.

Vendor: Duncan Technologies  
Harrison, AR  
Amount: \$13,892.50 (estimated)  
Bids Solicited/Rec'd: N/A  
Exhibits: Memorandum No. 04-1525 from City Manager

The Procurement Services Department reviewed this item and recommends approving the proprietary purchase.

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**Proprietary – Parts for Multi-Space Parking Meters****(Pur-5)**

An annual purchase of parts and materials for multi-space parking meters for City-wide use is being presented for approval by the Parking and Fleet Services Department.

Vendor: Bytewise Solutions, Inc.  
Opa Locka, FL  
Amount: \$ 160,473.00 (estimated)  
Bids Solicited/Rec'd: N/A  
Exhibits: Memorandum No. 04-1373 from City Manager

The Procurement Services Department reviewed this item and recommends approving the proprietary purchase.

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**Office Copier Replacement Plan FY 2004-05****(Pur-6)**

An annual office copier replacement plan for FY 2004-05 for City-wide use is being presented for approval by the Business Enterprises Department.

Vendor: Various Vendors  
Amount: \$ 101,000.00 (estimated)  
Bids Solicited/Rec'd: N/A  
Exhibits: Memorandum No. 04-1521 from City Manager

The Procurement Services Department reviewed this item and recommends approving purchases from Broward County, the State of Florida and other competitively bid governmental contracts.

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**942-9082 – Drain Field and Septic Tank Services****(Pur-7)**

Three-year contract for drain field and septic tank services for the Residential Rehab Program is being presented for approval by the Planning & Zoning Department.

Vendor: A-Alligator, Inc. (WBE)  
Fort Lauderdale, FL  
Amount: \$ 50,000.00 (estimated)  
Bids Solicited/Rec'd: 57/3  
Exhibits: Memorandum No. 04-1551 from City Manager

The Procurement Services Department reviewed this item and recommends awarding to the low responsive and responsible bidder.

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**Proprietary – Utility Line Notifications****(Pur-8)**

An agreement to purchase membership and cost of utility line notifications for FY 2005 is being presented for approval by the Public Works Department.

Vendor: Sunshine State One Call of Florida, Inc.  
Debray, FL  
Amount: \$ 12,000.00 (estimated)  
Bids Solicited/Rec'd: N/A  
Exhibits: Memorandum No. 04-1543 from City Manager

The Procurement Services Department reviewed this item and recommends approving the proprietary purchase.

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**Replace Two Units in Fleet Plan****(Pur-9)**

Approval to replace two units in the approved Fleet Plan is being presented for approval by the Parking and Fleet Services Department.

Amount: \$ 48,496.00  
Bids Solicited/Rec'd: N/A  
Exhibits: Memorandum No. 04-1566 from City Manager

The Procurement Services Department recommends approving changes to FY 2004-05 Fleet Plan.

---

**942-9069 – Lot Maintenance Services****(Pur-10)**

A one-year contract for lot maintenance services is being presented for approval by the Planning and Zoning Department.

Vendor: C & M Landscaping, Inc. (MBE)  
Fort Lauderdale, FL  
C & W Lawn Care, Inc. (MBE)  
Fort Lauderdale, FL  
Amount: \$ 125,000.00 (estimated)  
Bids Solicited/Rec'd: 104/9 with 3 no bids  
Exhibits: Memorandum No. 04-1522 from City Manager

The Procurement Services Department recommends awarding to the low responsive and responsible bidders.

**MMRS Pharmaceuticals****(Pur-11)**

An agreement to purchase Metropolitan Medical Response System (MMRS) pharmaceuticals is being presented for approval by the Fire-Rescue Department.

Vendor: DHHS Supply Service Center  
Perry Point, MD  
Amount: \$ 300,000.00 (not to exceed)  
Bids Solicited/Rec'd: N/A  
Exhibits: Memorandum No. 04-1496 from City Manager

The Procurement Department recommends approving purchase from Federal Supply Schedule.

The following items are removed from the Consent Agenda as recommended:

**Motion** made by Commissioner Moore and seconded by Commissioner Hutchinson that Consent Agenda Item Nos. M-19, Pur-1, and Pur-11 be deleted from the Consent Agenda and considered separately, and that all remaining Consent agenda items be approved as recommended.

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

**Change Order No. 10 – Joseph C. Carter Park -  
\$40,578.62 – Construction Support Services, Inc.****(M-19)**

Commissioner Moore said that he pulled this item and wanted to thank the City Manager and Engineering Departments for their efforts in completing this park for its January 17, 2005 opening in time for the Martin Luther King celebration.

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

**552-9100 Contract, Full Service Banking Services**

**(Pur-1)**

Five-year contract for full service banking services is being presented for approval by the Finance Department.

Vendor:	Wachovia Corporation/Wachovia Bank, N.A.
Amount:	\$ 15,000.00 (estimated)
Bids Solicited/Rec'd:	68/4 with 1 no bid
Exhibit:	Memorandum No. 04-1563 from City Manager

Commissioner Moore said that he received correspondence from another bank regarding this matter. He asked if staff is still recommending the City enter into a contract with Wachovia.

Terry Sharp, Finance Director, said that he recommends Wachovia Bank. He said the letter is talking about the ability to invest a portion of the portfolio and earn interest. All proposers have interest bearing accounts. The primary focus is to provide banking services with the least cost. Wachovia met the requirements of the RFP. He said further their concern with the SunTrust proposal was the placing of \$25 million as a balance because they could not guarantee that they would have a daily balance of \$25 million. He said it would cost the City more if they had to pay those fees rather than going with the recommended proposal.

**Motion** made by Commissioner Moore and seconded by Commissioner Teel to approve staff's recommendation.

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

**MMRS Pharmaceuticals**

**(Pur-11)**

An agreement to purchase Metropolitan Medical Response System (MMRS) pharmaceuticals is being presented for approval by the Fire-Rescue Department.

Vendor:	DHHS Supply Service Center Perry Point, MD
Amount:	\$ 300,000.00 (not to exceed)
Bids Solicited/Rec'd:	N/A
Exhibits:	Memorandum No. 04-1496 from City Manager

Commissioner Teel said that she pulled this item. After reading the back-up materials provided, she has additional questions. She read from page 2 as follows: "There is no cost to the City provided final cost of our required pharmaceuticals does not exceed the budgeted amount in the MMRS budget." She said that sounds like a potential problem, and asked how would they incorporate safeguards so that would not occur.

Bob Cook, Public Safety Grants Manager, said the current costs are \$255,000 and because drug costs change frequently, they are requesting that the Commission approve a purchase order up to \$300,000 covered by the grant. In addition, there are additional funds in the grant from savings when purchasing equipment. He said they do not anticipate any costs to the City.

Commissioner Teel asked if the trailers are refrigerated. Mr. Cook said the pharmaceuticals would be stored in air conditioned locations, and some of the trailers are also refrigerated.

Commissioner Teel asked if City personnel would be monitoring the drugs at such locations. Mr. Cook said that each storage facility would be responsible for monitoring the inventory on a monthly basis. In addition, under the grant they would purchase a drug inventory system installed for City personnel to oversee. He said that some of the trailers are not located in the City of Fort Lauderdale, and explained that the grant supports the Metropolitan Medical Service Area, including the entire county.

**Motion** made by Commissioner Teel and seconded by Commissioner Hutchinson to approve staff's recommendation. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: None.

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<b>MOTIONS</b>
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**City of Fort Lauderdale v. Coolidge-South Markets  
Equities, L. P. – Case No. 00-10449 (08)**

**(M-22)**

**Motion** made by Vice Mayor Trantalis and seconded by Commissioner Hutchinson to approve the proposed Settlement Agreement between Coolidge South Markets Equities, L.P. and the City.

The City Attorney said this is the final proposal for a settlement with the developer on this piece of property. He said they are scheduled for trial in the morning absent any settlement tonight. This proposal is different from others because it leaves an area in front of the Stranahan House of approximately 2/3 of the width of the Stranahan lot, providing a vista to Las Olas. A photograph was shown of the site.

The City Attorney further said that the original building is oriented at a slight angle around the Stranahan House and takes up the entire lot. The proposed building is more perpendicular to Las Olas and takes up less space, with a 42-story building of 280 units, as opposed to 312 units. He said the parking and traffic patterns would meet the street pattern adjacent to the property. The Settlement Agreement provides that the developer would provide for this configuration of development. From the time of the submittal of the new plans, the City would then have 6 months to issue a building permit.

The City Attorney said that with failure to approve this plan at the end of that period of time, the developer would retain the right to build according to their original plan almost covering the entire lot. The building would consist of 38 stories of 312 units with a



different traffic pattern. He said that the first story of the parking garage would contain commercial and retail space along Las Olas and around the side. On the water side, there would be a waterfront restaurant which would be the only one north of the River outside of the Riverhouse. Failure to approve this agreement, the developer would build according to the old plan and both parties would walk away from the lawsuit paying their own attorney's fees and costs, and that would be the end of the litigation.

Commissioner Moore asked what amount has been paid by the City for attorney fees, and did anyone else pay such fees, and if so, what is the split.

The City Attorney said that to date the total amount of attorney fees is about \$550,000 and he believed the Stranahan House has paid about \$250,000.

Commissioner Hutchinson said that in closed door sessions, the Commission discussed the plaza park area. She said further that concerns were raised that it would consist of a hard face. She said that she wanted to make sure it is a green surface and not a "concrete canyon" with little greenery. She remarked that this is a stipulation.

Courtney Crush, attorney, said that they would make it as green as the Commission desired.

Kathleen Ireland asked if this project is going to be connected to the Riverwalk, and would there be open public access. Commissioner Hutchinson said that there would be public access along the river and behind the Stranahan House due to an easement agreement that exists. The Riverwalk would connect from SE 5<sup>th</sup> Avenue to behind the proposed project, including behind the Stranahan House.

Vice Mayor Trantalis believed the proposal is to deed the property to the City, and give an easement back for management and maintenance of the plaza area.

Alice Smith, member of the Stranahan House Board of Directors, said that she attended Commissioner Hutchinson's pre-agenda meeting. She said the drawing being shown is not drawn to scale and is only a sketch. She is concerned about the proposed Settlement Agreement, and Commissioner Hutchinson said that she would not be in support of a closed-door deal. She hoped that everyone agreed, and she felt if this proposal is accepted the Commission would be supporting such a deal. She said the first problem with the proposal is that even if paragraph 5 is a starting point for the development of an acceptable compromise, acceptance by the City would result in a settlement rejected by the Commission previously. She said that paragraph 5 is contingent upon the granting of permits within 6 months of the approval of the settlement by the court. In the event the permits are not granted within that time period, then the developer could proceed with their original proposal. Moreover, paragraph 2 of the proposed settlement provides that the Commission agreed that the original plan conform with all City building requirements even though it has never been reviewed by the Development Review Committee.

Ms. Smith said that it is inconceivable that with both sides proceeding in good faith that this could be accomplished within the 6-month time period. She said that some approvals would have to be received from organizations outside of the City's control, such as the FAA, and therefore, the practical effect of the settlement is that within 6 months of the acceptance, the developer would have the right to proceed with the

original proposal without going through any usual permitting process. She felt that whoever negotiated this settlement on behalf of the City must have tried to negotiate a settlement good for the City, fair to the citizens who voted for a referendum to create a park, and the developer, but unfortunately in reality the actual proposal is nothing more than a cleverly disguised repackaged version of the previous proposal which was rejected.

Commissioner Hutchinson asked for the City Attorney to explain the process the previous proposal went through, and what public process the new plan would have to go through and adhere to.

The City Attorney said that the previous plan was reviewed by DRC, who provided comments to the developer. The alternate plan would go back through DRC and through the Site Plan Level IV process, along with presentation to the Historic Preservation Board for their recommendation.

Commissioner Moore asked if the issue of the 6-months is removed from the table would Ms. Smith approve of the Settlement Agreement. Ms. Smith said that it would be a beginning.

Eric Von Salzen, 2112 NE 44<sup>th</sup> Street, said that he and his wife moved permanently to the City but have been coming to Fort Lauderdale for over 40 years. He said he loves the City, but there is one thing wrong with it, and that is it does not respect its historic past. The Stranahan House is a jewel of the City, and it has not been treated well in the past. By approving the proposed settlement, the City would not be treating it as it should. He said he has lived mostly in the Middle Atlantic States where people respect their history and historic buildings. He further said that 4 years ago the City decided to build a park at this site and the citizens approved it. He said the park is for the benefit of the residents and would bridge the Las Olas Shopping District with the new high-rise residential buildings. Meantime, it also preserved the Stranahan House. He urged the Commission not to approve the proposed settlement, and said they should not let the developer bully the City because the City would win in court. He said the City would not win if they give up the fight at this time. It would only hurt the City.

Commissioner Moore asked if this development concept damaged or compromised the Stranahan House in any way. The City Attorney replied that the integrity of the House or the property is not changed at all. He said that it would create a wall adjacent to the House setback from the property. The historic qualities will remain as they presently exist.

Mayor Naugle said that comment is interesting because he felt an engineering background would be needed to answer questions regarding the structural elements of the house. The City Attorney reminded the Mayor that the plans are subject to review in order to obtain a building permit. They have to provide some adjacent lateral support to adjacent properties. Failure of that in a review process would show if structural damage would occur to the Stranahan House and it would not be approved.

Christine Madsen said that she came to the City in 1971. She owns a business here. She said that she presently serves with the Friends of the Park at Stranahan House, and emphasized how important this House is to the City, along with other historic entities that need to be viewed as such. She added that a report is being submitted regarding the

structural damage that could occur to the Stranahan House in connection with the proposed project. She begged the Commission to consider voting against this settlement, and indicated that she would support the Commission if they made such a decision.

Barbara Keith, Executive Director of the Stranahan House, said that she is compelled to speak from the bottom of her heart regarding this treasure and the surrounding site. She said they have been partners with the City since 2000 and it has been a struggle at times, but they have shared things together, and she is now urging the Commission to vote as a partner and to remember that the community wants a green space around this site.

Christopher Eck, Administrator of the Broward County Historical Commission and Chair of the City's Historic Preservation Board, said that he recently had the opportunity to write a pamphlet entitled "*The Power and Importance of Place*." He said by creating a park around the Stranahan House, it would preserve the soul of the City. He said further that the importance of the land surrounding the Stranahan House is not so much the House itself because it has been preserved and lovingly cared for, but the importance of creating the park around it which is considered the heart of the City and preserving its soul. He commended the City on their work over the years in an attempt to craft a settlement agreement that would meet the needs of all the parties involved. He realized that is very difficult. He said a solution is needed to make as many people happy as possible, and he realized that is a difficult task especially since it involves a large political landscape. He said they have to determine what is the importance of the landscape itself. It is important to note that the Hyde Park Market site is a landscape surrounding the Stranahan House. He said that in working with historic preservation, they always seek to create a setting that would preserve the most important aspects of a community's history.

Mr. Eck said that the Stranahan House is the epicenter from where this community began. The Stranahans settled here in 1894 and became the heart of the community. When Mr. Stranahan married Ivy they became a team devoting their time, talents and resources to make this a better community, and he believed this City would not be what it is today without their devotion. The Hyde Park Market site is previously known as the Stranahan Subdivision, and it is important to know why that name has been separated from the people themselves. He said they donated money to create the South Side School, land for the Dillard School, land for Fort Lauderdale High School, and land for one of the first hospitals. They constantly gave to the community. When Mr. Stranahan died the land was sold off and separated from the family. He urged the Commission to preserve the land around this house because it is important to the setting of a very important historic landmark.

Ken Ortnor, 1613 NE 5<sup>th</sup> Court, said that he also owned a business in this City. He said he is speaking on behalf of the Friends of Stranahan House. He said the Board is not in favor of this proposal and they urge the Commission to vote against it. He said there are other proposals that could be considered, and they encourage public participation and that no public review be omitted in the process. He said that he is also representing Riverwalk and is a past President of the organization. He said they always looked at this property as a park and encouraged the southern portion of the property from 5<sup>th</sup> to the Stranahan House be made part of the Riverwalk Park, and that the developer should bear the costs for such park.

Rodney Rogers said that he is a past President of the Stranahan House and has been involved in its rehabilitation from the beginning. He is opposed to any development on property that would impact the Stranahan House because it is a "taproot" of the community and connects the fabric. He has a personal attachment because the original floors of the Stranahan House are presently in his family room. He wanted to make a plea to the Commission to do what their conscience directs them to do. He indicated that the people have spoken regarding this issue and voted to have this land used as a park. He felt that a lot could happen between a trial and the final outcome of a project. He applauded the Commission for attempting to seek other solutions to this problem in the past, and urged them to continue to seek other solutions to resolve this matter. He urged the Commission to keep up the fight because there are things worth fighting for.

