

**MINUTES OF THE CITY COMMISSION MEETING
HELD ON TUESDAY, JULY 5, 2016 AT 5:15 p.m.
IN CITY COMMISSION CHAMBERS, CITY HALL, BOYNTON BEACH, FLORIDA**

PRESENT:

Stephen Grant, Mayor
Mack McCray, Vice Mayor
Christina Romelus, Commissioner
Justin Katz, Commissioner
Joe Casello, Commissioner

James Cherof, City Attorney
Lori LaVerriere, City Manager
Judith A. Pyle, Interim City Clerk

1. OPENINGS

A. Call to Order - Mayor Steven B. Grant

Mayor Grant called the Special Meeting for Closed-Door Sessions to order at 5:20 p.m.

Interim City Clerk Pyle called the roll. A quorum was present.

CLOSED-DOOR SESSIONS to be held on July 5, 2016 at 5:15 p.m. for private attorney-client sessions to discuss pending litigation in the cases of Fernando Bass, Plaintiff vs. Jeffrey Katz, as Chief of Police of the Boynton Beach Police Department in his official capacity, Detective Christopher Crawford and Officer Alex Moreno, Defendants, in the United States District Court for the South District of Florida, Case No. 9-15-CV-81734-Middlebrooks/Brannon; and City of Boynton Beach, Petitioner vs. Frank Janots, Theodore Ryan, Gerhard Degen, et al, Respondents, in the Circuit Court of the 15th Judicial Circuit in and for Palm Beach County, Florida Case No. 50 2003 CA 010606 XX ED(AJ)

Attorney Cherof announced the closed-door sessions for two cases, as noted above. Present for the Fernando Bass vs. the City of Boynton Beach would be City Commissioners, City Manager, Tracy DeCarlo, Assistant City Attorney, and Jim Cherof, City Attorney. The discussion would take about 45 minutes. The closed-door session will continue with the next case with the City as the Plaintiff, versus Janots, Ryan and Degen and others as Respondents. It is a case involving eminent domain. Present would be the City Commissioners, City Manager and Attorney Cherof. Attorney Cherof anticipated the discussion would need about 30 minutes. The Commission would then return to Chambers to reconvene for the regular City Commission meeting.

The meeting was recessed to the closed-door session at 5:22 p.m.

Mayor Grant reconvened the meeting at 6:30 p.m.

Invocation by Pastor Duane Roberts of Calvary Chapel

Pastor Roberts of Calvary Chapel gave the invocation.

Pledge of Allegiance to the Flag led by Commissioner Casello

Commissioner Casello led the Pledge of Allegiance to the Flag.

Agenda Approval:

1. Additions, Deletions, Corrections
2. Adoption

Motion

Vice Mayor McCray moved to approve. Commissioner Katz seconded the motion.

Vote

The motion unanimously passed.

2. OTHER

A. Informational items by Members of the City Commission

Commissioner Casello observed the City celebrated the Fourth of July and praised City Staff. The fireworks and celebration was a huge success and he noted it takes a lot of planning and time. He thanked Jeff Livergood, Director, Public Works and Engineering, and Wally Majors, Director Recreation and Parks, and their staff. He noted staff makes the event a success each year.

Commissioner Katz attended the League of Cities meeting, Strategic Planning meeting, met with Bradley Miller regarding property west of the train tracks on Boynton Beach Boulevard and met with Charles Kanter regarding the Quantum Overlay District issue he was researching.

Vice Mayor McCray attended the Strategic Planning meeting and agreed with the comments made by Commissioner Casello for the Fourth of July. He shared the Denson pool pump is out and hoped it would be addressed at the meeting so the citizens will know when it will be completed. He thanked the Police Department as there were more unauthorized parties in District II and they addressed them.

Mayor Grant attended the Palm Beach League of Cities meeting at Bear Lakes Country Club and interviewed with Palm Beach Illustrated magazine. He showed his support for

Florida Representative Bobby Powell, Jr. and attended the Chamber of Commerce event at Pizza Rocks. He spoke about Drivers Education on the 23rd at Santaluces, High School and learned students needed 67 hours to obtain a driver's license. He met with Miller Land Planning regarding the Villages of East Ocean and the Healthier Boynton Beach Meet and Greet at the Secret Garden Café. He visited Our Neighbor's Sundeck, a hotel in Ocean Ridge and attended the Strategic Planning meeting. He supported Palm Beach County Commissioner Priscilla Taylor, and attended the Florida Public Pensions Trustees Association, learning great information on public pensions. He attended the Women's Circle on the 29th, and on the 30th he went to Pathways to Prosperity and supported Lou Delgado, candidate for Group 4, Circuit Court Judge. He attended the Community Conversation at Carolyn Sims Park. On July 2nd he played golf at the Links and he was happy to see the GPS on all the golf carts. He attended a service at Calvary Chapel and on the 4th went to Intracoastal Park Clubhouse for the festivities. He thanked the Schoolhouse Children's Museum for renting out the second floor as his parents and grandparents attended. It was a well done event and he thanked Culinary Solutions for catering it. He also went to the Kiwanis Club meeting at Duffy's.

Commissioner Romelus met with Bradley Miller and individuals representing the Villages of East Ocean, attended the Strategic Planning Session, spoke to high school football players from Boynton Beach High School, discussing their future plans with the students aside from football. She commented the community should support the High School as the school is looking for the community to rally behind them. She and her family attended the Fourth of July events and had a blast. She thanked all who worked to put the event together.

Mayor Grant announced anyone looking for work can be a poll worker for the Palm Beach County Supervisor of Elections. Information was in the back of the room.

Vice Mayor McCray commented the community rallies behind all schools in Boynton Beach. Mayor Grant agreed.

3. ANNOUNCEMENTS, COMMUNITY & SPECIAL EVENTS & PRESENTATIONS

- A. Proclaim the month of July 2016 as Park & Recreation Month.

Mayor Grant read the Proclamation declaring the month of July 2016 as Park and Recreation Month. Present to accept the award was Wally Majors, Recreation and Parks Director.

- B. Budget Workshops dates/times for FY 16/17 Operating and Capital Budget to take place in City Library Program Room on the following dates:

Mayor Grant announced the following dates for the Operating and Capital Budget meetings.

Monday, July 18, 2016 2:00 p.m.
Tuesday, July 19, 2016 10:00 a.m.
Wednesday, July 20, 2016 2:00 p.m. (if needed)

4. PUBLIC AUDIENCE

INDIVIDUAL SPEAKERS WILL BE LIMITED TO 3 MINUTE PRESENTATIONS (at the discretion of the Chair, this 3 minute allowance may need to be adjusted depending on the level of business coming before the City Commission)

Mayor Grant opened Public Audience.

Vice Mayor McCray requested staff address an issue at the John Denson Pool. Mayor Grant indicated the John Denson Pool was not on the agenda and would not be addressed.

Michael Byrd, 548 NW 13th Avenue, President of the East Boynton Wildcats announced the Bill Tome Foundation Summer Fun Day event at Ezell Hester Center on Saturday, July 9th, from 11 a.m. to 3 p.m. Bounce houses, waterslides, kick ball would be onsite and the Department of Motor Vehicles will be present. He noted youth can obtain State ID cards as early as five years old. This year, the organization started giving out Valuable Member of the Village awards for individuals or organizations who support them. This year at the yearly banquet they gave away awards, and they forgot to hand out an award to the City for allowing them to come in and run a youth program for up to 300 youth each year. They also work with youth on educational matters. He read the plaque expressing their appreciation and thanks for working with the organization to help the community's youth. Lori LaVerriere, City Manager accepted the award.

Mr. Byrd announced they met with the Lemar Brothers of the Lemar Foundation, who will be present on Saturday working with them, and present the organization with a check to help replace helmets and uniforms.

Vice Mayor McCray asked the City Attorney to speak about decorum for elected officials and asked if he could speak on a matter on the dais or if he had to go to the podium during Public Audience. He thought there is a way to speak to elected officials. Attorney Cherof responded he should ask the City Commission to amend the agenda to speak to the issue. If supported, the agenda would be amended. Vice Mayor McCray asked the Commission to amend the agenda so he could address the John Denson Pool. Mayor Grant requested it be deferred until after Public Audience, and then rule on the motion.

Mark Karageorge, 240A Main Boulevard, declared his respect for elected officials, the Police Department and Chief Commissioner Katz, who were all doing great. He questioned the City's crime statistics contained in a Coastal Star article indicating the

crime statistics were the highest of any surrounding cities. Delray Beach, Gulfstream and Lantana's statistics all went down and Boynton Beach's increased. He acknowledged Boynton Beach had a few years when crime was decreasing and the City was trying to be vigilant to reduce crime and work with youth and Bury the Violence. He also expressed concern about hiring a consultant to work on the pension issue that was discussed at the Strategic Plan regarding pension reform. He thought the City was on a bad path as to what the City pays out for pension and commented the system is flawed. He thought the City needed to take the first step and obtain a consultant to address it and involve the citizens so they are not overtaxed and underserved.

Theresa Scutari, 2030 SW 24th Circle, explained she and two other men contracted Malaria in Boynton Beach in July 2005. She advised it was the worst experience of her life. She hoped Mayor Grant would receive the assistance he needed to prevent the Zika mosquito from coming to Boynton Beach. She thought if a Malaria mosquito can come to Boynton Beach, Zika could as well. Mayor Grant advised he spoke to the Palm Beach County Mosquito Control and was advised the Zika mosquito lives in standing water, with a gestation period of 10 days. There is a hot line to call. Anyone seeing water standing for more than seven days should call the hotline.

Commissioner Katz noted to date, there has not been a single person infected with Zika from a mosquito bite in the United States. The cases identified involved individuals from the islands or overseas.

Audrey Dance Gerger, 331 NW 1st Avenue, explained NW 1st Avenue there is a historical block with six homes including hers. The homes were constructed in the 20's and the residents want to preserve the area. She commented the CRA wants to destroy the area and make it into a commercial mixed-use project. Ms. Gerger opposed the plan indicating it is a quiet street. Historic residential districts needs to be protected and the City should stand by the owners and preserve the area by keeping the commercial out. She agreed the entrance of Boynton Beach Boulevard should be beautified and noted the Department of Transportation plans to widen one lane extra into Boynton Beach Boulevard and extend it one mile on each side of I-95. She attended one meeting and announced another meeting would be held on July 28th between 5 p.m. and 7 p.m. A letter was forthcoming. She thought if doing anything with Boynton Beach Boulevard, it should have wider sidewalks and bricks, creating character with trees or landscaping, but she did not want the CRA to change their area to a commercial use. As a former commercial real estate agent, one of two women selected as members of a commercial board, and being a present owner of a registered historic property that belonged to two principals of Boynton Beach, she implored it was important to preserve the block or other historical areas. She was informed by the Historic Preservation Planner, there are four unofficial historic areas.

Cindy Falco-Dicorrado, 316 NW 1st Avenue, explained she recently moved into the community and also has a historic home in the same area. She likes many of the

CRA's ideas but she does live off of Boynton Beach Boulevard and it is an eyesore. She wanted to know what the CRA would do in the immediate future and was told this Plan was on the table for many years and the City Commission meeting was the place to go to voice her concerns and find out what would be implemented. She favored it being beautified and the entryway be softened when coming off Boynton Beach Boulevard.

