

MINUTES OF REGULAR MEETING
DANIA BEACH CITY COMMISSION
TUESDAY, OCTOBER 12, 2004 – 7:00 P.M.

1. Call to Order

Mayor McElyea called the meeting to order at 7:00 p.m.

2. Invocation and Pledge of Allegiance

Gary Garofalo, Chaplain from the American Legion Post 304 in Dania Beach, gave the invocation and all remained standing for the Pledge of Allegiance to the American Flag. Father Roger Holoubek was unable to attend the meeting.

3. Roll Call

Present:

Mayor:	C.K. McElyea
Vice-Mayor:	Bob Mikes
Commissioners:	Bob Anton
	Robert Chunn
	Patricia Flury
City Manager:	Ivan Pato
City Attorney:	Thomas Ansbro
Deputy City Clerk:	Miriam Nasser

4. Presentations and Special Event Approvals

ADDENDUM

4.1 Request by Kurt Ely, Chairman, I.T. Parker Community Advisory Board, to waive the rental fee for the use of the I.T. Parker Center by the Dania Beach Lions Club to hold their Annual meeting on October 24, 2004, from 8:00 a.m. to 11:00 a.m.

Kurt Ely, Chairman of I.T. Parker Community Advisory Board, explained that the Dania Lions Club requested the use of the I.T. Parker Center to host their District 35A Lions Cabinet Meeting on Sunday, October 24th. He added this was the first time a Lions District Cabinet meeting would be held in Dania Beach and that Lions representing 55 clubs located in Broward, Dade, and Monroe Counties would attend.

Commissioner Flury motioned to approve the I.T. Parker Board's recommendation to waive the fees for the use of the I.T. Parker Center; seconded by Commissioner Chunn. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton – Yes
Commissioner Chunn – Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes - Yes
Mayor McElyea - Yes**

Kurt Ely reported that several Dania residents neglected to bring their garbage bins in from the curb and indicated that he had found no City ordinance that addressed the situation.

4.2 Request by Gold Coast Region of the Porsche Club of America to run an Autocross Event on October 31, 2004 from 8:00 a.m. – 2:00 p.m. at the Dania Jai-Alai NW parking lot.

Laurence Leeds, Director of Community Development, reported that this event was held last year and explained that Autocross was a hobby that tests a driver's ability to maneuver their vehicles. He stressed that it was not a race and there would be no music or entertainment. The Porsche Club requested to hold the event on October 31st, from 10:00 a.m. until 3:00 p.m. and hold another event at the parking lot simultaneously. Director Leeds stated that Staff had no problem with the request and recommended approval of the request allowing them to return for three days for each of the next three years.

Vice-Mayor Mikes motioned to approve the Autocross Event request for three years as recommended by staff; seconded by Commissioner Chunn. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton – Yes
Commissioner Chunn – Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes - Yes
Mayor McElyea - Yes**

Special Request

4.3 At this time, Mayor McElyea announced that the Fire Chief had requested to make a brief report on hurricane shelters and the recent hurricanes that hit South Florida.

Kenneth Land, Fire Chief, explained he attended the "Neighborhood United Civic Association" meeting recently and they talked about hurricane shelters and why Dania Beach did not have any. He reported that other cities, like Hollywood, used their state representatives to back them to secure a school for hurricane shelter use. Chief Land explained that it was Broward County Red Cross who made the final decision on which buildings would be used as shelters and explained the criteria that had to be met by a shelter location. He reported that people at the meeting had assumed that any large building could be used as a shelter, but they did not understand the expense involved in securing a building, nor the need for the Red Cross to staff such buildings with volunteers. He indicated that several letters had been prepared, with the assistance of the City Attorney, and had been sent to the various Emergency Directors, Red Cross, and School Board personnel requesting consideration of providing a shelter in Dania

Beach. He further mentioned there were 30,000 spaces to accommodate people within Broward County shelters. He suggested during a hurricane threat, people in need should call 954-831-4000, watch TV, or call the City Hall main number, 954-924-3600, for information. Chief Land also commented on the shuttle buses available to take residents from different areas in the City to the shelters. Chief Land will be submitting a detailed report to the City Manager that will be presented at civic association meetings. He added that in two to three years Hollywood was expected to get a new shelter in the Lincoln Park area, which was closer to Dania Beach.

Vice-Mayor Mikes commented that Hollywood was going in the right direction to get state representation. He thought Representative Tim Ryan and Senator Geller should be approached to assist in obtaining state funding for the City to get a shelter.

Chief Land agreed.

5. Proclamations

There were no proclamations for this meeting.

6. Citizen Comment

Scott Stewart, SW 54th Court, talked about the Hard Rock Café & Casino traffic issues that plagued his street. He reported that he lived on that street for 25 years and noted the drastic increase in traffic and speeding since the opening of the casino. He thanked City staff for listening to his concerns, but indicated that nothing had been done. He felt this very serious situation was complicated by the fact that they did not have sidewalks. He suggested closing one end of the street and making it a private community.

Commissioner Flury explained this subject had been brought up many times, discussed at length, and felt it was inappropriate to continue to discuss what the City could not do. She requested a report from Chief Cowart, BSO District 2.

Chief Cowart, Broward County Sheriff's Office, explained he and Public Services Director Fernando Vazquez had a meeting scheduled with Dave Zeller, Broward County Department of Traffic Engineering. He expressed that he expected full cooperation from them to avoid the City's exploration of other alternatives such as closing the street. He noted that neither the City nor County wanted to close the street unless there were no alternatives. He updated the Commission on activity regarding traffic enforcement during the last two weeks and reported the number of citations issued in the area.

Commissioner Flury questioned why closing the street was the last resort. She felt that if 75% of the neighbors agreed, it should be done.

