

**FORT LAUDERDALE CITY COMMISSION CONFERENCE MEETING
FEBRUARY 5, 2008**

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CITY COMMISSION CONFERENCE MEETING 1:30 P.M. FEBRUARY 5, 2008

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

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 – Sgt. Harvey Jacques

I-A –Citizens Committee of Recognition – 2008 Recommendations – Distinguished Citizen, Citizen of the Year, Honored Founder, Exemplary Former City Employee

Genia Ellis, Chair, Citizens Committee of Recognition, announced the nominees: John Aurelius for Distinguished Citizen; Courtney Crush for Citizen of the Year; Robert Cox for Honored Founder; and Ron Cochran for Exemplary Former City Employee.

Mayor Naugle announced the awards ceremony would be held on April 15, 2008.

Commissioner Hutchinson referred to Committee's request for direction from the Commission on adding members. Vice Mayor Moore requested the item be placed on a future agenda for consideration. He questioned the need to identify specific industries. Commissioner Hutchinson noted the letter provided in the back-up materials mentions the Downtown Development Authority, Chamber of Commerce, and possibly a prior Citizen of the Year.

Action: Consensus approval of the following recommendations: John Aurelius for Distinguished Citizen; Courtney Crush for Citizen of the Year; Robert Cox for Honored Founder; and Ron Cochran for Exemplary Former City Employee. Awards ceremony tentatively set for Apr 15, 2008. At Commissioner Hutchinson's request, there was no objection to scheduling on a conference agenda the Committee's request to expand its membership.

I-B – Affordable Housing Projects Proposed By School Board of Broward County

Michael Garretson, School Board of Broward County, noted affordable housing is needed for all public employees, not just teachers and School Board staff. He hoped this first step would lead to working on that need with cities and Broward County. Currently about two hundred teachers are lost annually because they cannot afford to live here. Last year, the legislature changed the law permitting school boards to utilize existing properties that do not have a current use. School Board staff proposed four sites to the School Board; three are in Fort Lauderdale and one in Pompano Beach. Fort Lauderdale sites are the former Edgewood Elementary School site, ten acres adjacent to the Arthur Ashe Middle School, and property on 4th Avenue across from Home Depot. The School Board would continue to own the land. The RFP specifies that they are looking for proposals from developers for a long-term lease in which they

would build and manage the developments. Units would be available for 30% of the average teacher's salary. They are also looking for other sites. This is an experiment.

Commissioner Hutchinson asked where they stand in the process. Mr. Garretson said the RFP has been written and it is presently being reviewed by their attorneys. It was also sent to the Urban Land Institute in Washington D.C. for their review. They are behind schedule as a meeting is set in May for the School Board to select the contractors. He anticipated the review will be expedited.

Mayor Naugle asked about land use and potential zoning change issues. Mr. Garretson indicated the School Board would look to the RFP responders, private sector, to handle it.

Mayor Naugle noted the Edgewood school was closed partly because of noise from the airport. Mr. Garretson confirmed this would be evaluated.

Commissioner Rodstrom asked when was the most recent school aged children demographics study conducted. She did not want to be taking land away that might be needed for an additional school. Mr. Garretson said the most recent study goes to the School Board next Tuesday, and then to the County Commission. It show population and job growth, but a decline of student enrollment for the next ten years.

Vice Mayor Moore asked if the units would be rental or ownership. Mr. Garretson said the units would be rental because the School Board wants to retain land ownership.

In response to Vice Mayor Moore, Lisa Wight, School Board Planner, indicated Leed certification is not part of the RFQ. They hope responders will include it.

Vice Mayor Moore suggested the developer be offered some consideration of points if the development is made green. One issue of attainability in rental units is the impact of what it would cost on a daily basis to live. Mr. Garretson said that is a good point. A resolution is coming forward that would require all new school buildings be Leed certified at least to a silver level. The School Board's current standards are 71% toward that goal.

Vice Mayor Moore referred to the Arthur Ash site and noted that area residents have a concern with ingress and egress. He asked if School Board staff could meet with the district on this including parking.

Mr. Garretson said it is their intent to go through the City's site review process also. This parcel is zoned RM-25, which is pretty heavy density.

In response to Vice Mayor Moore, Mr. Garretson indicated the objective is 200-300 units for all four sites.

Action: Vice Mayor Moore asked the School Board consider offering the developer points if they build a "GREEN" development. He also requested staff representatives of the School Board meet with District III to resolve ingress/egress concerns of residents adjacent to the Arthur Ashe Middle School.

I-C – Beach Renourishment – Sand Replenishment – URS Corporation

Albert Carbon, Public Works Director, noted that for the emergency sand placement, a contract is on tonight's agenda. If awarded, the work would begin tomorrow. Secondly, Steve Higgins, Broward County Beach Erosion Administrator, will discuss long-term strategies in connection with beach renourishment.