Irv Slosberg, 7106 Via Firenze, State Representative District 31, announced he is running for re-election. He advised 20 years ago his daughter was killed in a traffic crash and he did something about it and ran for office. He has been a representative for 12 years. Forty-six percent of District 31 is in Boynton Beach. Currently he represents the suburbs of Boynton Beach and as a Senator, 67% of his district would be in Boynton Beach and West Delray Beach. His office is in the District. He has assisted thousands of individuals from West Delray and Boynton Beach and he loves his job. He attended the meeting to introduce himself. If he wins, he will be working in Tallahassee, in his office in District 31, and will work hard for the City and all Floridians as he can do more for the citizens. He served on the Appropriations Committee for Education, Justice, Health Care and Transportation Committees, and been on nearly every committee in Tallahassee. He announced he knows how to get things done. Commissioner Casello asked about the residency requirements to run for office and learned he had to move into the District. Mr. Slosberg indicated he founded the Dory Slosberg Foundation and went to Boynton Beach High School many times, educating youth about drivers education, and spoken at Odyssey Middle School and South Tech Academy. He announced he will move into District 31 which encompassed Delray and Boynton Beach, Lake Worth, Greenacres and a few other communities.

Tom McClure, 2004 S. Federal Highway, applauded the Commission for the hard work the officials give to the City of Boynton Beach. He was in Westchester, New York and saw Westchester County has the same issues as in Boynton Beach. The City is not unique, but what is unique is the amount of dedication the officials have to put in. Developers wanting to develop and citizen concerns for responsible development occurs everywhere. In the end, the results appear to be the same. Citizen voices cannot prevent developers from doing what they want to do. He asserted developers have too much money and they convince the Commission the project is good for the City. He had an idea for the City to have responsible development and reduce the pressure for having new revenue in the City and would discuss it at the next meeting.

Butch Buoni, advised his address at 450 Horizons East, No. 304 located at 500 Federal Highway, was across from the 601 S. Federal Highway project under consideration. As President of Sterling Village, he stated his objection to the height of the building at 65/75 feet tall, and including parking spaces on a public road as 10 spaces for the project's parking. They were not against development at 45 feet, only the 65 and 75 feet across from a two-story building. Sterling Village residents would be looking at the back of such a building and it was not the view they want to see.

Harry Woodworth, 685 NE 15th Place, on behalf of INCA, explained the communities of INCA thanked the City for the fireworks. When the event was over, traffic exiting the event was well managed. He noted there is a CRA Advisory Board on Thursday, and he requested the Commissioners attend if possible. Item 4A on the agenda was the Advisory Board review of the CRA Consolidation Plan. He commented citizen input was very poor. He thought there were 100 foot activity nodes slipped into the plans without discussion. He thought the Commission could clarify what the review would accomplish. He thought citizens should attend as it would be the last chance for citizen input. He thought there was a lack of input and review, not just a rubber stamp from the last four sessions that were previously held. He attended three of the four sessions and there was no mention where the 100 foot nodes would be. He thought it would be nice to help the Advisory Group to see what changed and its impact.

Private Garcia, 119 Caroline Drive, read a speech about honoring American Veterans and thought it was important to honor veterans all the time, not just on Veterans holidays. He suggested comparing other countries to the U.S. to see what we have that others do not and the impact of freedom. They care much for who died, but also care for those who returned.

Corporal Burt Richards, 7381 Forest Park Way, explained he has been a City volunteer for 21 years and spoke about the history of Boynton Beach. He makes veteran program presentations to the Boynton Beach/Lantana Rotary Club, the Boynton Beach Senior Center, the Boynton Beach Civic Center, with his veterans memorabilia, and all were impressed. He applauded the Veterans Advisory Commission for creating a Veterans Memorial Park that is used for Memorial Day, but asserted the Veterans need an indoor home for every day. A Veterans Museum would be the place for names of men and women to be put on the Wall of Honor, including Private First-Class Michael Metcalf. He thought it would be a win-win, self-supporting facility, similar to the Boynton Beach Theater. He commented it would be the only Veterans Memorabilia Museum in Palm Beach County and a place for veterans and students to meet, learn and receive educational programs and assistance. Mr. Richardson advised America won the war in 1945, and the Japanese have the Morakami Museum. He hoped his visit would cause the Commission to consider a permanent home in Boynton Beach for a Veterans Memorabilia Museum and Education Center.

Lance Corporal Figueras, 1577 Hawthorne Lane, Wellington, explained he was asked to give a speech about a Veterans Memorabilia Museum and Education Center. He asked how great was it to be an American. In the past, the Country has survived depressions and wars. He does not like looking at bloodshed and bullets, he likes to be outside and walk. He thought a Museum would not only be helpful for children to learn; it would be a place to remember veterans and thank them.

Cindy Townsend, 3589 S Ocean Boulevard, South Palm Beach, appreciated speaking about the Museum. The Young Marines of the Palm Beaches support establishing a first ever Veterans Memorabilia Museum and Education Center in Palm Beach County in

Boynton Beach. She was born in Florida, educated in Florida public schools and she received a lot of historical teachings. The current curriculum does not often allow for instruction on military history and political undercurrents do not allow it. She thought there is a demonstrated need for more education and awareness about the American military experience. Those supporting the museum sought to provide a historical glimpse of bravery and sacrifices from those who fought for freedom and make it available to all ages, students, professionals, scholars and the curious. A museum would benefit the public through interactive exhibits, while filled with hundreds of genuine artifacts, photographs, military relics and memorable accounts by former soldiers. He explained this would be a museum only in the sense the items are displayed, but the goal is to pay tribute to those who served while preserving history and educating youth. Future leaders are in today's classrooms, and they should understand the past.

Rev. Bernard Wright, 713 NW 2nd Street, CEO Bernard Wright Ministries, the Robert E. Wells Foundation and Real Talk Radio, noted speed bumps were needed between 2nd and 3rd streets by the pool and the school, as vehicles fly by. He noted the Robert E. Wells research project and sign was sent to the Historic Resource Preservation Board and was sent to the City Commission. He inquired about its status. Ms. LaVerriere explained the item would be heard at the July 19th meeting. He requested information about the speed bumps. Vice Mayor McCray explained they had previously requested speed bumps, but public safety indicated they can only be placed in certain areas. He advised they will review it. Rev. Wright explained the street was in the neighborhood between the school and Center.

No one else coming forward, Mayor Grant closed Public Audience.

Motion

Commissioner Katz moved to amend the agenda to allow Vice Mayor McCray to speak on the item he desired to speak on. Commissioner Casello seconded the motion.

Vote

The motion unanimously passed.

Vice Mayor McCray explained he wanted it placed for discussion because he received a call because the pump is out and people left the pool because they could not swim. He understood there would be a press release. Mayor Grant requested a vote to place the item on the agenda.

Amy Blackman, Recreation Superintendent, explained there are two issues. The pump has a motor and the existing pump is 15 years old. She had the pump looked at by two or three companies and realized it had a very short life span. Staff ordered a pump on June 22 as a special order which will arrive and be installed on July 19th.

Since then, staff tried to prolong the life of the pump, including backwashing and on Saturday afternoon, the motor died. Staff ordered a new motor to be installed on Friday. She hoped they could get the pump apart to put the new motor on, which was only a band-aid for the pump coming on the 19th. The new motor will serve as a back-up motor. The lifespan for a pool pump motor is two years. If this happens again, it could be repaired within a day. Vice Mayor McCray asked if a press release was issued and learned staff did not; it was put on social media and they made many phone calls to advise the residents. Vice Mayor McCray asked if a press release would be issued to reach the citizens. He noted not all residents have computers. Ms. Blackman advised a press release would go out in the morning.

Vice Mayor McCray commented when he had previously asked for a speaker's name and address, the agenda rules and regulations for addressing the City Commission, indicates. "When addressing the Commission, please step up to either podium and state your name and address for the record."

5. ADMINISTRATIVE

- A. Appoint Voting Delegate for the Florida League of Cities Annual Conference, August 18-20, 2016.

Mayor Grant asked if there was any discussion or nominations. Commissioner Casello advised he is already on the League of Cities Executive Board and did not know if they could have another voting delegate. Ms. LaVerriere explained the Commission could appoint anyone they wanted. Commissioner Casello was on the local county board, but this was for the State League voting, representing the entire City. Mayor Grant advised he had planned to attend.

Motion

Vice Mayor McCray moved Mayor Grant be the voting person for the League of Cities for Boynton. Commissioner Casello seconded the motion.

Vote

The motion unanimously passed.

Ms. LaVerriere thought if there was any chance Commissioner Casello would attend, it would require Commission approval. She suggested amending the motion to include one other Commissioner attending, and if no other Commissioner attended, it would not have to come back to the Commission. All travel by the Commission has to be approved by the Commission.

Motion

Vice Mayor McCray amended the motion to include Commissioner Casello as alternate.

Ms. LaVerriere encouraged all of the members to attend if possible. Mayor Grant noted this was also item B. There should be one motion to appoint the voting delegate, and a second motion for travel.

- B. Authorize City Commissioners to travel and hotel stay for the Florida League of Cities Annual Conference in Hollywood, FL, August 18-20, 2016.

Mayor Grant asked for a motion for travel for all those who wanted to attend.

Vice Mayor McCray commented he would not offer a motion as the Conference was only 50 miles away in Hollywood, Florida

Motion

Commissioner Casello so moved. Commissioner Romelus seconded the motion.

Vote

The motion passed 4-1, (*Vice Mayor McCray dissenting.*)

C. Appoint eligible members of the community to serve in vacant positions on City advisory boards. The following Regular (Reg) and Alternate (Alt) Student (Stu) and Nonvoting Stu (N/V Stu) openings exist:

- Building Board of Adjustments and Appeals: 2 Alts
- Education and Youth Advisory Bd: 1 Reg and 1 Stu N/V
- Library Board: 1 Reg
- Senior Advisory Board: 1 Reg and 2 Alts

Motion

Vice Mayor McCray nominated Lori Wilkinson for the Education and Youth Advisory Board as a regular member, Commissioner Katz seconded the motion.

Vote

The motion unanimously passed.

6. CONSENT AGENDA

Matters in this section of the Agenda are proposed and recommended by the City Manager for "Consent Agenda" approval of the action indicated in each item, with all of the accompanying material to become a part of the Public Record and subject to staff comments

A. **PROPOSED RESOLUTION NO. R16-079** - Approve a Subordination Agreement allowing for a subordination of the City's mortgage for Odney Majeune of 1077 S.W. 28th Avenue, Boynton Beach, Florida, 33426, and authorizing the City Manager to sign the Subordination Agreement.

B. **PROPOSED RESOLUTION NO. R16-080** - Authorize the City Manager to sign a Termination and Mutual Release Agreement for transmission of sanitary sewer flows from Royal Manor into the City's wastewater collection and treatment system.