Vice Mayor Trantalis asked what other solutions are available for consideration regarding this problem.

Mr. Rogers said the land swap was a good solution, but unfortunately it did not work. He said the beach is not the only place where the building could have been constructed. Vice Mayor Trantalis said the beach is the only area where such a building could have been built. He said the Commission is prepared to hear all options available. Mr. Rogers said that he has not studied to see what other comparable sites are available, but he believed there is a long time between trial and outcome. He said that appeals could be filed and could be successful, and he believed there are things worth fighting for. He urged the City to stay the course.

Joseph Smith, resident of Middle River Drive, said that he understood that a compromise meant no one is perfectly happy. He said this is to go before zoning, but he wanted everyone to look at the proposed settlement. He felt the City would be between a rock and a hard place if they accepted this agreement. All the chips are on the side of the developer and the City is locked in. The developer is willing to convey some land to the City, but an easement is only being granted that would be controlled by the developer. He said the City has property in their name, while the developer has a chunk of property in the City's name that is tax exempt and they control it. He felt this is not a compromise. He said there is a fine line between compromise and selling out, and if this agreement is approved the City, they would have crossed that line.

Patrick Scott said he has lived in the City for over 50 years and is very interested in history in general, along with the City's history. This summer the County Historian and he interviewed at some length a person by the name of Frannie Smith who moved here in 1910 with her family in a horse and wagon. They bought a house and built a hotel 100 yards west of the Stranahan House. The children in the area played with the Indians and Mrs. Stranahan at the site. Mrs. Stranahan convinced the schools to accept Indians. A story was told to them about her being chased up a tree by an Indian known as "Shirttail Charlie," and her father finally came and rescued her. The tree is no longer at the site due to the complex being constructed in that area. He said this should provide a lesson as to what is important for the City's history so such stories could be told. He further said that it is his understanding that the swap deal, which had not been approved, is not to build on the beach, but to build setback on the triangular part of the parking area.

Bill Sidnore said he works for Broward County Public Schools and is a Drug and Violence Prevention Counselor and Specialist who has lived in the City for over 40

years. He wrote a book for children regarding the City's history which is used in the public schools as a supplement so students could have hope and understanding where the City came from. The City began before the Stranahans with the Tequesta Indians. He said the Commission need to be aware that they are going to move on to the next stage of their lives eventually. He has dedicated his life to a sense of community. He said he also wrote character education for the County schools and works with the Sun Sentinel regarding the Kids of Character Program. He asked the Commission to consider how they are reflecting on their character because they could not vacillate on the issue. He said the people have spoken and a commitment was made. They need to respect the generations that would follow. There is a financial impact, but there is also something greater. He said money is spent in many areas and often time without accountability. They have to consider what legacy they are going to leave for the future. It is a character trait that has to be reflected upon. He asked if the Commission is going to let a developer bully the City, or are they going to stand for what the people want. He asked if they are going to reflect what the next generation wants and reminded everyone it is a question of character.

Heidi Siegelshaftner, 3350 Alba Way, Deerfield Beach, said the Stranahan House is not just for the City of Fort Lauderdale. It tells the history of Broward County, and if it was not for the Stranahans the County would not have developed as it exists today. She said that she holds a Master's Degree in historic preservation and works in that field throughout South Florida and other states, including Alaska. She wanted to talk about the principles of historic preservation. Historic preservation is based on site and community preservation, and not just on building preservation. In looking at buildings to preserve, one does not look at them on an individual basis, but on the history they tell and the impact they have on the surrounding communities, along with the impact on the future. Any future plan for the subject site must recognize, celebrate and respect the historic Stranahan House. From a structural perspective, she stated that any steps taken must go above and beyond the City's Code regarding approval of building plans. The Settlement Agreement supposedly includes items that go above and beyond the normal process, and she believed extra protection is needed regarding the foundation of the Stranahan House because it is a delicate site on the water. She believed the project should be kept in the public eye and encouraged the Commission to lift the 6-month time period. She felt the Commission need to take a stand for the City's history. The City also needs to celebrate their past and take a stand for preservation.

Stacey Hauberg, President of the Board at the Stranahan House, said they already have discussed the historical significance of the site. In an effort to preserve the site, they entered into a partnership with the City to provide what the voters wanted which was a park. She wanted to outline a few steps that were taken to be the City's partner. First, the Stranahan House funded \$250,000 towards the City's legal fees, and over the years has spent an additional \$300,000 to maintain such efforts. They also agreed to assist in raising funds towards any shortfall between the agreed upon price and the bond referendum. They contributed valuable land and gave the City an easement on waterfront property to continue the Riverwalk project. She felt this was in the best interest of the City and a dedication to the partnership. She said further that they continued to maintain and promote the Stranahan House each year, and their volunteers provide over 30,000 tours to visitors and school children.

Ms. Hauberg further stated that they supported the land swap option which offered taxpayers a no-cost option to end the lawsuit. The Commission voted against such

settlement. She said their group remained open to any reasonable settlement options available. She further said they upheld their end of the partnership, but the City was willing to consider a settlement without consulting them or presenting the site plan to them. She said they recognized that the City's economic condition is a significant factor, especially in light of the City's financial condition in other pending legal battles. She said that such conditions would change over time, but tonight's decision would change the course of the City's history. She said further that the constituents have chosen the Commission as their leaders, and that requires tough decisions. The Commission could be remembered as a "condo commission," or one that voted to preserve the most significant historic site in the City. She urged the Commission to make the right choice.

Stephen Tilbrook, attorney and Vice President of Stranahan House, Inc., said that he is present on behalf of Friends of the Park at Stranahan House. He said that typically he represents property owners and developers before the Commission. He wanted to clarify the process to make sure the City is going down the right path. He has never seen a process where a settlement provided for bypassing the City's site plan review process. He wanted to enter into the record some documents from the development review process that is stopped and being bypassed.

Mr. Tilbrook said he is present to express questions and concerns regarding the settlement. The settlement waives all the City's rights and obligations to review the project for compliance with the ULDR. The settlement also states that the project, which has not been through the Site Plan Review process and has not complied with the ULDR, did comply with both. He said he is part of the process and he knew what questions were raised and are listed in the submitted documents, and such questions have not been addressed. He proceeded to show the project which the Commission is voting on this evening.

Mr. Tilbrook said the Settlement Agreement provides outright approval for the project without any conditions from the Commission, or consideration by the public or for the Code or the process. He said that is wrong because the developer has voluntarily withdrew his application and did not pursue the process, but chose the path of litigation. The Commission should not set the dangerous precedent that through litigation and settlement, the Commission could bypass the legal process for site approval and grant extraordinary rights to developers that threaten the City. He said he never did that and hoped never to see that happen again. He said the project should not go through such a process.

Mr. Tilbrook further said that the Settlement Agreement set forth a terrible precedent for the City, and is a shameful process. He hoped the Commission has the political will to stay the course, set the right precedence, listen to the public will, and follow the requirements of the law.

Mr. Tilbrook wanted the entire DRC file to be part of the record for the proceeding. In addition, he is submitting an original petition to amend the City's Charter. He said they received enough signatures to amend the City Charter and obligate this Commission to purchase the property for a park. He said they voluntarily withdrew the petition so a bond issue could be placed on the ballot. The bond issue passed, but he wanted the original citizen objectives for acquiring the park placed in the record. The second item he wanted in the record is the resolution to issue general obligation bonds for acquiring the park. The document shows the facts, findings, and foundation of this Commission that the

property is worthy of a park and the development should not have preceded. He said the third document are the original comments from the City Development Review Committee. He said the comments lay out the obligations and concerns of City staff concerning this project. He said it also lays out the obligation for this project to be presented to the Historic Preservation Board which has not been done. There are other obligations that the project does not meet.

Mr. Tilbrook questioned whether this project is legally before the Commission. He further said that one of the obligations in the DRC comments is that the responses are to be completed within 90 days. He said it is 5 years and this project has expired and the process needs to begin over. He said that the Comprehensive Plan is the law of the land. The historic preservation element of that plan lays out what is to be considered regarding development projects and the process that is to be followed. The Historic Preservation Board is to be involved in the process. He further said that it did not involve a "charade" process which is where one entered into an agreement to grant all rights, and then send the project through the process with a "wink and a smile" that the boards do not have the authority to comment on the project.

Mr. Tilbrook further said that he is also submitting the Janus Report which evaluates the impacts of this project on the Stranahan House. There are other pieces of correspondence being submitted between the developer, the Historic Preservation Board, and himself regarding the site plan review process.

Jim Blosser, attorney representing the Stranahan House, Inc., a not-for-profit corporation, said that he was also the Chairman for the Fund Raising Committee for restoration of the house in the '80's. A check was received in the amount of \$100,000 from George English who stated that they are not to stop with just restoration of the House, but should acquire the Hyde Park site, and give it back to the memory of the Stranahans who gave so much to the community. Mr. English said they are not to stop until they have a heritage park.

Mr. Blosser further said that he is present tonight to save the dream that Mr. English had when he aided with the salvation of the Stranahan house. He wanted to state his uncertainty regarding this proceeding. He asked if it is a public hearing with a record, a quasi-judicial hearing on a site plan, or simply public comment. He said it is important to make a good record for future reference. During the past 4-5 years, they have shared their thoughts with the City regarding preservation of the historic Hyde Park site, and were pleased to participate in the efforts to arrive at a satisfactory settlement. He remarked they were truly caught by surprise yesterday when the current proposal was presented. He said they are scrambling to analyze and understand the details or lack of details of the proposal. He said as the Stranahan House, he believed they have the responsibility to speak for the community's founders and the residents who supported the 1999 bond issue to acquire this site for a park and open green space. He said such support continues at this time.

Mr. Blosser said the City does not know the factual and legal implications of the proposed site plan which has few details, or the proposed final judgment which gave the developer the right to build according to the original site plan with little City control or oversight. The site plan is a "charade" for the next 6 months, and in the end the originally proposed building would be constructed. He asked why the City is conceding to the owner and developer after a good effort and waiving the City's rights to control the site.

The Stranahan House is a fellow stakeholder in this matter pursuant to the Agreement, and they are continuing their belief that the City could take land for a public park as a lawful exercise of their power. He cited the City of St. Petersburg vs. Vanoy Park Hotel, 352 So.2d 149.

Mr. Blosser further said that issues could be settled during any part of negotiations, and he felt that the sense of urgency put forth is to scare the City to settle with this “give away” settlement. He urged the Commission not to let the City be worn down and have them lose their will as to what is best for the City.

Al Imgrund said he is a one-year resident of Fort Lauderdale and retired here. He is a licensed private investigator serving corporate and city clients. He also served as mayor of a city in Illinois, and is familiar with the process and with developers. He said he is a “political junky.” He said he viewed a tape of the Stranahan House and believed it is a “gem.” He said the real question here is why is the City at this point in time. He said he researched the issue and did not understand how the City got to this point, and what is being presented tonight appears to be a “shotgun wedding courthouse step settlement.” He believed within the 6-month period, the developer would return and do exactly what they want. He said the City is having trouble issuing permits for garages within 3 months, which is a violation of the State Statutes, and that is another matter. It appears that the City and developers are at loggerheads and are in litigation and the City lost the first round. Money has been spent for attorney fees, and evidently the City would not be in this position unless they were scared of further litigation. He thought the previous suggestion regarding the land swapping appeared better than the present deal. He said that possibly the City’s legal position is very precarious, and he hoped the Commission would reject the proposed settlement because it did not appear good for the City.

Frank Bryan said that he did not know the particulars of this settlement, but is speaking as a resident of Broward County. He said further that he had the opportunity to meet Mrs. Stranahan and did some electrical repairs for her. He continued to state that he and another individual were at her home and a gentleman accidentally stepped on a flower overhanging the walkway. Mrs. Stranahan reprimanded him and reminded him that the flower is a living thing. He truly believed that he stood here as one grain of sand on a very large beach of individuals who strongly urge the Commission not to trample on Mrs. Stranahan’s flowers again.

Charles Jordan, President of Broward Trust for Historic Preservation, said that tonight they are looking at a colossal failure of planning by the City because opportunities have been provided to address this issue, but now they are addressing it in a way that puts the City “under the gun.” He hoped the Commission would look at this for future planning to make sure the City would not be placed in such a position again regarding their historic assets. The Broward Trust for Historic Preservation supports the Stranahan House’s efforts to preserve the historic character of its property. He said the public presentation of this building was inadequate for years, and its relationship to the river and linkage to the Las Olas shopping district is vital in presenting this historic property to the public in a meaningful way. He urged the Commission to reject any plan that does not take such matters into consideration.

Jay Koninsberg said that he wanted to offer his compassion to the Commission because they are in a difficult position. He said further that what is being overlooked is that the battle for the park is lost. Legal fee amounts are being thrown around as if they are



nothing, and based on the problems that arose at these meetings, such costs should not be ignored now or in the future. He said the developer does not appear to be destroying the Stranahan House, and possibly only a view is being impacted, along with some aesthetics. He felt the developer attempted to compromise, and believed if the City proceeded in court, they would be "spanked." He did not think anyone wanted that to happen.

Mr. Koninsberg further felt that another matter that should be considered is that developers create many jobs over the years for the City. They are not going to go away. They increase the tax base substantially. If the City fights with the developers, he did not see it as a positive in comparison with the individuals wanting to preserve something that is not being destroyed. With regard to the suggestion that this is a ploy, it is within the City's power to meet the 6-month fast track approval process so the developer could not revert back to the original plan.

Donald Hall, attorney, said that he is speaking on behalf of the property owner this evening. He said if everyone believed what is said this evening, it would appear that either proposal is an insult to the Stranahans. He said that common sense prevailed and that is not the case. This is an application to put the property to a permitted use as did the Stranahans when they first arrived. The original application made every reasonable compromise, but that was not enough. It was desired that this entire acreage be devoted to a public use but the Judge did not agree, and therefore, the City lost the condemnation case. The alternative plan presented went further in order to respect this historic structure. It would create a public plaza which provides more exposure of the house to the street than it has ever had, except when the Stranahans owned the property. He said this would make serious compromises on the part of his client, especially in regard to retail space. He further said this is a more difficult and expensive plan to tuck the building into itself in order to open the view corridor.

Mr. Hall did not understand the animosity this application has created. They are not the enemy of the Stranahan House. They want to work with them, but it became clear that the House would only be satisfied if every square foot of land acquired by his client was acquired by the City and made into a public park. He said that this evening they are presenting a good faith effort to give them 6 months to see if this could be approved. He was offended, but not surprised, by the suggestion that this is a ploy to develop the original plan. He assured that is not the case. He continued to state that if the judgment needed to be amended to adjust the application, good faith efforts within 45 days of the entry of the judgment would be taken to do so. They want this plan developed. He would be remiss if he did not thank the Mayor for his efforts to assist in settling this matter. He said he is sorry the plan did not come to fruition, but appreciated his help.

Toby Brigham, attorney, said that he also represents the property owner. He said the right to own property is a civil right and might not be distinguished by a majority vote, and that is why it is guaranteed by the United States Constitution and the Constitution of Florida. He reminded everyone that at the time this property was rezoned the community wanted a high-rise urban residential community in downtown Fort Lauderdale. In the past the property of the Stranahan House has been designated historic area. He asked where everyone was at that time to enlarge that historic designated area and that this property was never included within the historic designated area. He said that this site is designated for high-rise development. He reminded everyone that the property was never a park prior to the referendum passage in 1999. Yet a \$90 million bond issue

passed to perfect the park system, but this property was not one of those parks. The owners purchased the property and sought to put it to its lawful use, but it has been 4 years and they have not been able to do so. He said that they defended their property rights, and the court ruled. The land is valuable in the City, and many world-class cities have similar treasures such as the Stranahan House which are framed with high-rise residential communities. It enhances the fact of the modern versus the historic juxtaposed, and emphasizes and rewards both. He urged that this settlement take place because this resolve would work to the best advantage of everyone involved under the circumstances.

Vice Mayor Trantalis said that he did not think that anyone wanted to see anything at this site other than a park. If that choice is available, it would be concluded that everyone wants a park at the Hyde Park Market site. The point they are trying to arrive at tonight is whether this is a practical choice. He said testimony was given this evening and facts were presented by the City Attorney and documentation presented for the Commission to consider and review. He wanted to share some of that information so everyone could see and understand what choice is being handed to the Commission.