Mr. Carbon provided six samples of existing beach sand from the NE 16 Avenue area. The lighter colored sand is proposed to be imported. He showed on an aerial map the proposed fill-in area on NE 16 Street, consisting of approximately 500 feet. The proposed contract would be with Austin Tupler Trucking, Inc. The proposed borrow site is just southwest of Lake Okeechobee. During the sand placement operation, staff is proposing to restrict access to the beach. There would be a convoy of five trucks and about forty trucks per day. He displayed the maintenance and traffic plan provided to the Commission that has been approved by both the Florida Department of Transportation and the City. Signage would be placed on A-1-A, along with cones to block off existing parking along A-1-A. The trucks will stop in the designated parking area along the northbound lanes of A-1-A. Flagmen will block A-1-A traffic while the trucks dump the sand. Parks and Recreation staff will push the sand out along the areas of needed restoration. Police vehicles will be present. The proposed operation is from 7 a.m. to 4 p.m. Notification to all neighborhoods along finger streets is ready to be sent out. Permits were obtained from Florida Department of Transportation and Florida Environmental Protection Agency. Following placement of the sand, they will verify the fill placement, its compatibility and a complete compliance with respect to the permit.

Mayor Naugle was concerned about the sand color. The quality of the sand used at Hollywood Beach seems to be poor. He asked how this sand would compare. Gary Nemeth, URS Corporation, City's consultant, said it is gray in color and probably slightly lighter than what presently exists on the beach now. It was compared on a color chart. What are as important are the characteristics in terms of size and compatibility with the sand that exists. It meets those characteristics extremely well.

Commissioner Rodstrom asked for more information about compatibility characteristics. Mr. Nemeth said primarily size is looked at. A series of tests were done. Samples were collected from twenty different locations. Seven available fill sources were looked at. The Tupler source is permitted by the State. They looked at the fit within the existing beach sand; it fit very well. They met with Broward County and Mr. Carbon and discussed the test results. Although it is slightly lighter in color, he felt over time one would not be able to tell the difference.

In response to Mayor Naugle, Mr. Nemeth indicated that he has not been to Hollywood beach. Steve Higgins, Broward County Beach Erosion Administrator, said the sand used at Hollywood, Hallandale and Dania, along with John Lloyd Park was obtained from offshore borrow sites, the northern end of Broward County. Characteristically, such sand is piped ashore in a slurry and spread by bulldozers. It arrives dark in color, but lightens over time to a light gray color.

Mayor Naugle asked why it is so different in color. Mr. Higgins explained there are some organics in it, but it is basically wet. Once it dries out and it has exposure to the sun, the color lightens. The sand being contemplated in Fort Lauderdale is not the same, it is

probably from the best sand source in Florida. It is absolutely better than the sand used in Hollywood. He noted a project in Deerfield at this time using the same sand.

In response to Commissioner Rodstrom, Mr. Nemeth indicated they did not see any organic material in the sand.

Vice Mayor Moore asked about commencement and hours of operation. Mr. Nemeth indicated the work will begin as soon as the contract is approved. Mr. Carbon said the trucks would probably not reach the City until 8 a.m. or 8:30 a.m., but traffic control would begin at 7 a.m. It is essentially eliminating parking along the beach in that area. The last truck is expected to arrive around 1 p.m. or 2 p.m., giving a two-hour window for Parks crew to move the sand. About 4 p.m. everything will be opened again. It is expected to take five days, not during the weekend.

In response to Commissioner Hutchinson, Mr. Carbon said the trucks will travel along Sunrise Boulevard and queue up northbound on A-1-A. He did not know if they will exit onto Sunrise Boulevard or continue north to Oakland Park Boulevard. The trucks will not arrive until after rush hour and be gone before 4 p.m. Mr. Nemeth indicated the exact route outside of the City has not yet been established but likely State Road 27. Commissioner Teel noted that there is construction and backed up traffic around Oakland Park Boulevard, west of Interstate 95 and the turnpike.

In response to Commissioner Teel, Mr. Carbon indicated the sea turtles are not a factor because it is being completed before March 1.

Mr. Higgins reviewed slides concerning beach renourishment. A copy of the slides is attached to these minutes. The contemplated renourishment was based on 2001 beach conditions; therefore a restudy will be necessary. The County will be looking at sand sources, including those used for Hollywood as well as the Bahamas. Fort Lauderdale is in good shape with respect to easements needed in order to qualify for federal funding. With respect to state funding, there are some areas that do not meet the criteria for eligibility. The State is interpreting if some people are charged more than others for parking; it is not available to everyone on an equal basis. Mayor Naugle noted that the Florida Administrative Code does not mention anything about cost, it says on an equal basis. He felt it is overly broad and vague. By charging residents to park, the same argument about it being unequal could be made because Fort Lauderdale residents are paying for the beach now and to charge them again to park and allow non-residents to park for the same price would be unequal. Unless the legislature acts, the idea that beach parking fees will have an impact is absolutely meaningless.

