

**COMMISSION CONFERENCE MEETING AGENDA
DECEMBER 12, 2006**

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COMMISSION CONFERENCE MEETING 1:30 P.M. December 12, 2006

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

Absent: None.

Also Present: City Manager – George Gretsas
 City Auditor - John Herbst
 City Clerk - Jonda K. Joseph
 City Attorney - Harry A. Stewart
 Sergeant At Arms – C. J. Herbert

I-A – Downtown Development Authority – Interviews

D. Fredrico Fazio said he has been a lawyer in Fort Lauderdale since 1969 and owns property within the DDA boundaries. He served on the DDA from 1992 to 2000. He is very proud of the transformation that the City has undergone and is still undergoing in the downtown area. He believed that light rail is a reality for the City in the not too distant future. He would favor anything that could be done to make the City more pedestrian friendly and livable. His philosophy is to work side-by-side with the City Commission. If appointed, he would strive to be a good member of this organization.

Dennis F. O’Shea said he grew up here. He discussed his experience with municipalities and developers as an attorney. He also noted his experience as a developer. He has experience with formation of a taxing district in working on the development of Blockbuster. About 11 years ago he went to work for Stiles Corporation and has had the privilege to be in the downtown in those years. He is chair of the Chamber’s downtown council and was the chair of the City’s Unsafe Structures Board. He tries to stay active in the community. He believed the true mandate for the DDA is quality of life. If appointed, he would accept the responsibility and appreciate it.

Commissioner Moore asked if Mr. O’Shea owns any property within the DDA boundaries. Mr. O’Shea replied no.

Mayor Naugle said the third candidate, Ali Waldman, was unable to attend due to an illness. He thanked the candidates for attending and their willingness to serve.

Commissioner Moore said that due to the fact that Ms. Waldman could not be present, he asked if the Commission could interview her at the December 19th meeting.

Action: Due to illness Ali Waldman will be rescheduled to December 19, 2006. A decision on the appointment will be delayed until that time.

I-B – South Florida East Coast Corridor Study

The City Manager said that the FEC has been working on a corridor study in order to determine the feasibility of providing passenger service.

Peter Partington, City Engineer, introduced Dr. Jasmine Sinkley of consultant Gannett Fleming Inc, retained by the Department of Transportation to conduct the noted study. A slide presentation was made. A copy of the slides is attached to these minutes.

Dr. Sinkley said that they are seeking a resolution of support.

In response to Mayor Naugle, Peter Partington, City Engineer, said that an updated resolution would be prepared and presented to the City Commission on December 19, 2006. There is nothing significant to note that has changed since the City's original resolution on this matter.

Action: A resolution of support will be scheduled for consideration on December 19, 2006.

I-C – Municipalization of Electricity Supply – Redistribution in the City

The City Manager said an RFP has been prepared to hire a consultant who would advise the City on franchise renegotiations due in 2009, and, or look at pros and cons of the City forming its own electricity utility. If the Commission is comfortable, the RFP would be issued.

Commissioner Moore left the meeting at approximately at 1:45 p.m.

Commissioner Teel said she has been attending the Utility Advisory Committee meetings. They are doing an excellent job. Municipalization has been discussed. She supports an RFP. There are two options: City ordinance or according to the CCNA Act. If it is done through City ordinance, they need to be very careful how the rating would take place. Money is important, but it should not be the driving force, rather quality of the product. The Commission needs to establish policy on this.

Commissioner Teel said that they are not only talking about electricity in connection with improving aesthetics and reliability, but also telephone and cable service.

Commissioner Moore returned to the meeting at approximately 1:48 p.m.

Vice Mayor Hutchinson agreed with Commissioner Teel. They should look at qualifications and not hinge on the lowest bidder. It is a big issue.

Commissioner Rodstrom supported a financial feasibility study.

In response to Commissioner Rodstrom, Mayor Naugle said the franchise agreement is coming up for renewal; the City could renew it and continue on, or become their own utility similar to Orlando, Jacksonville and Tallahassee where the City runs the distribution system and purchases electricity from a vendor who is producing it since the City does not have power plants. If the City decided to run the distribution system, they might select a vendor to do it.

Commissioner Rodstrom commented about the wait with respect to establishing a power plant. Kirk Buffington, Director of Procurement Services, said that would be the second step. The first step would be to have the Commission determine the City's direction. The RFP was structured so cost would not be the driving factor. He was not comfortable

that this would qualify under the competitive negotiations act. The City Attorney would have to make a ruling in this regard. If done through the RFP process, cost would only be a small factor; 10% at most.

Commissioner Moore said the CCNA is not the way to go; it should be an RFP. Cost would be weighted. The City needs to gather as much data as possible for options. There have been too many years of dissatisfaction. It is the right thing to do.

Commissioner Teel felt the Commission still needs to know about the CCNA and weighting of each category.

Mr. Buffington said if the City Attorney rules the CCNA process is allowable, then it would be so structured. If not, he would redraft the evaluation criteria and present it back to the Commission.

Commissioner Teel said Mr. Underwood is not a member of the Utility Advisory Committee, but has been very active with the Committee. She wanted Mr. Underwood to make a presentation to the Commission.

With respect to the CCNA process, Commissioner Moore did not want to open any opportunity where the City could be challenged by the industry, and therefore, he felt more comfortable with the RFP process. Commissioner Teel felt they are looking for advice from the City Attorney in that regard.

Mayor Naugle thanked the Utility Advisory Committee for their service.

Action: Consensus approval. The City Attorney will review the feasibility of utilizing the consultants competitive negotiations act selection process versus an RFP. If the RFP process is preferable, evaluation criteria will be provided to the Commission as a draft. Commissioner Teel wanted to look at the weighting of the categories and to hear input from Trevor Underwood who has been active with the Utility Advisory Committee.

I-D – Undergrounding Electrical Lines

Rod Macon, Florida Power and Light, said FPL was invited to discuss the conversion of overhead facilities to underground. FPL has a lot of experience in doing this work. There is a lot of interest in the City and they are willing to help make this happen if that is the City's desire. A slide presentation was presented. A copy of the slides is attached to these minutes.