Chief Cowart hoped the situation could be handled in a less intrusive way than closing the street. He felt Broward County would bring up good recommendations such as a four-way stop sign.

Vice-Mayor Mikes addressed Commissioner Flury's question and explained that when traffic was interrupted by a street closure, it usually transferred the problem to other communities. He also stated that he was willing to support street closures for the entire area, if necessary.

Mayor McElyea felt it was better to close the street than to install four-way stop signs.

Chief Cowart explained the City could take over the four-way stop issue by making an agreement with the County to take over traffic issues. But he stressed the City would be responsible for conducting analyses, putting up signs, liability issues, etc.

Commissioner Anton agreed with Vice-Mayor Mikes that closing one street would not solve the problem; they had to have them all closed like they did in the Triangle area. He indicated he would support street closures after all efforts had been exhausted and 75% of the neighborhood agreed to it.

Chief Cowart identified three streets (54th Court, 52nd Court, and 51st Street) that were accessible from both north and southbound traffic on State Road 7, and noted those streets needed to be addressed first.

Commissioner Chunn stated that in the Liberia area there were some good street-calming devices that looked nice and reduced the possibility of speeding.

Chief Cowart noted the lack of sidewalks in that area often put pedestrians in jeopardy. He agreed to keep Mr. Stewart informed as to the outcome of the situation.

City Manager Pato reminded all that an assessment and traffic study was scheduled for January 2005 as part of a CDBG grant.

Mr. Stewart thought that the traffic problems originated with the installation of the traffic light at the end of their street and stressed the speeding problem.

City Manager Pato asked Chief Cowart to get Mr. Stewart's information and Staff would meet with him on this issue. He thanked Mr. Stewart for his patience.

7. Consent Agenda

Vice-Mayor Mikes pulled items 7.1 and 7.8 from the Consent Agenda for a separate Roll Call vote.

7.2 Travel Expenditures:

Approval of travel request for Marioara Cera to attend the Florida Association of Occupational Licensing (FAOLO) Conference and Training Seminar in Orlando, Florida, from January 10, 2005 through January 14, 2005, for certification purposes. (Estimated cost \$818.71)

7.3 Bills: NONE

Resolutions

7.4 RESOLUTION #2004- 170

A RESOLUTION OF THE CITY OF DANIA BEACH, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE AN ENGAGEMENT LETTER WITH RUSS KLENET & ASSOCIATES FOR THE PROVISION OF CONSULTING SERVICES IN CONNECTION WITH THE CRA, AIRPORT EXPANSION, DREDGING AND OTHER RELATED ECONOMIC DEVELOPMENT MATTERS OF CONCERN TO THE CITY, WITHOUT COMPETITIVE BIDDING AND WITHOUT ADVERTISEMENT FOR BIDS; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

7.5 RESOLUTION #2004- 171

A RESOLUTION OF THE CITY OF DANIA BEACH, FLORIDA AUTHORIZING THE CITY MANAGER TO EXECUTE AN ENGAGEMENT LETTER WITH TIDEWATER CONSULTING INCORPORATED FOR THE PROVISION OF CONSULTING SERVICES IN CONNECTION WITH 2004-2005 FLORIDA LEGISLATIVE SESSIONS IN AN AMOUNT NOT TO EXCEED \$60,000.00, WITHOUT COMPETITIVE BIDDING AND WITHOUT ADVERTISEMENT FOR BIDS; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

7.6 RESOLUTION #2004-172

A RESOLUTION OF THE CITY OF DANIA BEACH, FLORIDA AUTHORIZING THE CITY MANAGER TO PURCHASE MATERIALS NEEDED TO COMPLETE A PROJECT KNOWN AS “FRDAP MELI PARK IMPROVEMENTS”, INCLUDING, BUT NOT LIMITED TO, PLAYGROUND EQUIPMENT, BASKETBALL COURT EQUIPMENT, FENCING, ADA SURFACING, 12x12 METAL ROOF PAVILIONS (INCLUDING ALL NECESSARY FRAMING AND CONCRETE FOOTINGS), PICNIC TABLES, TRASH CONTAINERS AND BENCHES, IN AN AMOUNT NOT TO EXCEED \$250,000.00 FROM CONTRACT CONNECTION INC., UNDER ST. JOHN’S COUNTY CONTRACT NO. 03-43; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

7.7 RESOLUTION #2004-174

A RESOLUTION OF THE CITY OF DANIA BEACH ADOPTING RECITALS; APPROVING THE TRIPARTY INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY, THE SCHOOL BOARD OF BROWARD COUNTY AND THE CITY TO ESTABLISH COUNTY, SCHOOL BOARD AND CITY RESPONSIBILITIES FOR THE IMPLEMENTATION OF EDUCATIONAL MITIGATION FEES; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

Ordinances – (Title to be read by City Attorney)

7.9 ORDINANCE #2004-034

AN ORDINANCE OF THE CITY OF DANIA BEACH, FLORIDA, APPROVING THE “AIRPORT COMMERCE CENTER” PLAT, SUCH PROPERTY BEING GENERALLY LOCATED AT THE NORTHEAST CORNER OF GRIFFIN ROAD AND RAVENSWOOD ROAD, IN THE CITY OF DANIA BEACH AND LEGALLY DESCRIBED IN EXHIBIT “A”, A COPY OF WHICH IS ATTACHED TO THIS ORDINANCE; ACCEPTING THE DEDICATION FOR PUBLIC USE OF ALL STREETS, HIGHWAYS AND ALLEYS AS SHOWN ON SUCH PLAT OF THE “AIRPORT COMMERCE CENTER” PLAT; PROVIDING FOR SEVERABILITY; FURTHER, PROVIDING FOR AN EFFECTIVE DATE. **(FIRST READING)**

ADDENDUM

- 7.10 A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, DIRECTING THE CITY FINANCE DIRECTOR TO IDENTIFY AVAILABLE FUNDS TO REPLENISH THE CITY FUND IN THE AMOUNT OF FIVE HUNDRED THOUSAND (\$500,000.00) DOLLARS ESTABLISHED BY THE CITY COMMISSION IN CONNECTION WITH LEGAL, CONSULTING AND OTHER FEES REQUIRED TO PROTECT CITY RESIDENTS, HOMES AND BUSINESSES THREATENED BY THE PROPOSED AIRPORT EXPANSION; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Ansbro read the title of Ordinance #2004-034.