The City Manager noted that Collier County has successfully appealed the State and is getting funding. Also, Boca Raton will be receiving 50% funding.

Mayor Naugle did not want residents to have to pay twice as it would be unequal. Mr. Higgins indicated that he is not disagreeing but explaining the State's approach in the past.

The City Attorney noted when the Commission was considering the parking fees, he spoke with the General Counsel for the Florida Department of Environmental Protection. They could not indicate the impact, but indicated it would have to be reviewed at the time of the application. At that time, he raised the issue of the \$9 million plus expended by

the City to keep the beach available to citizens and others and \$3 million raised on parking fees. He was told it could be changed prospectively when the issue comes forward and that as there were no funds available, there was no reason to worry about it. He noted when money was distributed, it was for Hollywood and Fort Lauderdale, but all of the money was spent in Hollywood. He believed there is an excellent argument. Equal access does not necessarily mean the City cannot charge a differential rate. There have been a number of cases tried on the principle of equal protection and every one has been decided in the cities' favor. Mayor Naugle noted there is a less expensive resident rate for cemeteries.

Commissioner Rodstrom asked about the area of Terramar Street south. Mr. Higgins indicated it is not included based on past studies, but the economics, engineering and environmental aspects will be redone.

Commissioner Teel recalled at one time there was discussion about combining ground glass with sand. Mr. Higgins said the County is looking into that idea and conducting tests for the last couple of years. If the glass is processed properly, it would be hard to distinguish from natural beach sand. The County is looking at it as a supplemental fill for areas that may need a quick fix after a storm, for example. The biggest issue now is economics and whether it would be competitive with obtaining sand from borrow areas. The next phase and last test would be to obtain about 2,000 cubic yards and put it on the shore face of Hollywood to see how it behaves under wave action.

In response to Mayor Naugle, Mr. Higgins indicated the upcoming placement of sand in Fort Lauderdale will be helpful information for the future. It is very high quality. It has been used in Dade County and currently being placed on Deerfield's beach. The sand being considered from the Bahamas would come from south of Bimini.

Commissioner Rodstrom asked if the County plans to continue working on erosion controls. Mr. Higgins replied yes it is one of their consultant's tasks.

Vice Mayor Moore asked about transporting the sand in the evenings. Mr. Carbon said there is a small area of the beach wall where a truck can be backed into and once it dumps, the sand has to be moved out of the area in order for the next delivery. It was considered.

With respect to traffic impact, Vice Mayor Moore asked about the trucks exiting on Oakland Park Boulevard. Commissioner Teel did not think Oakland Park Boulevard would be a good idea. Vice Mayor Moore asked about Commercial Boulevard. Mayor Naugle thought Commercial Boulevard would be difficult. Commissioner Rodstrom agreed it includes another municipality. Mr. Carbon indicated the trucks will be staggered and thus not a high volume.

Ina Lee, Chair, Beach Redevelopment Advisory Board, understood after Hollywood, there was an eighteen month gap to see the environmental impact. Then, phase two was to begin immediately. She also asked about the \$20 million owed by the federal government to Broward County. She did not believe that people understand this project does not go south of the Bonnet House, not covering the City's core economic engine. She thought the Army Corps of Engineers has indicated that this area does not qualify. She was very concerned about money that previously looked like it was available and is

no longer because the majority of it is federal. She wanted to know where to put the pedal to the metal to make sure the desired area is addressed.

Mr. Higgins said the eighteen month period was completed and a report submitted to Tallahassee. The Department of Environmental Protection will take the report to the Governor's Cabinet, who will then determine whether the permanent conditions placed on that project are placed on the Section II project. He anticipated a battle with those who oppose beach nourishment. Meanwhile, conditions have changed therefore the beach has to be resurveyed. Based on the 2001 design, the project did not go further south because the beach was deemed to be adequate according to criteria used by the State and Corps. In the reexamination, they will reapply those criteria to existing conditions and determine whether fill areas should be shifted. It must be proven that the beach does not provide adequate protection from storms or an optimal recreational opportunity. There are all kinds of difficulties with simply asking for assistance after the eighteen month period. Currently the goal is to construct in the fall of 2009 which is ambitious. In order to secure federal funding, there is a structured and elaborate process including in-depth engineering and economic analyses to optimize the amount of beach built versus protection provided from a certain frequency of storms.