Commissioner Moore asked why 25% for a government factor. Mr. Macon said that this percentage is what FPL felt they could justify to the Public Service Commission, taking into account storm restoration costs that could be recouped. In response to Commissioner Moore, Mr. Macon indicated that FPL would not object to a higher percentage, 50% for example, if approved by the Public Service Commission.

In response to Commissioner Moore, Mr. Macon said the project has to be significant enough in size in order to justify the 25%; for example, 3 miles or more for a linear project along a main thoroughfare, and approximately 200 households for a neighborhood. If there are two adjacent neighborhoods interested in this, they could be

accommodated. If an entire feeder line is less than 3 miles in length, that could still qualify; exceptions could be made.

Mayor Naugle asked what the typical cost would be for a neighborhood and the per household expense. Mr. Macon estimated a range of \$15,000 to \$20,000 per household, minus the 25% factor. In response to Mayor Naugle, Mr. Macon said that FPL does service to the home, but the homeowner would need an electrician install a pipe to the ground, which ranges from \$1,000 to \$2,500.

Commissioner Rodstrom asked if property values increase where lines are underground. Mr. Macon personally believed they do.

Commissioner Rodstrom remarked that her neighborhood for the past 50 years has not had any problem with their underground wiring during adverse conditions. Mr. Macon said that every case is different.

Ken Cooper, Las Olas Homeowners Association, said that one block in their area has been working on this for the last five years, and now they want to do the remaining Isles. He said if the City would allow the boxes within the easement or right-of-way, they would be in good shape. Some of the Isles are problematic because the DOT standards require the boxes be setback a certain distance from the asphalt edge. Therefore, the neighborhood is asking that the City allow use of the City's right-of-way instead of digging up yards, and to allow the boxes to be placed next to the asphalt, waiving the setback requirement. DOT standards have a waiver provision. Another problem is where individuals have constructed walls next to the street. The neighborhood is unique in that they are scheduled for re-pavement in 1-2 years. He elaborated upon reasons why he felt it would be acceptable to waive the setback requirement.

Mayor Naugle noted there will be an additional cost for the other utilities. He asked what buy-in exists in the neighborhood regarding the per household expense. Mr. Cooper said he estimated costs on the high side. Out of 300 people, only 2 have said no.

Mayor Naugle asked about an enforcement mechanism for those who do not support it. The City Attorney was not sure what could be done, he would have to look at it. Mayor Naugle asked about a special assessment. The City Attorney said that could probably be done, but some issues have been overlooked. One is that there is a shifting of burden on the distribution boxes. Any damages to the boxes would be the City's responsibility, as well as the burden of relocation. In neighborhoods it would be less of a problem than in linear rights-of-way. Now FPL is required to move the wires at their own expense. Mayor Naugle said the City would have to get FPL to change their policy and assume such costs. The City Attorney said that would be the better course of action.

Commissioner Rodstrom asked about a reimbursement resolution because the neighborhood is willing to accept the cost. The City Attorney said that could not be done.

The City Manager said if the Commission wants staff could put together a pros and cons list and present it to the Commission if they want staff to explore this concept.

Valerie Moran, President of Seven Isles Homeowners Association, said they have been playing with this issue, along with a capital improvement project for a long time. It was

shelved during the City's budget crunch. It was her understanding that if a consensus was reached, an assessment could be done for a certain period of time.

Mr. Cooper said there is a taxing district and if passed, it would fund the project and the Commission could vote on a 10 or 20-year pay-back period. Jupiter is running about \$3,000 per household. They believe costs could be reduced by hiring an independent contractor. They are requesting approval for their neighborhood today. He believed it is more of a risk for live wires falling. He could not recall anyone ever hitting a telephone pole in his neighborhood. He reported one pole that is tilted. He asked for the Commission to make a decision today with respect to this neighborhood.

Mark Hansen, Riverland Civic Association, said they have 600 homes in their community. He said they are looking to have a sewer system installed some time in April, 2007, and therefore, this undergrounding of lines could be done at the same time.

Mayor Naugle asked how their neighborhood feels about the cost of the work that would be done. Mr. Hansen said if the cost could be spread out such as assessments are done, than it would make their lives easier.

Howard Steinholz, Vice President of Seven Isles Homeowners Association, said he wants the Commission to reconsider the CIP Program because their program did include undergrounding of lines. Meantime their neighborhood is in strong support for the underground work to be done.

Eugenia Ellis, Harbor Inlet Homeowners Association, said there is a list comprised of what neighborhoods were in support of undergrounding in the City, and she believes a uniform assessment should be done.

Commissioner Rodstrom thanked the City Manager for placing this item on today's agenda because this issue has been raised for a long time and has a widespread effect on the entire community. Each neighborhood might have to be reviewed with different criteria, and she did not object to staff reviewing the pros and cons of the issue. She wants to see a consensus today regarding funding. The City would have no cost if the neighborhoods are in favor of assessing themselves over a certain period of time. This would have a long-lasting effect on the neighborhoods and improve their aesthetics, while providing additional protection during hurricanes. She believed a draft ordinance would be a step in the right direction, along with addressing the issue of funding.

Vice Mayor Hutchinson said there is a special assessment program that has been used for various neighborhoods, such as Dolphin Isles, Harbor Beach and Harbor Inlet, for anything that the neighborhoods choose to do.

The City Attorney said that an amendment might have to be done to such a program to cover the hook-up.

Commissioner Rodstrom asked what would be the longest timeframe available for the payment.

Peter Partington said that in the past timeframes were between 10 and 15 years.

John Herbst, City Auditor, said a special assessment done for water and sewer was lienable and attached to the house.

The City Manager said a report would be provided to the Commission covering the costs involved in restarting the special assessment program.

Commissioner Rodstrom said that perhaps they could look into the reimbursement resolution as part of the special assessment program in order to cover the City's expenses, and then pass it on to the homeowners.

There is a consensus among the Commission to move forward with this matter.

Mayor Naugle asked when staff would be able to bring all the requested information forward to the Commission. The City Manager said that possibly some time in late January or early February.

Commissioner Teel asked if there was a ballpark figure already calculated for Seven Isles.