C. **PROPOSED RESOLUTION NO. R16-081** - Approve the award of a Task Order to Kimley-Horn and Associates, Inc. for final design, permitting, bidding, and construction phase services for NW 11th Avenue (Model Block) with a not-to-exceed fee of \$79,368. This is in accordance with the approval of RFQ 017-2821-14/DJL, General Consulting Services, Scope D as approved by the City Commission on July 1, 2014.

D. **PROPOSED RESOLUTION NO. R16-082** - Authorize the Mayor to sign a Utility Easement with Florida Power & Light (FPL) to enable installation of a new power supply line for the East Water Treatment Plant.

E. Approve a \$500 donation from the Law Enforcement Trust Fund to the Florida Missing Children's Day Foundation.

F. Authorize the Finance Department to reduce the Allowance for Uncollectible Accounts and the Accounts Receivable Accounts by \$293,496.35 plus an estimated \$1,000 for small balances less than \$25. This amount reflects unpaid Utility and Solid Waste billings that have been in collections for 18 months or longer. The period is defined as January 2013 through June 2014.

G. Accept the Fiscal Year 2015-2016 Budget Status Report of the General Fund and the Utilities Fund for the eight (8) month period ending May 31, 2016.

H. Approve the minutes from the Regular City Commission meeting held on June 21, 2016.

Motion

Commissioner Casello moved to approve the Consent Agenda. Commissioner Romelus seconded the motion.

Vote

The motion unanimously passed.

Commissioner Romelus noted she forgot to pull Item H from the Consent Agenda.

Motion

Vice Mayor McCray so moved. Commissioner Romelus moved to pull item H from the Consent Agenda.

Vote

The motion unanimously passed.

Commissioner Romelus pulled this item for the following correction: page 43, the acronym should be MSBU, not MSBA.

Motion

Vice Mayor McCray moved to approve as amended. Commissioner Casello seconded the motion.

Vote

The motion unanimously passed.

7. BIDS AND PURCHASES OVER \$100,000

- A. **PROPOSED RESOLUTION NO. R16-083** - Authorize the City Manager to enter into a time and materials construction contract with Sullivan Environmental of St. Petersburg, Florida, for the purpose of landfill cap repair and installation of landfill gas monitoring wells. The cost of the contract not to exceed the amount of \$361,053.88.

Vice Mayor McCray asked how long the well at the landfill was monitored.

Christine Roberts, Assistant Public Works Director, explained the landfill has been monitored for over 20 years. He asked if the City had to continue to spend this type of money to monitor the landfill. Ms. Roberts explained the City was trying to close the landfill and hoped it would be closed in the next few years. The State conducts inspections and found the groundcover of the landfill had sections that needed to be replaced. This would be a one-time only expense that would cover monitoring from one to two years and this item was for the actual work putting in the monitoring wells and the ground cover repair.

Motion

Vice Mayor McCray moved to approve.

Commissioner Casello asked if this was mandated by the County or the State and learned it was from the Department of Environmental Protection (DEP) through the County Health Department. Commissioner Casello noted the amount was up to \$361,000. A bid was issued and no responses were received. He asked why. Ms. Roberts responded about nine companies were contacted. The biggest reason for the lack of response was it was work they did not think they could do and were unsure about the cost. Commissioner Casello noted Mr. Sullivan said he could do the job on a time and material basis not to exceed the cost. He asked what would occur if an unforeseen issue arose and if the amount was capped at \$361,000 and learned it was. Ms. LaVerriere advised the matter would have to return to the City Commission. Commissioner Casello asked about the Park Ridge landfill which was closed for 20 years and was capped. He noted the Park Ridge landfill was closed and a golf course installed on the grounds. He questioned why it was taking many years and when they can take control of the land. Ms. Roberts explained the subject site is about 10 acres and explained landfills typically have to be monitored for 20 years. The landfill was at the 20 year mark, but this issue arose from the inspection, which makes the time longer. The landfill is regulated by a Consent Order by the State and DEP so the City has to continue to monitor. Commissioner Casello asked if there were previous monitoring wells that were removed and closed and asked if the State or County required they be reinstalled. Ms. Roberts explained some wells were removed because they were no longer needed, but there are still other monitoring wells. The wells removed were not required to be reinstalled.

Vote

Commissioner Casello second the motion. The motion unanimously passed.

8. CODE COMPLIANCE & LEGAL SETTLEMENTS

- A. Approve settlement of Mr. Ryan's attorney fees in the case of CITY OF BOYNTON BEACH, a Florida municipal corporation, Petitioner vs. FRANK JANOTS, THEODORE RYAN, GERHARD DEGEN, et al., Respondents – Palm Beach County Circuit Court Case No. 50 2003 CA 010606 XX ED(AJ)

Attorney Cherof read the item. The motion should be to deny.

Motion

Commissioner Casello so moved. Vice Mayor McCray seconded the motion.

Mayor Grant asked if the motion had to be made in the affirmative and learned because of the nature of the case and the way the agenda item was written, it should be clear it is a request to deny and reject the settlement.

Vote

The motion unanimously passed.

- B. Hear Appeal by Mr. Ralph Skarecki, Property Manager, of Lien Reduction Order signed on May 5, 2016 by Special Magistrate Carol Ellis regarding Code Case 15-1376 involving Golfview Harbour Estates Association, Inc.

Chris Yanuzzi, Code Compliance Coordinator, explained there is an appeal regarding a lien reduction, from Ralph Skarecki, Property Manager for Golfview Harbor Estates, regarding Case No. 15-1376.

Ralph Skarecki explained he is appealing the Magistrate's Order for administrative fees and commented the case got way out of hand through the entire process. He advised he tried to stay in touch as much as possible with the Code Compliance officials. After he reached out to Ms. LaVerriere and Commissioner Casello to hear the case, Code Compliance and the Building Department met. The following Monday, the community wrote a letter and submitted for a building permit which was approved on March 29, 2016. He commented the matter took from June 11, 2015 to February 22, 2016. Mr. Skarecki indicated the initial Code Complaint was sent to the wrong management office, which had moved two years earlier. He noted SunBiz had the correct address and legal firm as of July 5, 2016. The June 11th Code violation had two separate addresses; one of which was not in their neighborhood. The two cited issues were for a ladder and a deck in the community and the other was for a site plan approval for a building that was painted. The building at the address in the notice had not been painted in over five years. Prior to the meeting, he used the Google Earth website and pulled up the neighborhood in January 2014 and in January 2016 which showed there was no painting. He advised there was painting in the neighborhood, but it was not that building.

Mr. Skarecki explained he tried to communicate with the officer on three occasions by phone and in person, and offered to show the officer what the issue was, which were all denied through emails. He sent an email to the Code Coordinator as well. When the order was issued by the Magistrate in October, Code added a fourth building that was not part of the original complaint and he contended the original complaint had four separate addresses. The fourth violation pertained to a roof.

Mr. Skarecki assumed all was addressed, and took responsibility for the oversight. Two days before Christmas, a homeowner was buying into the neighborhood and noted the City had levied fines against the association for over \$17,000 on 128 homes. In order to sell, the fine had to be paid. Mr. Skarecki sent several emails to Ms. Springer, who has since retired, to no avail. One email dated February 22 to Ms. LaVerriere indicated he

has reached out to Ms. Springer advising he has been reaching out to Code Compliance via email, phone calls and in person since July 2015 without response because the City was issuing violations to Golfview Harbour in error, placing liens against the Association and holding up sales. He advised the violations are against an individual unit and not the Association and if reading each of two complaints, they have the same case numbers but have three separate addresses, one not within the association. An email dated August 3, 2015 saying the issue was resolved at the time and two addresses were added to the same case liening the Association for violations that were resolved that were not their violations. Since late September, the Association has not received further notices from the City, but in the last two months, two sales were impacted by the liens. He requested a list of all the liens and addresses and amounts any unit in Golfview Harbour owes. He had an email from Norma (Smith) indicating the issue was resolved because it was not their community

He agreed he should have followed up, but thought the matter was resolved and he opined Code never closed the case to reissue another, and that staff just changed the address. They paid the money for the building permit and for the lien reduction and he did not want the Association to pay the \$1,600.

Chris Yannuzzi, Code Compliance Coordinator, explained the issue arose on June 11, 2015, from a citizen complaint that was forwarded to Andrew Mack and Ed Breese which was forwarded to Code Compliance. Code Compliance also received a separate citizen complaint regarding the change of color of a building, and a deck in a common area of another address. Code Officer Pierre confirmed the color change without a site plan modification the next day and cited a roof deck and a ladder at 1440 SW 28th Avenue, Unit 9. Additionally outside storage is not allowed. This resulted in letters going to Golfview Harbour Estates Inc. courtesy of Associated Property Management in Lake Worth and to the law firm of Sachs Sax and Caplan in Boca Raton. Only one notice was returned by the post office.

Mr. Yannuzzi advised under Florida Statute 162, the Department is required to send addresses listed on the Property Appraisers record or in Sunbiz and the addresses were listed as well as on the deed. On July 21st, Officer Pierre conducted a re-inspection at the end of the 35 days given in the notice to comply and saw the violation still existed. On July 22nd, a Hearing Notice was sent to Golfview Harbour Estates through Quality Management Corporation and to the law firm in Boca to take care of the property management.

There was only two addresses in the complaints; the different addresses were for two entities identified and where Code was sending the notices. Code Compliance was now sending a notice to Gulfstream Harbour Estates, Inc. courtesy of Quality Management Group in Boca Raton and to the same attorney's office. Both certified mail green cards were signed.

On July 28th, Mr. Skarecki forwarded an email to Officer Pierre and Ms. Springer that included an email from Quality Companies with the June 11, 2015, Notice of Violation attached. Mr. Skarecki wrote he thought the violation was sent to the Association in error because the 1440 SW 28th Avenue address was not within the boundaries of the HOA and that the case be closed. Officer Pierre responded within 90 minutes the HOA must have a Site Plan approval from Planning and Zoning before changing the color of the building and regarding 1440 SW 28th Avenue, Unit 9, that he thought the HOA is responsible for the common areas. If not, he would cite the homeowner to remove the outside storage. On August 3rd, Administrative Associate Norma Smith sent an email to Mr. Skarecki stating, per Officer Pierre, the violation at 1440 SW 28th Avenue Unit 9 was deleted from the violation under Case No. 15-1376. When Officer Pierre conducted the inspection to start a separate case for that address, the items were already removed. On August 18th, Officer Pierre conducted a pre-hearing inspection and found the violation still existed and that no Site Plan Modification was submitted. On August 19th, no one from Golfview Harbour appeared and Special Magistrate Ellis ordered compliance by September 18, 2015, or a fine of \$100 a day, plus administrative fees.

On September 22, 2015, Officer Pierre conducted a post compliance date re-inspection and found the violation still existed because no Site Plan Modification was submitted. On September 23rd, an affidavit of non-compliance was sent to both parties indicating the property had not come into compliance by the ordered date of September 18th. Secondly, a letter was sent to both to advise the case would be on the agenda for October 21, 2015, for a fine certification. Both items were sent together by Certified Mail. The envelope sent to Courtesy of Quality Management Group was returned as undeliverable, but there was a signed green card from Sachs Sax and Caplan.