Vice Mayor Trantalis said that the Stranahan House is part of the City's legacy, and indicated that many others have been destroyed. Everything needs to be done to preserve the integrity of the Stranahan House. He felt that has been done because it has not been destroyed; a safe environment has been provided for it. The question is how much of a perimeter is needed for this structure to exist safely and adequately and remain as a historic treasure. The question then arises as to whether there should be a park around the structure. He felt that is necessary because they need to preserve as much space around it as possible. The next question is how much the City could afford to spend in order to preserve the surrounding property. It is a difficult question and a large amount of numbers were brought to the Commission's attention. It is not going to be an answer that could be arrived at with any amount of certitude until a judge or jury made a decision, but there are some round numbers available which he wanted to talk about.

Vice Mayor Trantalis said the site is a former parking lot with a grocery store, and if the City was to win the case, claim the land back and turn it into a park, the cost would be about \$18 million. When the referendum passed, the cost was to be \$8 million, but that was a hoax. He said he lived here in 1999 and supported the passage of the bond issue, but correct information was not supplied. Now, the cost is \$18 million at a minimum. He said when individuals stated that it is a test of the Commission's character as to whether or not they voted for a park, he took exception to such statements. He is being asked to write a blank check that generations in the future would have to pay for if \$18 million or more is borrowed to purchase this land. He asked if it is a test of his character as to whether or not the City should purchase this land and burden the taxpayers with an \$18 million or more debt. The land is not holy land. It is about 1.4 acres, which has no particular historic significance, but would create a sense of place for the Stranahan House. He voted in favor of a sense of place and even wrote about it, but the question is at what cost. He felt it would be a violation of the trust that the community placed in the Commission suggesting they write a blank check for the purchase of this property.

Vice Mayor Trantalis said there is a point when the Commission has to say no. He was criticized recently for his vote favoring the raising of a similar amount of money for additional police and fire protection, along with capital improvements for roads and

infrastructure. Now, he is being told it is okay to spend that amount of money to purchase 1.4 acres of land to create a park. Such choices are not easy for the Commission, and he is not sure it is fair to ask them to do that. He felt they are being boxed in. He said the referendum in 1999 was a mandate to spend \$8 million, if that was the amount, but the vote was not a mandate to spend any amount of money to purchase the land back. It is also inappropriate for the Commission to suggest the City could take away land from a property owner based on zoning.

Vice Mayor Trantalis continued to state that if the City did not want such buildings in their downtown, then they need to step ahead and change the zoning, and make the investment community aware of what the City felt is appropriate for the remaining acreage. He is concerned about various things said this evening. The first is that an individual testified that the site plan review process is being avoided through this compromise. He asked for clarification of this comment.

The City Attorney said there is no avoidance of the site plan review process. The plan went through DRC and did not require additional approvals. Comments were returned to the developer. The Judge said it is futile for the developer to resubmit to the City. He said the new plan would go through the process as required, along with being presented to the Historic Preservation Board before being presented to the Commission.

Vice Mayor Trantalis asked if the plan is not approved through the process and a good faith effort is made on both sides, would the developer have the right to revert back to the original plan.

The City Attorney said the review process would bring a recommendation to the Commission, who would be the final arbiter regarding the alternate plan. If the Commission does not approve the alternate plan under this agreement, then it would revert back to the original plan.

Vice Mayor Trantalis asked if the original plan is approved through the correct process. The City Attorney said it is sent back with comments. Vice Mayor Trantalis asked if the original plan would automatically be approved per the settlement agreement. The City Attorney confirmed yes and said it is approved per the Judge's Order which said that the developer has the right to build according to the City's zoning regulations and the ULDR, and the resubmittal of other designs would be futile at that point. Vice Mayor Trantalis asked if the plans would have to be resubmitted if the current plan does not achieve approval through the normal process. The City Attorney said the plans would be resubmitted. If the City breaches this agreement, then the Judge would order approval of such plans. Vice Mayor Trantalis further asked if this particular plan failed to meet the ULDR regulations and other building code requirements, would the developer be allowed to build the original plan without additional approvals. The City Attorney said that the developer would still have to obtain a building permit. He said the whole issue in the lawsuit is whether the developer has an approved plan. The Judge said the developer has an approved plan.

The City Attorney said the City's position is that the developer did not have an approved plan, and this agreement is a settlement of the lawsuit. The City prefers the alternate plan but failing that, the developer could build according to the original plan.

Vice Mayor Trantalis said if the new plan is not approved, it could be a subterfuge to try and build the original plan without going through the appropriate process. He said that would be an incorrect statement because the plan went through the review process, was given judicial approval, determination that the building is appropriate. Vice Mayor Trantalis felt there is a lot of misunderstanding regarding this matter.

Mr. Brigham concurred with the Vice Mayor's statement. Vice Mayor Trantalis said that individuals are implying that the City is giving in to the developer, when in fact the developer went through the appropriate process and the Judge gave his stamp of approval for the original plan. Now, they are seeing if an alternate plan is acceptable to the client and the City. Mr. Brigham said they tried to make the plan more sensitive than required by the existing laws.

Mayor Naugle did not think the original plan went through the entire review process.

The City Attorney said the plan did not go through the City's entire review process, and the Judge has said that it is futile and does not need to do so. Mayor Naugle clarified that the Judge approved the plan, but the City has not. The City Attorney confirmed that is correct.

Vice Mayor Trantalis asked if the developer would continue from where he left off or would they get automatic approval if the City did not approve the agreement within the 6 month time frame. The City Attorney said if the City signed the agreement, the developer could adjust the plans to conform to the new building code due to some life safety issues involved which changed due to the adoption of the Florida Building Code, and then apply for a building permit. Vice Mayor Trantalis asked if that is the developer's understanding.

Mr. Hall confirmed and said changes in life safety issues are treated differently.

Vice Mayor Trantalis said the difficulty the City is having in trying to resolve this matter is that the Commission is being given two bad choices from which to choose. They want this preserved as much as possible. He would be violating the trust of the citizens of this City, if he wrote a blank check. The best thing for the City is to accept the proposed settlement offer and move forward.

Commissioner Hutchinson said she has lived in this City for over 47 years and is a member of the Stranahan House and the Fort Lauderdale Historical Society, and this is not an easy meeting to attend. The City Attorney is employed to provide legal advice to the Commission, and he has brought forward a settlement which is not the best in the world. She said she does not have an "open checkbook," and only has \$8 million which would not buy anything. In January, 2000, when the former Commission proposed the \$8 million, maybe it should have been \$20 million, but that was the decision made at that time. She said she did not want to point fingers and say they did anything wrong. Likewise, she said they were looking out for the taxpayers of the City when the language was proposed on the ballot so it would not be an open checkbook situation. She said that today, the City is being asked to have an open checkbook which is not possible.

Commissioner Hutchinson said that in 2000 the City Manager valued the property at \$8 million instead of \$3 million because that was available from the voters, but he valued the build-out project at \$50 million. Four years later the raw land was valued at \$12 million. If the City was to purchase the property at \$12 million, and if the City won, there

is \$3 million for attorney's fees, and the Director of Planning said the cost for the park would be \$2 million minimum. There is only \$8 million available and the only revenue source is to raise taxes. She said her fear is that this Commission, in going through the \$12 million deficit, stood as a group saying they would not spend money they are anticipating getting, and promised the taxpayers they would not spend money that is not in the checkbook. She said she could not walk into this blindly. She understood the ramifications of her vote in regard to her political office, but if she worried about getting re-elected and did not make sound fiscal decisions for the City, she would not be doing any good. This is a very hard decision to make.

Commissioner Hutchinson believed this proposal would provide a park to the Stranahan House, but she did not want a cement plaza. She wanted a park giving a vista to the Stranahan House, and to provide a public review requested by the citizens. If it does not do that, then she would not vote in favor of the agreement. She is not in favor of the number of stories, but this is the downtown and she did not want, nor did she feel anyone else wanted, such type of development on the beach. In regard to the land swap, she did not feel the voters in 2000 were voting for two high-rise projects. She said that is what they would get with the land swap. She asked if they wanted to set the tone for a 38 or 42-story building on the south side. This is not the end-all meeting for this project because the public and the Historic Preservation Board will participate in the process. She highly respected Christopher Eck's opinion. She said that his expertise would be needed in this matter.

Commissioner Hutchinson said that she would not put the City in fiscal damage again by relying on assumptions and "what-ifs." If the City won they would be looking at \$17 million today. This is four years away; the property would only appreciate. She asked what if they could claim damages, and reminded everyone that in 2000 the project was valued at \$58 million. She said she would approve the settlement agreement offered this evening and would work with all the parties involved to make sure the project would have the best outcome for the City.

Mayor Naugle said he would not support the settlement. Comments were made regarding the value of the project in 2000. Property values throughout the City have increased in the last 4 years. He asked why it took so long to condemn this property. He said the Judge stated there was inappropriate contact and the trial began over again. He said it is not known if such inappropriate contact was a direct result of an impropriety. The case had to be reheard which was unprecedented. The case then got a Judge who had a different feeling. He felt the decision would be reversed on appeal because cities have a right to condemn property for parks, it is done all the time. He said further if the property is to be redeveloped, then that would be a different story. There is a case presently being heard in Connecticut regarding this matter. If judges want to decide what types of buildings should be built in cities, then they should run for the job of mayor or commissioner. He felt they have no right to interpret a city's zoning laws. He believed the decision would be reversed. He said the most offensive thing is that there is a ruling saying the ULDR did not mean anything, and a judge is telling the City how to interpret their own zoning laws.

Mayor Naugle said the other reason he could not support this settlement is because it would require him to lie. He took an oath when he ran for office. This property is in the RAC-CC district. He Section 47-13.2: "In order to insure that development along the boundaries of the RAC-CC district would be compatible with adjacent zoning districts,

properties abutting the edges of the RAC-CC district would be subject to regulations that provide a transition from the very intense and dense uses found within the central urban core.” He said that what is said in one part of the zoning code is taken away in another section; the entire code has to be read to understand what could be done with a piece of property. In the ‘60’s buildings could be any height, but that is taken back in some areas. He said the Zoning Code permits buildings in the center of the City to be very tall, and at the edges of the City center the buildings would be reduced in height in order to be compatible with surrounding uses. The River House is 42 stories in the middle of town. With respect to the building next to Smoker Park, the City restricted the height of that building to seven floors, and later staff gave approval for an extra 2 floors.

Mayor Naugle said the land next to the Stranahan House is proposed for a 38-story building. He said it is contiguous to H-1 zoning which is very restrictive. He further said the Riverside Hotel is 15 stories, and the Las Olas Grand is 38 stories. The proposed project is in-between those numbers, and the notion that there is a right to build to 38 stories is a joke. He is being asked to sign an order, saying that the project meets the requirements of the ULDR. How is the City to treat properties adjacent to historically designated properties. There is a lot of history regarding this matter, especially in regard to the Bonnet House. The buildings are restricted in that area. There is precedent in the City’s law showing the City treats historical properties with sensitivity. The Riverside Hotel was not built in accordance with approved plans, and he believed that City staff is guilty of misconduct in regard to that project and how it was approved.

Mayor Naugle said to go from 38 to 42 stories does not meet the requirements of the ULDR, and therefore, he could not support the proposed settlement agreement. He is concerned because the City could not sign a blank check. If the City went to court no one knows what amount would be decided. But if it was too much, the City could pay the legal fees and walk away. The developer would then apply for a building permit for the original plans. He said the beach land swap was a good deal for the City because it is on land being held for redevelopment. The building would have been kinder and gentler than other buildings that have been approved by the Commission. He felt it is a good trade and is supported by the Stranahan House and is a no cost settlement to the City. They would have land appreciated in value located in the redevelopment area. He said it would have supplied additional revenue that could have been used to build the new aquatic center. In talking with other property owners involved in the deal, the swap could still be placed back on the table.

Mayor Naugle said he supported the beach swap, but could not sign an agreement that required him to say something that is not true. He felt everyone needed faith and he took to heart what the Stranahan’s gave to the City. He felt the City should stay the course, and if not, swap the parcel on the beach, or continue in court.

Commissioner Moore asked if the Commission took the position to deal with this settlement, could the Mayor choose not to sign the document based upon his belief regarding the ULDR.

The City Attorney said that this is a final judgment and does not require the signature of the Mayor. The agreement requires the signature of the Judge, and whether this Commission is willing to allow the Judge to sign it. The Mayor said that if the Commission voted and he is called upon to sign a document, he would do so. He said he is using that as an expression that his personal values and morals do not allow him to

tell a lie. Commissioner Moore said that he asked the question to get further clarity to the situation.

Commissioner Moore thanked everyone for their comments this evening regarding this matter. He said that comments were made regarding a sense of place, as well as character. And as a Commission and what they would be doing to negate their character, if they decided to support this settlement; whether a sense of place outweighed their judgment regarding dollars because the Stranahan House plays a significant role in the community. Should the City, at all costs, allow park land to surround the site. Comments were also made regarding the issue of compromise, and he felt the City has not always used every opportunity for compromise. Many times the compromise presented to the Commission was for them to step in front of the train. He said that tonight a speeding train is being put before the Commission asking for them to compromise the sense of place known as the Stranahan House. He does not want to be in front of the train. Due to a Judge making a review of a public taking, the Commission is being put in front of this train. The Judge looked at the City as a public entity taking private property, and he felt there is no need for the City to take the land and make it public property for a public park due to the surroundings of the historic site, and therefore, rejected the matter. There would be damages if the City does not find a way to settle the matter because he believed the developer's rights are being infringed upon.

Commissioner Moore said the developer looked at the opportunities of settlement, and the Mayor came up with a concept for a settlement, but the settlement offered did not convince the majority of the Commission that it is in the best interest of the City. This development comes in and they ask if there is a sense of value of it being park land. He said that comments were made about Mr. English contributing \$100,000 for a heritage park. He offered the compromise many times before of the fact that there should be a heritage park. He felt they should take the Stranahan House, pick up the structure and put it on the river with other historic homes.

Commissioner Moore further said that Commissions of the past, along with the Downtown Development Authority, had visions of making this a regional activity center. He said the heritage park could be where the Stranahan House now sits and there could be a public park and open space, along with a sizeable monument stating the site is the previous location of the house, and for individuals to proceed further down Las Olas to the new location. This would give the public green space on Las Olas, while still saving the value and character of the Stranahan House. He believed the House and site are historic to show the beginning of the City's history. He reminded everyone of how long it took to get approval from the Board of the Stranahan House to complete the Riverwalk in front of this site.

Commissioner Moore said, regarding costs, the price range is from \$18 million to \$58 million, and he believed the public was given a position in having the bond pass with a recommendation of there being an \$8 million cap. If the public knew it might cost them \$40-\$50 million, the bond might not have passed. The \$8 million amount is a number that the City felt would be acceptable to the public.

Commissioner Moore said that the development is to go through the normal process for development even though it is a settlement. He asked if the Historic Preservation Advisory Board denied the proposed settlement, would the Commission have the final say regarding the project. The City Attorney confirmed yes. Commissioner Moore asked

if the developer would be willing to agree to the DRC comments regarding the original plan, if that plan is to be used after the 6-month period.

Mr. Hall said there are more questions than comments because DRC found the plan acceptable according to the Code. He said they would comply with DRC's comments, but not to comments made by the Historic Preservation Board because the Judge has already ruled on that.

Commissioner Moore asked if the City decided to be on the affirmative of this settlement would the City Manager assure the public that proper staff would follow the development, so the process would meet the required timeline put on the table. The City Manager confirmed yes. Commissioner Moore asked if there is a "hiccup" in the process, is there a way for the City to extend the 6-month time period in the agreement. The City Attorney said there is no provision for an extension unilaterally, but they could extend the time with the developer if the City so desired. Commissioner Moore asked if the developer is willing to do the unilateral agreement.

Mr. Hall confirmed yes and said that it is not his client's desire to present this plan as a charade this evening. They want to develop this plan, and if everyone is proceeding in good faith, the six months is not a trap.

Commissioner Moore said in the site plan there is need for an exception of the 17' regarding the 60' setback on the water. Mr. Hall replied yes and said this plan is put together as a concept and that might not be true when it is engineered, but if that is the case, then they would come back to the City.

Commissioner Teel said it appeared where the City is going and she is troubled that the process evolved into what is being presented tonight. She said she is disappointed that the other settlement is not accepted by the Commission because it took care of the developer, the Stranahan House, and the City. She further said that individuals on the beach are concerned about another building going up in the area, but she believed the parcel would be developed in the future. She continued to state that the previous plan took an investment of a few million dollars and parlayed that investment into an agreement that could have saved the City money. She said that tonight is a piece of paper on the table with an interesting concept. She felt this is one of the most important things the Commission would rule on for years to come, and that this piece of land is one of the most precious in the City. She said it is not going to destroy the Stranahan House per se, but there are still many questions as to what she is approving or settling for. She said she did not know what type of building would be built or the materials used, nor what setbacks would be involved. She said that she knew it might sit closer to the River than what is normally permitted. She said that in life when one moved forward quickly and in haste, a disaster could occur.