Ms. Moran said they received an estimate recently from FPL, but none from the cable company or BellSouth, of about \$12,900 per household which is the amount before the 25% reduction. She further said they had been informed they needed to give a \$20,000 deposit in order to obtain a better estimate.

Commissioner Teel said there is a concern because some neighborhoods consist of both residential and commercial, and the residents are basically the ones desiring better aesthetics. She does not feel there will ever be enough money in the budget for capital improvements, and it is more beneficial to break things down by community.

Commissioner Moore said he is concerned about the 25% being offered and wants to know what has been presented to the Public Service Commission, and to have the City's Management Team to review the available information and validate the percentage, and then see what could be done to increase that percentage. He believes such information should be reviewed before the City deals with what they are going to do. This could encourage other communities to be involved.

Mayor Naugle said they could advocate in their legislative package for a higher percentage.

Commissioner Moore further said that possibly the consultant could evaluate the legitimacy of the 25% as well.

Mayor Naugle said that this matter would be on the agenda for the first meeting in February.

Action: There was consensus for the City Manager to provide pros and cons information including the cost to reinstitute a special assessment program by the Feb 6, 2006 conference meeting. Commissioner Rodstrom wanted to know the longest period of time homeowners could have to repay an assessment. Commissioner Moore was concerned about the 25% government adjustment factor offered by FPL. He asked the

City Manager to look into what was provided to the Public Service Commission and do whatever is possible to increase the percentage.

I-E – 2007 State Legislative Agenda

The City Manager said the State Lobbyist is present at today's meeting if the Commission has any questions. Otherwise, they will move forward with the items on the list. Most items had been carried over from last year.

Commissioner Moore said he sees these items as being more of appropriation matters than legislative. He believes they need to deal with more legislative matters and is concerned about such issues. He said Exhibit 2 deals with the legislative initiative and said the RESPIC opportunity, which had been mandated several years ago, dealt with ex-offenders being permitted to live in one residential structure comprised of up to eight individuals. In his neighborhood and several communities that he represents, it appears such homes are everywhere. The problem is that the community is not aware that homes are being sold to operate as RESPIC homes. He asked if there could be a process of notification regarding such homes for the community.

Linda Cox, Lobbyist, asked if there should be some sort of direct mail notice sent to the surrounding neighbors. Commissioner Moore confirmed and said that notice should also be sent to the concerned civic association. He also feels that some sort of posting should occur in the newspaper.

Mayor Naugle asked if the houses are being rented by the State. Commissioner Moore said he has found that business individuals are acquiring the properties and converting them. He further said that he is concerned about the number of such homes in each individual neighborhood. He said if there are local ordinances dictating rules for businesses and other establishments, than there should be one for these types of homes. He further said everyone is concerned about the proliferation of these types of things taking out a social service program and putting them into a community, and the community not having any rights in that regard.

The City Attorney said the City has a regulation in place that has separation requirements for SSRS which are social service residential facilities.

Mayor Naugle said there is Federal Legislation that protects group homes from cities regulating them, but they should try to get a process in place that would provide notification to the communities.

The City Attorney said that in addition to looking at State Legislation, they would review what is already on the books regarding this matter.

Commissioner Moore said once again there should be a notification process.

Mayor Naugle said that these situations could also cause parking issues for the neighborhoods.

Vice Mayor Hutchinson said there should be laws for these individuals to follow.

Mayor Naugle said the definition of a social service facility is that two or more services have to be performed and if it is just a group home of unrelated people living together, it is regulated differently.

Commissioner Moore said there are a number of ACLFs in the communities also, but they don't appear to be a problem to the residents.

Commissioner Rodstrom said that even with ex-sex offenders a website provides information regarding their whereabouts. The problem with this matter is that no information is being provided to the communities. Commissioner Moore agreed.

Commissioner Teel said there is a certain threshold that these types of facilities must stay under in other areas and she believes the number of unrelated residents permitted is six. She said in some cases non-profit organizations are purchasing such facilities and are not necessarily purchasing inexpensive houses. She said that the State now has some diversion programs and there are many of those RESPIC homes in Coral Ridge Isles. She agreed that there should be some type of notification provided regarding these establishments.

Mayor Naugle asked the Lobbyist to explore what legislation existed regarding this matter.

Commissioner Moore once again said it is important that the issues provided by the League of Cities regarding legislative matters be provided to the Commission.

Commissioner Teel said there is an opportunity to get a control tower at Executive Airport and the movement is going in the right direction, but strong lobbying efforts will be needed with the FAA.

Mayor Naugle said that one of the Congress people expressed interest in this matter.

The City Manager said that he would forward the League of Cities' items to the Commission, along with other requested information.

Action: Commissioner Moore referred to State legislation that allows up to eight x-offenders to reside in a single family respite house. He wanted notification to the neighborhood and civic association and advertisement in the newspaper.

I-F – 2007 Federal Appropriations Requests

Mayor Naugle said that these matters were addressed in the discussion of Item I-E.

I-G - Trial Residential Parking Permit Program – Colee Hammock

The City Manager said the Commission asked staff to meet again with the neighborhood association in order to see if any compromises could be made. Information was submitted in a memo to the Commission and staff would be willing to answer any questions.

John Hoelzle, Fleet Services Department, said the Commission asked them to see what could be done regarding a reduction in the cost of the program, and to add in anticipated

revenues from such program. They met with the Colee Hammock Association and hours have been agreed to, along with the process to be followed regarding guest passes, and the elimination of the 30-day visitor's pass proposal. They were not able to agree on the two-hour free on-street parking issue in order to accommodate businesses and residents. In the financial analysis, they added the potential revenue from the meters and citations.

A slide presentation was given. See attached.

Mayor Naugle asked where the source of the funds would be coming from and if other parking lots in the City would be subsidizing the program. Mr. Hoelzle said that would be a decision to be made by this Commission. He said they are anticipating revenue from the on-street parking off Las Olas, plus possibly additional revenue from the City garage.

Vice Mayor Hutchinson said an employee could not be hired for six months which was one issue, and she is questioning some of the on-going costs. She also said she is concerned about purchasing another vehicle in order to conduct the trial program.