On September 29th, Ms. Springer sent an email to Chief Katz containing a summary of the case which focused on how the second violation was initiated and then deleted. Ms. Springer's response was part of a string of emails that began with an email sent by Mr. Skarecki through the Association's attorney, advising him the firm had received a Notice of Hearing dated September 23rd, which was referenced therein. Mr. Skarecki forwarded this information in his own email to Ms. Smith, which he copied to the City Manager and Ms. Springer. The City Manager forwarded it to Chief Katz who requested Ms. Springer's input. The referenced Notice of Violation form only contained the one violation for the Site Plan Modification. The second violation had already been deleted.

On October 21st, no one from the HOA appeared and Magistrate Ellis certified the fine at \$100 a day plus administrative fees of \$634.12 retroactive to September 18th, 2015. On November 16th, the lien was sent to the City Clerk to be recorded and on November 20th, the lien was recorded in the County records against the Association. On December 30, 2015, Ms. Springer received a check for \$634.12 from a party unrelated to the case, for a partial release of the lien for the sale of his home in Golfview Harbor. The request was sent to the City Attorney's office for filing with the County. Because of the lien against the Association, the title on all property within the HOA was clouded regarding individual, partial releases for anyone wanting to sell their property. On January 18th a

partial release of lien was recorded. On February 29, 2016, Ms. Springer and he attended a meeting with the City Manager, Commissioner Casello, City engineer Andrew Mack and Mr. Skarecki. The meeting ended with Mr. Skarecki being advised the Special Magistrate's Order governed the matter to include the accrual of fines. A Site Plan Modification was needed to bring the case into compliance and the lien reduction process would later be available. On March 3, 2016, Mr. Skarecki submitted a Site Plan Modification to the Development Department, and on March 7th Code Compliance was notified by Ed Breese, the plan was approved and the violation complied.

On March 8th Ms. Springer issued an Affidavit of Compliance by regular mail to Golfview Harbor Estates Courtesy of Quality Management Group and Sachs, Sax and Caplan. Neither affidavit was returned as being undeliverable. On March 21st, as a follow up to the prior discussion regarding the process, Ms. Springer sent an email attaching the lien reduction hearing application to Mr. Skarecki requesting he sign and return it with the fee, which was received on April 14, 2016, and the lien reduction hearing was placed on the March 18th Code agenda. On May 18th, he and Ms. Springer presented the case to Ms. Ellis and advised her of the sequence of events, including there were 170 days of non-compliance at \$100 a day, for a total of \$17,000 plus \$634.12 in administrative fees. Mr. Skarecki testified he thought the case was closed and did not learn about the case in January 2016, and contended the HOA should not pay anything. Ms. Springer had read a portion of the July 27, 2015 email sent to association by the Association's attorney, Steven Rappaport into the record. Mr. Rappaport was very clear about the issue, and that it was related to "the failure of the HOA to obtain site plan approval before changing the color of the building." This was an email that was mentioned previously and part of the discussion thread that Officer Pierre responded to on July 29, 2015, and part of Ms. Springer's response on September 29th. Mr. Yannuzzi explained Mr. Skarecki was aware of the violation in September 2015 and he was aware of it when he sent his July 28, 2015 email to Officer Pierre. Mr. Skarecki had attempted to offer additional information; however, Magistrate Ellis reminded him the case was heard August 19, 2015 and October 21st, and no one appeared. She also advised Mr. Skarecki the case was a lien reduction, and not an opportunity to appeal or retry the case. Magistrate Ellis ruled to reduce the \$17,000 to \$1,000 and to sustain the \$634.12 in administrative fees. The new total is \$1,634.12.

Mr. Skarecki commented he had an affidavit signed by a City Inspector that indicates he personally inspected or researched the case dated September 23rd for Case No 15-1376 and that it did not comply. He asserted they never knew what the issue was and the affidavit indicated it was for painting building 1445. A picture of building 1445 a year and a year prior to that, showed the building was the same color and had not been painted for over five years. He asserted the case comes down to the fact that through the whole process, he tried to tell Code that building 1445 was not painted in five years and not one person said it was painted. It took until the February 29th meeting when they identified other buildings were painted. Once that occurred it took seven days to obtain a signed permit. He knew everything the entire time, but was unsure why the

October meeting fell through and had the December 24th email, and his first communication occurred in January with Ms. Springer.

Mayor Grant asked what color the building was before the violation. Officer Pierre had before and after photographs which the City Commission reviewed showing it was a commercial multi-family building. Mr. Skarecki noted 1445 is a two-story building and the picture showed a single-story building. The bone of contention was they cited the wrong building. Mr. Skarecki contended the 1445, two-story building had not been painted for five years. He agreed one building was painted a year ago and they were painting the community for three years.

Mr. Yannuzzi asked if the HOA has control over all the buildings and Mr. Skarecki responded they had. Mr. Yannuzzi pointed out they were painting them without site plan approval. Mr. Skarecki explained he went to the City on February 22, 2016, and was told they did not need permission to change the building color. He argued that was not the issue, the issue was they cited the wrong building. He noted from June 17th to February 22nd he tried to resolve the matter saying the wrong buildings are being cited.

Officer Pierre explained 1445 is the address for the HOA, so Code cites that number in order to cite the HOA who is responsible for all the buildings that have a site plan modification to paint the building. Code uses the address because that is the address they have to use. The HOA does not own the building. They own the common areas, so they use the address to send a letter to them because that is the HOA's address.

Officer Pierre explained the Property Appraisers website. The Golfview Harbour HOA lists that address which is needed for Code to send the letter and the address they used to send the Notice of Violation. There is no question building 1445 was painted five years ago. The HOA is painting buildings without a site plan modification, whether it be 1445 or another building in Golfview Harbor.

Mr. Skarecki explained SunBiz requires yearly updates and a principal address and 1445 is not the principal address. They interpreted the complaint as 1445 was the violation.

Vice Mayor McCray asked if the HOA had the proper documents to paint the building and learned they did not. The total fine was \$17,634.12 and with the lien reduction the fines were reduced to \$1,000 plus administrative fees of \$634.12 for a total of \$1,634.12. Vice Mayor McCray noted the Commission has approved prior lien reductions, and this one was reduced. If Mr. Skarecki did not receive notice, the attorney received it. He thought a reduction to \$1,634.12 was much better than paying \$17,634.12.

Motion

Vice Mayor McCray moved to accept what the magistrate set as \$1,634.12. Commissioner Katz seconded the motion.

Commissioner Casello sat in and noted the issue was resolved in seven days. He thought Code should take some responsibility and noted Mr. Skarecki did not appear for the first hearing, which was why the \$100 a day fine was imposed. The second time he appeared was only for the lien reduction part and noted the problem was resolved.

Motion

Commissioner Casello amended the motion to eliminate the \$1,000 fine and only pay the administrative costs.

Commissioner Katz received confirmation from Commissioner Casello there was a miscommunication on both sides. He noted the issue was resolved in seven days and it pertained to a color on a house, and painting without the proper permit. When the correct address was identified, it was addressed in seven days. He favored administrative costs only.

Mayor Grant noted the building was a commercial building. He asked if they amend the Magistrates ruling if the 90 day time frame still applied. Attorney Cherof responded it would not affect the time frame.

Vote

Commissioner Katz seconded the amendment. The motion failed 2-3 (*Mayor Grant, Vice Mayor McCray, and Commissioner Romelus dissenting.*)

Attorney Cherof explained a vote on the main motion for a fine of \$1,634.12 was needed.

Vote

The motion passed 3-2 (*Commissioners Katz and Casello dissenting.*)

9. PUBLIC HEARING

7 P.M. OR AS SOON THEREAFTER AS THE AGENDA PERMITS

The City Commission will conduct these public hearings in its dual capacity as Local Planning Agency and City Commission.

10. CITY MANAGER'S REPORT - None

11. UNFINISHED BUSINESS

- A. Consider the recommendation from the Recreation & Parks Advisory Board to allow leashed dogs at Jaycee, Intracoastal, Dewey and Boynton Lakes Park

Mr. Majors advised the Advisory Board recommended allowing leashed dogs at four parks. Attorney Cherof clarified the four parks were Intracoastal, Jaycee, Dewey and Boynton Lakes Parks. This was the culmination of the two, one-year trial periods as the Board had wanted to determine the impacts on the parks and the community. At the end of the first year, the Board wanted to study it and extended it one more year to gain a better understanding of the ramifications. The Board determined the impact from dogs at the parks was slight, There was some waste, and some dogs off leash, but the Board felt the activities were not detrimental at the parks and the popularity of people bringing dogs to parks was good. He advised the Advisory Board recommended it continue.

Brief discussion followed dogs are excluded from some special events. Dogs were excluded at the 4th of July event due to the fireworks and did not feel it was an appropriate place for a dog on that day. The dog at the park in which staff intervened on the Fourth of July was a service dog. After speaking to the owner, it was determined it was appropriate and the individual put the vest on the dog so as not to create confusion. Mayor Grant noted people were entering the Intracoastal during low tide and asked if dogs were permitted as well. Mr. Majors explained the Intracoastal Waterway was not within the City's jurisdiction.

Vice Mayor McCray noted they received pictures of a dog owner not following rules when the program first started and asked if the issue was resolved. Mr. Majors responded that was at Boynton Lakes, two years ago, and no further complaints were received.

Commissioner Casello asked how many violations were given out regarding leashed dogs and learned there were none. He thought the program was great, but it is unenforceable.

Motion

Commissioner Casello favored the program and moved to approve. Vice Mayor McCray seconded the motion.

Vote

The motion unanimously passed.

- B. **PROPOSED RESOLUTION NO. R16-076 - Supporting the Atlanta Braves returning to Palm Beach County for their spring training at John Prince Park. (TABLED on 6/21/16 for 90 days)**

12. NEW BUSINESS

- A. Commissioner Katz requested the Commission discuss and consider a date for a workshop on the Town Square Project as mentioned in the Strategic Planning Workshop on June 24, 2016.

Commissioner Katz commented there was consensus at the Strategic Planning Workshop regarding the Town Square project. There were unanswered questions regarding where the Commission would like the Town Square and what would and would not be included. He thought a workshop was needed to identify the details wanted so an RFQ with solid parameters would be issued and they could get solid responses. He favored issuing the RFP sooner as it delays potential development. Ms. LaVerriere suggested starting the first budget workshop on the 18th at one p.m. for a one hour special meeting and workshop and discussing it then. Mayor Grant wanted to give the City more time to respond and preferred it be held in September, noting it is summer vacation and the public may be away.

Commissioner Katz commented it would be a missed opportunity to have ideas prior to the upcoming budget workshop. If done after the workshop, the budget, regarding the Town Square and Police and Fire Stations, may have to be amended. He thought there was enough time and opportunity for people who are interested to attend.

Motion

Commissioner Katz moved for a one-hour meeting prior to the budget workshop on July 18th. Commissioner Romelus seconded the motion.