Commissioner Teel said that she did not have confidence in what is being presented. In particular she is discouraged that the Judge felt the site plan submitted in 2000 is in compliance with the applicable requirements and standards of the ULDR. Over the years, she sat in many meetings regarding the ULDR, and she did not understand how the Judge could magically decide that the plan complied with all the regulations. She said the ULDR is a very complex document and the best minds have been reviewing it over the years. She realized everyone is entering into this agreement with good faith, but things happen and they could end up with the original plan and that concerned her. She



further said that the six months has been changed to the submittal of the site plan, but six months is a “drop-in-the-bucket” in the whole scheme of things. She is not being critical of the Building Department. She was unable to support the proposed settlement and felt they missed the opportunity for the best settlement.

Mayor Naugle said he felt the developer would make a good faith effort to get the second plan built because it is more lucrative than the original plan.

Vice Mayor Trantalis asked if the original plan received DRC approval, would it have brought in question the fact that it is being built at the edge of the RAC-CC. The City Attorney confirmed yes, but said he has not looked at staff's comments recently. He said comments were submitted with the 1999 plan. In 2000, plans were resubmitted and staff indicated the developer did not respond to comments and resubmitted the old plan. In the meantime, the Judge said the plan did meet ULDR requirements.

Mayor Naugle said City staff did not approve the plans, but the Judge approved them.

Mr. Hall said the idea advanced earlier that the RAC-CC zoning category does not apply to this parcel is incorrect. He further said that in the documents Cecelia Hollar, Director of Construction Services at that time, has put this issue to rest. He further said that this site was ill-defined and the decision was made by staff.

Mayor Naugle said a different decision was made across the river in connection with the New River Village restricting it to seven stories. Mr. Hall said that is a settlement of a lawsuit agreement and the developer accepted it. This is a different issue.

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

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**Deborah Rice-Lamar v. City of Fort Lauderdale**  
**Case No. 97-13670-CACE-18**

**(M-23)**

**Motion** made by Commissioner Hutchinson and seconded by Vice Mayor Trantalis to approve the proposed Settlement Agreement between Deborah Rice-Lamar and the City.

Commissioner Moore did not feel the City has gone the full route regarding this matter. He was sorry this is being settled. He felt the best lesson for the City is for this matter to be carried out. Therefore, he could not support this item.

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

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Mayor Naugle said he wanted to make an announcement regarding an item that is not on tonight's agenda regarding rickshaws and pedicabs. He said there is some confusion on the matter, but the item is not being heard this evening.

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<b>PUBLIC HEARINGS</b>
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**Application for Dock Waiver of Distance Limitations -  
Steven and Karen Chess – 773 Middle River Drive**

**(PH-1)**

**A public hearing to consider a resolution authorizing the proper City Officials to waive the distance limitations of Section 47.19.3 of the City's Unified Land Development Regulations to allow Steven and Karen Chess to modify and maintain an existing boatlift and update and correct dimensions for three concrete piers and four mooring pilings that extend into the Middle River. Notice of public hearing was published on November 4 and 11, 2004.**

**Motion** made by Commissioner Hutchinson and seconded by Vice Mayor Trantalis to close the public hearing. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Vice Mayor Trantalis and Mayor Naugle. NAYS: None. (Commissioner Moore was out of the room at the time the vote was taken.)

Jamie Hart, Supervisor of Marine Facilities, said this is an after-the-fact waiver for a distance of limitations for 3 piers, one elevator boatlift and 4 mooring pilings into the Middle River. He said the maximum distance such structures can extend into the river is 22.5' for the pier extension, 22.3' for the boatlift, and 27.6' for the outermost mooring piling measured from the property line. ULDR Section 47.19.B restricts boatlifts and piers from extending more than 20' from the property line without a waiver. He continued to state that Section 47.19.C restricts mooring pilings to a maximum distance of 25' from the property line without the waiver. The maximum distance requiring a waiver for the pier extension, excluding the boatlift, is 2.5' and 2.6' for the outermost mooring piling.

Mr. Hart said that the applicant complied with all previous recommendations reviewed by the Marine Advisory Board on July 1, 2004, including several Code violations which were corrected. Two pending Code violations require the applicant to obtain after-the-fact permits for construction of the boatlift and related electrical work upon approval of the waiver of limitations. He said that the Marine Advisory Board reviewed staff's report regarding the outstanding Code violations at their meeting on October 7, 2004, and recommended unanimously that the Commission approve the after-the-fact waiver of distance limitations. He said if the Commission approves the waiver, the following standard conditions would apply:

1. The applicant shall comply with all applicable building and zoning regulations, as well as any other state and federal laws and requirements.
2. The applicant shall maintain the installed guide poles and outer arms of the boatlift as required by Section 8-91.C of the City Code, and maintain reflector tape on the four mooring pilings receiving distance of limitation waivers as required by Section 47-19.3.D of the ULDR.

Commissioner Teel said by granting the waiver, the City is allowing structures that have been in place for a number of years to be legal and conforming, and at that point the river is quite wide. This is a drawn out process, and after many meetings and

discussions the property is in compliance. She said she is in support of the waiver of distance limitations.

Commissioner Teel introduced the following resolution:

RESOLUTION NO. 04-205

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, GRANTING A WAIVER OF THE LIMITATIONS OF SECTION 47-19.3.B & C OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE TO ALLOW STEVEN CHESS AND KAREN CHESS, HUSBAND AND WIFE, TO MAINTAIN THREE DOCKS, ONE ELEVATOR BOATLIFT AND FOUR MOORING PILINGS WITH DISTANCES VARYING FROM 21.3 FEET TO 27.6 FEET EXTENDING FROM THE PROPERTY LINE INTO THE WATERS OF MIDDLE RIVER, SAID PROPERTY HAVING A STREET ADDRESS OF 773 MIDDLE RIVER DRIVE, AND SUCH DISTANCES AND PROPERTY AS BEING MORE PARTICULARLY DESCRIBED AS SET FORTH BELOW.

Which resolution was read by title only.

Vice Mayor Trantalis said there is another item in the southwest which involves an encroachment beyond the distance permitted under the zoning law. He said it is important that everyone respect the distance limitations set in law. He suggested that if the Commission approves this item, as well as Item PH-3, that they consider limiting the approval to the existing structure. If it has to be replaced, the owner should revert back to the distance permitted by law, and that the restriction runs with the land in the event the property is leased or sold. He further said that the allowances decided upon tonight be done under such circumstances.

Commissioner Teel said that each case should be reviewed on a case-by-case basis, and that they should be looking at the footage. If an honest mistake is made or extra concrete poured or the seawall cap measured wrong and only 6" is involved, that is a different matter than 16' out of compliance. She said further that some individuals have been cited in such cases and willingly relocated the boatlift or dock to come into compliance because it is their responsibility to meet the requirements of the Code. She did not think they should blanket the situation with one statement because that would be a disservice.

Vice Mayor Trantalis asked if he could make a friendly amendment that when the time came to replace the pier or pilings extending into the river that they revert back to the allowable distance permitted by Code.

Commissioner Teel said she did not feel that is necessary. When the individual applies for a permit, he or she would have to meet the requirements existing at the time.

Vice Mayor Trantalis said that sometimes when things are in place for a long time, people claim a proprietary right to the use, saying they are grandfathered in.

The City Attorney said that would be recorded in the City, and when the individual applies for a permit, the matter would be raised.

Vice Mayor Trantalis said that when an individual would go to purchase the property, the City's records might not be complete and they should be alerted in the official records. The City Attorney said the only way to do that would be to record the waiver with the legal description included.

Mayor Naugle asked if an amendment is being made regarding this item.

Commissioner Teel did not object to recording the waiver. Mayor Naugle suggested that it be for the life of the dock. Commissioner Teel said that someone purchasing the property might not like the dock or the arrangement and just want to change it, and it might not be due to the life of the dock. Mayor Naugle said that whatever is built would have to be in compliance with the ordinance. Commissioner Teel agreed.

Mayor Naugle said if it is a friendly amendment, the Commission would not have to vote on it separately.

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

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**Noise Management Plan – South Florida Regional Transportation Authority Florida East Coast Rail Corridor (PH-2)**

**A public hearing to consider a resolution approving a Noise Management Plan submitted by the South Florida Regional Transportation Authority and its contractor, Ishington Group International, in connection with construction of a double track for the Florida East Coast Rail corridor. Notice of public hearing was published on November 4 and 11, 2004.**

Peter Partington, City Engineer, said the applicant for this plan is the South Florida Regional Transportation Authority, and the contractors who are constructing this project are the Ishington Group International. He said the project is 1.7 miles of double-tracking of the railroad tracks on the west side of I-95, running between Davie Boulevard and State Route 84. The project includes a fixed-span bridge over the New River, and the length of the bridge is approximately 3,700'. City ordinance allows construction work only between 8:00 a.m. to 7:00 p.m., but Section 17-14 allows the Commission to determine that special circumstances apply in the case of major public works transportation projects, and therefore, approve a Noise Management Plan. He said such plan would allow construction activity outside of the usual permitted hours. He said the specific construction activity which needed to be done at night is the continuous drilling of 40 columns or shafts with a large drill. Once the drilling activities are underway, it is ill-advised to stop such work due to the fact that a cave-in could occur.

Mr. Partington said once the drilling is complete, the concrete would be brought in the next morning. He showed pictures of the Marina Bay Apartments located at the south end of the project, and the New River Marina, along with the south fork. He said the yellow dots indicate where the new columns would be drilled. The area west of I-95 and

south of the New River would be accessed by the concrete trucks coming from the east under the highway.

Mayor Naugle asked how many days would such activity require. Mr. Partington said there are approximately 40 shafts or columns, and under the best circumstances two could be done per week. He said to the north of the New River, construction activity would be accessed by SW 21<sup>st</sup> Avenue, adjacent to Flamingo Park. In turn, SW 21<sup>st</sup> Avenue would be accessed from Davie Boulevard. From that point, the structure would go into an embankment.

Commissioner Moore asked the decibel reading of the proposed drilling. Mr. Partington said the construction activity could be carried out at a noise level that is less than the prevailing noise level that is measured in the neighborhoods adjoining the area. The construction activity would not add to the noise level. Noise measurements were done in the area, and they ranged from 67 to 73 decibels during the day and 65 to 72 at night. The Noise Management Plan is to limit the contractor's noise level to 71 decibels during the day and 66 at night.

Commissioner Hutchinson said the largest part of the noise is due to the highways. Mr. Partington confirmed that as correct. Commissioner Hutchinson said when she was at the drill site, the noise was not noticeable from the drills at all. Mr. Partington said the Noise Management Plan addressed such things as having exhaust systems in place and proper conditions, the restriction of the idling of vehicles and unnecessary ruffling. He said this plan also spells out a monitoring program, involving the measuring of noise at the nearest residential areas. If this plan is approved, then there would be a condition of approval that the noise readings would be received on a weekly basis so as to monitor the plan. He said the applicants want the plan approved through March, 2006, even though the shafts are due to be completed before that time. He said staff recommends approval of the plan to permit noise levels up to 71 decibels during the day, and 66 at night in accordance with Section 17-14, and approval would be subject to weekly submission of the noise levels for review by staff.

Commissioner Hutchinson asked if doing the work at night would speed the project up. Mr. Partington confirmed yes. Commissioner Hutchinson said further that no one appeared to like this project, but the sooner they get in and out, the better. Mr. Partington said if the drilling could not be done continuously, there would be a risk that the excavations could be lost and the process would be slowed down.

Commissioner Hutchinson was concerned about this work being extended until 2006 outside of the drilling periods because she was not sure what noise would be involved. She felt the Commission should be approached again after the drilling work is done so she could be aware of what type of work is going to be done. Mr. Partington said it would be up to the Commission to give a deadline. He said the point of extension beyond the contract would be that the work would have to cease by 7:00 p.m. because the plan would no longer be approved by the Commission. Commissioner Hutchinson asked about the time frame involved. Mr. Partington said the drilling of the shafts is due to be done by July, 2005. Commissioner Hutchinson asked if the agreement could extend until August, 2005 in order to allow for extra time for the shafts to be completed. She felt the largest percentage of noise regarding this portion of the project is due to the highways. Mr. Partington said that if it is necessary for the work to be done at night, they would have to once again come before the Commission. Commissioner Hutchinson said the

plan could be presented before August, 2005. She said she is attempting to protect the residential homes in the area. Mr. Partington said the drilling is the noisiest part of the activity.

Commissioner Moore asked what would happen and what type of penalties are in place if the noise levels exceed the allowed decibel range. Mr. Partington said that staff would receive the readings on a weekly basis, and if they exceed the allowable noise levels a letter would be written, and if the noise levels continued, the plan would be jeopardized, and possibly the work could not be done at night. No monetary damages would be imposed. Mr. Partington said that his understanding of the applicable section does not address such an issue. Commissioner Moore asked if the noise levels are above the allowable decibel range would the applicant be willing to accept a penalty imposed on them by the City.

Alex Mills, Project and Environmental Safety and Health Manager, said that any time they are drilling, they have a noise decimeter, which is a metro sonic unit that logs data. He said they would be 25' to 30' off the drill rig and would go to the nearest neighborhood and set up a monitor. The monitoring would be continuous day and night. If there is a problem, they would stop drilling and correct the problem.

Commissioner Moore asked if the noise levels exceed the allowable standard, would they be willing to pay a fine.

Tom Wilbur, Project Manager for Ishington Group, said the issue is that they did not control all the noise in the area, and if they exceed the allowable standard, the operation would be shut down and everything would be redone. He said they wanted to be reasonable about the situation, and they would continue to monitor the project.

Vice Mayor Trantalis said the point of this is to save the contractor money so the work could be done in a shorter period of time. He did not know what the savings would be, but if a fine is imposed, the penalty would have to be several times over the amount of the savings. He said a fine of \$25,000 per day would have to be set to make it worth their while to adjust the noise level. Otherwise it would be cheaper to pay the fine than stop the project. He asked how they would calculate the number before the fine is imposed.

Commissioner Moore said the company is looking for a bottom line profit, along with a savings. If nearby neighborhoods are impacted, then a contribution should be made directly to them to deal with the civic association's quality of life. He felt any amount would keep them honest.

Mr. Wilbur said it is not a matter of expediency, but a matter of safety because the shafts are the only foundation that could be used on that structure, and they have to be drilled continuously. Otherwise, they risk failure and there would be a danger to both the railroad and roadway. They are attempting to be good citizens by identifying what the impacts could be. They have reached out to some of the communities and attempted to mitigate anything that might be a bother.

Commissioner Moore said that is a bone of contention for him.

Gypsy Miller, 1425 SW 22<sup>nd</sup> Avenue, hoped the Commission would not approve this project. Flamingo Park has been inundated by promises from DOT to past Commissioners who allowed roads to be built impacting the neighborhood with noise. He said they have private noise monitors placed in certain areas, and the noise levels are way above what is permissible. The method of drilling should have been an issue brought forward earlier.

Cindy Jacobson, Acting President of Flamingo Park, said that Tri-Rail is a large concern for them, and they are not happy about the 50' bridge. She said they live with noise daily, and they are trying to get some help. Everyone talks about decibel levels, but it seemed that if the noise is there, why not add to it. She said they are going to be impacted by another runway, and there are the highways. She said no matter what is said, they are going to add to the noise. She is concerned about the noise at night. She asked if the sound variance they are seeking would be restricted to drilling or the pouring of concrete for the drilling. She asked if the work is as silent as is said, then why are there are two different levels. She said no one wants any more noise in the neighborhood.

Al Imgrund, 2232 SW 15<sup>th</sup> Street, said he is a member of the Flamingo Park Association. He asked if the project is based upon the contractor's ability to work continuously. Mr. Wilbur confirmed yes. Mr. Imgrund asked if the City could say no to this project, and if so, would there be repercussions against the City. Mayor Naugle said that staff would attempt to provide an answer to those questions. Mr. Imgrund understood about decibel levels, but asked if there is a difference between an occasional decibel level and a continuous one. He realized work has to be done, but he felt it is unfortunate that the request for variance is made after the contracts are signed. He is offended by that and felt everyone should feel the same regarding that issue.