Commissioner Anton motioned to approve the Consent Agenda, with the exception of Items 7.1 and 7.8; seconded by Commissioner Chunn. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton – Yes
Commissioner Chunn – Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes - Yes
Mayor McElyea - Yes**

Items pulled from the Consent Agenda:

- 7.1 Minutes:
Approve minutes for Health Insurance Workshop of September 14, 2004
Approve minutes for FY 2004/2005 Final Budget Hearing of September 22, 2004
Approve minutes for Regular Meeting of September 28, 2004

Vice-Mayor Mikes discussed the Minutes of the Health Insurance Workshop held on September 14, 2004. He talked about retirees and the generous plan the City had offered to the Drop Plan and early retirement personnel. He mentioned Will Dubisky's (President of the General Employees Union) comments and said he understood his point on how costs could not be distributed evenly between employees who made a lot of money and those who did not. He felt that the benefits should be leveled out by the health benefits, particularly good family medical coverage.

Vice-Mayor Mikes motioned to approve 7.1; seconded by Commissioner Anton. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton – Yes
Commissioner Chunn – Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes - Yes
Mayor McElyea - Yes**

- 7.8 RESOLUTION #2004-175

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA AUTHORIZING A TRANSFER OF FUNDS FROM THE CITY SEWER RESERVE ACCOUNT FOR THE PURCHASE OF TWO GENERATORS IN AN AMOUNT NOT TO EXCEED \$36,552; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Ansbro read the title of the Resolution.

Vice-Mayor Mikes asked Fernando Vazquez to give more information on the purchase of the generators.

Fernando Vazquez, Director of Public Services, explained that during the recent hurricanes there was a major power outage in the City and 90% of the Lift Stations were out of power. He noted that the City had one generator and was able to borrow one from Hollywood to avoid a system back up. He stressed the necessity to get new generators to prepare for future events.

In response to Vice-Mayor Mikes' question, Director Vazquez indicated that they had selected a generator quote from Tradewinds, Inc., for units with Perkins diesel engines.

Mayor McElyea felt that more details concerning an extended warranty needed to be presented.

City Manager Pato felt the matter should be dealt with quickly because of the current demand for generators. He was concerned the opportunity might soon be lost if the decision was delayed.

Mayor McElyea confirmed a State Bid was not available.

City Manager Pato reiterated the need to move quickly.

Vice-Mayor Mikes made a motion to continue this item to the next regular meeting in two weeks; seconded by Commissioner Chunn.

Commissioner Anton felt the item should be addressed before the next meeting.

Vice-Mayor Mikes, with the consensus of the Commission, motioned to continue the item to Thursday, October 14th, at a Special Meeting of the Commission at 4:30 p.m. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton - Yes
Commissioner Chunn - Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes - Yes
Mayor McElyea - Yes**

8. Bids and Requests for Proposals

8.1 RESOLUTION #2004-152

A RESOLUTION OF THE CITY OF DANIA BEACH, FLORIDA, AWARDING A CONTRACT FOR ELECTRICAL SERVICES TO FLORIDA ELECTRIC CONTRACTING SERVICE, INC.; AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE THE CONTRACT WITH FLORIDA ELECTRIC CONTRACTING SERVICE, INC.; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

Fernando Vazquez, Director of Public Services, confirmed for Commissioner Flury that the Request for Proposals (RFP) process had been followed.

Commissioner Flury reiterated her desire to see a bid tabulation sheet every time there was a bid award, including the names of City officials on the Evaluation Committee.

City Manager Pato stated he would take care of that oversight.

Commissioner Chunn motioned to approve Resolution #2004-152; seconded by Commissioner Anton. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton - Yes
Commissioner Chunn - Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes – Yes
Mayor McElyea – Yes**

8.2 RESOLUTION #2004-173

A RESOLUTION OF THE CITY OF DANIA BEACH, FLORIDA, AUTHORIZING THE ENGAGEMENT OF RACHLIN, COHEN & HOLTZ TO SERVE AS THE EXTERNAL AUDITOR OF THE CITY, FOR PERFORMANCE OF AUDIT SERVICES FOR THE FISCAL YEARS ENDING SEPTEMBER 30, 2004 THROUGH SEPTEMBER 30, 2006; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Ansbro read the title of the Resolution.

Patricia Varney, Finance Director, explained that due to drastic changes within the City's current auditors, Grau & Co., the City had advertised for bids to acquire a new auditing firm. She noted four proposals had been received and the Audit Committee, consisting of the City Manager, Assistant Finance Director, and herself, reviewed the proposals and ranked them individually. She explained the firms were rated based on their experience. She indicated the top two firms, Rachlin, Cohen, & Holtz and Caballero & Castellanos, were interviewed on September 28, 2004. She reported that Rachlin, Cohen, and Holtz were rated higher for the following reasons: a) They had performed more municipal audits than the other firms; b) They had implemented GASB 34 for twenty municipalities; c) They indicated the highest number of hours planned for the engagement; d) Their engagement partner and concurring review partner had a combined governmental experience of over 45 years; and e) They had implemented a computer forensic process into the audit procedure. Director Varney stated the committee recommended Rachlin, Cohen & Holtz be engaged as the audit firm for a three-year period beginning fiscal year 2004.