Veronica DePedro, President of Colee Hammock, said the neighborhood feels this item would impact their quality of life. She hopes this matter could move forward and feels the program would be a success with the \$25 cost.

Pat Ribera, Colee Hammock resident, said this is a lifestyle issue for their neighborhood. This is an urban environment, but the neighborhood has become denser due to various changes that have occurred. She said the City is not considering the loss of revenue from the individuals now parking on the streets for free. There have been some improvements in the neighborhood in connection with new signage regarding parking. She said if an additional person is to be hired, they would not be working exclusively for this neighborhood.

Tom Welch, Colee Hammock resident, said he wants to thank everyone for their efforts in regard to this matter, and the neighborhood believes they are proposing a reasonable program. He said that at previous meetings individuals have gone on record saying that the City should not employ a one-size fits all approach to residential parking permit programs. Cities have parking programs at low costs throughout the US. He said their proposal makes the permit costs affordable for everyone while making it revenue neutral. They want staff to consider the fact that there are over 6,000 parking spaces currently managed by the City, and this neighborhood represents approximately 5% of that number. There are 23 parking enforcement specialists and 5 customer service representatives monitoring the 6,000 spaces through various methodologies. The current residential parking permit program costs estimate a 15% staff increase from 28 to 32.33 in order to manage a 5% increase in spaces. This comes to 4.33 new employees to manage parking in an 8-block area. He asked if this is realistic to do. He said the most Colee Hammock should be responsible for is a 5% increase in staff, and not a 15% increase which would equate to a 1.1 new PDS and a .3 new CSR for a total of 1.4 increase to staff which would significantly lower the cost of the program.

Commissioner Moore asked how this would be revenue neutral. Mr. Welch said one-time costs would be included and after the first year such costs would be gone, and he figured there would be a \$2,000 gain. He would like to see a creative solution to this problem.

Vice Mayor Hutchinson said she does not understand how an employee could be hired for a six-month trial program. She realizes the neighborhoods are different and eventually the program could be revenue neutral.

Mayor Naugle said there is employee turnaround all the time, and the temporary employee could be replacing such an individual. Vice Mayor Hutchinson said the cost of that employee has to be amortized over the length of their stay and not for the six months.

Commissioner Teel said they could have a temporary part-time employee. Vice Mayor Hutchinson said that would all have to be factored in.

John Terrill, Colee Hammock resident, said he is in support of the parking program and asked for the Commission to consider all the information that has been provided.

Tony Bell, Executive Director of the Las Olas Association, said he supports the proposed plan and added that the two-hour parking window is very important to them. Part of their goal is to increase the number of street closures on the boulevard so more activities could be provided.

Commissioner Moore suggests that staff implement the program at the cost being proposed per household and run the trial program for six months without the additional staff person. Vice Mayor Hutchinson said if they have a cheaper way to do this with a temporary part-time employee that would change the numbers, but such information has not been provided. Commissioner Moore said there appears to be sufficient personnel to implement this program for the six-month trial period, and therefore, he is willing to move forward in that manner.

Mayor Naugle said there is a large gap and this could cause an increase in parking rates or have less revenue in the system. He further said that he would be in favor of something that would be closer to breaking even.

Vice Mayor Hutchinson said they could not count on revenue that they have not yet voted on.

Commissioner Moore said that he does not agree that one neighborhood should pay less than another. The neighborhood should be provided the opportunity to see how the program would work.

Commissioner Teel said there are some different things that need to be considered such as if there is a loss of \$139,000 and it comes out of the Parking Enterprise Fund, than some of the garages might not be as clean or less enforcement would occur. She does not agree to reduce enforcement from one area to another because there would be negative impacts. She does not think they should consider doing a trial program with full-time employees becoming permanent. There should only be part-time or temporary employees.

Commissioner Teel asked if the two-hour free parking is still being included in the plan. Mr. Hoelzle confirmed and said that is the major difference between this program and the Finger Street Program. The 23 people mentioned earlier worked 7 days per week on

10-hour shifts and three shifts per day. This program would start at 8:00 a.m. until midnight which is a 16-hour day that could not be covered by one person. There would have to be individuals in the neighborhood all the time with the equipment if they are going to enforce the two-hour program. Commissioner Teel asked if the new equipment is not purchased, how much money would be saved. Mr. Hoelzle said they would save \$33,000 if the equipment is not rented. He further said that chalking does not work because it lacks efficiency. Commissioner Teel said that possibly the chalking could be used during the 6-month trial period, and then they could re-evaluate the program and determine whether they wanted to pursue renting the more expensive equipment. She feels if the two-hour parking benefit is going to be provided, than such service had to be paid for. She said further that she did not want the money taken away from the Parking Enterprise because many of the garages need maintenance.

Commissioner Rodstrom said she thinks a residential parking program is a good idea, but asked what is the difference in price of the Colee Hammock permits. Mr. Hoelzle said they are now proposing the same price as the Finger Street program.

Vice Mayor Hutchinson said she would like to see a parking permit trial program take place. The price needs to be agreed to by the neighborhood. She also would like to see the cost for the part-time/temporary employee for the City, and she is not convinced that the equipment would not be needed. She believes the two-hour window needs to be reviewed because this is a business district.

Mayor Naugle said in order for this program to pass the price should be the same as the cost for Birch Finger Streets. Also, the requested information should be provided regarding the part-time/temporary employee. He asked if the neighborhood would be amenable to such a program.

Ms. DePedro said the program would be too expensive. She asked where the \$1 Million is to come from in connection with the Birch Finger Streets Program. Mayor Naugle said that a portion of the beach is to be metered north of A1A. Ms. DePedro asked why the meters in Colee Hammock would not be paying for their program. She said their neighborhood program should be free. Mayor Naugle said it is a misnomer that anything in the parking system makes money because it is the way they subsidize businesses.

Commissioner Teel said they need to think of the \$1 Million not as being produced from the parking permit program, but the monies would be going into the Enterprise Fund making it more positive. Mayor Naugle said some of the monies are also being earmarked for lifeguards. Commissioner Teel asked if the merchants would want to participate regarding the cost of the equipment in order to provide that two-hour parking window.