Vote

The motion passed 4-1, *(Mayor Grant dissenting.)*

Ms. LaVerriere noted these would be recommendations that would return to the Commission. The meeting would identify recommendations.

13. COMMUNITY REDEVELOPMENT ADVISORY BOARD

- A. Reports -- None
- B. Pending Items
 - 1. City Services Survey for the CRA
- C. New Assignments -- None

14. LEGAL

- A. **PROPOSED ORDINANCE NO. 16-010 - SECOND READING - PUBLIC HEARING** - Approve amendments to the Land Development Regulations, Chapter 1, Article II. Definitions, and Chapter 3, Article IV, Section 3.D. (Zoning Matrix and Notes), to increase the locations where consignment shops and used book stores are allowed, and to change the maximum size standard applicable to all businesses that sell used merchandise (CDRV 16-001).

Attorney Cherof read Proposed Ordinance No. 16-010.

Motion

Vice Mayor McCray moved to approve. Commissioner Casello seconded the motion.

Mayor Grant opened Public Hearing. No one came forward, Public Hearing was closed.

Commissioner Casello wished this was brought up sooner and thought the City missed a great opportunity to allow someone to occupy space by Home Depot. Commissioner Romelus asked if there was anything they could have done to move it along faster.

Mike Rumpf, Planning and Zoning Director, explained they met with the parties and they had a clear understanding of the timeframe involved. At the first public hearing, he contacted the potential tenant to advise of the progress, and Mr. Rumpf was also contacted by the property owner's representative. He was never contacted when things became critical for the decision makers. If staff had been made aware, they could have saved some time, but the issue was piggybacked with other items. Commissioner Romelus commented the change was not initiated to benefit one tenant. She asked if the change was something the City could benefit from in the future and learned it would. Commissioner Katz noting a Palm Beach Post article, the shop owners, after they relocated to Delray thought they may have acted too quickly. They were well aware of the time frame, but Mr. Rumpf did not know what caused the owner to locate elsewhere.

Vice Mayor McCray shared Commissioner Romelus's concerns.

Vote

Interim City Clerk Pyle called the roll. The vote was 5-0.

- B. **PROPOSED ORDINANCE NO. 16-014 - SECOND READING - PUBLIC HEARING** - Storage Tanks, Silos and Hoppers (CDRV 16-004) Approve amendments to the Land Development Regulations, Chapter 3, Article V. *Supplemental Regulations*, Section 3.T. *Generators and Fuel Tanks* to expand the provisions and standards that regulate storage bins and silos for use by the micro-brewery industry.

Attorney Cherof read Proposed Ordinance No. 16-014 by title only on second reading.

Motion

Commissioner Casello moved to approve. Commissioner Katz seconded the motion.

Commissioner Katz thought it was a testament to staff to try to facilitate the need for this amendment as the Brewery was growing too big for their environment. Mayor Grant noted the item pertained to Due South, Copper Point and Devour Breweries. He looked forward to more breweries locating to Boynton Beach.

Vote

Interim City Clerk Pyle called the roll. The vote was 5-0

- C. **PROPOSED ORDINANCE NO. 16-011 - SECOND READING - PUBLIC HEARING** - Approve amendments to the Land Development Regulations, Chapter 1, Article II. Definitions, and Chapter 3, Article IV, Section 3.D. (Zoning Matrix and Notes), that in part, increase the locations where the sale and repair of motor vehicles and boats are allowed, involving the C-3, C-4, PCD, M-1, and PID Zoning Districts (CDRV 16-002).

Attorney Cherof read Proposed Ordinance No. 16-011 by title only on second reading.

Commissioner Romelus asked how the item would work and if it would negatively impact the community. Mr. Rumpf responded the Ordinance is written to have a minimal and positive impact on the community. Most car/vehicle sales provisions require Conditional Use Approval. Staff will walk the properties, most of which were in older buildings or warehouses to ensure conformance with the Code and there is adequate space indoors to store vehicles marketed for sale. Auto repair shops could apply for Conditional Use Approval for sales for accessory purposes. Commissioner Casello asked if vehicles had to be inside the building and Mr. Rumpf responded any vehicles that are visibly being marketed to the public would. Staff has been informed car sales would be achieved through the internet and he explained the shops were not similar to CarMax having an open car lot. The repair shops would not have cars with for sale signs.

Commissioner Casello asked about enforcement and learned it would be a violation if the vehicle was marked or posted for sale. Commissioner Casello asked if there could be a vehicle that was for sale that did not have a for sale sign, they could still be sold and learned they could. Mr. Rumpf noted the lots are small and not intended for retail purposes or customer visits. Mr. Rumpf distributed an official zoning map and explained he separated sales accessories to repair uses and the other is just the sales. The one map was accessory to the repair. He explained he did not identify CarMax.

Mayor Grant asked about boat/vehicle sales and learned there must first be a repair use. Mr. Rumpf explained with the exception of boat sales, principally boat sales were allowed. Sales accessory to auto repairs are permitted, except in the PID. Vehicle sales accessory to auto repair are permitted everywhere except in the PID. Boat sales are permitted in the C-4 and C-3, but not in C-3 Districts. Mayor Grant asked if Luxury Stor-All would be able to sell boats and learned they would not.

Motion

Commissioner Casello moved to approve. Vice Mayor McCray seconded the motion.

Vote

Interim City Clerk Pyle called the roll. The vote was 5-0.

- D. PROPOSED ORDINANCE NO. 16-016 - FIRST READING - PUBLIC HEARING** Approve amendment to Code of Ordinances, Chapter 13, Local Business Tax Receipts, Section 13-4, Classification and Fee Schedule to provide for a five percent (5%) increase in Local Business Tax Fees.

Attorney Cherof read Proposed Ordinance No. 16-016 by title only on first reading.

Motion

Vice Mayor McCray moved to approve. Commissioner Romelus seconded the motion.

Vice Mayor McCray asked when the last increase was implemented and learned it was in 2013. He asked how other cities were handling Business Tax Receipts (BTR) and learned with a five percent increase, the City was in line with what other cities are doing. Ms. LaVerriere explained the State allows cities to increase Business Tax Receipt fees once every two years. Delray and Boca recently increased their fees.

Mayor Grant asked if he could vote on the item since he pays Business Tax Receipt fees and learned he could as he was part of a large class of individuals and it would not affect him individually.

Commissioner Casello asked about the City's Business Tax Receipt collection rate.

Selecia Brown, Business Tax Receipt Specialist, explained the rate increased because they have a Business Tax Receipt Inspector. Code Compliance handles rental regulations. The Business Tax Receipt Inspector controls the Business Tax Receipts for commercial businesses. She added they work hand in hand. Intake staff receives and processes the applications for the administrative portions. Code conducts the inspections and handles collection for rentals that were not paid. Last year, the City received \$134,000 in commercial fees between February and October from non-

compliant businesses due to the Business Tax Receipt Inspector. Since January 2016, another \$100,000 was collected.

Commissioner Casello asked if Code has an inspector for residential rentals and learned they do not. Staff uses the City's and the Property Appraiser records that have applied for Business Tax Receipt. He asked if HOA Associations were asked to identify community rentals. Ms. Brown replied the City recently entered into an agreement with Royal Manor Trailer Park that it would be part of the agreement for tenants to move in. There was not enough manpower to contact every HOA in the City. Commissioner Casello asked if they should increase the manpower. Commissioner Romelus understood the City was looking to fill that position in the upcoming budget and asked if the five percent increase of about \$77,000 would pay for another individual. Ms. Brown responded it should be based on the job description. They undertook a comparison with neighboring municipalities regarding businesses they handle on a day-to-day fashion. Commissioner Romelus noted currently Business Tax Receipt compliance is outsourced. Ms. Brown commented it would be a lot more efficient, if it was handled in-house.

Vice Mayor McCray requested Ms. LaVerriere's opinion. Ms. LaVerriere explained currently the City has contracted with a company because the City's staffing level does not support the work and the increase with the five percent was for all the businesses in the City. Many pay their fees, but many do not. Using the Property Appraiser's website and other avenues, the City could identify properties that are in violation. Commissioner Casello thought HOA presidents could provide a HOA list. Ms. Brown agreed and commented the City could download the Division of Corporations information each month to see what businesses were operating, but the Department did not have the manpower.

Mayor Grant asked if a County Business Tax Receipt was needed to get City BTR and learned it was in the reverse. Palm Beach County will not release a Business Tax Receipt until zoning approval from the City is obtained. Ms. Brown advised she sends out a list to Palm Beach County each month of BTRs issued by the City. Mayor Grant asked of the City also notifies them of tangible personal and hospitality and bed taxes. Ms. Brown explained the City does not receive Tourist Development Taxes.

Vote

Interim City Clerk Pyle called the roll. The vote was 5-0.

- E. **PROPOSED RESOLUTION NO. R16-084** - Authorize and direct staff to prepare for the financing of various capital projects with Utility System Revenue Bonds not exceeding \$23,000,000, and express the intent to reimburse capital expenditures incurred prior to the issuance of the bonds with bond proceeds.

Attorney Cherof read Proposed Resolution No. 16-084.

Mayor Grant asked if any of the funds were being used to refinance old utility bonds to a lower rate.

Tim Howard, Assistant Manager - Administration/Finance Director responded they had refinanced a 2012 issued Utility bond. The City refinanced \$20 million and an additional \$20 million in new funds. The other outstanding utility bond from 2002 cannot be re-funded. In 2012, per the City's consultant, the City knew there would be another financing piece. This was the second piece. It does not bind the City or issue a bond, only the authority to work with the financial consultant and bond counsel to bring a financial vehicle back to the City for approval. The consultant wanted flexibility in the interest rate if the City had to use a true bond or go through a bank loan process. A true bond may have a deposit requirement which would be in order to get up to \$20 million, a deposit of up to \$2 million as a reserve may be required, hence the bond may have to be issued for \$22 or \$23 million. A bank loan may not have that requirement.

If a bank loan is used, the term is 15 years; if a true bond, the term could be 20 to 25 years. Vice Mayor McCray asked if a bank loan is used, what the annual cost would be and learned it was about \$670,000 if the City has about a 3% interest rate. Vice Mayor McCray asked if the City had those funds and Mr. Howard explained it would be paid from the Utility Fund, from user fees. They currently have two bonds outstanding in Utilities, and the average debt service payment is about \$6.1 million. Based on the preliminary numbers the financial advisor ran, and based on the revenue projections for the next 15 years, the loan could be supported. Commissioner Casello asked when the 2002 Bond was due and learned the maturity was in 2020. The 2012 bond would mature in 2036.

Vice Mayor McCray understood the funds were needed to complete the project. He thought \$670,000 was a lot, but understood the project had to be completed. He hoped the 15 year loan could be used. Mr. Howard explained bond counsel and Colin Groff, Assistant City Manager - Public Services/Utilities Director, believe the financing would cover the next 15 years. The City will have the funds they need for the projects they need. Vice Mayor McCray asked if the the City's financing attempt fails, if it would have to be voted on by the public. Mr. Howard explained as long as the City Commission approves the issuance of the bond or the bank note, the financing would not go to referendum.