In response to Commissioner Flury's question, Director Varney noted this was the 2nd year the City used GASB 34 and felt that long-term comparisons should be available.

Commissioner Flury motioned to adopt Resolution #2004-173; seconded by Vice-Mayor Mikes. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton - Yes
Commissioner Chunn - Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes - Yes
Mayor McElyea - Yes**

9. Public Hearings and Site Plans

Item 9.6 was heard before Item 9.1.

9.1 ORDINANCE #2004-031

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, APPROVING EXECUTION OF A LEASE AGREEMENT AND RELATED DOCUMENTS BETWEEN THE CITY AND HARBOUR TOWNE ASSOCIATES, A CALIFORNIA GENERAL PARTNERSHIP PERTAINING TO PROPERTY OWNED BY THE CITY AND COMMONLY KNOWN AS THE HARBOUR TOWNE MARINA PROPERTY; AUTHORIZING AND DIRECTING THE EXECUTION OF THE LEASE BY THE APPROPRIATE CITY OFFICIALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; FURTHER, PROVIDING FOR AN EFFECTIVE DATE. **(SECOND READING)** *(Tabled September 28, 2004)*

City Attorney Ansbro read the title of the Ordinance.

Jon Chassen, Attorney representing Harbour Towne, explained he had worked closely with City Attorney Ansbro, and outside counsel, to make adequate changes to the lease document and solicited questions from the Commissioners.

Vice-Mayor Mikes requested clarification of some sections of the lease for the public's benefit.

City Attorney Ansbro explained the current lease expired in 2010 and the proposal extended the lease for an additional 30 years. He stated the current lease amount of \$142,000 per year was continued with CPI adjustments every five years for additional rental payments. He noted the lease also included a percentage-rate increase beginning at five and one-half percent and gradually increased to eight percent by 2010. He further explained that in addition to a conceptual approval as a landlord, the Commission reserved the right to deny any new improvements; but stressed that it did not affect repairs or replacement of existing improvements. He noted the agreement gave the City priority use of the boat slips and noted that repair of four boat ramps would be immediately conducted and maintained by Harbour Towne to the satisfaction of the Florida Boating Improvement Program and the Broward County Boating Improvement Program. He was particularly pleased with the critical component in the lease that designated ownership of all property improvements to the City of Dania Beach. He noted the Commission's concern regarding the use of boat/trailer parking had been resolved and noted that any failure to accurately disclose gross revenues resulted in the immediate termination of the lease.

Attorney Chassen stated funds were available in a trust account to cover the \$125,000 initial payment and all original documents had been signed by his client and the lender.

Mayor McElyea opened the Public Hearing. Hearing no one speak in favor or opposition, Mayor McElyea closed the Public Hearing.

Vice-Mayor Mikes felt that since this was one of the most valuable pieces of property owned by the City, some of the language in the document needed to be reviewed. He asked the City

Attorney to confirm that the document assured the City had total control. He wondered whether or not the language on page one of the lease, section six (a) under Construction By Tenant and wondered if the statement, "Disapproval may be based on the Tenant's failure to provide sufficient information on the Conceptual Plans", was clear enough to avoid misinterpretation.

City Attorney Ansbro assured Vice-Mayor Mikes that it could not be misinterpreted since the previous statement in the paragraph, "Conceptual Approval may be granted or withheld by Landlord in its sole and absolute discretion," was the controlling language.

Attorney Chassen confirmed for Vice-Mayor Mikes that it was very clear.

Vice-Mayor Mikes then questioned the portion on page two (section six (a), paragraph three) which read "No *material changes* (other than Permitted Changes) to the Approved Conceptual Plans shall be made to any Approved Conceptual Plans, without the prior written approval of the Landlord, which approval shall not be unreasonably withheld or delayed. (Italics added)

Attorney Chassen explained this statement allowed the tenant to address only minor changes to a plan that had been approved.

Vice-Mayor Mikes pointed out it did not say "minor" changes; it addressed "material" changes and he was concerned that it could be misinterpreted.

City Attorney Ansbro and Attorney Chassen agreed the wording would be changed. (Secretary's note: specific wording was listed later in discussion of page 15 and is marked with a double asterisk.)

Vice-Mayor Mikes questioned if all of the attorneys were comfortable with the language in the document concerning sub-leases and borrowing on the leasehold of City property.

City Attorney Ansbro agreed that this was a unique situation because no more capital improvements were planned from the City's perspective. He also commented that as far as the mortgage of their adjacent property was concerned, it would spread to the City's property, as was stated in the previous agreement. He explained if the tenant defaulted on the mortgage, the Lender was required to pay the rent, operate the premises, and obtain a replacement for the tenant.

Attorney Chassen clarified for Vice-Mayor Mikes that according to the lease agreement, they were required to advise the City of the terms of the mortgage and stated it was also a matter of public record.

Vice-Mayor Mikes then had question about page six of the restated lease agreement, RECITALS, section one, DEFINITIONS, (y) "New Additional Improvements" shall mean any new additional Improvements to the premises constructed by Tenant after the Effective Date which are of a different character and type than the Existing Improvements, other than (i) any repairs, replacements, renewals, alterations or *additions* . . . (italics added). He felt the word additions should not have been included in this paragraph.

Attorney Chassen agreed to delete the words “or additions” from that paragraph (section one (y), page 6, second paragraph).

Vice-Mayor Mikes referred next to page 14, SECTION 6 (a), Construction by Tenant, and wondered whether or not Conceptual Approval could be handled within the 30 days allowed in the document.

City Attorney Ansbro explained that “conceptual approval” had nothing to do with set-backs, height, or any dimensional-type issues. He stated it only had to do with the Landlord’s approval of the idea and was totally separate from City approvals. He stressed the process for site plans, variances, special exceptions, etc., would be the same as for anyone else.