Mr. Bell said that matter could be taken to their board for further discussion. Commissioner Teel said otherwise the area would have to come up with the parking permit fees.

Mayor Naugle said it appears there could be a consensus with the Commission regarding the charge for the permits being the same as the Birch Finger Streets Program, and if the merchants could purchase the equipment for the program, and that part-time/temporary employees be used during the 6-month trial period.

Commissioner Moore said how could they ask businesses to contribute to the government. Vice Mayor Hutchinson said that it is not necessarily customers parking in the area. Commissioner Moore further said that this could be implemented if the price is the same and the equipment leased returned if the program does not continue. He feels they should move forward with the trial program.

The Commission said they did not care where or how the merchants would purchase the equipment as long as they are willing to do so.

Action: Consensus approval as recommended with the following changes: same permit fee charged to Birch Finger Streets, equipment to be donated and use of temporary employees. If acceptable to the Colee Hammock Homeowners Association, this item would be presented as an ordinance at a future meeting.

I-H – Ensuring a Green City

Phil Thornburg, Director of Parks and Recreation, said that additions would be made to the tree ordinance adding that there be a minimum of four trees because now it is 1 tree per 1,000 lot area. There are to be three trees in the front yard and one in the rear. Another change would be that 50% of the trees must be native, and they are recommending that they change one palm tree to a cluster of three palm trees.

David Gennaro, Chief Landscape Plans Examiner, said that certain species would count as one tree. Commissioner Teel asked for further clarification especially in regard to 50' Royal Palms.

Mr. Thornburg further said that one of the biggest changes involves obtaining a permit to remove a tree from private property if the tree is 6" or more in diameter, and not 18". He also said the removal fees would be increased to \$25 in order to cover administrative costs. Affidavits would also be signed so that everyone understands the new requirements.

The City Commission agreed with the proposal as recommended.

Action: Consensus approval as recommended.

I-I – Baltimore Orioles Spring Training – Facility Use Agreement

Jeff Modarelli, Director of Business Enterprises, indicated there are some unresolved issues. Commission direction on these issues, outlined in the backup, is requested. Mr. Gretsas advised that there are associated costs. They are policy decisions. Mayor Naugle felt these issues were not clearly defined in the term sheet. Mr. Gretsas noted that staff was uncertain at the time of the term sheet of certain costs.

With reference to a Repair/Improvement Fund, Mr. Stewart advised the term sheet said there would be such a fund. Staff asked the Orioles to pay for it and they said they wanted the City to pay. The term sheet did not identify who would pay. Staff has a better handle on the numbers now. Staff is not asking for a replacement fund. Staff is asking for some sort of a Repair/Improvement Fund between \$375,000 and \$500,000 annually. In response to Mayor Naugle's question of what a minimum amount would be, Mr. Gretsas said it is really about exposure and risk. Mr. Herbst said the contract provides that the Orioles will bring forward a list of desired improvements for a given

year and if the City does not agree, it goes to arbitration. Major league baseball requirements govern the arbitration. Commissioner Moore said that is not something the City will do. He asked the Orioles what amount of money they are willing to contribute to this fund.

Mr. Alan Koslow, representing the Baltimore Orioles, said they have checked with other teams throughout Florida. They think the initial amount would be sufficient at \$50,000. Mayor Naugle posed a 10% increase annually. In the beginning the facility is new, but as time goes by, things will wear out. He suggested the Orioles pay for anything over that. Commissioner Teel felt that \$50,000 a year is totally unacceptable. She did not think the City should contribute anything.

Mr. Koslow indicated that there are creative solutions the Orioles are looking at, including the School Board and other parties that would chip in. There is no reason to have to solve it today. The Orioles do not object to the City not funding it today. The Orioles are funding the City's \$350,000 a year, plus the Orioles' money. What it is all about now is getting the document done, so it can be sent to the State and get the State's \$15 million for the facility to be financed and built.

Mayor Naugle explained if the City is entering into a contract and selling bonds, they want to know the City's obligation. Mr. Koslow said the Orioles are not insisting the City fund this today.

Commissioner Moore asked again what the Orioles are willing to do about the Repair/Improvement Fund. Mr. Koslow noted that \$900,000 annually toward debt service is coming from the Orioles. Mr. John Angelos, representing the Baltimore Orioles, said this is a City asset and it will be paid for by the combined debt service funding from three entities: State of Florida, Broward County and the Baltimore Orioles. The City does not have to contribute anything toward the construction; however, they will own this asset. The interest the City should have is in maintaining it over a long period of time, so it is in reasonably good working order 25-30 years from today. The Orioles think that in the second, third or fourth year, the City should put away \$50,000 annually. In 10-15 years, there would be a few million dollars and necessary capital improvements could be made.

Mr. Gretsas indicated if the City decides to assume capital improvements for this facility, they would not have to put away the \$50,000; they could deal with it like any other facility.

Commissioner Moore asked what \$50,000 annually would create over a 10 year period. Mr. Herbst noted that with interest, it would be about \$550,000, which he did not contemplate being sufficient. Commissioner Moore asked the estimated maintenance cost of the fields for which the City will be responsible. Phil Thornburg, Director of Parks and Recreation, said that according to the terms, the City would not be responsible for any maintenance. He noted the \$150,000 plus \$90,000 for equipment (MAINTENANCE). Commissioner Moore compared the numbers mentioned by Mr. Thornburg with the \$50,000 and felt something is missing. Mr. Herbst indicated that the \$375,000 to \$500,000 annually for Repair/Improvement Fund came from the City Manager's staff, but he felt it is reasonable. Also, if the City is the sole party contributing to this fund, the City should be the sole determiner as to how the funds should be spent.

Mr. Stewart indicated the term sheet simply said the fund would be established. They agreed that the agreement would clarify who would pay. The City never agreed to pay, nor did the Orioles.