Action: There was consensus approval. See regular meeting agenda item PUR-05.

I-D – Sistrunk Historical Festival, Inc. – 2008 Sistrunk Parade and Street Festival – Request For Financial Assistance

Phil Thornburg, Parks and Recreation Director, corrected the back-up material should be corrected to reflect a financial assistance request of \$30,804 for police coverage. The Police Department believes this amount will cover the cost.

Margaret Haynie Birch, Chair, Sistrunk Historical Festival, said this is the first time the festival will be held on the street in over ten years. It is the only activity that showcases achievements and progress of the African-American community in Fort Lauderdale. She noted that they are well-organized. The event previously contributed to tourism and had an economic impact. It is their goal to return to such status.

Walter Haynie, member of Sistrunk Historical Festival Board, said he has served on the board for four years. They have expanded activities and established a scholarship fund. They are looking to make the festival as prominent as it was in the past. It is the longest African American event in the community, twenty-seven years.

Nathaniel Wilkerson, resident, commented on the event having a positive impact and supported it being moved back to the street. He urged the City support it.

Mickey Hinton, resident, supported the event and was happy to hear it is returning to the street. He wanted the assurance that safety issues will be addressed.

John Hardwick, consultant for Sistrunk Festival, supported the event and noted it is recognized throughout the county.

Commissioner Hutchinson wanted to offer assistance although she questioned the number of police officers recommended. Mayor Naugle was puzzled why this item is being presented in this way. He thought the Commission had directed the City Manager

the Commission preferred to make a contribution to the organization so they could acquire needed services as opposed to it being a City paid for event. Mr. Thornburg explained in this case there was a question about whether the police detail would be available. Detail rates must be used.

Mayor Naugle thought if the detail is not available, then other agencies could be used.

Bruce Roberts, Police Chief, indicated fifty-seven police officers would be assigned to this event. It is assigned at an overtime rate because they could not guarantee that a sufficient number of officers will sign up for the detail. There are other things occurring simultaneously, such as Spring break. Even if it is opened to other agencies, he doubted the City would be able to get a sufficient number of officers at a detail rate. Coverage has to be provided regardless in order to make it a safe event. This is why the overtime rate is proposed. In comparing to other special events, it is fewer officers used on New Year's Eve and Fourth of July. The costs are approximately the same because this event is so long. It is from 9 a.m. to 6 p.m. plus set-up and clean-up time. If the time was reduced, cost could be reduced.

Commissioner Teel asked if the City's Police Department participated last year when the event was held in the park. Chief Roberts indicated the department participated in the parade route. The Broward Sheriff's Office will have a minor participation from the park to the City limits, then the City's Police Department takes over the remainder of the parade and event.

Commissioner Teel asked if it is easier to deliver a safe environment for the event in the park or on the street. Chief Roberts said they are ready to deal with it no matter where it takes place. Obviously, a self-contained area is easier. There are concerns about spillover into the neighborhoods, but their plan was developed to accommodate such problem. In response to Commissioner Teel, Chief Roberts indicated that overall it will be more expensive to have the festival on the street.

Mayor Naugle asked how many police officers were at the boat show. Chief Roberts said on the Fourth of July there were 76 officers and 94 officers for New Year's Eve. He did not have information on the boat show, but offered to provide it.

In response to Commissioner Hutchinson, Major Anthony Williams noted the parade route is 24 Avenue to 7 Avenue; the event is from 12 Avenue to 8 Avenue. Chief Roberts explained there are adjacent neighborhoods whereas the New Year's Eve event is held in a business community. The same applies to events on the beach.

Commissioner Rodstrom thought this is a great way to showcase. She asked about funding sources besides the City.

Mayor Naugle asked if the County is making a contribution. Mrs. Birch said the County is contributing \$43,000. Other income will come from vendors and sponsors.

Commissioner Rodstrom asked if they are receiving any private or business donations. Mrs. Birch said some businesses have made donations and some sponsorships. They are soliciting for private donations but have not yet received anything.

In response to Commissioner Teel, Mr. Thornburg said all costs to the City have been paid. As far as City services, it was a more manageable financial endeavor by being held in the park, but he could not speak with respect to the County.

Commissioner Teel understood the desire to have this event back on the street and eventually that is where it should be held. The problem is that the City is in tough financial times now and people are continually requesting funds.

The City Manager said there is \$55,000 in the Contingency Fund that needs to last until the end of September.

Commissioner Teel could not justify a \$30,000 contribution.

Commissioner Hutchinson suggested that a \$15,000 donation.