Mayor Grant asked for the top three projects the funds would be used for. Mr. Groff responded it would be for Central Seacrest Phase II, a neighborhood improvement project costing about \$10.5 million; the reuse expansion required by the City's permit which is about \$7.5 million; and the remainder is to complete funding the large water plant project currently in process. Mayor Grant commented stormwater projects would be included. Mr. Groff explained the City has three or four stormwater projects, such as North South Road which would be bid in about three weeks at a cost of \$2 million, and

another \$3.5 to \$4 million dollars for about four stormwater projects in the northeast area. Vice Mayor McCray asked what would be left in the Utility Reserve Account. Mr. Howard explained the City was planning to do yearly transfers for renewal and replacement. They will build up the renewal and replacement fund to about \$5 to \$7 million a year to pay for routine maintenance projects in the Utility Fund. He thought there was about \$12 million for the smaller \$700,000 projects which are fairly routine from year to year. Vice Mayor McCray asked if funds were set aside for emergencies and learned that was the purpose of renewal and replacements.

Motion

Commissioner Romelus moved to approve. Commissioner Casello seconded the motion.

Vote

The motion unanimously passed.

- F. **PROPOSED ORDINANCE NO. 16-015 - SECOND READING - PUBLIC HEARING** - Sustainable parking (heat island effect) and on-street parking (CDRV 16-003) Approve amendments to the Land Development Regulations, Chapter 4, Article V. *Minimum Off-Street Parking Requirements*, Section 3. *Special Reductions for Sustainability* to include lowering the heat island effect as an additional eligibility criterion for infill or redevelopment projects, and Section 4. *Exceptions to Providing Required Off-Street Parking* to allow, in limited circumstances, parking spaces on both sides of the street to count toward project parking requirements.

Attorney Cherof read Proposed Ordinance No 16-015 by title only on second reading.

Motion

Vice Mayor McCray moved to approve. Commissioner Katz seconded the motion.

Mayor Grant opened Public Hearing.

Nichole Buehler, 2623 Lake Drive North, asked if the City was adding the option to reduce parking and adding an option for the heat island effect. She understood parking could be reduced if certain regulations were met such as green space. She thought many projects are not able to meet the green space requirement so the City gives them the option to paint buildings a lighter color in place of the green space.

Mr. Rumpf responded affirmatively. The effect is through roof materials and colors, through tree canopies and parking lots with hard surfaces to reduce the heat island

effect. Ms. Buehler requested the ordinance not be supported because many feel the vision for Boynton Beach is green space. She thought when considering a project, instead of green space, the City was allowing more building space and eliminating areas for tree canopies. She thought the Ordinance would set a precedent for each project moving forward.

Mayor Grant asked if it had to be tree canopy or if it could be another structure, such as covered parking. Mr. Rumpf explained trees must be provided on site and advised the City wants to promote trees, but in an urban environment, there would not be as many trees as would be in a suburban setting anyway. In suburban areas, staff reviewed the open space, but not so much in urban settings and the option was not a free option. Through the process the developer has proved they will operate with less of a parking demand. A developer must show evidence they have a lower parking ratio than what is required by the Fire Code for the project or property and that is to provide other options. Mayor Grant asked if the trees would have to be replaced if they died and learned they would and the developer has to provide so many trees for street frontage. The approval shows at a certain maturity age they provide a certain percent of coverage as well as tree replacement. Commissioner Casello noted they have green island space in the middle of the project.

Ms. Buehler inquired why the City cannot grant variances for one project instead of instituting an ordinance setting a precedent for each project coming forward. She noted not every project may have the same parking island. Mr. Rumpf explained the Ordinance does not allow a reduction on the green island. It is on the heat island effect, not a reduction of green space. The project would still be subjected to the same landscape and parking lot design standards without the provision. The project is required to have so many green space islands, tree planting areas per parking space. Ms. Buehler thought it was an option to replace it by painting lighter colors. Mr. Rumpf clarified what was being replaced was the open space requirement, which is not the island. The Ordinance would apply for an eight or nine acre rental project in a suburban area. Open space in that instance could be playfields, ballfields or larger dog walks, not parking islands. Ms. Buehler thought the off-street requirements in the proposed Ordinance, provides an increase in green space as being a requirement. Mr. Rumpf explained green space and open space was synonymous. Ms. Buehler thought it could be loosely interpreted.

Commissioner Romelus asked if the Ordinance was crafted for a particular project that would be voted on or for moving forward with any project. Mr. Rumpf explained the project under review triggered the thought. It helped in the discovery of the current limitation in the application of the Ordinance to an urban setting. It was amended for this type of project in an urban setting that would be applied in the downtown area. When it was reviewed, it was reviewed comprehensively and it was discovered there was an opportunity to institute more green provisions into the LDRs. Currently, the heat island provisions are only within the City's Green Building Code which is voluntary. This provision puts it more into effect and it would be used more frequently. It would not

necessarily reduce parking below what was needed; it first justifies the type of project. Operational provisions would result in a lower parking demand than was contained in the standard regulations. If the City used the variance process on a case-by-case basis, the City would be applying hardship criteria to parking requirements and the City would miss the opportunity to implement green provisions into the LDRs. Commissioner Romelus queried within the vision of Boynton Beach in 20 years, if this would be a good ordinance that would move the City in the direction of being green and earth friendly and learned it would. The Ordinance is about two and a half years old, and it was being improved and tested project by project. Commissioner Casello asked if this was instituted at High Ridge Landing with less parking and more green space and learned it was. That was the first project the Ordinance was used with as the project was close to the train station and transit routes.

Mayor Grant noted Section 2, Item P of the Ordinance and asked about the enforcement mechanisms of the Ordinance. Mr. Rumpf explained if a parking deficiency is established, the analysis or documentation is wrong or something happens in the project that the applicant or staff did not anticipate, it would be revealed by parking violations, complaints by residents, or the management company advising that it was not working. Mayor Grant asked if continuing evidence of compliance meant until the project was completed or the life of the project. Mr. Rumpf explained it is on request and not on an on-going basis. If there is an issue the developer is consenting to staff asking for ongoing information. If they are not in compliance, enforcement is through the Code process. If they cannot provide evidence it is occurring, then there is a violation.

John Trach, 2623 Lake Drive North, asked if the Ordinance was providing another option to achieve limited parking and if staff reviews the project against the checklist and/ or give an options. Mr. Rumpf explained the Ordinance is not mandatory and in respects, it is voluntary. He noted currently one option to achieve lower parking ratios such as using off-street parking if including green space. He thought reflective painting or roof materials could satisfy the requirement and learned only if it was in lieu of an open space requirement. Mr. Trach thought this was an easier option for builders since they are not required to provide the level of parking other builders did. Mr. Rumpf explained the revision is for infill and redevelopment that are smaller and more compact projects. The developer is not required by the regulations to provide any substantial open space unless it is negotiated. The open space the original Ordinance envisioned was more suburban, green and park like. This is being used at Town Center Village and large PUD's out west. They are subject to open space requirements as part of recreation standards. They would not be present in infill areas. Open space and parks are planned for separately.

Commissioner Casello noted the open space at Boynton Beach mall. If the mall were constructed today, they would make it green space and reduce parking. Mr. Rumpf responded if they developed the mall, the developer would opt for a lot less parking.

Mr. Trach felt the Ordinance was an exemption from current parking requirements. Mr. Rumpf explained the developer first has to prove it is a project that would have less parking than the ratios required. Mr. Trach felt if that was proven, a developer would select an option based on what the developer could afford to pay. Green space, was costly, and a developer would not want the expense. If the option is to paint with reflective materials, a developer would not opt for green space.

Mayor Grant commented the project is not a public park, it was office buildings and not acres of land. It is a landscape feature.

Andrew Mack, Director of Development/City Engineer explained these are design principles and LEED and they would be good for the City and downtown areas. The object of the Ordinance is sustainable features for parking.

Mayor Grant requested confirmation if they offer green space there is not as much parking and learned they were offering converting parking to green space to reduce the heat island.

Mayor Grant asked about the ratio of green space to parking. Mr. Mack responded that was not changing, and it is still a requirement for open and green space. Commissioner Katz agreed it seemed like there is a sacrifice in green space for the addition of green energy type of accents for the buildings, but he thought it was a basic function of how the market works. One of two things must happen. The City has to either mandate the requirements for all buildings which will raise costs and drive away potential projects, or the City give a trade-off. He commented the trade-off is a small quantity of what would have been open or green space on a small parcel of land that likely would not have been accessible to anyone outside of that specific building. He thought if that was a slight sacrifice to make on a project-by-project basis to encourage developers to include more efficient aspects that would facilitate lower traffic in the future, better parking accommodations and more energy efficient buildings. It was not just a trade-off. There is give and take.

Vote

Interim City Clerk Pyle called the roll. The vote was 5-0.

G. PROPOSED ORDINANCE NO. 16-012 - SECOND READING - PUBLIC HEARING - Approve Future Land Use Map (FLUM) amendment from Local Retail Commercial (LRC) to Mixed Use (MX);

Attorney Cherof explained this item has two parts and is an Ordinance since it involves a land use amendment followed by a rezoning; a community plan design appeal (item H); approval of Height Exception (Item I); and New Site Plan (Item J). He commented they are all related to the same project. He asked the applicants representative if they handled H, I, and J together as a consolidated quasi-judicial

hearing and then present Items G.1. and G.2., the two proposed Ordinances, at the same time in their presentation.

Bradley Miller, Agent for the project had no objection.

Motion

Vice Mayor McCray moved to remove the items from the table. Commissioner Katz seconded the motion.

Vote

The motion unanimously passed.

Attorney Cherof advised he would read both Ordinances by title only and they should be voted on separately.

Attorney Cherof read Proposed Ordinance 16-012 by title only on second reading, approving the application of Michael Bertina of 601 SE 4th Street, LLC., and 601 S Federal LLC for Hidden Brook Corporation owner for land use amendment for a parcel of land located at 601 Federal Highway from Local Retail/Commercial LRC to Mixed-Use MX and providing for conflicts, severability and an effective date.

PROPOSED ORDINANCE NO. 16-013 - SECOND READING - PUBLIC HEARING - Approve rezoning from C-3 (Community Commercial) to MU-L2 (Mixed Use Low Intensity 2) with a master plan for 28 apartments and 11,000 square feet of medical/professional office. Agent: Bradley Miller, Miller Land Planning, Inc.

Attorney Cherof read Proposed Ordinance 16-013 by title only on second reading, approving the application of Michael Bertina of 601 SE 4th Street, LLC. and 601 S. Federal LLC, for Hidden Brook Corporation, owner to rezoning a parcel of land located at 601 Federal Highway from Community Commercial C-3, to Mixed Use Low Intensity 2 (MU-L2 with Master Plan for 28 apartments and 11,000 square feet of medical/professional office; providing for conflicts, severability and an effective date.

Attorney Cherof administered an oath to all those intending to testify. He advised the documents that are part of the Commission Agenda, plus the information provided at the first public hearing are made part of the record. Anything new needed to be identified and copies left with the clerk. Anyone from the public that wishes to speak or ask questions would have the opportunity since these items are public hearings.