Vice-Mayor Mikes wanted a public hearing requirement added to the last paragraph of that same section (page 15, last sentence, paragraph one) and suggested it be worded as follows: ‘Once any Conceptual Plans receive Conceptual Approval *by City Commission after Public Hearing*, such Conceptual Plans shall be deemed “Approved Conceptual Plans”.’ (Suggestion to original in italics)

Vice-Mayor Mikes suggested changes to the third paragraph on page 15.

Attorney Chassen suggested it be worded as follows. No material changes (other than Permitted Changes) to the Approved Conceptual Plans shall be made to any Approved Conceptual Plans, without the prior written approval of the Landlord, which approval *may be withheld by the City in its sole discretion in connection with new additional improvements, but otherwise will not be unreasonably delayed.* (Italics added)

Vice-Mayor Mikes, with City Attorney Ansbro’s approval, suggested one additional change (as previously discussed) to replace “No material changes” with “Only minor changes”.

Attorney Chassen and City Attorney Ansbro agreed to reword it as follows: “*Only minor changes (as interpreted by the City)* (other than Permitted Changes) to the Approved Conceptual Plans may be made to any Approved Conceptual Plans, without the prior written approval of the Landlord, which approval *may be withheld by the City in its sole discretion in connection with new additional improvements, but otherwise will not be unreasonably delayed.* (Changes in italics, p. 15, paragraph 3)

City Attorney Ansbro clarified for Community Development Director Laurence Leeds and Vice-Mayor Mikes that this provision was for ANY improvement.

City Attorney Ansbro reiterated for Vice-Mayor Mikes that this was the exact same provision he pointed out on page two.

In response to Vice-Mayor Mikes’ query, Director Leeds stated he would like to see 50 to 100 parking spaces provided for the 180-seat I.T. Parker facility.

Kristen Jones, Director of Parks and Recreation, felt 75 parking spaces would be sufficient.

Attorney Chassen stated they had a Development of Regional Impact (DRI) that specifically stated 50 spaces.

City Attorney Ansbro stressed that in the past 25 years there had never been a problem with the 50-space allocation because the Marina and I.T. Parker had different hours for parking lot use.

Vice-Mayor Mikes suggested inserting a statement that the Landlord's position of the lease was to maintain the use of the facility as it had been concerning parking, use, etc.

Attorney Chassen felt it had been provided for in section five where it listed the permitted uses.

The attorneys agreed to add a provision that Tenant would agree to accommodate the City in its request for parking, if and whenever needed, as had been the history of the use of the property. City Attorney Ansbro specified the spaces should be as close to the Civic Center as they could reasonably make them available.

Commissioner Anton assured the public there were no liens on any City property and this agreement simply guaranteed the City's revenue source in the event something happened with the leaseholder.

City Attorney Ansbro reiterated there was no chance the City would lose property through foreclosure.

Attorney Elaine M. Cohen, Weiss, Serota, Helfman, Pastoriza, Guedes, Cole & Boniske P.A., stated the lien holder had the right to come in and continue the operations after foreclosure, but it was not a guarantee. She noted if he did not, the City would take back the property.

Commissioner Anton clarified that if the lien-holder did take over operations, then they had to abide by the terms of this agreement.

Commissioner Flury stated she was comfortable with the lease as long as the City had absolute right to oppose additions. She was particularly concerned about construction along the canal area.

Vice-Mayor Mikes requested the City Attorney look at page 47, (g) Negotiated Lease. to see if language concerning the intent of the Landlord to maintain the historic usage characteristics of this property should be added.

City Attorney Ansbro assured Vice-Mayor Mikes they would find a place to put it that made the most sense.

City Attorney Ansbro indicated a 4/5 vote was required under City Charter.

Attorney Cohen explained that approval needed to be made by October 22, 2004.

City Attorney Ansbro stated a motion to approve the Ordinance, as outlined, would be sufficient and listing the changes in the motion was not necessary.

Attorney Chassen thanked the City and looked forward to a long and happy relationship.

Commissioner Chunn motioned to adopt Ordinance #2004-031 on second reading, with the changes that were outlined; seconded by Commissioner Anton. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton - Yes
Commissioner Chunn - Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes - Yes
Mayor McElyea – Yes**

City Attorney Ansbro thanked Attorney Cohen and noted that the tenant had covered her fees.

Gary Brummel, Harbour Towne Marina, thanked the Commission, City Manager, City Attorney, and others involved in this process.

Commissioner Chunn recognized Mr. Brummel for all his contributions to children and City residents.

- 9.2 PL-41-04 – Preliminary Plat approval request by D.C.E.S. on behalf of Stirling, LLC., for property located at the northwest corner of Stirling Road and SW 35 Avenue.

ORDINANCE #2004-028

AN ORDINANCE OF THE CITY OF DANIA, FLORIDA, APPROVING “THE FOREST VIEW ESTATES PLAT”, SUCH PROPERTY BEING GENERALLY LOCATED AT THE NORTHWEST CORNER OF STIRLING ROAD AND SW 35TH AVENUE, IN THE CITY OF DANIA BEACH AND LEGALLY DESCRIBED IN EXHIBIT “A”, A COPY OF WHICH IS ATTACHED TO THIS ORDINANCE; ACCEPTING THE DEDICATION FOR PUBLIC USE OF ALL STREETS, HIGHWAYS AND ALLEYS AS SHOWN ON SUCH PLAT OF “THE FOREST VIEW ESTATES PLAT”; PROVIDING FOR SEVERABILITY; FURTHER, PROVIDING FOR AN EFFECTIVE DATE. **(SECOND READING)** *(Continued from September 28, 2004)*

City Attorney Ansbro read the title of the Ordinance.