Commissioner Rodstrom asked what is the budget for City-funded events. Such a contingency may not be available next year. It would not be right to have people think everything will remain the same, considering it is unknown. If the City would curb spending, some money could go toward community events. Mr. Thornburg said that during the last budget reduction, the City reduced its special event budget, but there was not a percentage figure per se.

Mayor Naugle recalled when the event was held on the street. He supported holding it on the street and contributing \$15,000. He recognized the need to tighten the belt.

Commissioner Teel felt these things are being approached in the wrong way. When planning for the next year's budget, such items should be coming out then. She believed that \$15,000 is too much; she suggested between \$5,000 and \$7,500. She believed it is premature to relocate it to the street because she does not feel there would be enough money to hold it safely.

Commissioner Rodstrom asked if some vendor monies could go toward paying for police coverage. With holding it on the street and more exposure, they may be able to obtain more private donations next year. Mrs. Birch said they are looking at vendor money, but there are other costs, such as paramedics, street clean-up, dumpsters and restrooms. The County grant money is held to make certain all debts can be paid.

Vice Mayor Moore commended the committee for bringing the event back to the street which will increase participation. He believed that as such there will be more vendors and the potential for higher rates. When it was held at the park, there was a fee to enter and as such the vendor was not as attractive as would be on an open corridor. He liked the shortened boundaries in comparison with the past. He agreed with the concerns about the budget, but this is a real historical festival and was one of the largest in South Florida. He appreciated that they paid previous debt. He supported a \$15,000 donation.

The City Manager asked if staff should budget for this event next year. Mayor Naugle suggested they see how the event goes this year and have an analysis and discussion after the event. Vice Mayor Moore agreed. He felt they should do the same for the Fourth of July and New Year's Eve events. He suggested considering the creation of a cultural event budget.

Commissioner Rodstrom wanted to be able to discuss the subject without feeling they are on the hot seat and not know how much money is available.

Mayor Naugle wanted to hold such a discussion after information is available from the Property Appraiser on the assessed valuation.

The City Attorney indicated this item is on tonight's agenda with the organization paying the full amount which is no longer a valid number. Therefore, the agreement will be revised for this evening's meeting.

Action: Consensus approval for a \$15,000 contribution. Commissioner Teel was opposed. Mayor Naugle indicated the question of budgeting for this item could be evaluated after the event. Commissioner Teel wanted items of this nature considered during the budget process. Commissioner Rodstrom wanted to discuss the events as a whole. Vice Mayor Moore wanted to include a cultural event category in the budget and examine recurring events at that time. See regular meeting agenda item M-04.

I-E – Vacancy on City Commission – Refer to Charter Revision Board

Vice Mayor Moore said he asked this be placed on the agenda due to a number of concerns raised during his district meeting. The Charter states that the remaining members of the Commission make the appointment. This provision was written during a time when there were city-wide elections. Now, with districts, it is important if there is a vacancy that the constituency who has selected an elected official would not be out of the opportunity for dialogue in connection with filling the vacancy. He was not sure if the Commission should refer this to the Charter Revision Board or simply direct that the wording is changed.

The City Attorney said ultimately the matter would have to go before the voters. He believed the Vice Mayor is suggesting that it be sent to the Charter Revision Board for any potential clarification. The language, remaining Commissioners, anticipates that there is a vacancy. If a commissioner decided to run for a different office and resigned in advance, a vacancy would be created. If the Commission decided to replace that commissioner in anticipation of the vacancy occurring, that commissioner would be one of the voting members. If the replacement was not made until the effective date of that commissioner's final day in office, then there would be a vacancy and only the remaining commissioners would vote. The citizenry may provide input to the Commission, but it is the Commission's decision.

In response to Mayor Naugle, the City Attorney confirmed it would be possible to make an appointment before Vice Mayor Moore vacates his seat and in such case, he would vote on that replacement.

In response to Commissioner Hutchinson, the City Attorney indicated arrangements are being made for the Charter Revision Board to meet.

In response to Mayor Naugle, Vice Mayor Moore indicated he would like the Charter Revision Board to look at this provision for the future.

Mayor Naugle thought there could be cases where a vacancy occurs because of a crime for example and the Commission would not want input from the outgoing commissioner.

Commissioner Rodstrom asked when to raise other items the Commission may wish the Charter Revision Board to review. Mayor Naugle indicated now would be an appropriate time or at a future meeting.

Mayor Naugle noted the staffs of the Manager, Auditor and Attorney are selected those individuals, however, the Clerk's staff is selected by the Manager. He felt this was an accident. Commissioner Rodstrom felt there should be uniformity.

Vice Mayor Moore thought the Commission support staff should be handled in the same way.

The City Auditor felt an oversight in the Charter is that the Auditor's employees were left in the Civil Service System unlike the attorneys. He would like discretion in hiring. Now, the City Manager and the Human Resources Department effectively have veto power over people he may want to hire which creates an inherent conflict where he is no longer independent.