With reference to Taxes, Use Charges and Surcharges, Mr. Stewart indicated a question has arisen whether the City would pay back into the project the City portion of ad valorem tax if it is imposed. If the structure was \$38,000,000, it would be somewhere in the neighborhood of \$250,000 a year. He believed there is case law that says that such agreements are void. He indicated that the City would agree to support the Orioles on the non-taxability and would participate in the appeal. He did not know what the County has done about this. Mr. Koslow indicated that the County Commission has not voted on it, but they have agreed conceptually. He believed there is case law that goes both ways. The Orioles is not seeking any windfall. They are saying if they pay a tax on an asset that has never been taxable, that amount should be put back into the deal.

Mayor Naugle asked about taking the position of agreeing to put the money back into the deal, if it was legally possible. Mr. Stewart said yes.

Commissioner Moore noted with respect to everyone who builds an asset in Fort Lauderdale, the money comes into the general pool for the welfare of the citizenry of Fort Lauderdale and not for the individual who built it. He did not think it should be any different here. Mr. Koslow pointed out they are improving a City owned asset. For the last 12 years the Orioles have never been taxed, and for the previous 25 years the Yankees were not taxed. The Orioles are not even asking for the money to be given to them, but if the Orioles pay taxes, they would like the City to put that money back into the deal.

Commissioner Teel noted that there are a lot of businesses in this airport area that lease property, improve it and pay taxes. At the end of the 30-year lease, the asset comes back to the lease. This is a different way of looking at it and it is very much to the City's detriment. The story is changing a lot from what the City was initially led to believe.

In response to Mayor Naugle's question of whether she would feel comfortable about giving back the tax amount if permitted, Commissioner Teel said no. Commissioners Moore and Rodstrom also said no.

With reference to Insurance, Mr. Stewart said this item is just informational. In the term sheet, the City agreed to pay the insurance and at the time they did not know the cost. It has now been priced out and it looks like it will cost \$250,000 annually for property and casualty coverage.

Commissioner Moore pointed out that the City will continue to lose the \$500,000 a year the City was losing on this facility.

With reference to Maintenance, Mr. Modarelli said maintenance on the south fields would be \$113,400 for 345 days, and \$126,600 for 231 days on the middle fields. The total of \$240,000 would be contributed toward the project. Mr. Gretsas indicated that the Orioles disagree with the City's numbers.

Mr. Angelos said the \$240,000 is to maintain public use areas just as it would any other City park; therefore it is not a contribution to the project. It is a really a contribution to the

use and welfare of the residents. Generally, a private entity such as the Orioles could maintain a field less expensively than a city. In this case, the City is indicating it could do it for less cost than the Orioles. The Orioles do not believe the City can generate the number of days just mentioned at \$150,000 in maintenance money and \$90,000 in equipment money. The Orioles think that amount money generates about 270 days on the south fields for 9 months and about 60 days on the middle fields, which would exhaust the \$150,000 and the \$90,000.

Mayor Naugle did not think the \$240,000 is a contribution to the project, as it is money to maintain the fields for use by residents and events.

Commissioner Rodstrom asked about grass parking (soccer fields). Mr. Angelos said fans. Commissioner Teel indicated there would be revenue from that. In response to Commissioner Moore, Mr. Angelos indicated they only need to park on it for 15 games over 35 days. In February when there is practice, but no games, Mr. Angelos indicated the parking is free. The revenue is nominal. Most the revenue from this project takes place in the city's hotels and restaurants.

Commissioner Rodstrom asked about the maximum number of cars parking on this area. Mr. Angles estimated about 1,400-1,800.

With reference to Bond Obligation, Mr. Stewart said this question has to do with any over-runs. Staff is proposing that the Orioles pay any overrun above the \$800,000 from the County, \$500,000 from the State and \$350,000 from the City as well as the \$240,000. For example, the County's obligation may be limited to a specific task. The County could be in full compliance with the agreement, but only pay \$200,000 in a given year. Mr. Koslow said the Orioles agree it is their obligation. However, there was language removed that protected both the City and the Orioles. The County has agreed to this phrase as well. The Orioles believe that both the City and the Orioles should have the right to approve the financing plan. This is not in the agreement now. He spoke with the City's bond counsel and they agree conceptually that this is appropriate.

Commissioner Moore asked Mr. delCastillo if he agrees with that statement. Albert delCastillo, Squire, Sanders and Dempsey, City's bond counsel, noted that the Orioles have stated that they will be responsible for any debt service shortfall. Mr. Stewart did not feel that is what Mr. Koslow said. Rather he limited the shortfalls to the bond structure or interest rates which were approved. He did not say what would happen if the County's tax revenue fell short. Mr. Koslow said the Orioles view shortfalls are their responsibility with respect to debt service payments, regardless of the cost. It is only fair that both parties, the Orioles and the City, approve the financing plan before it happens.

Mr. delCastillo explained it would be prudent to include that both sides can look at how the financing looks at the time it is being done and be able to back away from the deal. The reason it was stricken was because it was accompanied by a provision that if the Orioles backed out, the City was responsible for paying all of their expenses incurred to date because of the failed deal. Mr. Herbst referred to a provision in his copy that says: In no event shall the Orioles be responsible for or required to increase their payments toward debt service on the bonds due to a failure by the State, County or City to meet their respective payment obligations. The portion that refers to the County's obligation is limited to funding as appropriated based on beach renourishment obligations and any other things that have to do with the convention center that has priority before their

contribution to this project. If the County's contribution is legally limited to \$200,000, the Orioles are not responsible for making up the difference. It is not the same as bond structure or interest rate.

Mr. delCastillo indicated it appears the Orioles have agreed to change it. Mr. Stewart indicated this is the first time staff has heard this. Staff would agree that the Orioles could participate and veto the structure, but the City would not be responsible for any of their costs up to that time. The City wants in the contract that if there is a shortfall in the revenues pledged by the County or State, the Orioles would make it up. Mr. Koslow indicated it would not be the City's obligation. Mr. delCastillo indicated it will have to be stated who will be responsible for the bondholders' information.

Commissioner Moore said he does not care who pays the shortfall, as long as it is not the City, but it must state who.

In response to Commissioner Moore's question, Mr. Stewart said the Orioles have naming rights and the income generated from it. It is included in gross receipts.