Phil Frank Bryan said he lived in the City for 55 years and on 22<sup>nd</sup> Avenue for 43 years, which is parallel to the project. He said the City needs to be careful about the decibel levels. He lives next to a boat storage facility that put 16 5-horsepower fans on a roof so they could spray roofs, and the decibels are 65. For two years the City came out and monitored the noise and found it to be 66 and the company was to lower it to 65. It was said if they used 4 of the fans, they would meet the decibel requirement. He suggested that measuring a decibel is like trying to measure a cloud. He said if the levels are to be monitored, he felt the City should do so and he would offer his property as the first monitoring site with 24-hour access, but he wanted to also know how to read the instruments. There must have been linkage in-house in the bid to do such work under the existing requirements. He said to bid for this hoping they could get permission to work 24 hours per day would be above and beyond normal situations. He would not be swayed by the argument of danger regarding the shafts, and if that is the case, then they have no business putting up this structure in the first place.

Clint Ramson, Operator of Marina Bay, said they are at the tip of a serious problem for the area. Many studies were conducted by experts and Section 17-11 provides that residential areas from 10:00 p.m. to 7:00 a.m. should not be more than 55 dba, and daytime 7:00 a.m. to 10:00 p.m. should be 60 dba. Now, they are already at 72 dba. He said the Marina is concerned because in 1999 they went to the State about building a project, and were told they had to build a 16' retaining wall which cost \$1 million. He said they are now finding out once this project started that the tracks are to be above the retaining wall which was known beforehand, but DOT said they are only going to put up

a 6' concrete barrier. Therefore, the decibel reading would be increased for the area. He said that noise could not continue at the present levels. The train tracks are going to be horrible for the neighborhood, and they need Commissioner Hutchinson's help regarding DOT because they are running their operation on a double-standard. There is something wrong with the arguments presented regarding this matter. Everyone has the right to live and sleep in their home and operate their businesses without the horrendous amount of noise. He said the project has come to a halt, and he felt what is good for one is good for another. He said that everyone should comply with the noise ordinance.

Mayor Naugle asked if the City could turn this down. Mr. Partington confirmed it could be done and said there is a contract between South Florida Regional Transportation Authority and the Ishington Group, and the contract is valued at approximately \$50 million. The reason for the difference between the night time and daytime noise levels is that the prevailing noise level during the day is higher than at night. Therefore, a night standard could not be set for the day. The work could be done at night within the existing noise levels; noise at a lower decibel level would be drowned out.

Mr. Partington further said that the largest reason for this request is the drilling of the shafts, and there would be additional truck traffic in the area. It is his understanding that the pouring of concrete would not occur at night. He further said the noise would continually be measured, and there would be peaks and valleys in those levels. The Management Plan calls for a weighted average of the peaks and valleys. He added that the City has a measuring device and could check the noise levels occasionally to make sure the standards are being upheld.

Mayor Naugle asked if staff is recommending approval of this item. Mr. Partington confirmed yes, and said that it is true the prevailing noise exists; it is not part of the construction project and is higher than the City's normal quality of life. He further said that it is already a noisy situation, but it is staff's contention that this activity would not add to the noise. He reminded the Commission that they asked Tri-Rail and FDOT to see what could be done to improve the noise insulating qualities. A study was done and it concluded that very little, if any, benefit would be achieved by placing a higher wall on the west side of the Tri-Rail structure. There is no easy answer in regard to improving the noise.

Commissioner Moore felt the City has more than one measuring device available and could better validate whether the contractor was using appropriate equipment. He further said that there is additional noise due to the nearby airport, but a noise count is done on a regular basis in that regard. He did not see any other way to meet the desires of the needed transportation changes, and believed the noise would continue because individuals would continue using noisy vehicles on I-95 and I-595 unless something is done. He would rather deal with a short period of noise in an attempt to reduce traffic. He wanted the company fined if they cause noise above the permissible levels on a continual basis.

The City Manager said there might be another solution to this problem by adding a provision to the legislation, giving the Commission the ability to revoke the permit if the company violated the decibel levels. The City could be responsible for testing and if a certain number of violations occurred, then the Commission could decide at that time what type of penalty should be imposed.



Commissioner Moore said he is concerned that the Department of Transportation and citizens using the Tri-Rail would say the City is impeding their use regarding such travel. He would prefer having \$100,000 in the pot from the construction company, and if such violations occurred, then a certain amount would be pulled out each time as a penalty. He said that the City Manager's suggestion could also be incorporated.

Mayor Naugle asked how such a fine could be accomplished. The City Attorney said that in order to fine the company, the ordinance would have to be amended to provide for the fine. If a certain violation occurred over a period of time, the permit could be pulled. Mayor Naugle said that a certain amount of time would be needed in order to create such a provision.

Commissioner Moore said the company could volunteer to provide a \$100,000 bond. He asked if this was an agreeable solution.

Mr. Mills said there are other noise sources in the area and that is a problem. They would control their noise and he did not have a problem regarding the revoking of the permit. However, there are other variables that they could not control.

Commissioner Hutchinson said the Commission has been dealing with this project for a long time, and what concerned her the most is that they find out after the fact about certain issues. When the project is bid, the Commission is told it would not be bid out regarding maintenance of traffic, but then it is done and they sought to use the areas that are not to be used. She further said that they bid the project out with the understanding that they could work 24 hours per day to build the shafts, and once again the City is "boon dogged." She does not know who is telling the truth, but she felt the City needs to monitor the noise and not take the contractor's word on this matter. She said the Ishington Group is doing a good job, but Tri-Rail and DOT said that certain issues would not be in the bid documents and they are there. She was at the site and heard the drilling, and she believed it is not an issue. The issue is the train which needed to be on the FEC and not the CSX. The City needs to have the ability to revoke the permit if there is a problem, but she did not know how to monitor their noise.

The City Manager said that this item could be withdrawn from tonight's agenda and staff could return with a solution.

**Motion** made by Commissioner Hutchinson and seconded by Commissioner Moore to defer this matter to December 7, 2004 at 6:00 p.m.

Mayor Naugle suggested that the company reimburse the City for the noise monitoring, and that the City have the ability to revoke the permit. Commissioner Moore added that he would still prefer a penalty be imposed.

Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, and Mayor Naugle.  
NAYS: None. (Vice Mayor Trantalis was out of the room at the time the vote was taken.)

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**Application for Dock Waiver of Distance Limitations  
Joseph Bartram – 1520 SW 15 Avenue**

**(PH-3)**

**A public hearing to consider a resolution authorizing the proper City Officials to waive the distance limitations from Section 47.19.3 of the City's Unified Land Development Regulations to allow Joseph Bartram to maintain an existing T-Pier and two sets of clustered mooring pilings that extend into the South Fork of the New River. Notice of public hearing was published on November 4 and 11, 2004.**

Jamie Hart, Supervisor of Marine Facilities, said this is an application for an after-the-fact waiver of distance limitations for one t-shaped pier approximately 4.5' wide x 78.7' long and two sets of clustered mooring pilings, extending into the South Fork of the New River opposite 1520 SW 15 Avenue. The maximum distance these structures should extend into the New River are plus or minus 25' from the property line. The ULDR, Section 47-19.B, restricts a pier from extending more than plus or minus 16.4' from the property line without a waiver. Section 47-19.C restricts the mooring pilings to a maximum distance of 25' from the property line without a waiver. The maximum distance requiring the waiver for the pier extension is plus or minus 13', and plus or minus 4' for the clustered mooring pilings.

Mr. Hart continued, stating that the Marine Advisory Board reviewed staff's report and analysis at their meeting on October 7, 2004, and recommended by a vote of 9-4 that the Commission approve the waiver of distance limitations as presented. If the Commission approves this waiver, the following conditions would apply:

1. The applicant shall comply with all building and zoning regulations, as well, as any other State and Federal laws and requirements.
2. The applicant shall install reflector tape in accordance with Section 47-19.3.D of the ULDR.

Ron Mastriana, attorney representing the applicant, said he is present tonight in accordance with Section 47-19.3 requesting a dock waiver. Under the Code, a waiver is permitted when there are unusual circumstances and all permits granted. It is important to clear the record that there are clean hands, and a permit was granted for the property and reviewed by staff on various occasions. He showed the site plan for the property. He said the problem is where the property line is located. The dotted line shown on the map is the plotted, platted property line of this property owner. The line is used to determine where the dock was to be located when this was submitted to the City. He said almost the entire dock is within the property line, and only a small portion is outside of the line.

Mr. Mastriana said the City's position is that where the property line is located, the owner could go the distance from such line. In 2001, the City determined the line was sufficient, and records show and verify such facts. The City approved and inspected the dock in 2001, along with the engineers and the County.

Mr. Mastriana said an entire package of support is presented to the Commission, including support from boat owners, property owners, and captains. Adjacent property owners have approved this matter. There are some disputed issues with the neighborhood association, but no misrepresentation has been made. This dock is legally permitted in accordance with the Code used regarding docks. He showed a picture of

the dock, along with the vessels in the area. He said the concern is that a boat is in front of Mr. Bartram's house with a for sale sign on it, along with an office number, but at no time did Mr. Bartram lease out his dock. The dock is 77.5 feet extended out 129', and they could build a 165' dock.

Michael Morrison, owner of Morrison Builders, said that he is also President of the Florida Marine Contractors' Association and a licensed State general contractor. He continued to state that around the beginning of January, 2001, Mr. Bartram hired his company to build a dock for him. The unique thing about the property is that the plotted land extends into the water, and that allowed them to build the dock further into the river than what is typically allowed. Normally property lines fall on top of the seawall which is where one measures how far a dock could extend into the water. In this neighborhood the property falls behind the seawall 2' to 3', and he is restricted from building a dock that would otherwise be permitted if measured from the face of the seawall. The Building Department consistently measures docks from the plotted property line even when they fall into the water. They submitted a registered land survey showing the registered property line and built the dock accordingly. The City, County, Florida Department of Environmental Protection and the Army Corps of Engineers also approved this dock. All licenses were approved, and now three years later after-the-fact, the City is coming back to the property owner. He did not think that makes any sense.

Joseph Bartram, property owner, said that he has lived in the City since 1988 and bought this property in January, 2001 after researching many waterfront properties. In the spring, he hired Mr. Morrison to design and build the dock, and maximize the amount of footage the property could legally permit. He did not want to stack boats, and that is why the configuration is done in the shape of a "T." His property received the "WOW" award at one time. He obtained an as-built survey to verify the property and dock boundaries. The dock was in existence for over three years with no objections from anyone, and now due to a gross misrepresentation of facts and exaggerated rumors, petitions are being circulated regarding his dock. Such activity saddens him. He is first accused of illegal dock construction, stating it is a hazard to navigation. He said he received the proper permits and it is not illegally constructed, and it has been proven that it is not a hazard to navigation.

Mr. Bartram said that rumors circulated that he is using his dock commercially, and that is not true. On one or two occasions signs were placed on yachts from his face dock. He did not know that was illegal because many boats on the river place such signs on their vessels. Once he was told such signs were illegal, he removed them. He has been in the yacht brokerage business for over 40 years and made lifelong friendships with captains, owners and crews on boats who visit him and tie up at his dock. He said dockage is by invitation only and he never leased out the dock. He said that his dock does not present any hazards to navigation, nor does it present any adverse safety issues.

Vice Mayor Trantalis said the back-up material states: "...in discussion with the City Attorney's office, the applicant is unable to show how title to the submerged lands are vested to the owner." The diagrams showed the boundary line went into the canal and the submerged portion of the land. He asked where this statement came from.

Robert Dunckel, Assistant City Attorney, said this property was platted in 1926, and at that time there were measurements on the plat leading from Everglade Avenue to the

banks of the New River. He said that this was the result of where such measurements went at that time, which was into the river. In reading the legal description of the plat, the eastern boundary of the plat is the banks of the New River, and therefore, title could not be claimed to the submerged lands beyond the wet face because such lands are vested to the state. Staff, in looking at the survey, reviewed the dashed line and assumed it was the property line, and it was in accordance with the plat measurements, but not according to laws of real property.

Vice Mayor Trantalis clarified that the legal description is contrary to the drawing. Mr. Dunckel confirmed that is correct.

Mayor Naugle asked where the measurements are to be taken from; the property line or the seawall. Mr. Dunckel said it is to be measured from the property line, and in this instance, it is the same as the wet face because the owner could not claim title to submerged lands. In fact, staff asked the property owner to show evidence of title, but the owner was unable to do so. Mayor Naugle asked if the error was made by the design professional. Mr. Dunckel said that is not the case, but staff reviewed the situation and felt it represents the property line. He felt a more accurate way to reference it is making measurements to the face of the plat. He was not sure at that time that staff was capable of picking up such items, and hoped that they could do so in the future.

Mr. Mastriana said that they have not confirmed, nor necessarily agreed, as to the location of the property line. He said that is where the disagreement occurred. He said that they felt that in 1926 someone got a permit for the seawall without taking the property from the water to the seawall, but the predecessors actually owned the area he showed on the map. They have not yet agreed that the wet face is the property line. He further said the owner has the platted lot line, but they did not have a taking by anyone permitting the seawall to be placed in the location. This is not a clear issue. He submitted a letter to the Commission from Broward County to the City, dated April 24, 2001, which states as follows:

“At your suggestion staff contacted Terry Harkins with the City of Fort Lauderdale to discuss the City’s requirements. He informed me that regardless of the location of the property line, the wet face of the seawall is used to determine the length of the dock and it can extend into the waterway per the City Code.”

Mr. Mastriana further said that since Mr. Harkins is no longer the Chief Building Inspector, he suggested the applicant contact Terry Burgess of the City’s Building Department. Mr. Burgess informed him it is the property line, and not the wet face of the seawall, that is used to determine compliance with the City Code. He said there is a discrepancy in regard to the location of such line.

Vice Mayor Trantalis asked if the title insurance policy is inclusive of the line that went into the water or is it up to the seawall. Mr. Mastriana did not know what the title insurance policy contained. He felt if the line is now set as the wet face of the seawall, it would make sense, but for the last 20 years it was all over the place.

Mr. Dunckel said the analysis is different when property borders State sovereignty submerged lands as opposed to property, and therefore, confusion occurred. He advised staff to consult with his office when any doubt occurs. In the legal description, there is a hierarchy of calls, and if there is ever a conflict between a call that is a measurement

and a call that has a natural boundary, the natural boundary would prevail. In this case, the natural boundary is the bank of the New River and not the 271' the wagon wheel marched off in 1926 as the depth of the property.

Vice Mayor Trantalis said that at the same time situations exist where the boundary extends to the middle of the waterway notwithstanding the prerogative of the State or Federal government claiming access to the waterway. The applicant might have relied on an old map, giving him ownership of the underlying land notwithstanding the submerged prerogatives of the State and Federal government, thereby making the boundary his even though it is the river.

Mr. Dunckel said that at the outset he saw clean hands, but one could not gain title to sovereignty submerged lands by acquiescence, and one would need an instrument of title from the Trustees Internal Improvement Fund, and they have not been able to do that in the last year.

Mayor Naugle said that possibly the City could require that in order to exercise that right, it would require for the seawall to be moved and filled in. Mr. Dunckel said there are various possibilities.

Peter Grimm said he moved here in 1966 and lives in Victoria Park. He is a past Commodore of the Yacht Club and served on the Board of the Marine Industry Association, along with serving as a past President of the Florida Yacht Brokers Association. He said that he moved to Florida due to the water; this is the yachting capital of the world. The applicant's property is a showcase; rates a 12 on the river and he did not know why individuals are complaining. He said he runs boats up and down the river up to 130' and the applicant's dock does not impair travel. He said that with all respect he did not know why this matter is being heard this evening.

Ann Clark said that she has lived here since the '60's and knew the applicant for over 10 years. She said everything he does is done with careful attention to detail, quality workmanship, and aesthetically exceptional. She said his business is an outstanding addition to the subdivision, and his home was awarded the "WOW" award in 2002. She said he added quality and economic value to the community. She said there is a discrepancy between the property line and the wet face of the seawall which was unintended, and everyone involved acted in good faith. Evidence indicates no danger for vessels, river life or humans and she urged the City to grant the requested waiver as recommended. She said the president of the applicant's company asked her to inform the Commission that he purchased the company from Mr. Bertram who he felt is a well-respected yacht broker in the industry. He also stated the following: "I asked Joe on several occasions if I could place a brokerage boat on his dock and each time he said no because he was not comfortable with placing boats on his private dock if he is not familiar with the owners. As the owner of Bartram and Brackenhoff, I can honestly say Joe's dock has never been used for Bartram and Brackenhoff business purposes, and it will continue that way in the future."