At this time, City Attorney Ansbro advised this application was a Quasi-judicial matter and all witnesses wishing to speak must be sworn-in, and the City Commission, in accordance with the Jennings Ruling, must report all communications. City Attorney Ansbro presented an Oath to everyone who expected to speak on the request.

Vice-Mayor Mikes and Commissioner Anton stated they had spoken to the gentleman in the past.

Laurence Leeds, Director of Community Development, explained his staff report asked for the item to be continued, but the application had been corrected and was ready to proceed. Director Leeds stated this site was approximately 6.8 acres and was located on the north side of Stirling Road, west of SW 35th Avenue and east of a Temple. He noted that while this entire property was located within Dania Beach, the abutting properties were all located in the City of Hollywood. He reminded all that the Commission had previously endorsed County purchase of this property for a park and, according to the owner, had been unsuccessful in acquiring the site. He indicated the applicant wished to construct 31 single-family homes, which would be about four and one-half units per acre. He stated the Comprehensive Plan allowed up to five units per acre, subject to City approvals, which would take four to six months. He showed that the site met the open space area dedication. Director Leeds stated Staff recommended approval on second reading and reported the plat still needs to come back to the Commission for site plan approval. He understood they desired to have a County Park at that location, but reiterated since the County and owner could not come to terms, it would not happen.

Mayor McElyea opened the Public Hearing.

Mr. Solovsky, architect representing the owners, concurred with the recommended approval and offered to answer any questions.

Hearing no one else speak in favor or opposition, Mayor McElyea closed the Public Hearing.

Commissioner Flury confirmed that there were no conditions attached to this item.

Mayor McElyea confirmed with Mr. Leeds there would be a park in the corner.

Commissioner Flury motioned to approve Ordinance #2004-028, on second reading; seconded by Commissioner Anton. The motion carried on the following 4-0 Roll Call vote:

Commissioner Anton - Yes
Commissioner Chunn - Yes
Commissioner Flury - Yes

Vice-Mayor Mikes- Out of room
Mayor McElyea – Yes

9.3 ORDINANCE #2004-032

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, AMENDING SECTION 22-1 OF THE CITY CODE OF ORDINANCES TO REQUIRE OWNERS OF BUILDINGS LOCATED WITHIN THE CITY, WHICH BUILDINGS ABUT ALLEYS, TO PLACE STREET NUMBERS VISIBLE FROM THE ALLEY TO ALLOW FOR THE IDENTIFICATION OF THE PROPERTY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; FURTHER, PROVIDING FOR AN EFFECTIVE DATE. (SECOND READING)

City Attorney Ansbro read the title of the Ordinance.

Commissioner Flury mentioned this ordinance reminded her of another ordinance that required house numbers on the front of houses. She felt it was necessary to have both ordinances, but was concerned about enforcement. She suggested a notification on the water bill.

Mayor McElyea stated this ordinance came about on his request and he felt it should be passed.

Director Leeds clarified the notification of residents concerning house numbers was the responsibility of the Fire Marshal.

Mayor McElyea felt an ordinance should be prepared concerning the removal of hurricane shutters.

Mayor McElyea opened the Public Hearing. Hearing no one speak in favor or opposition, he closed the Public Hearing.

Commissioner Flury motioned to approve Ordinance #2004-032, on second reading; seconded by Commissioner Chunn. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton - Yes
Commissioner Chunn - Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes – Yes
Mayor McElyea – Yes**

9.4 ORDINANCE #2004-033

AN ORDINANCE OF THE CITY OF DANIA BEACH, FLORIDA, AMENDING SECTION 12-52 “SPECIFIC STANDARDS” OF ARTICLE III “HAZARD REDUCTION” OF CHAPTER 12 “FLOOD DAMAGE PREVENTION” OF THE CODE OF ORDINANCES OF THE CITY OF DANIA BEACH; DELETING REFERENCES TO THE EIGHT FOOT NGVD (NATIONAL GEODETIC VERTICAL DATUM) FLOOD ELEVATION REQUIREMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; FURTHER, PROVIDING FOR AN EFFECTIVE DATE. **(SECOND READING)**

City Attorney Ansbro read the title of the Ordinance.

Laurence Leeds, Director of Community Development, recommended the item be continued to the regular meeting on October 26, since there were issues that still needed to be addressed. He stated he needed to confer with the Public Utilities Director and review the language to be sure the flood elevation of new developments was compatible to surrounding homes.

Mayor McElyea opened the Public Hearing. Hearing no one speak in favor or opposition, Mayor McElyea closed the Public Hearing.

Commissioner Anton motioned to continue Ordinance #2004-033 to the Regular City Commission Meeting on October 26, 2004 at 7:00 p.m.; seconded by Commissioner Chunn. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton - Yes
Commissioner Chunn - Yes
Commissioner Flury – Yes**

**Vice-Mayor Mikes – Yes
Mayor McElyea – Yes**

9.5 ORDINANCE #2004-035

AN ORDINANCE OF THE CITY OF DANIA BEACH, FLORIDA, ADOPTING THE CITY OF DANIA BEACH COMPREHENSIVE PLAN EVALUATION AND APPRAISAL REPORT (EAR) PURSUANT TO SECTION 163.3191, FLORIDA STATUTES; PROVIDING FOR TRANSMITTAL TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS FOR ITS SUFFICIENCY DETERMINATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; FURTHER, PROVIDING FOR AN EFFECTIVE DATE. **(FIRST READING)**

City Attorney Ansbro read the title of the Ordinance.