Vice Mayor Moore pointed out that once the Charter Revision Board convenes, it may bring up anything it wishes. He wanted to request the Board to agenda only those items the Commission wants to be discussed.

Commissioner Rodstrom was interested in looking at meeting dates and the holidays.

The City Manager clarified said that his office has never interfered with any hiring practices of the Clerk's Office. The City Clerk confirmed said this Manager has never interfered whatsoever.

Mayor Naugle commented that there was a Manager that ordered the Clerk to corruptly change records and that is the office is chosen separately.

Action: There was no objection to Vice Mayor Moore's request to refer the provision on filling a vacancy on the City Commission to the Charter Revision Board. Additional items will be considered at the Feb 19, 2008 conference meeting.

I-F – Northwest Commercial Redevelopment – Land Disposition, Development and Management Agreement

1. Expansion of 8 months to secure a lease with a grocer to 14 months

Assistant City Attorney Dunckel referred to Exhibit 3 in the backup outlining issues for discussion. He noted the last time this matter was discussed, the Commission decided the City should pursue a bigger, better grocer. If so, it may impact the site plan. To this end, there are timelines by which the Developer should negotiate a lease agreement within eight months. The Developer is requesting 14 months if a bigger, better grocer cannot be secured.

Commissioner Teel referred to the audit report and was concerned about expenditure of Community Development Block Grant funds. She questioned if there would be an

impact on the agreement because of the report. The City Attorney indicated the contract went to print before they completed review of the CDBG audit. In response to Mayor Naugle, the City Attorney indicated he received the audit around January 21st. Margarett Hayes, Housing and Community Development Manager, indicated the final draft was not issued until January 11th; the City received it about the 15th. The City Attorney indicated if the deal is not approved, the City would have to repay HUD. Consequently, they indicated to the Developer the City's desire to add a provision to the contract, in the event the City has to repay HUD, the Developer would pay that money. He provided that condition language to the Commission.

Sean Jones, representing Milton Jones Development Corporation, Developer, indicated they agree to this condition. There are some provisions that could not be addressed. He will have to work with the City Attorney's Office on this if certain events happen. The Assistant City Attorney referred to subsection 5. If HUD has to be reimbursed, the City may wish to remove the minimum standards generated exclusively by CDBG requirements. There are a number of provisions where he could not isolate whether they are driven exclusively by CDBG.

In response to Vice Mayor Moore, the Assistant City Attorney assumed HUD would conduct an appraisal if it comes to be that they will be reimbursed for the property. The Assistant City Attorney reiterated only those conditions generated exclusively by CDBG would be removed.

Vice Mayor Moore referred to the displacement of people that has occurred and that the City is about to enter into an agreement whereby an individual can secure land at a price that has had nothing to do with the maintenance over twenty years, the relocation of people that were removed or the community outcome of it being commercial. The City Attorney indicated the City is at a crossroads if they do not do something, the City will be required to pay for the property. If so, the City would require the Developer to pay the City's costs, not HUD. The best course of action at this point is to avoid having to buy the property from HUD, amend the plan, advise HUD that the City has done what they said they would do, get HUD's approval and move forward.

The Assistant City Attorney noted that the audit speaks about the lesser of two numbers. It is assumed that the lesser of two numbers is what it costs to assemble the property, salary costs and so forth. If it turns out that the fair market value is greater than that amount, the Developer would cover those costs also.

Vice Mayor Moore asked what would happen if the Developer did not pay. The Assistant City Attorney indicated the Developer could opt out of the agreement at month 19. Vice Mayor Moore noted there are two more years of having nothing. He wanted to know what guarantee the City has that they can pay. Mayor Naugle noted a big part of it depends on when the City receives an answer from HUD. The Assistant City Attorney indicated another consideration is whether there will be a bigger, better grocery store and the site plan has to be redesigned.

Mr. Jones understood the audit to say if the project meets the national objective, either reduction of slum and blight in the area or serves low to moderate income people, this is a non-issue. The issue should not occur. The audit report deals with many more issues than this particular project.

Returning to Issue 1, the Assistant City Attorney indicated the time required for HUD to respond about the action plan could be four months or forty-five days. He rounded it to a three month period. Mr. Jones indicated if they are unable to execute a lease with a larger, higher profile grocery store, they will need time to go back to the lesser profile.

With respect to the grocery store, Vice Mayor Moore questioned if the Developer is unsuccessful in delivering what the Commission said it wants, will the Developer still be allowed to continue. The Assistant City Attorney noted if they are unable to secure a lease within eight months, the deal goes south. Mayor Naugle noted the agreement anticipates a 25,000 square foot grocery and that is what is in the drawings. He did not think that the bigger, better grocery store would be a minority business. Vice Mayor Moore questioned why one would think that a minority could not build a big store.