With reference to Airport Enterprise Fund and Agreement, Mr. Stewart explained when the deal was put together in 1962 for a community sports facility, the Federal Aviation Administration approved it on the basis of similar revenue from what could have been raised on that site. For purposes of the airport, the calculation was made and the FAA was sold based upon a presentation by the City, that 5% of revenues to be generated would be equal to or greater than the amount of money that would be generated for airport purposes on the lease of this particular property. In today's market, staff believes this will be a tough sell. Property is now appraising about \$9 per square foot, but the City is getting from \$5 to \$8 per square foot on leased space. The revenue goes to the airport fund and can only be used for airport purposes. It would reduce the amount of grant money the City would receive. The FAA is very interested in keeping the revenues to airport related property and issues. Staff proposed that the 5% to be paid by the Orioles should be on any revenue they have in order to maximum revenue to the Airport Fund in order to justify the deal to the FAA. Staff is agreeable to using the old contract definition with respect to revenue, but he does not believe it would be approved by the FAA.

Commissioner Teel asked when would the FAA rule on this. Mr. Stewart said once this deal is signed, staff would approach the FAA at the beginning of the year. Staff has not talked to the FAA.

Mr. Angelos was agreeable to looking at the expanded definition, but wanted relief in some area. Mayor Naugle indicated the City will advocate for the lower amount. The money is not anything the City will receive; it will be an expense. Mr. Koslow pointed out for the last 30 years; the definition of the 5% has been consistent. It should not be given unless they ask for it. There was consensus not to expand the definition.

With reference to Off-Site Infrastructure Improvements, Mr. Stewart said the agreement does not provide who exactly will pay.

With reference to Repair/Improvement Fund, Mayor Naugle suggested the City pay \$50,000 annually with a 10% increase annually. If the Orioles or another body wants to match it, both parties would have say over where the money was spent.

Commissioner Moore found the suggestion out of line. He noted the staff's recommendation of \$375,000 to \$500,000. In response to Commissioner Moore, Mr. Herbst said that \$375,000 appears to be reasonable.

Vice Mayor Hutchinson asked when would the money have to be funded. Mr. Stewart said if the facility was completed in fiscal year 2007 or 2008, it would be fiscal year 2008-2009.

Commissioner Moore noted there is no other facility for which the City provides a reserve, but the difference is the City is floating a bond. If the Orioles go bankrupt, the City has a \$45 million asset, but they also would have to maintain it. It becomes the City's burden.

Commissioner Rodstrom said the City seems to be accepting a lot of liability and giving extremely valuable land. He wanted more movement by the Orioles with respect to the Repair/Improvement Fund.

Mr. Angelos pointed out the Orioles are building a \$45 million asset and it will be a City asset. As to the City Auditor's comments about the Repair/Improvement Fund, Mr. Angelos referred to a 15 year old facility in Maryland where the State of Maryland is contributing \$500,000 annually. It holds 50,000 people and has huge out-buildings. It has the largest building east of the Mississippi. He referred to the Jupiter facility occupied by the Cardinals. It calls for \$50,000 annually in the first five years, \$75,000 annually in the next five years and \$100,000 annually in years 11-15, and so forth. It totals \$2.75 million over a 30 year period.

Mr. Herbst said he would feel more comfortable if the Orioles would document their numbers.

In response to Commissioner Moore's request for more clarity on the \$375,000-\$500,000 estimate, Mr. Herbst indicated it is based on management staff's number for general public facilities' cost of maintaining facilities. It reflects the fact that sufficient information was not provided in a timely fashion in order for staff to develop a specific recommendation.

In response to Commissioner Rodstrom, Albert Carbon, Director of Public Works, noted various City facilities with the equivalent square footage size. Mr. Gretsas said that projections on costs are guesstimates. The question is whether the City wants to assume some risk for fixing facilities in the future.

Commissioner Teel indicated another issue is who is determining what maintenance and repairs need to be done. There are facilities around the country that do not always come out the way they were intended. She mentioned one in Homestead. She did not see this going along with what the City initially thought it was going to be about.

Commissioner Teel felt there should be a fund and the Orioles should contribute between \$375,000 and \$500,000. There is a track record of facilities not being kept up to a quality of repair that should be.

Commissioner Moore explained the City is losing the revenue it could generate to its enterprise fund.

Mayor Naugle agreed more money could be made if it were for aviation, but this is about providing another recreation facility in the City and some businesses will reap support from it.

Commissioner Teel pointed out that there are people who use Lockhart and that will not be available anymore. The other facility will be available, but it will not fill the same needs.

With respect to Repair/Improvement Fund, Commissioner Moore wanted to give the Orioles a specific time frame in order to submit information and give the City Auditor time to evaluate it.

Commissioner Teel asked about timely submittal of information in the past. Mr. Stewart said that it was not very timely. Commissioner Moore asked when the Orioles could provide maintenance numbers from other venues. Mr. Angelos indicated he could supply the information tomorrow. Commissioner Moore suggested 48 hours. Mr. Herbst did not want summary format, but sufficient detail that could be independently verified. Mr. Angelos asked that the information provided by the City Auditor also be provided to the Orioles.

Mr. Gretsas noted that information for the final document to be approved on December 19th would be distributed to the Commission this coming Thursday. This is the last meeting date unless there is a special meeting. Mr. Stewart indicated the information may not be provided until Monday.

In response to Mr. Stewart's question, Commissioner Moore indicated that when the numbers on the Repair/Improvement Fund are available, the Commission will decide about who pays and what amount.

Mr. Gretsas said it might be easier if the Commission indicates the total amount it is willing to spend on this deal, staff can arrange the deal accordingly.

Commissioner Teel understood from the City Attorney that the Orioles were not getting back to the City in a timely way. In fact it was 5:30 p.m. the day before Thanksgiving. Now, it is the last few days and the pressure is being put on the City. This is not the way to do business. Mayor Naugle said this is in dispute. Mr. Stewart said that his email is time stamped.

Commissioner Moore felt the timeline is now clear and there is no time for extensions

In response to Mr. Gretsas, Mr. Stewart said if the Repair/Improvement Fund is the only thing unresolved, it could be done.

With reference to Taxes, Use Charges and Surcharges, Mr. Stewart summarized the City has agreed that they will put the money back in, provided it is legal to do so.