Bradley Miller, 508 Boynton Beach Boulevard reviewed the project. The site is located on the southwest corner of Federal Highway. It is a land use and zoning change from

Local Retail/Commercial to Mixed Use. The zoning change corresponds and conformed to the Federal Highway Corridor Plan in place since 2006. There is a Community Design Appeal and Height Exception which would screen the elevator shaft and there is a new site plan. He reviewed the three-story, 45-feet high professional and medical office building with parking in between. The seven story and 65-feet high apartment building for 28 residential units was to the rear of the site. The property runs through Federal Highway to SE 4th Street abutting 5th Avenue on the north side. Sterling Village was located across Federal Highway and an assisted living facility approved for construction six years ago was 63-feet high to the south. Pence Park was to the west, and north across 5th Street was an office/commercial development. The land use change proposed for the project was to change from LRC to MU which was the same as the parcel to the south, and the zoning would change from C-3 zoning which was a commercial designation to the MU-L2 designation, also matching the zoning to the parcel to the south. The parcel was part of the overall Federal Highway Corridor Plan and the area was planned for Mixed Use development in various densities. The project is well below the maximum development potential.

There are 102 parking spaces for the on and off-site parking. The total required parking was 94 spaces. Mr. Miller advised they were using sustainable parking to promote the reduction of cars, and promote walking, biking and scooters. Compact parking spaces and Electric Vehicle Charging (EVC) stations were included. They agreed to run conduits to offer more charging stations in the future. The project is on a bus route to promote alternate transportation and close to Sunshine Square, Las Ventanas, Hurricane Ally and the Marina. They will use management practices to incentivize tenants to reduce the number of cars. There are 16 different criteria regarding the Sustainable Parking Ordinance and they had to prove to staff that the project meets the criteria. Some of the criteria included the construction of the parking lot with the gray pavement, the roof material and the tree canopy to provide shade.

The Community Design Appeal can be used when there are design circumstances that do not meet the criteria. The developer was requesting the appeal to set the building back to provide the plaza area that will have shade, seating and artwork on the NE corner. On the southeast corner, the developer was requesting a reduction so the building will not go all the way to the property line. The developer agreed to construct a bus shelter and there is a water and sewer easement which could not be encroached. The same applied to the on southwest side, at the cabana for a pool area. The appeal would be to deviate from a zero to a 10-foot build-to line, as opposed to the setback line to provide amenities for the public.

A height exception was a provision in the Code that provides a means of screening the equipment. The apartment building is 65-feet high measured to the roof deck. The Code allows for a five foot parapet around the entire building to screen and have a more finished look. There is a section for an elevator shaft and they put a 10-foot extension, but with the parapet, it is a five-foot extension that provides a decorative edge. Visuals of the project and elevation of the office building were viewed.

The developer will use local labor to the fullest extent possible. They are installing a public sidewalk on 5th Avenue, and Mr. Miller advised the developer would help maintain the median on 4th Street.

The developer was in agreement of the modified language for the street lighting which would be installed for the project in conjunction with the City and FPL. Mr. Miller requested the condition be revised as proposed in the motion.

Condition 7 addressed a water main on Federal Highway, which was estimated to be about 40 years old that runs the length of Federal Highway. The developer feels a piece-meal approach to replace just one section if needed, was more of a capital project for the City and the City should address the entire pipe. The Assisted Living Facility to the south did not have the same requirement to replace the pipe. Mr. Miller requested this condition be deleted in its entirety.

Condition No. 9 addressed fire hydrants. There is an existing fire hydrant on the northwest corner of the property. Mr. Bradley proposed that fire hydrant remain, and they are installing a new fire hydrant on the southeast corner which would be a Sigelock hydrant. The existing fire hydrant is in good shape and the Fire Department is trained to use both hydrants. Mr. Miller requested this condition be revised to install one new fire hydrant and the existing older hydrant remain.

Condition 15 discussed design standards. Condition 15A pertains to the apartment building. Two units have private porches for the residents that face 4th street. Staff requested they be opened up to be more accessible to the sidewalk, but the developer was concerned with security issues. The building is designed with a central location for residents. There will be a property manager onsite 24/7. They want to maintain the security for the residents and the developer requested the condition be eliminated.

Condition 15 B pertains to the Federal Highway Side of the office building. There is a five-foot difference between the sidewalk and the bottom of the window sills. As for the shade areas, a bus shelter on the south provides shade and shelter, an inset area of the building had a roof that provides shade and shelter and there is shade on the north side of the building with a covered entrance. The developer feels that is a better design for an office building as it is not retail space and the developer requested Condition 15 B be removed.

Mr. Miller explained there are two plazas on two corners with artwork. There will be benches, seating and a bus shelter that will be used by Palm Tran. There will be sidewalks and curbing on 5th Avenue. They will pay the \$16,600 park impact fee. When totaling the costs along with impact fees and permits, it is about a \$500,000 expenditure that will be highly used by the public.

Mr. Miller summarized they were requesting to change the land use and zoning to be consistent with the Federal Highway Corridor Plan. The Community Design Appeal

provides for the design and the public features, the Height Exception is to screen the elevator shaft and the Site Plan with the modified conditions he discussed.

Commissioner Casello liked the EVC stations and asked if the park impact fees could be earmarked for a specific park. Mr. Majors explained impact fees have to be used in the area its collected from first. If there is no need for improvement of the park in that area, it could be used elsewhere in the City at a park that has a district service area. Commissioner Casello asked if Pence Park is made into a dog park, if the impact fees could be used for that purpose and learned it could.

Commissioner Casello did not want to delete the water main. He did not know what occurred with the Assisted Living Facility six years ago, as he was not on the Commission at that time and did not like the piece-meal approach, but thought it may be their only option. He would not favor deleting the condition of the water main, if it would have to be replaced.

Mr. Groff did not know what the pipe was made of and what utility features need to be replaced or improved. They did not know the details yet, as with the fire hydrant. Those things change during design review all the time.

Mayor Grant inquired if 500 Ocean made those improvements. Mr. Groff explained the utilities for the project was about \$750,000 off site. The City is reimbursing them because they are upsizing the mains, which may be the case with the subject project. They had two major breaks on Federal Highway, and they do not want to dig up new development. The City is planning to replace the mains over time, but they do not want to dig up new development.

Commissioner Katz discussed Condition 15 A. He understood the two bottom units on the rear side of the residential building was to have open access to the street and commented from his experience, he always wanted to avoid the first floor for that reason. He thought they should be allowed to make those units more private and he favored granting the condition which would create a private patio and greater security.

It was noted there is a back door to the building on 4th Street and the private patios have a slider to the units that match the architecture for the rest of the building. Staff wanted to extend the patios and use French doors. Mr. Miller wanted the entire condition eliminated. He thought it would look uncoordinated. Mayor Grant did not want to extend the arch element, but wanted to keep the French doors.

Mr. Rumpf explained staff was not asking for the patio to open up. They sought to give it the appearance of a front door rather than a back door. Staff feels it can be designed for security. Commissioner Katz asked if there was any type of divider and learned there is fencing and landscaping. Mr. Rumpf explained it was common for staff to ask for appearance items. There is not really a back door, it is a common entrance into the building, which was more on the parking side. It was noted sliders can use a securing

mechanism, and they are more secure than French doors. Commissioner Casello asked if the balcony could accommodate small chairs and learned it could. Commissioner Katz wanted to ensure the design did not become less desirable.

Mayor Grant asked if the bus shelter would have a trash can and learned it would. Mr. Bradley did not know if the trash receptacle could accommodate cigarette butts but noted most did. He also thought it would be a City responsibility to address the trash, but management would check it and it would likely be a shared effort.

Commissioner Romelus was concerned and had wanted a condition of approval which was denied. She was aware the Rehabilitation Center by Bethesda will become an outpatient facility. Half the apartment units in Forest Park have been sold for recovery residences to house patients. She understood the individuals need help, but there are no regulations to control their locations or protect residents from these tenants, and it is a problem. She thought there was the potential the facility could possibly convert a recovery center. She wanted to limit the use of the building so it could not be used as an outpatient facility or a drug rehab facility, perpetuating the problem in the City. The residents and the neighborhood were suffering. She could not support the project due to her concerns of what could occur in the future.

Commissioner Casello was contacted by the State Attorney and was appointed to the Sober Homes Task Force. Mayor Grant asked if the apartment could be used as a group home, allowing up to six unrelated individuals to live together. Attorney Ken Kaleel responded the project is per Code. Attorney Cherof explained group homes are allowed to have the same occupancy limits as are in other others. There are no restrictions. Mayor Grant asked how much the rent would be. The man would not comment on the economics, as it is up to the developer. They want a reasonable project. The apartments are all two bedroom/two bath.

Commissioner Katz explained the Commission is operating in good faith. It bothered him they were asking questions and the representative was reluctant to answer. It seemed to signify there is a possibility it could be used in such a way. Mayor Grant asked if the developer was going to furnish the apartments noting furnished apartments are usually used by group homes. Attorney Kaleel responded furnished apartments are not typically offered.

Mayor Grant opened Public Hearing. No one came forward.

Commissioner Casello advised he was against Condition No. 7.

Mayor Grant summarized Condition 15 A changed the doors to French doors and the open arch to be more like a first floor and like the rest of the building. Commissioner Katz was in favor of what the developer was looking for with the sliding doors and smaller balcony. Mayor Grant wanted it to look like the rest of the facility.

Attorney Cherof requested a vote on Ordinance 16-012 on second reading.

Motion

Commissioner Casello so moved. Commissioner Katz seconded the motion.

Vote

Interim City Clerk Pyle called the roll. The vote was 4-1 (*Commissioner Romelus dissenting.*)

Attorney Cherof recommended voting on Ordinance 16-013 on second reading.

Motion

Commissioner Casello so moved. Commissioner Katz and Vice Mayor McCray seconded the motion.

Vote

Interim City Clerk Pyle called the roll. The vote was 4-1 (*Commissioner Romelus dissenting.*)

- H. Approve request for a Community Design Plan Appeal (CDPA-001) of Chapter 2, Article III, Section 5.C., "Build-to-line", which requires buildings to be constructed with a build-to-line of 0 to 10 feet, to allow setbacks of 30 feet, 19 feet, and 45 feet for three (3) locations on the site. Applicant: Mike Bertino, 601 SE 4th Street LLC & 601 S. Federal LLC. **TABLED ON 6/21/16(This item should be reviewed in conjunction with the corresponding Land Use Amendment and Rezoning items (LUAR 16-002) to facilitate simultaneous action on all related items at time of 2nd reading of Ordinances.)**

Attorney Cherof requested a vote on the Community Design Plan Appeal. Mayor Grant received clarification this pertained to the build-to line.