Patience Cohn, Marine Industry, felt the dock is not a hazard to navigation. There are numerous letters from everyone in the industry, stating the dock is not a problem. She said she has known Joe for over 25 years and the dock is not used for commercial purposes. She said people should not be asked to demolish well-built docks, and the Industry urged the Commission to support this request.

Jayne Just said she has lived in Shady Banks since 1987 and did not know Mr. Bartram personally, but his dock is very attractive and is located in a wide part of the New River. She said she owns a 40' sailboat and never has trouble navigating past this dock. Since the permit has been signed off by other agencies, she urged the Commission to approve this request and indicated that it is not a hazard to navigation.

Craig Tafoya, professional captain, said he traveled up and down the river on yachts about 140' in size and never has a problem in the area. He said he has known Joe Bartram and is never charged to dock at his site. He felt it should be an area that they could dock at and urged the Commission to approve the waiver.

Freddy Appleton, yacht captain, said he has known Mr. Bartram for over 30 years and takes boats over 160' up the river, and does not have a problem navigating past this dock. He said that everything Mr. Bartram does is first-class. He said his house is a yachting museum and Mr. Bartram is a god of the yachting industry. He was sure that Mr. Bartram would help anyone in the yachting industry, and urged the Commission to let Mr. Bartram have his dock.

Peter Wahn, resident of Shady Banks, said that Joe's home is an asset to the neighborhood. He said that he is also a yacht captain and travels up and down the river and does not feel it impedes traffic on the river. He urged the Commission to grant the requested waiver.

Joe Chacharolla said that he goes up and down the river past the subject dock and never has any problem. He felt that staff has erred, and therefore, the City should approve the waiver.

Jim Blake, resident of the City for over 35 years and a yacht captain, said he goes up and down the river, towing yachts and the subject dock does not impede navigation. He said it is also an attractive dock, and yacht broker signs appear on many boats on the river, but Mr. Bartram does not do that. He urged the Commission to approve the waiver request.

John Sykes said that he lives across from Mr. Bartram and felt the property is gorgeous. He has moved boats at least 250 times in the last four years past the subject dock and never has had a problem. He urged the City to grant the waiver request.

Glenn Tuppler said he lives across from Mr. Bartram and he has 105 petitions from individuals in the area. He bought in the neighborhood because they wanted to live on the water. He said that they do not want restrictions placed on the river. As the river narrows and people receive exceptions more tugs would be needed in the area. He said that according to the City, he could go out 16' with dolphin pilings extending out 25'. He is now out 29', and with a large boat about 50'. The owner said the dock is 78'. He felt Mr. Bartram is operating a mini-marina. Boats are advertised in magazines at his dock and he felt this is part of his business. He did not think it is fair. He belongs to River Oaks Civic Association and they are against this waiver. A waiver is normally granted due to there being extraordinary circumstances. He said Mr. Bartram is about double of what is allowed, and he asked when are standards going to be followed.

Matt Destry, resident of Tangelo Isles, said that he is a boater and familiar with the area and the subject dock. He said that the issue is not how many friends Mr. Bartram has in the industry or present at tonight's meeting, but whether he could take State property for his own. He has no right to the property. He is not a land use attorney but knows where his property line is located, which is where the water stops. Mr. Bartram's claim is with his contractor and the surveyor. He asked the Commission to consider what is really happening in this case. The issue of "clean hands" was mentioned. If he built onto his house illegally, he would be asked to remove the addition, and he felt this matter is no different. The river is a natural resource and belongs to everyone. It is a taking of something that belongs to everyone that is very precious. He continued to state that 105 people signed a petition against this waiver.

Frank Reynolds, resident of Tangelo Isle, said he owns a small boat for cruising and the problem they have is that when a towboat is on each end of a 160' yacht going down the river, they need a place to "duck into." Docks that stick out impede traffic. He felt the river should be for everyone's use.

Ken Bracewell, 850 SW 16<sup>th</sup> Street, said he is a yacht captain and owns a small boat, along with being a friend of Joe Bartram. He said that Joe is the "salt of the earth," who would not harm anyone for any reason. He is kind to many people. As a captain, he has a responsibility to the boat owner not to put his boat in harm's way. He never felt in danger at the site, and this City is the "Venice of America." The location of this dock is not a hazard to anyone. He hoped the Code is applied properly. He urged the City to approve the subject waiver.

Chuck Ritchie, 1505 SW 15<sup>th</sup> Avenue, and neighbor of Mr. Bartram. He is on the land side and has a clear view of the land side of Mr. Bartram's property. If business is being conducted he would have known about it. He said the laws in effect which govern the placing of boats probably came into consideration over the last 20-25 years because prior to 1926 there was no zoning. State laws governing boats came into effect recently. He urged the Commission not to penalize someone who attempted to meet the law and grant the requested waiver.

Paul Dolnick said his family has lived in this state for over 200 years. He lives in Rio Vista. By granting this variance, he felt the Commission would be setting a precedent. He is a retired contractor and he felt the contractors should have questioned this issue in the beginning. If the property owner is such a good citizen, why does he not remove the dock on his own.

Alan Ruff, attorney, said that he represents Elizabeth Hargis who is the "whistle blower" in this matter. He said she is consistently concerned for her personal health and her property. He said they are opposing the granting of the waiver. Section 47-19.3 says the Commission could waive the Code's dock limitations with the finding of extraordinary circumstances. He looked in the Code for a definition of extraordinary circumstances, but could not find one. The memo from the City Manager indicates that the Commission decided as they went forward about extraordinary circumstances. Both the variance and special use requirements said that "... use as varied will not be incompatible with adjoining properties, the surrounding neighborhoods, or otherwise detrimental to the public welfare." He said there is testimony from neighbors indicating their opposition to the existing dock. He said that an e-mail was supplied to the Commission from the President of River Oaks Civic Association in opposition to the waiver. He further said

that Mr. Mastriana's summary dated September 15<sup>th</sup> listed 10 extraordinary circumstances which was to be reviewed by the Commission. He said that 5 of the 10 suggest that it is the City's fault or the professionals hired by Mr. Bartram. It is also suggested that Mr. Bartram spent \$67,000 on construction of the dock, but all parties acted on a mistaken survey. He said it is "black letter law" in Florida that a building permit could be revoked when it is issued under a mistake of fact even if construction commenced and the owner suffers economic loss.

Mr. Ruff said the remaining four extraordinary circumstances made the following general statement: "The river is wide at that point and the channel is deep on the east side and there are no safety issues." He said the waiver being sought is a large one which is 81% on the north and 73% waiver on the south, and it is his opinion that extraordinary circumstances are not being shown which support the requested waiver.

Barry Flanigan, Marine Advisory Board, said he did not know Mr. Bartram, but he has sent him a letter in response to one Mr. Flanigan received from Mr. Destry concerning issues the Board has reviewed regarding this matter. He said excellent legal representation was present at their Board meeting, and the issue presented to the Board was in connection with navigation. Professional captains made presentations and he has consulted with the City Attorney's office on the matter. Some members are against the waiver due to other issues besides navigational. The Board approved the waiver, but he felt it is unfortunate there could not be a degree of "live and let live." Some photographs submitted indicate violations existing regarding safety and permitted use of docks on the river. He said if they are going to remove boats with "For Sale" signs, that is a "can of worms" being opened. Ownerships would be questioned regarding some boats. Regarding safety the Board voted in a clear and objective manner approving the waiver.

Sheryl Garrison address said that photographs were shown indicating that her boat is a commercial part of Mr. Bartram's enterprise. She said he is a friend and the boat is for sale, but she removed the brokerage sign when the opposition was raised. She said she took a photograph of her boat at the site and did use it in an ad with the owner's permission. She said it is not part of Joe's brokerage business.

Margaret Welin, 1101 Orange Isle, said she spoke to a neighbor who informed her about a safety issue which was a hazard to him in reference to the subject dock. As he went under the Davie Bridge going south approaching the subject dock, if a yacht is parked he could not see around the corner, and he felt that could cause a dangerous situation. She said she is opposed to the waiver.

John Terrill, Marine Advisory Board, said this came before the Board about one month ago and there were representatives from both sides. Issues were addressed regarding navigation, safety, dock permitting, commercial use of the dock, and the marine industry. After careful consideration, the Board approved the waiver. The dock is permitted, built and signed off by the City more than three years ago, and for that time there was no opposition by boaters, civic associations or individuals, except for one. Members of the civic association have not known about this dock until one month ago, and it clearly demonstrates that there are no safety issues regarding navigation involved. He said the law allows for a homeowner on the river to take up to 30% of the river, including their boat and dock. Currently, Mr. Bartram does not exceed the 30% requirement. If the dock is demolished, he would still be permitted to take up the 30%. He inspected the dock and found it to be built to the same scale, quality of construction, and building materials as



docks built throughout the City. Labels were mentioned to indicate that this dock is something other than what it is. Mr. Bartram was in the yachting industry for 40 years, and was not the biggest player in it, but did have a huge reputation for his integrity and honesty. The dock has never been rented or operated as a marina, and Mr. Bartram never received a Code violation in regard to the use of the dock.

Mr. Terrill further said that individuals tend to socialize with people they work with and Mr. Bartram is no exception. People who own houses on the water invited friend to dock at their properties. He said the City engineers on two occasions interpreted the location of the lot line differently, and that was done in good faith. This is the issue and it qualifies as an extraordinary circumstance. There are no adverse effects caused by this dock, and no precedent is being set. He urged the Commission to support this waiver.

Blaise Basant lives across the river and south of Mr. Bartram's dock. He said that Mr. Bartram is a wonderful man and the dock enhances the river. He said his closing was delayed due to a lot line issue. There is always confusion regarding property lines. He said the dock does look commercial, and if they move forward, he felt there could be problems. He said the City made a mistake and will probably do so in the future, and he felt the waiver should not be granted.

Marni Canavan, realtor, said she lives on the river across from the property in question. She urged the Commission to grant the waiver and said there are no navigational problems in the area. She said that Mr. Bartram's residence is only a part-time one. She said he is permitted and there are discrepancies involving property lines that need to be resolved eventually.

James Mason said he lives next door to Mr. Bartram who has a wonderful facility for boats. He said no life safety issues are involved, and he felt this is a special use permit situation and no precedent would be set. He said nothing could get done in the community without careful scrutiny. Therefore, since there are no life safety issues involved, he felt the City should protect the individuals who go the extra mile in the community. He said the Commission needs to be fair and grant the waiver.

Skip Allen said he has a business in Fort Lauderdale known as Southern Boating. He said his daughter lives in Fort Lauderdale and there are a lot of boats in the family. He said they have known Mr. Bartram for 50 years and he wanted to call everyone's attention to Mr. Bartram's opening speech. He said he is "straight as an arrow" and the dock is an attribute to the City. He said that Mr. Bartram has been in the American Cup and he urged the Commission to grant the waiver.

**Motion** made by Commissioner Hutchinson and seconded by Commissioner Moore to close the public hearing. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Vice Mayor Trantalis and Mayor Naugle. NAYS: None.

Commissioner Hutchinson asked if tonight's decision is to be based on safety and navigational issues as done by the Marine Advisory Board. The City Attorney said that is the past practice of the Commission. Commissioner Hutchinson asked about the City's exposure if the waiver is granted. The City Attorney did not believe there would be a problem. Commissioner Hutchinson asked what type of exposure would be placed on the City, if they asked the owner to remove the dock. The City Attorney said there is a disagreement with Mr. Ruff. According to Florida law, he believed if there is a mistake of

law, the dock could be torn down, and if there is a mistake of fact then estoppel could be applied against the City. A lawsuit could cause the City damages. The City Attorney said that this case is an error of fact.

Commissioner Teel said that according to Section 8-34, Duties of the Marine Advisory Board, Item #12 pertains to the regulation of boat docking and other public navigable waters. She said the home is lovely and the dock is well built, but it is projecting out into the river. If individuals across the river did the same thing, then the river would continue to get narrower. She asked if Item #12 would give the City the right to regulate boat docking.

The City Attorney said that is one of the responsibilities assigned to the Marine Advisory Board. He said they would have to accept the testimony given this evening in that regard. He further said that the City's regulations said that owners with riparian rights on either side of a canal or river could only extend 30%. Testimony was given that the subject dock did not exceed such a rule. He explained the riparian rights extend to the navigable channel from the end of the water. Rights to build a dock were granted by the City.

Vice Mayor Trantalis said that a mistake was made by staff in good faith, but he is concerned about the City's exposure.

**Motion** made by Vice Mayor Trantalis to grant the requested waiver of distance limitations with the provision that when the dock is replaced, that this waiver would expire, and the length of the new dock would be reduced in accordance with the measurement from the wet face of the river, and the boundary is not to be considered from the plat line.

Vice Mayor Trantalis said that he felt this would be in the City's best interest.

Commissioner Moore asked if more than 50% of the dock is to be replaced, what would apply. Vice Mayor Trantalis confirmed the waiver would expire. The City Attorney said this would be a condition of the waiver and the legal description would have to be amended before recording. He added that this would run with the land.

Commissioner Moore seconded the motion.

Commissioner Hutchinson said she wanted to base her decision soundly on what has been a precedent, not only for the Marine Advisory Board, but for the Commission. She said she is looking for staff's expertise in this matter, and staff has concluded there is no significant impact to navigation or boating safety in regard to this matter.

#### RESOLUTION 04-206

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, GRANTING A WAIVER OF THE LIMITATIONS OF SECTION 47-19.3.B & C OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE TO ALLOW J. BURR BARTRAM, JR., AS TRUSTEE UNDER THE J. BURR BARTRAM, JR. DECLARATION OF TRUST DATED APRIL 16, 2001 TO MAINTAIN AN EXISTING T-PIER AND TWO (2) SETS OF CLUSTERED

MOORING PILINGS THAT EXTEND A MAXIMUM DISTANCE OF 29 FEET +/- FROM THE PROPERTY LINE INTO THE ADJACENT WATERS OF THE SOUTH FORK OF NEW RIVER FOR THE PROPERTY LOCATED AT 1520 S.W. 15<sup>TH</sup> AVENUE, FORT LAUDERDALE, SUCH PROPERTY BEING MORE PARTICULARLY DESCRIBED BELOW.

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

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**Appeal of Planning & Zoning Board Decision – Inwood Property (PH-4)  
Investments – SE 18 Avenue – Vacation of Right-of-Way – Case 10-P-03**

**At the November 1, 2004 Regular City Commission meeting, the City Commission passed a resolution to conduct a De Novo hearing to consider an ordinance vacating a portion of SE 18 Avenue (Hendricks Isle Drive).**

**ALL INDIVIDUALS WISHING TO SPEAK ON THIS MATTER WERE SWORN IN.**

Ella Parker, Planning & Zoning Services, said the applicant wants to vacate a 5' wide and 183.42' long section of right-of-way abutting the applicant's property. The case was reviewed by DRC on August 26, 2003, and the Property and Right-of-Way Committee on October 16, 2003. She said a positive recommendation was made, and the case was presented on June 16, 2003 to the Planning and Zoning Board who denied the request by a 6-2 vote. If the Commission approves the vacation, staff proposes that the entire area be reserved as a utility easement.

Robert Lochrie, attorney for the applicant, said this is an appeal of a right-of-way vacation which was previously reviewed. City Code provides for two types of rights-of-way regarding streets. The first is in connection with a business and a high-density area which is to have 60' right-of-way, and the 50' right-of-way is for minor collector and medium to low density areas. He said Hendricks Isles has a 60' right-of-way and they are not requesting anything different. He showed a graphic of Hendricks Isle. He said there is a portion to the south which is 70' in width. He said that Andrews Avenue is 70' wide. He said there is no need for a 70' right-of way along Hendricks Isle. They are caught between the 60' and 70' section. The northern portion of the property is within the 60' area, and the southern portion is within the 70' area. He said they only want to vacate the 5' portion shown in dark green on the map.

Mr. Lochrie said the property is not being used for any public purpose and is back-out parking. The City would maintain the property and the applicant would provide a utility easement. He said the area would be landscaped due to a new development that is to be in the area. Other alternative means of access are available.

**Motion** made by Commissioner Hutchinson and seconded by Commissioner Moore to close the public hearing. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: None.

Vice Mayor Trantalis asked what is the purpose for requesting the 5' variance. Mr. Lochrie said it is to make the property line consistent. The properties to the north abide

by the 60' right-of-way, and they want the additional 5' for landscaping and other amenities. The setback line would be measured from the property line and not the additional 5'.

Mayor Naugle asked if the property line would be consistent by dedicating a 5' area to the City at the portion that is shorter. Mr. Lochrie said they could theoretically, but he did not know if the City would accept it since it is in excess of what has to be provided. He said this would allow the applicant to keep a consistent building line. The proposal is to erect two buildings. He said there is additional right-of-way they would be required to maintain, and 60' is more than what the Code would ever require.