With reference to Insurance, Mr. Stewart noted the Commission is informed the amount is \$250,000.

Commissioner Teel was opposed to this amount. In order to assume the insurance cost, Commissioner Moore asked for the parking revenue not to exceed \$250,000. Insurance costs will increase each year.

Mayor Naugle was concerned the City agreed in the term sheet to pay for the insurance and they are now going back on it. Commissioner Teel pointed out there was no dollar amount available at that time.

Mr. Angelos explained that all of the revenues associated with the project are going to the \$900,000 number on the visual aid. The parking revenue will be \$80,000-\$90,000. He was concerned about being asked piecemeal.

Mayor Naugle suggested giving the staff an amount for the deal and they could structure it. Mr. Gretsas felt this would be a simpler way; the City Auditor could certify the cost of the agreement. It comes down to what kind of amenity this is for the City, what value it adds to the City.

Commissioner Teel referred to the lobbying efforts in Tallahassee, and remembered it was based on the City's contribution being the land. She did not think the City would have to pay for all of these other things now being discussed or that they would have to take a risk with respect to the bed tax and so forth. Now the story is totally different. No value is being placed on the land. Insurance is a huge problem in the state now. She was not agreeable.

Mayor Naugle pointed out that Commissioner Teel voted for the term sheet. Commissioner Teel said she did not vote for any specific amount. Even if the Repair/Improvement Fund is reduced to \$50,000, it is still more than what was ever anticipated. Commissioner Teel noted that the state's insurance crisis had not begun when lobbying took place.

In response to Mayor Naugle, Commissioner Teel was agreeable to the \$240,000 for field maintenance.

Commissioner Teel was agreeable to the \$240,000 maintenance and the value of the land only. The Repair/Improvement Fund should be funded by the Orioles and she would be willing to discuss it.

Vice Mayor Hutchinson was agreeable to the maintenance, insurance. She was willing to go up to \$100,000 on the Repair/Improvement Fund, as it is a City facility. She was agreeable to the taxes if it is possible. A total of \$590,000.

In response to Commissioner Teel, Vice Mayor Hutchinson understood that the Orioles are responsible if the County cannot make their commitment.

Mayor Naugle believed what the Vice Mayor has outlined is what was agreed upon in the term sheet.

Vice Mayor Hutchinson said the one exception is the Repair/Improvement Fund.

Commissioner Moore was agreeable to \$500,000. Vice Mayor Hutchinson concurred.

Commissioner Rodstrom wanted the Orioles to contribute \$865,000 annually.

Mr. Gretsas concluded it would be structured around \$500,000.

Mr. Stewart said the Orioles have already agreed to pay for any shortfall of the revenues to pay the debt service in any year. There is also the issue of the 15-year lease and 30 year bonds. The Orioles have agreed if they terminate the lease before the bonds are fully paid, they will provide whatever money is necessary to redeem the bonds. There needs to be a cash funded reserve and the principal amount of the bonds needs to be clarified. Staff has discussed bonds in the amount of \$38 million.

In response to Commissioner Moore's question about the principal amount of the bonds, Mr. Koslow felt it is a function of the cost of construction, but the Orioles have already agreed to pay the difference. Mr. Koslow noted the Orioles do not want to pay more than they have to pay. Mr. delCastillo explained the reason this is important has to do with the revenue sources being sufficient to sustain a debt service on a \$38 million bond issue. The reality is that the actual size of the issue, based on information furnished to the Financial Advisor, may be in the neighborhood of \$40 to \$42 million. If there was discussion about the \$2.4 million potentially not being sufficient for \$38 million, then there should be awareness of what is necessary to support \$42 million. Mr. Stewart said this will be addressed.

Mr. Stewart said the Orioles provided an assumption on debt service coverage of 1.0. Mr. Stewart indicated he had never seen that done except in general obligation bonds. It is usually 1.1 or 1.25. The 1.0 was not sufficient to cover the \$38 million issue. It will be phrased that anything above what the City will pay, the Orioles will pay. The Orioles will have veto power over the financing package.

Commissioner Teel asked what would happen if the insurance cost increases. Mr. Gretsas said it will be structured so that anything above the Commission's amount, the Orioles will pay. Commissioner Moore said the amount is \$500,000 annually.

Mr. Angelos pointed out that no one has been identified to fund the Repair/Improvement Fund. Mr. Gretsas understood that the Orioles would have to assume all of the potential expenses above the \$500,000. There would be no gaping hole over which to fight ten years from now.

Commissioner Teel said that the Repair/Improvement Fund is an important element that must be borne by the Orioles so the facility will be maintained appropriately.

Commissioner Moore did not want to tag the \$250,000 for the insurance. If the Orioles can save on the insurance, the savings could be put into the Repair/Improvement Fund. The City will provide \$500,000 annually. The Orioles may use it as they please.

Mr. Gretsas said if the Orioles assume the responsibility for the repairs, they do not necessarily have to fund the \$500,000.

Action: Consensus approval for staff to prepare a contract with City participation not to exceed \$500,000 annually for consideration on Dec 19, 2006. The Orioles were to provide certain statistical information concerning repair/improvement funds in other similar facilities. Under Airport Enterprise Fund, the definition of gross receipts was to

remain as it was in the original agreement. The City will advocate for approval of the agreement by the Federal Aviation Administration.

II-A – October 2006 Monthly Financial Report

No discussion (Vice Mayor Hutchinson not present).

EXECUTIVE CLOSED DOOR SESSION
(5:00 p.m. to 5:11 p.m.)

III-B – Advisory Board and Committee Vacancies

Board appointments would be announced at the regular meeting.

III-C -- Beach Redevelopment Board – Membership Composition – Code Amendment

The Commission would vote on this when presented as an ordinance.

Action: Consensus approval as recommended (Vice Mayor Hutchinson not present).

City Commission Reports

None given.

V – A Proposed Lien Settlements – Special Magistrate and Code Enforcement Board Cases

Action: Consensus approval as recommended (Vice Mayor Hutchinson not present).

There being no further business to come before the Commission, the meeting was adjourned at approximately 5:12 p.m.