Motion

Vice Mayor McCray so moved. Commissioner Casello *seconded the motion.*

Vote

The motion passed 4-1 (*Commissioner Romelus dissenting.*)

- I. Approve request for Height Exception (HTEX 16-001) to allow the elevator tower and mechanical equipment enclosure for the residential portion of the mixed use project to be constructed 10 feet above the maximum allowable height of 65 feet in the MU-L2 (Mixed Use-Low Intensity 2) zoning district. Applicant: Mike Bertino, 601 SE 4th Street LLC & 601 S. Federal LLC. **TABLED ON 6/21/16 (This item should be reviewed in conjunction with the corresponding Land Use Amendment and Rezoning items - (LUAR 16-002) to facilitate simultaneous action on all related items at time of 2nd reading of Ordinances)**

Attorney Cherof announced this was approval of a Height Exception to allow an elevator tower and mechanical equipment.

Motion

Commissioner Casello so moved. Commissioner Katz seconded the motion.

Commissioner Casello commented this was adding five feet to hide the elevator equipment. It was not a variance.

Vote

The vote was 4-1 (*Commissioner Romelus dissenting.*)

- J. Approve request for New Site Plan (NWSP 16-002) for 28 multifamily units (rental apartments) and 11,000 square feet of medical/professional office on a 1.2-acre parcel located at the southwest corner of Federal Highway and SE 5th Avenue in the MU-L2 (Mixed Use-Low Intensity 2) zoning district. Applicant: Mike Bertino, 601 SE 4th Street LLC & 601 S. Federal LLC. **TABLED ON 6/21/16 (This item should be reviewed in conjunction with the corresponding Land Use Amendment and Rezoning items (LUAR 16-002) to facilitate simultaneous action on all related items at time of 2nd reading of Ordinances.)**

Attorney Cherof advised the Commission could break down and address each of the requests of the applicant and indicate if the Commission would accept their response to the condition of approval, reject it or modify it.

Motion

Vice Mayor McCray moved to approve discussion of item 1 of the appeal. Commissioner Romelus seconded the motion.

Mayor Grant asked for a motion to approve the appeal of Item 1.

Motion

Commissioner Casello so moved. Vice Mayor McCray seconded the motion.

Vote

The motion passed 4-1 (*Commissioner Romelus dissenting.*)

Mayor Grant asked for a motion for discussion on Item 7.

Motion

Commissioner Casello so moved. Vice Mayor McCray seconded the motion.

Attorney Cherof asked if the Commission was approving the condition as worded.

Commissioner Katz asked if they were agreeing to their terms or they were accepting the Commission's decision.

There was brief discussion about the condition and the motion.

Attorney Kaleel explained they were asking for the condition to be deleted which pertained to the developer's responsibility to hook up to the mains. He noted there were positive attributes to the community and the tax base, and fees. They have not asked for anything in return, unlike the neighbor to the north. One concern was the neighbor to the south was not required to take on anything. He commented that was the purpose of a \$23 million bond. They will replace a small piece of pipe where water flows through a bad pipe to get to the project. He noted a typical City responsibility is to provide their residents and businesses with water. He thought it was grossly unfair.

Mayor Grant asked what would occur if there was a breach in the main a year later and it is the City's responsibility. Attorney Kaleel responded if the City thinks it is necessary to replace the pipe, they should and it is the Utilities Department's responsibility because that is why they pay fees. The developer has to connect to the pipe, but the City should replace it. Attorney Kaleel explained the City should provide the infrastructure to bring developers to Boynton. Other projects receive grants and get waivers of permits and application fees, but the south property was receiving all the benefit of this project replacing the pipe. He agreed they will cut that piece out to connect, but he asked what would happen to their end of the pipe during construction. He thought there was a liability issue and it was a basic utility function to provide that portion.

Mayor Grant asked what would happen in a year or two when water comes through the connection and the pipe breaks and learned they would have to tear up everything the project installed. Mayor Grant understood from the Utility Director the City does not

have to worry if the developer fixed the pipe in front of the project site and have a clean connection. If there is an issue north or south of the project, it would be the City's responsibility. He understood it was not fair, but it was not fair to the City if the City has to redo what was just done. Attorney Kaleel understood, but when the Utility Department is doing its assessment, they will determine whether the pipe needs to be replaced and whether it could withstand the necessary improvements that had to be made. He thought the City should work with them on the assessment and if it is an asbestos-type pipe that has to be replaced, the City should work with them and replace the pipe as they should for the property to the south. The developer will address their responsibilities and thought the City should take care of theirs. Vice Mayor McCray agreed the City is responsible for the infrastructure; not the connections.

Commissioner Casello thought this was give and take and the applicant received the height exception, the optional parking and design appeal. He thought if they tapped into the City's water system and it caused a problem they were responsible.

Commissioner Katz noted the City has requested these improvements on recently approved projects on Federal Highway and the expectation is the City would require the same from anyone seeking to develop there. Mr. Groff responded affirmatively, but there were only two projects that were approved and they were replacing pipes in short sections. There are half a dozen projects in some sort of review and the City was saying the same thing to all of them. The City was following the Utility standards and policies in place. If they damage the pipe they are responsible for fixing it.

Mr. Groff clarified if the project to the south damaged or broke the pipe, they are responsible to fix it and the project should have been required to adhere to the same requirements. Mr. Groff advised they will work with the south property developers because the City is trying to fix the pipe. He clarified the City does not know the details or know what it would cost. From the two projects that were developed on Federal Highway, the water/sewer system changed a dozen times. They need the design work and all the reviews to be completed before knowing the outcome. He clarified things may change as they get into the detailed design stage, meet with the engineers and obtain the permits.

Mr. Groff advised the City will work with developers to find the most cost effective way to handle the matter. Commissioner Casello asked about the defrayed cost. Mr. Groff responded some lines are too small and need to be upsized and the City pays a portion of that cost. Ocean 500 pipes were relocated because it was more cost effective to relocate the lines and they also upsized from a 6 to 12 inch pipe.

Mayor Grant asked if the project to the south tapped the line. Mr. Groff explained the City is currently reviewing the project. Mayor Grant explained the City would work with the developer and if they needed to improve what is existing, the City would help defray the cost of the improvements. Mr. Groff agreed noting the provision was included in the

rate ordinance. Mr. Groff explained defrayed cost occurs when infrastructure has to be upsized. In those circumstances the City pays based on a formula included in the rate.

Casa Del Mar and 500 Ocean moved a line to a different place. There were also lines they had to replace and upsize, which the City paid a percentage of. The same thing would be done on every project. Vice Mayor McCray requested a copy of the rate ordinance.

Attorney Kaleel thought a reasonable compromise is the City takes care of the physical pipe, and the developer takes care of everything outside of the pipe, but the City handles the responsibility making sure the pipe is properly installed and connected to the sides. They would be more than happy to fix the outside of the pipe, the sidewalks and all else. He thought the Utility Department should be responsible for the physical pipe, because they are in a better position to be dealing with that than a land owner.

Mayor Grant asked if there was a motion to approve their appeal. If it was denied, it was still a condition.

Attorney Cherof clarified it was not really an appeal. The backup contains the conditions of approval. They are either accepting the conditions of approval on the list, they could reject them in total, or modify them as shown.

The first request was to modify the condition of approval as shown. Commissioner Katz commented he was mistaken and did not support the condition. It was suggested the Commission motion to reconsider their vote on number one.

Mr. Mack explained the Commission typically makes a recommendation for approval with the conditions as stated, and then amend it as necessary.

Mayor Grant asked for a motion on item J. the New Site Plan. The motion would be to approve with amended conditions.

Mayor Grant asked for a motion on item 1, the developer will be responsible for providing street lighting on adjacent road along SE 4th Street and SE 5th Avenue as part of this project.

Motion

Vice Mayor McCray moved to approve.

Mr. Miller advised they were asking it be changed to eliminate "be responsible for" and add "will coordinate with the City and FPL" for providing FPL Street lighting etc. Commissioner Katz seconded the motion.

Commissioner Romelus noted she was voting affirmatively because she thought the item was going through.

Vote

The motion unanimously passed.

Mayor Grant requested a motion to approve Item 7, to verify condition and type of existing water main adjacent to property along Federal Highway. Developer will be required to replace the entire length, if determined to be AC pipe, also known as asbestos concrete pipe. Mr. Rumpf clarified the applicant was requesting this condition be removed.

Motion

Commissioner Romelus moved to remain as a condition. Commissioner Katz seconded the motion. Commissioner Casello asked if he voted yes, the developer will be responsible to replace the water pipe and learned they would

Vote

The motion passed 4-1 (*Vice Mayor McCray dissenting.*)

Motion

Commissioner Casello moved to approve which would eliminate the words "existing and" (regarding fire hydrants). Vice Mayor McCray moved to approve.

Mr. Miller explained they are still required to install the new fire hydrant, but the existing hydrant would remain as is. Mr. Miller explained they are fine with leaving it as staff proposed. Mr. Groff explained they may need two hydrants and they have to be two new hydrants. It was possible once the details are reviewed, they may only need one .if the hydrant had to be removed, it may change if it is relocated offsite. They needed the condition, but it may not be necessary if it is offsite. Attorney Cherof advised it was condition 6. Mr. Miller advised they agreed to it.

Mr. Miller explained they were requesting items 15 A and B be deleted, pertaining to porches on the residential apartment building and the awnings, eyebrows and relocating trees on the Federal Highway side on the office building.

Mayor Grant asked for a motion to change item 15 A. There were no changes.

Mayor Grant asked for changes to Item 15 B. There were no changes.

Attorney Cherof explained the motion would be approval of the Site Plan with the conditions of approval as amended.

Motion

Commissioner Casello so moved. Commissioner Katz seconded the motion.

Vote

Interim City Clerk Pyle called the roll. The vote was 4-1 (*Commissioner Romelus dissenting.*)

15. FUTURE AGENDA ITEMS

Mayor Grant read each item.

Commissioner Katz noted item C, and thought with regard to parking meters at the beach that is technically under the jurisdiction of Ocean Ridge, and the City cannot receive ticketed revenue. He wanted to look into the possibility of an agreement with Fire Services and a side agreement that they also are allowed to fix the jurisdictional issue over ticketed revenue at the park should metered parking be installed.

- A. Discussion of Quantum Park Overlay District requested by Commissioner Katz - JULY 19, 2016
- B. Interlocal Agreement between City of Boynton Beach and Town of Briny Breezes for Fire Rescue Services - TBD
- C. Interlocal Agreement between City of Boynton Beach and Ocean Ridge for Fire Rescue Services - TBD
- D. Consideration of accepting road rights of way and utility easements on CRA owned properties in association with the Model Block Project, approved at the June 14, 2016 CRA Board Meeting. - July 19, 2016

16. ADJOURNMENT

Motion

There being further business to discuss, Commissioner Casello moved to approve. Commissioner Romelus seconded the motion that unanimously passed. The meeting adjourned at 10:26 p.m.

(continued on next page)

CITY OF BOYNTON BEACH

Mayor - Steven B. Grant

Vice Mayor - Mack McCray

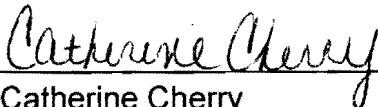
Commissioner - Justin Katz

Commissioner - Christina Romelus

Commissioner - Joe Casello

ATTEST

Judith A. Pyle, CMC
Interim City Clerk



Catherine Cherry
Minutes Specialist