Vice Mayor Moore noted the development was changed from commercial to residential and now there is so much residential, it is not possible to provide commercial, cannot provide adequate parking or underground wiring for a productive, nice development site, the land is being given, time is being given in order to find an appropriate grocer.

Mr. Jones understood that the Commission found a 25,000 square foot grocery store acceptable. Mayor Naugle concurred. Commissioner Rodstrom understood if they were to look for a bigger, better grocery store, they would work with the City's Economic Development staff. She asked about those negotiations. Jeff Modarelli, Director of Economic Development, indicated that ten stores have been contacted and preliminary discussions are being held to bring them to the table. Mayor Naugle noted that until there is an agreement, they could not sign a lease. Mr. Jones indicated this is news to him.

There was consensus approval to Issue 1. Vice Mayor Moore was opposed. The Assistant City Attorney indicated that would mean all other components would be moved down by that additional amount of time.

2. Developer request to delete the requirement of a pharmacy in conjunction with the grocery store

Commissioner Hutchinson noted there are name brand grocery stores across the city that do not have a pharmacy. Alfred Battle, Community Redevelopment Agency Director, advised in developing definitions as to size and quality of a grocery store, they referred to a number of trade publications and Dunn and Bradstreet and that is how it came to be included.

Commissioner Teel felt the market place would take care of the grocery store. She did not think it should be required, but simply allowed.

There was no objection to not requiring a pharmacy in the grocery store.

3. Developer seeks a phasing of construction

In response to Mayor Naugle, the Assistant City Attorney indicated that Charlie Ladd's development at I-95 was phased. Mayor Naugle referred to Alan Hooper's phased development. He felt it should be allowed, but not required. The Assistant City Attorney was concerned there be one conveyance of property with all financing commitment for

construction done at the same time. There were problems in releasing the property piecemeal with City View.

There was no objection to allowing phasing provided conveyance takes place at one time.

4. Developer seeks to have a company that is an affiliate of the Developer serve as a contractor on the project

In response to Mayor Naugle, the Assistant City Attorney noted in the event the City has to exercise a reversionary clause, there are certain costs owed back to the Developer. Care should be taken that those costs are generated as a result of an arm's length transaction. With respect to Mr. Ladd's Konover development, he used an affiliate to do the site work, but the balance was done with a general contractor. There was no requirement prohibiting an affiliate. This development is different in many respects.

Mr. Jones did not see why they could not be allowed to hire a contractor, provided the City is provided with a bond and the City is the dual obligee. He questioned why Konover was allowed to do so. Vice Mayor Moore noted the difference is that Konover bought the land. He suggested an appraisal of the property be prepared, Milton Jones purchase the property and develop it. In response to Mayor Naugle, the Assistant City Attorney indicated the Konover site did not have HUD restrictions. Mayor Naugle concluded this is the difference. Vice Mayor Moore explained the Housing Authority owned property assembled with acquisition of the Konover site and that developer had to pay for that HUD property. With HUD's comments on today's subject property, if the property was purchased, it would nullify all of these concerns. Mayor Naugle said the City is in the final stages of this matter that has gone on for some time.

Mayor Naugle did not object to the Developer having a company that is an affiliate of the Developer to serve as a contractor on the project. In response to Commissioner Teel, the City Attorney indicated they believe the affiliate would place the City in a less advantageous position. Mayor Naugle asked if there is a way to protect the City and allow the Developer to use an affiliate. The City Attorney indicated the payback provisions could be changed. The Assistant City Attorney indicated another way would be for the City to only pay back the cost of construction as certified by the construction lender, who cannot be an affiliate. There was consensus approval to choose this option.

5. Parking Reduction Order

Mayor Naugle pointed out this does not grant a reduction, but allow the Developer to go through the process. Commissioner Teel pointed out it notes this is not the time to consider a reduction. In response to the Assistant City Attorney, Mayor Naugle and Commissioner Teel indicated the agreement should be changed to provide that the Developer may seek a parking reduction order.

Vice Mayor Moore noted when narrowing of Sistrunk Boulevard was considered, one important factor was the lack of parking. This property could entice off-site parking without a reduction of parking. Parking on this site would enhance economic development for the entire corridor. The RFP was issued to jump start redevelopment of the corridor. This has not been met, nor have the desires of the community to all be commercial been met. The community's desires as to type and size of the grocery store

have not been met, as well as inclusion of a pharmacy. The underground wiring has not been met. He was concerned about hampering redevelopment of the roadway again. Commissioner Rodstrom pointed out much information will have to be submitted before a decision is met and it will still come in front of the Commission.