Vice Mayor Trantalis asked if the right-of-way is expanded to reduce it by 5' are they not asking to create a larger building on the site. Mr. Lochrie said they wanted to use property which is currently right-of-way. It does increase the overall size of the plot. He said this right-of-way no longer serves a public purpose. Vice Mayor Trantalis indicated the mass of the building would be greater at the southern end since they are increasing the distance. Mr. Lochrie said that since the property is no longer used for a public purpose, it should be returned to the property owner, and theoretically, the applicant would be able to build their building 5' closer to the street, if it is approved by the Planning and Zoning Board, along with the Commission. He added they would also still have to meet all the Building Code criteria.

Mayor Naugle supported the Planning and Zoning Board's decision because the two streets have been impacted greatly after the amendments which took place in 1996 in the Zoning Code, increasing density City-wide by 50%.

Commissioner Hutchinson introduced the following ordinance:

ORDINANCE NO. C-04-64

AN ORDINANCE VACATING, ABANDONING AND CLOSING THE EAST 5.00 FEET OF THE 70 FOOT RIGHT-OF-WAY FOR HENDRICKS ISLE (PLATTED AS NORTHEAST 18<sup>TH</sup> AVENUE), AS SHOWN ON THE AMENDED PLAT OF "LAUDERDAL ISLES," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 16, PAGE 33, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BOUNDED ON THE NORTH BY THE WESTERLY EXTENSION OF THE NORTH LINE OF LOT 1, BLOCK 4, AND BOUNDED ON THE SOUTH BY THE WESTERLY EXTENSION OF THE SOUTH LINE OF LOT 4 OF SAID BLOCK 4, BOTH OF SAID AMENDED PLAT OF "LAUDERDALE ISLES," LOCATED ON THE EAST SIDE OF HENDRICKS ISLE, APPROXIMATELY 730 FEET NORTH OF LAS OLAS BOULEVARD, SUCH LAND BEING LOCATED IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

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

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**Appeal of Planning & Zoning Board Decision – William Vaccaro - (PH-5)  
NE 15 Avenue & NE 8 Street – Vacation of Right-of-Way –  
Case 20-P-03**

**At the November 1, 2004 Regular City Commission meeting, the City Commission passed a resolution to conduct a De Novo hearing to consider an ordinance vacating portions of NE 15 Avenue and NE 8 Street.**

**ALL INDIVIDUALS WISHING TO SPEAK ON THIS MATTER WERE SWORN IN.**

Michael Ciesielski, Planning and Zoning Services, said that this is a request to vacate a portion of NE 15 Avenue and NE 8 Street in Victoria Park. He said the vacation request includes the easternmost portion of NE 15 Avenue, south of NE 8 Street and is shown in red on the map. He said the area consists of approximately 413 sq. ft., and if the request is granted the width of NE 15 Avenue right-of-way, which is 60', would be maintained. Engineering staff has said it is sufficient to handle the traffic in the area. The request also includes an irregularly shaped portion of land immediately south of NE 8 Street and east of 15<sup>th</sup> Avenue, which is shown in blue on the map. He said that area is about 2,175 sq. ft., and if the request is granted, the width of the northeast right-of-way would be maintained. Engineering feels it is sufficient to handle the traffic in the area.

Mr. Ciesielski said the City's Property and Right-of-Way Committee reviewed the request on November 20, 2003 and recommended approval and minutes of such meeting are attached to the application. He said that the matter was reviewed by DRC on May 11, 2004 and all comments were addressed. If the Commission approved this request, the following conditions are recommended by staff:

1. The cost of relocation for any utilities, included, but not limited to, light poles, guide wires, anchors, water mains, television and telephone, cable, gas and electricity, located within the subject right-of-way be borne by the applicant.
2. That the applicant be required to obtain and record at his own expense any utility easements that are necessary due to the relocation of utilities.
3. That the applicant will agree to maintain the existing landscaping at the southeast corner of NE 15 Avenue and NE 8 Street. He said the landscaping has been done by the Victoria Park Civic Association through a grant from Broward Beautiful.

Mr. Ciesielski said that the vote of the Planning and Zoning Board was 0-7. No one was in favor of the application.

Jerry McLaughlin, representing the applicant, said they believe this is a unique situation. Originally the configuration of the lot was created and the right-of-way dedicated to line up NE 8 Street as a direct thoroughfare and line to Holiday Park. The right-of-way is no longer needed, and the property is not used by the City or the County. He said that Article IV, Section 47-24.6, Vacation of Right-of-Way criteria consists of 5 points and they believe all such criteria have been met. Since the vacation would not be closing any streets, alternative routes would not be necessary. NE 8<sup>th</sup> Street and NE 15<sup>th</sup> Avenue would remain open to the public, and only excessive right-of-way would be vacated. Since the City has no plans to align NE 8th Street, the right-of-way vacation would put the property on the tax roll. He said that all utilities would be relocated in

accordance with a Relocation Plan. He further said the Victoria Park Civic Association voted in favor of the project, and no objections were raised by the public.

Mr. McLaughlin showed the subject site on the map and explained what is to be vacated. He said the lot would then be more useable for development of six townhouses instead of three.

**Motion** made by Commissioner Moore and seconded by Commissioner Hutchinson to close the public hearing. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: None.

Commissioner Moore suggested that the recommendation be rejected. He said if the Commission is going to make an adjustment of this type, it should be to reduce the cost of housing. This would double the opportunity for the developer to build housing on the site and affordability is not being addressed.

**Motion** made by Commissioner Moore and seconded by Commissioner Hutchinson to reject the subject proposal. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, and Mayor Naugle. NAYS: None. Vice Mayor Trantalis abstained from voting. A memorandum of voting conflict was filed by Vice Mayor Trantalis and is attached hereto.

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**Historic Designation of The John Needham House – 828 SE 4<sup>th</sup> Street - (PH-6)  
Case 30-H-02**

**A public hearing to consider a resolution granting historic designation for landmark status to The John Needham House located at 828 SE 4<sup>th</sup> Street, which was recommended for approval on December 9, 2002 by the Historic Preservation Board by a vote of 7-0. This item was deferred from the November 1, 2004 meeting.**

**ALL INDIVIDUALS WISHING TO SPEAK ON THIS MATTER WERE SWORN IN.**

Ron Mastriana, attorney, Mastriana and Christiansen, P.A., representing the property owner, said that based upon the Board of Adjustment's approval of the use, along with staff's agreement to work with them regarding issues on parking and the site plan, they have no objection to the designation.

**Motion** made by Vice Mayor Trantalis and seconded by Commissioner Teel to close the public hearing. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: None.

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 04-207

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, DESIGNATING THE BUILDING AND PROPERTY LOCATED AT 828 S.E. 4<sup>TH</sup> STREET, FORT LAUDERDALE, AS A HISTORIC LANDMARK PURSUANT TO SECTION 47-24.11 OF THE UNIFIED LAND DEVELOPMENT REGULATIONS.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: None. (Commissioner Moore was out of the room at the time the vote was taken.)

Vice Mayor Trantalis wanted to thank the property owners for their cooperation because the City is now able to preserve one of the more historic homes in the community.

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**Site Plan – First Baptist Church of Fort Lauderdale Expansion (PH-7)  
415 East Broward Boulevard – Case 34-R-04**

**A public hearing to consider a resolution approving the site plan for First Baptist Church of Fort Lauderdale proposed expansion in the RAC-CC Zoning District.**

**Motion** made by Commissioner Hutchinson and seconded by Vice Mayor Trantalis to defer this matter until December 7, 2004 at 6:00 p.m. Roll call showed: Commissioners Hutchinson, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: None. (Commissioner Moore was out of the room at the time the vote was taken.)

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**ORDINANCES**

**Amendment to Transportation Element, Comprehensive Plan; (O-1)  
Case 5-TT-99**

Commissioner Hutchinson introduced the following ordinance on second reading:

ORDINANCE NO. C-04-63

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING THE 1999 FORT LAUDERDALE COMPREHENSIVE PLAN TO ADOPT THE TRANSPORTATION ELEMENT TO REPLACE THE TRAFFIC CIRCULATION, MASS TRANSIT, AND PORTS, AVIATION AND RELATED FACILITIES ELEMENTS; UPDATING AND INCLUDING NEW GOALS AND POLICIES IN ACCORDANCE WITH FLORIDA STATUTES.

Which ordinance was read by title only.

Mayor Naugle said that a form known as the Comprehensive Plan Citizen Courtesy Information List is available with the Assistant City Clerk. He said the form is provided to any citizen who wants to receive a personal notice from the Department of Community Affairs of the State's intention to find the amendment in compliance with State law or not. The form would be submitted to the State along with the amendments.

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

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**Message Center Signs – Case 5-T-02**

**(O-2)**

Commissioner Hutchinson introduced the following ordinance on second reading:

ORDINANCE NO. C-04-61

AN ORDINANCE AMENDING THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA, BY AMENDING SECTION 47-22, SIGN REQUIREMENTS APPLICABLE TO MESSAGE CENTER SIGNS; TO PERMIT MESSAGE CENTER SIGNS ON SPECIFIC USE FACILITIES WITH LESS THAN 20,000 SEATS; TO INCREASE THE PERMITTED SIZE ON CERTAIN RIGHTS OF WAY; DELETING THE REQUIREMENT FOR PUBLIC SERVICE MESSAGES AND MODIFYING OTHER REQUIREMENTS.

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

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**Right of Way Administration – Conversion of Landscaped Medians To Parking Areas or Travel Lanes**

**(O-3)**

**Motion** made by Commissioner Hutchinson and seconded by Commissioner Moore to defer this matter until December 7, 2004 at 6:00 p.m. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Vice Mayor Trantalis and Mayor Naugle. NAYS: None.

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**Citizen Presentations**

**Anthony Armao – Water Skiing in Lake Sylvan – will be scheduled on December 7, 2004 agenda.**

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**RESOLUTIONS**

**Executive Airport – Consent to Assignment of Lease Agreement - (R-1)  
Fort Lauderdale Crown Center, Inc. / Fort Lauderdale Crown  
Land Trust, Inc.**

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-209

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO A CONSENT TO ASSIGNMENT OF LEASE AGREEMENT FROM FORT LAUDERDALE CROWN CENTER, INC., TO FORT LAUDERDALE CROWN LAND TRUST, INC. PERTAINING TO LOTS 29, 30, 34 AND 35 AT FORT LAUDERDALE EXECUTIVE AIRPORT.

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

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-208

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO ENTER INTO A FIFTH AMENDMENT TO LEASE WITH FORT LAUDERDALE CROWN LAND TRUST, INC. TO MODIFY CERTAIN PROVISIONS REGARDING LESSEE’S RIGHTS TO SUBLEASE, TO MORTGAGE LESSEE’S INTEREST AND RIGHTS OF LEASEHOLD MORTGAGEE, GRANTING OF LICENSES FOR RIGHTS OF INGRESS/EGRESS AND ENTERING INTO PARKING AGREEMENTS PERTAINING TO LOTS 29, 30 34, AND 35 AT FORT LAUDERDALE EXECUTIVE AIRPORT.

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

**Property for Demolition – 1029 NE 63 Street (R-2)**

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-210

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE DEMOLITION

OF THE BUILDING OR BUILDINGS UPON EACH PROPERTY LEGALLY DESCRIBED IN THE ATTACHED SCHEDULE "A," BECAUSE OF NON-COMPLIANCE WITH THE FLORIDA BUILDING CODE.

Which resolution was read by title only.

Commissioner Teel asked if the mobile home would still be habitable when the illegal structure is removed.

Valerie Bohlander, Director of Building, said the entire structure is to be demolished.

Commissioner Teel asked if the person was contacted. Ms. Bohlander said they attempted to contact the individual, but she believed he is presently in a health clinic. Commissioner Teel asked if a referral was given to the officer who handles the homeless. Ms. Bohlander said that she is not sure if that has been done, but they could do so. Commissioner Teel also requested that Broward County Human Services be contacted and information be given to them as well. Ms. Bohlander said that would be done.

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

**Disaster Relief Funding Agreement – Hurricane Frances  
Florida Department of Community Affairs**

**(R-3)**

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-211

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING EXECUTION OF THE DISASTER RELIEF FUNDING AGREEMENT WITH THE STATE OF FLORIDA, DEPARTMENT OF COMMUNITY AFFAIRS, FOR REIMBURSEMENT OF COSTS INCURRED IN PREPARATION OF AND RECOVERY AFTER HURRICANE FRANCES.

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

**Riverbend Corporate Park Plat – Case 14-P-03  
Northwest Intersection of Broward Boulevard & I-95  
Riverbend Corporation of Fort Lauderdale, LLC**

**(R-4)**

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-212

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING A PLAT

KNOWN AS "RIVERBEND CORPORATE PARK."

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

**Site Plan for Strand Towers 1 & 2, Las Olas Riverfront - (R-5)**  
**300 SW 1<sup>st</sup> Avenue – Las Olas Riverfront Associates Limited Partnership;**  
**Case 88-R-04 & 11-P-04**

Mayor Naugle said that this item was withdrawn earlier in tonight's meeting.

**Vacation & Relocation of Drainage Easement – 1301 East Lake (R-6)**  
**Drive – Ben and Carol Harrison – Case 12-M-04**

Commissioner Moore introduced the following resolution:

RESOLUTION NO. 04-213

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, VACATING ALL OF THAT 8.00 FOOT WIDE DRAINAGE EASEMENT KNOWN AS "STORM SEWER EASEMENT NO. 81" AND RECORDED IN OFFICIAL RECORD BOOK 819, PAGE 541, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; ALSO KNOWN AS THE NORTH 8 FEET OF LOT 7, BLOCK 5, "HARBOR BEACH UNIT ONE," ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 19, PAGE 6, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LOCATED ON THE WEST SIDE OF EAST LAKE DRIVE, SOUTH OF THE INTERSECTION OF SYLVAN LANE AND TERMINATING AT SYLVAN LAKE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

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

**MOTIONS**

**Lien Settlements for Special Master and Code Enforcement (M-24)**  
**Board Cases**

Vice Mayor Trantalis said that he did not notice whether any of the following cases are listed on the foreclosure notice that has been recently received by the Commission. He asked why they had not gone to foreclosure. The City Attorney said that none of the below-listed cases were submitted to his office. Vice Mayor Trantalis said that is a concern of his, especially since there are cases listed in the amounts of \$437,450 and

\$560,750. It is aggravating to think that these properties have gone unchallenged for such long periods of time. He asked where has the City failed in the new system.

Valerie Bohlander, Director of Building Services, said staff is in the process of working on foreclosures.

Vice Mayor Trantalis said that all eleven cases listed tonight qualify for foreclosure.

A motion authorizing proposed settlements for:

1. 1611 NW 7 Court (CE02020891; Doretha Thirsty – \$16,050).

Doretha White (Thirsty) said letters from Code Enforcement were sent to the wrong address. She said she does not have \$16,050 to pay the fines.

Commissioner Moore asked if the property is in compliance and is there ground covering at the site.

Eve Bazer, Community Inspections, said that all the properties submitted to the City Commission this evening are in compliance.

Commissioner Moore said that he is concerned that certain of the areas of the City are being held to ground cover, while in other areas the City is allowing this to be what the communities wanted. He felt everyone should comply with the law. He said the inoperable vehicles on a property are a concern to the neighborhood residents and the Code Advisory Committee. Such vehicles are a blight and affect property value. He hoped the Commission would be strict about this.

Commissioner Moore asked if the owner of the property photographs to show that the property is in compliance. Ms. White presented the photographs and said that a gentleman lived in the house. Commissioner Moore said the property was brought into compliance in January, 2003. He asked staff why it took so long to resolve this matter.

Ms. Bohlander said that she could not answer that question, but she would commit that staff would work on the process.

Commissioner Moore believed this property owner should pay a fine in order to set a standard of how residents would have to meet issues regarding Code violations.

**Motion** made by Commissioner Moore that the property owner pay 25% of the fine recommended by staff.

**Motion** made by Commissioner Hutchinson and seconded by Vice Mayor Trantalis to accept the recommendation made by staff in regard to the subject property.

Vice Mayor Trantalis asked if this property was offered the opportunity to participate in the Amnesty Program. Ms. Bohlander confirmed yes. Commissioner Moore said that payment of the amnesty had to be paid in full, and many of the owners did not have the money. However, the slum operators were able to participate in the program. Vice Mayor Trantalis said that this property falls into every category the Commission said they are

zero tolerant about. The property is an income property. He asked why a special exception should be made.