Laurence Leeds, Director of Community Development, defined the Evaluation and Appraisal Report as a State requirement to evaluate the community's Comprehensive Plan every five years and submit a summary of the successes/shortcomings of that Plan to the State. He noted the City of Dania Beach's evaluation was done in 1999 and was now due again. He noted the report also identified major city-wide planning issues, which would be addressed in the next five years. He stated with that information, the State determined whether or not the City was in compliance with State mandates. He cautioned if the State made a finding of non-compliance, they could prohibit a city from amending its Future Land Use Plan or lose State funds. Director Leeds felt the concept of the Comprehensive Plan could better be described as a strategic policy plan with goals, objectives, and policies that articulated the City Commission's visions. He noted in some cases the EAR recommendations required funding; however, adhering to the process did not guarantee a funding source. He stressed it was the first step in identifying needed public improvements and was often a prerequisite to requesting State and Federal Grants. Director Leeds explained the City could add policies calling for things, such as a library or park, but these policies became unfunded unless the City identified funding sources or acknowledged that construction was subject to availability of funds. Director Leeds noted the following major EAR report issues: neighborhood protection from airport expansion, neighborhood improvement and redevelopment, Downtown/CRA redevelopment, bike paths/lanes, Dania Beach Boulevard/US 1, beach re-nourishment, support of marine related uses, and establishment of additional community facilities.

Vice-Mayor Mikes asked about 5th Avenue Linear Park.

Director Leeds felt it was important to have a library and post office in the western area of the City. He explained if the Commission approved the EAR tonight, Staff would submit it to the State and regional planning agencies for review and negotiations before being finally approved by the Commission. He stressed it needed to be finalized by March 2005 in order to avoid sanctions. He explained that once approved, changes could be made to the Comprehensive Plan.

Director Leeds commended Corinne Church, Principal Planner, for preparing the report and clarified that although the City was using a Consultant, most of the work was being done in-house saving the City \$30,000-\$50,000.

Mayor McElyea opened the Public Hearing. Hearing no one to speak in favor or opposition, Mayor McElyea closed the Public Hearing.

Commissioner Chunn motioned to adopt Ordinance #2004-035; seconded by Commissioner Flury. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton - Yes
Commissioner Chunn - Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes – Yes
Mayor McElyea – Yes**

Item 9.6 was heard before 9.1

9.6 RESOLUTION #2004-176

A RESOLUTION OF THE CITY OF DANIA BEACH, FLORIDA, APPROVING THE REQUEST SUBMITTED BY PASTOR TORREY PHILLIPS, REPRESENTING GOSPEL OF CHRIST CHURCH TO EXTEND THE EXPIRATION DATE FOR VARIANCE VA-88-03, (RESOLUTION 2004-133), WHICH EXPIRES ON OCTOBER 31, 2004; PROPERTY LOCATED 35 SW 1 AVENUE, DANIA BEACH, FLORIDA; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

City Attorney Ansbro read the title of the Resolution.

At this time, City Attorney Ansbro advised this application was a Quasi-judicial matter and all witnesses wishing to speak must be sworn-in, and the City Commission, in accordance with the Jennings Ruling, must report all communications. City Attorney Ansbro presented an Oath to everyone who expected to speak on the request.

Pastor Torrey Phillips, 35 SW 1st Avenue, explained their new facility was not ready due to the storms, and requested an extension of the previous approval. He indicated for Mayor McElyea that they were relocating to Fort Lauderdale.

Commissioner Flury felt the current location was not a good place for a church; however, she understood the delays they now faced.

Mayor McElyea opened the Public Hearing. Hearing no one speak in favor or opposition, Mayor McElyea closed the Public Hearing.

Commissioner Flury motioned to approve Resolution #2004-176, granting an extension until January 15th, 2005, with the condition that they do not come back to ask for another extension; seconded by Commissioner Chunn. The motion carried on the following 4-1 Roll Call vote:

Commissioner Anton clarified he was compelled to vote “no”, because other similar requests had been denied.

**Commissioner Anton - No
Commissioner Chunn - Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes – Yes
Mayor McElyea – Yes**

9.7 Public Hearing regarding the distribution of funding through the Local Law

Enforcement Block Grant (LLEBG)

Bonnie Temchuk, Assistant to the City Manager, explained that on August 24, 2004 the Commission had approved an application for the Local Law Enforcement Block Grant (LLEBG) and noted that on October 8, 2004, Staff attended the Broward County Sheriff's Advisory Board. She reported Staff's recommendation for the grant budget was approved unanimously and noted the requirement to hold a public meeting to discuss the grant budget. She stated proper notification of the meeting had been posted since September 28, 2004 at all City facilities. She indicated Staff's recommendation was that the total LLEBG funding of \$20,673.00 be used to continue the successful P.O.W.E.R. After School and Summer Camp Program and briefly outlined the program.

Mayor McElyea opened the Public Hearing. Hearing no one speak in favor or opposition, Mayor McElyea closed the Public Hearing.

Commissioner Anton asked if this conflicted with the Turn Around Program and the State grant they had received.

Assistant Temchuk indicated in the negative.

Commissioner Chunn motioned to approve Item #9.7; seconded by Commissioner Anton. The motion carried on the following 5-0 Roll Call vote:

Commissioner Anton - Yes
Commissioner Chunn - Yes
Commissioner Flury - Yes

Vice-Mayor Mikes - Yes
Mayor McElyea - Yes

10. Commission Comments

- 10.1 Commissioner Anton commented on last Saturday's newspaper article concerning the airport jet center expansion from 44 acres to 60 acres. He felt it would increase air traffic, although they claimed it would not. He stated he had sent a copy of the article to Special Attorneys White & Case in case the City needed to take any action.

He also advised he had met with Lynn Shatas from Florida Power & Light regarding storm-related problems and noted fuses had caused some of the outages. He reported he asked her to critique the situation and perhaps recommend a better way to handle these situations in the future. He noted she was very cooperative. He further commented on hanging trees and noted they would have Fernando Vazquez, Director of Public Services, notified as to when they would work in the area. He felt the City needed to identify situations that required FPL's assistance. He addressed the issue of buried power lines, but noted with flooding, tree roots, etc., it might create a worse problem.