Commissioner Teel emphasized that things have changed in the past eighteen years. She felt the Developer has a right to request a parking reduction and allow the Commission the opportunity to determine if it makes sense.

6. Disapproval by HUD of the proposed amendment to the CDBG Annual Action Plan

Vice Mayor Moore understood the Developer would build what the community and the first RFP stated it wanted, if HUD determines that the housing is not appropriate. The City Attorney indicated that is what it provides. Mr. Jones commented if HUD does not approve the action plan amendment, the agreement they are proposing does not automatically become null and void. Rather they would have the opportunity to amend the concept site plan and after Commission approval, they would be able to move forward with a commercial use project.

Vice Mayor Moore asked if HUD required a public input process for the property use. The Assistant City Attorney indicated one condition of the agreement is that the City amend the CDBG Annual Action Plan, which is considered by the Commission at a public hearing. It is still subject to HUD review. Vice Mayor Moore concluded if HUD does not approve the housing, then the City is going to accept what the community wanted from the onset and deal only with a developer that has said for eighteen years they could not do it. The City Attorney responded that is correct. He pointed out that even though comments may be made at a public hearing, it does not mean that is what the Commission will do. A public hearing is required, however, before the plan is approved. The Commission will decide whether potential objections voiced at the public hearing have merit.

Vice Mayor Moore reiterated his suggestion to remove HUD by having the Developer simply acquire the land and develop it according to his choice. The City Attorney indicated that is an option for the Commission.

Action: Consensus approval was reached on all items in Exhibit 3 of Commission Agenda Report 08-0186, except: Item 3, construction phasing will be allowed, but conveyance shall take place at one time and Item 4, City would only pay back the cost of construction as certified by the construction lender, who cannot be an affiliate.

I-G – Proposed Code Amendment – Replacing Term “Owner” with “Owner – Guardian” – Chapter 6, Animals

Kitty Kessler, resident, thanked the Commission for considering this petition. It is a small change, but one that would bring large benefits. The term, owner, does not convey the loving bond between humans and animals. The term, guardian, is more reflective of that bond and encourages respect and responsibility. Animals should not be seen as property to be disposed of to shelters and the streets. The animals benefit because they receive a higher quality of care and responsibility shifts from taxpayers and animal control to the animals' guardians. Many cities, counties and the entire state of Rhode

Island, have adopted such an amendment to their ordinances and there have been no adverse results. Copies of various ordinances were provided to the Commission.

In response to Commissioner Hutchinson, the City Attorney said his memorandum indicates that there are two choices; one is to exchange the terms which he strongly recommended against doing, and the other choice is to add the term, guardian, which is possible.

Mayor Naugle was not in favor of it. He felt it could hurt economic development. It is comparing animals to humans which is not done in the laws. He felt it could add uncertainty.

In response to Commissioner Rodstrom, the City Attorney indicated a guardian would be less liable than an owner. Guardian is a defined term in Florida statutes and that is why he does not recommend exchanging the word, owner, for the word, guardian. It would be possible to add language, providing that guardian is part of the definition of owner.

Commissioner Rodstrom asked if there are other states with the same definition of guardian. The City Attorney replied that some do and some do not.

Commissioner Rodstrom did not object to adding the term.

Commissioner Teel asked if the definition of owner singularly without the term, guardian, gives the City more protection with respect to a dog harming a person. The City Attorney explained owner is primarily the key operative word. He was not certain what the term, guardian, means. One could be a guardian but not the owner or the keeper.

Commissioner Teel understood that people could deny ownership if a dog bites someone. The City Attorney indicated if the animal lives in one's house, that individual is the owner.

Commissioner Teel had a problem with the request. She did not feel it is necessary. It is nitpicking with words.

Vice Mayor Moore had no objection to the request.

Mayor Naugle explained the ordinance adoption process. He asked that the City Clerk inform Ms. Kessler when it is scheduled on the agenda.

Ms. Kessler felt adding this term will give government more flexibility in implementing mandatory neutering, for example.

Action: Consensus approval to add the term, guardian. Commissioner Teel and Mayor Naugle opposed.

I-H – Proposed Lien Settlements – Special Magistrate and Code Enforcement Board Cases

No discussion.

EXECUTIVE CLOSED DOOR SESSION WAS HELD AT 3:52 P.M.

The City Commission shall meet privately for discussions relative to collective bargaining under the authority of Florida Statute Section 447.605

MEETING RECONVENED AT 4:05 P.M.

IV – City Commission Reports

None given.

V – City Manager Report

None given.

There being no further business to come before the Commission, the meeting was adjourned at approximately 4:06 p.m.