Commissioner Moore said that the property owner never contacted the City to resolve the problem. He said that the violations did not measure up to the amount of the fine. He believed there should be payment of a fine, but he felt every case should be reviewed on its own merits.

In light of some of the concerns of the Commission, along with the fact that the City Attorney has not reviewed these cases, the City Manager suggested that these cases be pulled from the agenda so they could be further reviewed.

Commissioner Moore said that individuals have sat through the meeting from 6:00 p.m. and it is now going on midnight. Consequently, he did not feel the items should be deferred. He said there was no back-up information supplied for Items 6-11.

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

2. 1331 NE 3 Avenue (CE02091049); Carline Pierre-Erasme - \$87,500.

Michael Mannis, representing owners of the property, said the property was originally owned by Carline Pierre-Erasme who died in 1998 and left behind two minor children who are the rightful owners of the property. The children reside in New Jersey with their grandmother. He said that one of the children recently turned 18 but is mentally disabled, and the other child is only 17. He said the property is in jeopardy, but this is the only asset the children own. He said the property was cited in September, 2002. The property is occupied by tenants who are not paying their rent. He said the tenant never passed on any notices of violation to the grandmother in New Jersey. Finally, there was a posting of notice on the property and a hearing was held. Beginning in June, 2003, 5 violations accrued at a fine of \$100 per day for each violation.

Mr. Mannis said the first contact was on October 2, 2003 with the grandmother. Shortly thereafter, the violations were addressed. Unfortunately, from June 1, 2003 the fines accrued. Amnesty was offered, but the owners did not have the money to pay. He suggested \$100 per day for the 45-day period would be fair, and therefore, a fine of \$4,500 should be requested of the owners. He said that the grandmother retained someone to look after the property, and no further violations have occurred.

Vice Mayor Trantalis said that if there is an issue regarding notice which affected any of the properties listed this evening's agenda, the fines being requested should be forwarded to the City Attorney's office for further review. Commissioner Moore said that Item #1 should also be included.

**Motion** made by Vice Mayor Trantalis and seconded by Commissioner Moore to defer Item Nos. 1 and 2 until further notice. Roll call showed: YEAS: Commissioners Moore, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: Commissioner Hutchinson.

Commissioner Hutchinson said that the Commission has voted on Item No. 1, and therefore, they would have to go back and revote.

**Motion** made by Commissioner Moore to reconsider Item No. 1. Mayor Naugle said that a motion could be made at the end of the item.

3. 104 SE 11 Avenue (CE00062070); Maria Pikuta - \$119,800.

Maria Pikuta, owner, said that she came to the U.S. in 1986 and purchased this house in 1988. She said that she rented out two units, and she refurbished the property before renting it out. She said she did not know it was a violation to put the washing machine outside because it is too large to be indoors in the location of the previous washer. She said she was arrested and put in jail for three weeks. She spent money and won the case, but the matter was reopened in 1999. She spent \$55,000. She said she has not done anything about the air conditioning, but she was informed that she needed a license. She said that someone reported her to immigration and she was in court, but the judge dismissed the case. After 2000, the City contacted her about the violations, and she has explained the situation but is being ignored. She said she received a letter about foreclosures and again began trying to explain the situation.

**Motion** made by Commissioner Hutchinson to accept staff's recommendation.

Commissioner Hutchinson said that she warned everyone that she was going to do this after the Amnesty Program, and therefore, no one should be surprised.

**Motion** made by Vice Mayor Trantalis and seconded by Commissioner Teel to defer this item to the City Attorney for review. Vice Mayor Trantalis said he wanted the City Attorney to review the time sequence between the notices, the incarceration, and the illnesses. Roll call showed: YEAS: Commissioners Moore, Teel, Vice Mayor Trantalis and Mayor Naugle. NAYS: Commissioner Hutchinson.

4. 1711 NW 8 Place (CE03021123); Walter and Willie Ruth Fox – \$9,500.

5. 1717 NW 8 Place (CE03021123); Walter and Willie Ruth Fox - \$9,500.

Eve Bazer, Community Inspections, said she wanted to correct the address of this item. She said the correct address is 1711 NW 8 Place. She said Item No. 5 is 1717 NW 8 Place and the properties are owned by the same owner, and the units are connected.

Levi Williams, representing Mr. Darrick Rucker, said that the Foxes used to own the property. He said Mr. Rucker bought the property in June, 2004. He said they are requesting a waiver of the fines. He showed photographs of the property and how it looked previously. He said that changes were made to the property. The escrow agent retained the monies for the fines when Mr. Rucker purchased the property.

Since improvements are being made by a new owner, and the violations occurred by the previous owner, Commissioner Moore asked if the new owner is going to provide affordable rent for tenants.

Mr. Rucker said the rent would be comparable to other buildings in the area. He said they would run about \$750. He added that they want to help an elderly person who previously owned the property. The previous owner could not maintain the property; the tenants are not paying rent. Therefore, he agreed to refinance the property and renovate it giving her a free place to stay.

Commissioner Moore said that a fine should be imposed due to the fact that a deplorable condition existed at the site. He felt \$1,000 per offense would cover the City's expenses. Ms. Bohlander agreed.

**Motion** made by Commissioner Moore that a fine of \$1,000 per violation be imposed on the subject property.

Commissioner Moore said he wanted investment to be made in the property so there would be a quality unit.

Motion died for lack of a second.

Vice Mayor Trantalis said it is indicated that monies are being held in escrow. Mr. Williams confirmed yes.

Sheryl Rucker Cousins said her aunt owned the property with a very small mortgage. Ms. Cousins said that when she moved away, the tenants quit paying rent to her aunt. In order for her aunt to not lose the property, they decided they would get a loan to repair the property so her aunt could remain at the property. They were told the property has to be put in compliance, and money was held in escrow until the property was up to Code. She said they need the remaining money to complete the project.

Vice Mayor Trantalis asked how much money has been put into the property. Mr. Rucker said that about \$72,000 has been put into the property in renovations. Ms. Cousins said the property has been valued at \$125,000 per building, but the bank only gave a 75% loan. They paid nothing for the property. There is only an exchange involved. Vice Mayor Trantalis said there has to be some responsibility on the part of the Commission that homes in the City are safe and not unsightly. He said tonight 11 different people would be standing up and explaining why their homes should be permitted to look unsightly and that the fines should be forgiven. He asked where the line should be drawn.

Mr. Williams said that the line should be drawn right here. He said what these people did is the same as what Habitat is doing. They took out a loan for the property and the property owner quit-claimed the property to them. The money was used to repair the property, and the property owner benefited by remaining in the house. A safer environment is being created for the elderly.

Commissioner Teel asked if the outside of the properties are in compliance. Ms. Bazer said the violations they were cited for are now in compliance, and they are working on improving the exterior of the building. She asked if the fines are forgiven, what happens if the money is not spent on the exterior improvements.

Mayor Naugle said it is in their interest to obtain a certificate of occupancy for the property. Commissioner Moore said they would be able to get the money back if they complete the construction so tenants could occupy the building. The aunt would remain at the site for the rest of her life. There is no opportunity for the owners to run away.

Vice Mayor Trantalis said the property was given to these individuals for free. He said the investment made would accrue to the enhancement and value of the property, but they are starting with free property. Commissioner Moore said he is happy that individuals are willing to rehabilitate these types of properties.

Commissioner Teel asked who is going to manage the properties once the rehabilitation is completed. Mr. Rucker said he lives nearby. He said he would oversee management of the buildings.

Mr. Williams said the permits are pulled and work is being done. He said they want the monies set aside in order to complete the rehabilitation work.

The City Manager said that progress is not being made on the submitted list of properties. Due to the late hour, he asked if there might be a better way to handle them. He apologized for placing these on the agenda without further review with the City Attorney. He said that he would be happy to take a second look at the remaining properties.

Commissioner Teel said she would entertain a fine of \$4,000.

**Motion** made by Commissioner Moore and seconded by Commissioner Teel that the subject properties be fined \$4,000 (\$2,000 each). Roll call showed: YEAS: Commissioners Moore, Teel, and Mayor Naugle. NAYS: Commissioner Hutchinson and Vice Mayor Trantalis.

6. 1637 NW 9 Avenue (CE030121500); Jorge Pio - \$19,600.

Jorge Pio said he previously lived at this property with his girlfriend and her brother. He has moved out. Nothing was sent to him regarding the violations until the individuals moved to California and he received a notice from the City. He said that he cured the violations, but was informed of the amount of fines on the property. Had he been aware of the violations, he would have taken care of them.

Mayor Naugle asked the Commission if they wanted to defer this matter since it pertains to a notice problem. Commissioner Moore asked if staff has evidence that a notice problem existed regarding this property.

Ms. Bazer said that notices were sent to the address on the County's tax rolls, and the mail remained unclaimed.

Vice Mayor Trantalis said the Special Master heard the case on July 3, 2003, and found for the City, and compliance was achieved in April, 2004. If the only problem was ground cover in a small area and a garbage can placed in the wrong place, why has it taken so long to cure the violations. Mr. Pio said that the violations were resolved when he was made aware of the situation. He said that he lives in Georgia, but returned here to take care of the property once he was informed of the problems. He never would have knowingly allowed such fines to accrue for such a small problem.

Commissioner Moore asked why a forwarding address was not supplied to the City. Mr. Pio said that an address was supplied on South Beach, but the notices were not forwarded to him.

**Motion** made by Vice Mayor Trantalis and seconded by Commissioner Moore to defer this matter until a later date so it could be further reviewed by the City Attorney's office



due to a notice problem. Roll call showed: YEAS: Commissioners Moore, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: Commissioner Hutchinson.

7. 1015 NE 17 Avenue (CE99121500); Fred Pierre-Louis - \$437,450.

**Motion** made by Commissioner Moore and seconded by Commissioner Hutchinson to accept staff's recommendation. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: None.

Mayor Naugle announced that since no one is present regarding this property at tonight's meeting, the matter would be forwarded for foreclosure.

8. 1559 NW 6 Street (CE03061548); Laurie Butler - \$6,450.

Commissioner Moore said that this property is located in the Community Redevelopment area. Ms. Butler purchased the property and is going through an application process for funding. He asked about the status of that matter. He said it was agreed that fines would be reduced. He did not know how this matter reached this point.

Laurie Butler, owner, said they reached this figure due to not receiving notification. She met with the Commission in February, 2004, who notified her an option was to rehabilitate the property or sell it. She began rehabilitation and is working diligently with the City. She said that Detective Abrams contacted her with a letter and that is how she learned about the problem. She said the problem is that the permit for the board-up has expired.

Vice Mayor Trantalis asked if Ms. Butler attended the Special Master hearing on February 5, 2004. Ms. Butler confirmed yes and said she was given 120 days to bring the property into compliance. She said an option was to start the repair process, which she did. Vice Mayor Trantalis said that permits were not applied for until 6 months later. Ms. Butler said she immediately applied for a roof permit because that would begin the project. From that point, she worked with the City as much as possible on the project. She said there are many expenses involved and problems. She wanted to improve the property, but this is a burden she could not handle.

Commissioner Moore said the property was abandoned previously until Ms. Butler purchased it. Ms. Butler said things are in their final stages, and asked the Commission to waive the fine.

**Motion** made by Commissioner Moore to waive the fine so the owner could proceed through the rehabilitation process.

Motion died for lack of a second.

**Motion** made by Vice Mayor Trantalis and seconded by Commissioner Hutchinson to accept staff's recommendation. Roll call showed: YEAS: Commissioners Hutchinson, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: Commissioner Moore.

9. 1521 NW 8 Avenue (CE03031646); Lorraine Greve Pineyro - \$12,300.

**Motion** made by Commissioner Moore and seconded by Commissioner Hutchinson to accept staff's recommendation. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: None.

1. 1611 NW 7 Court (CE02020891; Doretha Thirsty – \$16,050).

Commissioner Moore asked if the Commission could reconsider Item No. 1 since it also involved notification problems.

**Motion** made by Vice Mayor Trantalis and seconded by Commissioner Teel to reconsider Item No. 1. Roll call showed: YEAS: Commissioners Moore, Teel, Vice Mayor Trantalis and Mayor Naugle. NAYS: Commissioner Hutchinson.

**Motion** made by Commissioner Moore and seconded by Commissioner Teel to table this item until further review is conducted by the City Attorney's office. Roll call showed: YEAS: Commissioners Moore, Teel, Vice Mayor Trantalis, and Mayor Naugle. NAYS: Commissioner Hutchinson.

10. 1539 NW 17 Street (911692); Patrick Ayton - \$560,750.

Shalanda Ayton, wife of the owner, said she prepared information regarding her case. She said she has photographs of the site. She moved to the property in September, and is pre-approved for a loan to rehabilitate the property, but could not receive it until the fines are removed. She said the property is in foreclosure and a sale date is set for December 1, 2004. She is not divorced, but her husband is incarcerated and has signed a power of attorney for her to manage the property. She said she did not quit-claim the property because she did not want to be responsible for the debt of the fines. She said that Linda Snow rented the property previously, but there are no cars presently on the site. She said she is not completely aware of all the fines involved. She said the attorney has supplied her with a list of the violations so she could cure them.

Vice Mayor Trantalis asked if this is homesteaded property. The City Attorney confirmed yes.

Ms. Ayton said she is pre-approved for a loan. Vice Mayor Trantalis asked if they are able to foreclose since it is homesteaded property. The City Attorney said they could not foreclose on the owner if the property is homesteaded.

Commissioner Moore asked if there are any other mortgages against the property. Ms. Ayton said there is a sale date on the property for December 1, 2004. She said the property is not in compliance, but since she took over many things have been repaired.

Commissioner Moore asked if the lien would disappear if the property is foreclosed upon. The City Attorney said that is the case normally. Commissioner Moore asked if the \$94,000 loan is to pay off the \$50,000 mortgage that is being foreclosed on. Ms. Ayton said the \$94,000 is to pay off the mortgage and remain in the house, and the balance of the money would go towards continued rehabilitation. She said that she and her three children are living in the house at this time. Commissioner Moore asked if this matter went to the court would the City lose their position. The City Attorney confirmed yes.

**Motion** made by Vice Mayor Trantalis and seconded by Commissioner Moore to waive the imposed lien. Roll call showed: YEAS: Commissioners Moore, Hutchinson, Teel, and Vice Mayor Trantalis. NAYS: Mayor Naugle.

Commissioner Moore said that 120 days should be given to the individual to make sure that the proper permitting would be obtained. Vice Mayor Trantalis said that once the title changed, the Commission is not involved.

11. 1155 NW 15 Street (CE04010338); Darryl Allen - \$11,500.

Darryl Allen, owner, said that this property is owned by Patrick Ayton and his father. Liens were on the property and he was not aware of them. He is attempting to try and help Mr. Ayton. He said that the father is living at this site. He said the property was quit-claimed to Mr. Ayton when the father became ill, and then it was quit-claimed to Mr. Allen.

**Motion** made by Commissioner Moore and seconded by Commissioner Hutchinson to accept staff's recommendation.

Vice Mayor Trantalis asked if money changed hands for the property.

Mr. Allen said the same day Mr. Ayton asked for his help, the father died and Mr. Ayton was incarcerated. He buried the father and then learned the property was in foreclosure. He said there were six liens. A transfer of title occurred and the fines were waived. He said that he paid \$22,000 for the property, plus \$9,000 for the father's funeral.

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

**Advisory Board/Committee Appointments**

**(OB)**

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

Citizens Board of Recognition

Genia Ellis  
E. Birch Willey

Commissioner Hutchinson introduced the following resolution:

RESOLUTION NO. 04-214

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPOINTING BOARD MEMBERS AS SET FORTH IN THE EXHIBIT ATTACHED HERETO AND MADE A PART HEREOF.

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

**(OB)**

**Roll Over of Deferred Compensation Plan/City Pension Plan**

Commissioner Hutchinson said that a report was received from the Office of Professional Standards relating to the pension issue brought to the Commission's attention by the City Manager. At that time, there was a consensus to bring the matter forward for discussion and possibly rescind the ordinance. She asked for the matter to be scheduled for the next Commission meeting.

Commissioner Hutchinson was concerned when an opinion will be given regarding the report, and asked if special counsel could do that since many employees of the Legal Department are involved. She suggested that the City Manager submit names for consideration, along with any other recommendations made by Commissioners.

Mayor Naugle suggested that this be handled at the next Commission meeting. He did not feel it could be done without special counsel.

There being no other matters to come before the Commission, the meeting was adjourned at 12:28 A.M.

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Jim Naugle  
Mayor

ATTEST:

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Jonda K. Joseph  
City Clerk