- 10.2 Commissioner Chunn thanked God for being so good to him. He was concerned about tree trimming issues, especially on private property. He noted he received complaints about mosquitoes.

Mayor McElyea advised Broward County was spraying for mosquitoes.

10.3 Commissioner Flury – no comments

10.4 Vice-Mayor Mikes spoke about power pole issues in Melaleuca Gardens. He felt Florida Power & Light did not have personnel to do the work themselves and noted it would take time.

He mentioned the discussions on the Jet Port during the County Commission meeting today and explained that was why he requested restoration of Airport funds on the Consent Agenda.

He reported he was asked to speak to a group of primarily Haitian Mayors at a Caribbean Conference concerning public corruption. He noted the statistic that over 2,000 people had been killed as a result of the storm.

He encouraged people to watch the presidential debate on domestic issues to consider who was the best candidate, and to get out and vote.

10.5 Mayor McElyea announced that Pioneer Days was coming this weekend, Saturday and Sunday, October 16th and 17th, at 10:00 a.m. at City Hall. He spoke about a number of streetlights being out and advised that services were done more quickly if people give the pole number to FPL when they call.

11. Discussion and Possible Action

11.1 Recommendation for Integrated Waterworks Capital Improvement Program Continuing Engineering Services (Fernando Vazquez)

Fernando Vazquez, Director of Public Services, explained this was the second component for the Integrated Waterworks Capital Improvement Program (CIP). He advised that in order to have a successful completion of the program within five years, they needed to conduct a consultant selection to engage the services of a program manager. He indicated they had selected three companies after an extensive, technical review and noted the Technical Committee was comprised of city staff and outside consultants. He reported the companies were rated and, at this time, he was requesting permission from the Commission to negotiate with Camp Dresser and McKee.

Mayor McElyea mentioned that Calvin Giordano and Associates knew the City issues better than anybody else.

Director Vazquez advised that he would sit with consultants and have the two projects reviewed and come back at the October 26th meeting with the results and recommendations from Staff.

Commissioner Flury confirmed with Director Vazquez that this engineer was being secured for the entire project.

Director Vazquez reported for Vice-Mayor Mikes that the engineering fees were approximately 12 to 12 ½ percent of the overall construction fees.

Commissioner Flury confirmed that if the negotiations were unsuccessful, then the item would return to the Commission.

Commissioner Flury motioned to proceed with negotiations with Camp Dresser and McKee; seconded by Commissioner Anton. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton - Yes
Commissioner Chunn - Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes – Yes
Mayor McElyea – Yes**

12. Appointments

12.1 Appointment of 2 members to the Airport Advisory Board.

“A RESOLUTION OF THE CITY OF DANIA BEACH, FLORIDA, RATIFYING AND AFFIRMING THE APPOINTMENT OF TWO MEMBERS TO THE “AIRPORT ADVISORY BOARD”; PROVIDING THAT SAID MEMBERS SHALL SERVE A TWO (2) YEAR TERM EXPIRING 12:00 NOON, MARCH 15, 2005; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE”.

12.2 Appointment of 3 members to the Marine Advisory Board.

“A RESOLUTION OF THE CITY OF DANIA BEACH, FLORIDA, RATIFYING AND AFFIRMING THE APPOINTMENT OF THREE MEMBERS TO THE “MARINE ADVISORY BOARD”; PROVIDING THAT SAID MEMBERS SHALL SERVE A TWO (2) YEAR TERM EXPIRING 12:00 NOON, MARCH 15, 2005; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE”.

Commissioner Anton submitted Lester McKinney as a candidate to replace Steven Kronenberg who had resigned in June 2004.

12.3 Appointment of 1 member to the Parks, Recreation & Community Advisory Board.

“A RESOLUTION OF THE CITY OF DANIA BEACH, FLORIDA, RATIFYING AND AFFIRMING THE APPOINTMENT OF A MEMBER TO THE “PARKS, RECREATION & COMMUNITY ADVISORY BOARD”; PROVIDING THAT SAID MEMBER SHALL SERVE A TWO (2) YEAR TERM EXPIRING 12:00 NOON, MARCH 15, 2005; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE”.

Mayor McElyea submitted JoAnn Brave as a candidate.

Commissioner Chunn motioned to approve the appointments of Lester McKinney and JoAnn Brave; seconded by Commissioner Anton. The motion carried on the following 5-0 Roll Call vote:

**Commissioner Anton - Yes
Commissioner Chunn -Yes
Commissioner Flury - Yes**

**Vice-Mayor Mikes - Yes
Mayor McElyea - Yes**

13. Administrative Reports

13.1 City Manager Pato advised he will be out of town all of next week. Larry Leeds would serve as Acting City Manager.

13.2 City Attorney Ansbro stated he had sent a letter to Senator Nelson's office thanking them for correcting the name of the City post office to reflect the current name of the City of Dania Beach. He noted that Willowstine Lawson was a very helpful member of the Senator's staff and was pleasant to work with.

13.3 City Clerk – Meeting Reminders

Thursday, October 14, 2004 – 4:00 p.m. Special CRA Board Meeting
Thursday, October 14, 2004 – 4:40 p.m. Special Commission Meeting
Tuesday, October 26, 2004 - 7:00 p.m. – Regular Commission Meeting
Tuesday, November 9, 2004 – 7:00 p.m. – Regular Commission Meeting

14. Adjournment

Mayor McElyea adjourned the meeting at 9:58 p.m.

CITY OF DANIA BEACH

ATTEST:

C.K. MCELYEA
MAYOR-COMMISSIONER

LOUISE STILSON
CITY CLERK

Respectfully submitted by Jill Fiorentino

APPROVED: November 9, 2004